

RT. HON. SIR JOHN THOMPSON

F. W. BISSETT

He was a man, take him for all in all.

We shall not look upon his like again.

HAMLET.

JUST over fifty years have passed since the death of Sir John Thompson. It has been said with some truth that the career of that remarkable man has not been kept vividly enough before the newer generation of Nova Scotians and Canadians. Indeed it may well be doubted whether many Haligonians know that in their city was born and lived a man who was destined to become Prime Minister of Canada before he was fifty years of age. It may therefore not be considered inappropriate to take advantage of the present occasion to recall some of the things he did and the high places he attained in the public life of his country.

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John S. D. Thompson was born in Halifax, Nova Scotia, on November 10, 1844, the son of John Sparrow Thompson, who occupied a comfortable position in the community as King's Printer and afterwards as Superintendent of the Money Order Department.

He studied law in the office of Henry Pryor, later a Stipendiary Magistrate for the City of Halifax, and was admitted to the Bar of Nova Scotia in 1865. In his early years at the Bar, he augmented what must have been a slender income by being first the Assistant Reporter of the House of Assembly and afterwards the Chief Reporter. At twenty-six years of age he was elected to the City Council as an Alderman for Ward 5; then he was appointed to the School Board, and he later served as chairman of that body. Already by the year 1877 he had acquired a position of standing at the Bar, when an opportunity came to achieve real prominence in his profession, for in that year the Halifax Fisheries Commission met and Dana, one of the American Counsel, selected Thompson as his assistant to help in preparing the American brief. This Commission was the result of the Washington Treaty of 1871, by which American citizens had been given the right for twelve years to fish within Canadian territorial waters. In return for this concession, British subjects had the same right within the territorial waters of the United States. As it turned out, the right to fish within Canadian waters was of more value than the reciprocal right to

fish in the American waters, and it was therefore agreed that an International Commission should fix the amount which ought to be paid Canada by way of compensation. Nothing, however, could be done with the American Government until President Hayes took office, when the appointment of the Commission was agreed upon, and on the 15th day of June, 1877, it met in Halifax.

The chairman of the Commission was M. Delfosse, the Belgian Minister at Washington; the Canadian member was Sir Alexander Galt, and the American member the Hon. E. H. Kellog. Thompson took a large share in the preparation of the American brief, and for his work was paid a substantial fee. In the end, the Commission awarded Canada the sum of \$5,500,000. His work for the Commission brought Thompson to public notice, and he was pressed to accept a nomination for the House of Assembly for the County of Antigonish where a vacancy had occurred. He accepted after some hesitation, and was elected by a good majority. In the provincial general election, held the next year, he was again elected for Antigonish, and he became Attorney-General in the Government led by Simon Holmes.

In the office of Attorney-General in this Government, which lasted four years, his outstanding work was the passing of the Municipal Corporations Act by which each county in the province was provided with municipal self-government as we know it now, instead of government by the Grand Juries and the Sessions of the Peace. It is worthy of note that a bill was also introduced by the Holmes-Thompson Government to abolish the Legislative Council, which passed the Assembly but was rejected by the Council. On this happening, an address to the Queen was passed through the Assembly, asking for such amendments to the *British North America Act* as would permit the Governor-in-Council to appoint sufficient additional members to carry the bill. The Legislative Council presented a counter-address, and Thompson prepared a brief supporting the stand of the Assembly. The London Government refused however to interfere, and the Council was not abolished until 1928. The wisdom of such latter step may be considered as somewhat doubtful.

In May, 1882, Thompson became Premier, but when the Legislature was dissolved the next month, the Government was defeated and in the following July, before reaching the age of 38 years, he took the oath as a Judge of the Supreme Court of Nova Scotia. As a Judge he participated fully in the work of

the Court. His judgments, models of lucid reasoning and good English, may be found in the *Nova Scotia Law Reports* for those years. During the time he was a Judge, he also lectured in the Dalhousie Law School, having taken a very keen interest in it from its beginning. When he finally left the bench, he had acquired a reputation as a Judge possessing the very highest of judicial qualities.

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In the later part of 1885, the Dominion Cabinet was reorganized and the Prime Minister, Sir John MacDonal, offered the portfolio of Justice to Judge Thompson. After some consideration he accepted, and was almost immediately elected at a by-election for the County of Antigonish.

The new minister was in his seat when Parliament opened in February, 1886, and immediately had to deal with one of the most difficult problems ever faced by a Canadian Minister of Justice. It was the case of Louis Riel. Riel had been executed at Regina for high treason, on the 16th day of November, 1885. Immediately before and after the execution, a tremendous popular agitation arose; Quebec determined that he should not have died, and Ontario that he should. The Government of Sir John MacDonal had refused to interfere, and allowed the law to take its course. This, however, did not still the clamour; the French ministers and Quebec members supporting the Government were subjected to strong pressure to resign, and it appeared as if the Government might be destroyed. On the 11th of March, 1886, with the new Minister of Justice sitting in his place, the following motion was introduced:

That this House regrets that the sentence of death passed upon Louis Riel, convicted of high treason, was allowed to be carried into execution.

Speaker after speaker supported the motion, urging that Riel had been executed to please one part of the country and because he was a French Roman Catholic. Even Laurier asserted that the execution "was the sacrifice of a life not to inexorable justice but to passion and revenge."

The final speech from the opposition was made by Blake, the leader of the Liberal Party, and then considered the ablest debater and constitutional lawyer in the House. He arraigned the Government in a powerful speech, and was answered by the

Minister of Justice a few days later. It was his maiden speech in the House. The speech lasted about two hours, and throughout it he sternly upheld the undoubted right of the state to exact the death penalty for high treason. He closed the speech in the following words:

I think, Sir, it was absolutely necessary for us to show to those Indians, to every section of the country, to every class of the population, that the power of the Government in the north-west was strong, not only to protect but to punish as well; and in the administration of justice, with regard to those territories in particular, it was absolutely necessary that the deterrent effect of capital punishment should be called into play; but in relation to men of this class, men who time and time again are candidates for the extreme penalty, men who have despised mercy when it has been given to them before, I would give the answer given to those who proposed to abolish capital punishment in France, "Very well, but let the assassins begin."

The Government was sustained on division by a substantial majority, and Thompson by this speech immediately secured for himself a high place in national affairs.

After the election of 1887, the Government turned to settle the fisheries question with the United States. In 1885 the American Government had abrogated the fisheries clause of the Washington Treaty of 1818, permitting Canadians to fish in American waters, and the Canadian Government immediately imposed regulations on Americans fishing within the territorial waters of Canada. These regulations were promptly disregarded by the American fishermen, who entered Canadian waters and did very much as they pleased. The Canadian Government then ordered the American vessels to be seized. Relations between the two countries became extremely strained, and also relations with Great Britain. In order to settle matters, an International Commission met in Washington on November 15, 1887. Sir Charles Tupper was the Canadian member of the Commission, and the Minister of Justice also went as his legal adviser. On the 15th of March, 1888, a Treaty was signed which was considered to be mutually advantageous, and the whole matter was apparently settled; but the United States Government, on the 23rd of August following, abrogated the whole Treaty without notice. In September, however, Thompson for his services was created a Knight Commander in the Order of Saint Michael and Saint George.

The next parliamentary test that Sir John had to face was the debate on the *Jesuits' Estates Act*. Briefly, this Act passed by the Quebec Legislature was to provide for payment by the Government of Quebec for lands which had been held by the Jesuit Order and had reverted to the Crown. It was contended by those who were opposed to the measure that this was the handing over of public monies to a religious organization, and would tend to create a Roman Catholic Established Church in Canada.

On March 26, 1888, Colonel O'Brien in the House of Commons moved a resolution to the effect that the Government be asked to disallow the Act. The debate on the resolution was most bitter. D'Alton McCarthy in particular lent all the weight of his oratory and influence in support of the resolution. Sir John spoke in answer to McCarthy, and went on to point out that the business aspect of the matter was satisfactory, that the preamble to the Act while it was undoubtedly offensive could never be held to be a reason for disallowance, and concluded with these words:

Whenever we touch these delicate and difficult questions which are in any way connected with the sentiments of religion, or of race, or of education, there are two principles which it is absolutely necessary to maintain for the sake of the living together of the different members of this Confederation, for the sake of the preservation of the Federal Power, for the sake of the good-will and kindly charity of all our people towards each other, and for the sake of the prospects of making a nation as we can only do by living in harmony and ignoring those differences which used to be considered fundamental. These two principles surely must prevail, that as regards theological questions the State must have nothing to do with them, and that as regards the control which the Federal Power can exercise over a Provincial Legislature in matters touching the freedom of its people, the religion of its people, the appropriations of its people, or the sentiments of its people, no section of this country can be governed according to the fashion of 300 years ago.

The resolution was defeated, and the Government sustained. The speech of the Minister of Justice was hailed as a great success. Even Blake joined in the congratulations.

Sir John MacDonald was again successful in the elections of 1891, but the exertions of the campaign were too much for his strength; on June 6th of that year he died and a successor had to be found. Eventually, although the claims of the Minister

of Justice were considered, the Premiership went to Sir John Abbott, who was in the Senate, and Sir John Thompson continued in the Cabinet with the Portfolio of Justice and also as leader of the House of Commons. For something over a year, matters continued in this way, but on November 25, 1892, Sir John Abbott retired from the Premiership, and Sir John Thompson became Prime Minister still holding the Portfolio of Justice.

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Among the first major controversial questions which Sir John had to deal with as Prime Minister was the Manitoba School question, which arose by reason of the desire for separate schools by the minority in that province, and was not finally settled until after the death of the Prime Minister. However, in dealing with the matter he successfully resisted strong attacks from such opposite quarters as those of Tarte and McCarthy, but without bringing the matter at that time to any settled conclusion.

The session of 1893 was preceded by declarations by the Prime Minister that the policies of the MacDonald Government in imperial and domestic and international matters would be followed by his administration. Towards the end of the session, the Prime Minister left for Paris to act as one of the British Arbitrators on the Behring Sea Commission. The appointment of this Commission arose from the seizure by a United States revenue cutter of three Canadian schooners engaged in seal fishing in the Behring Sea. Officers of the schooners were fined, and the schooners were confiscated. This naturally aroused violent indignation in Canada. The seizures were made about sixty miles from the shore, and were thus an assertion by the United States of ownership of a large part of that sea between Alaska and Russia. Nothing came of Canadian and British protests in this matter, and finally on July 13, 1890, the British Minister in Washington presented a despatch to the American Secretary of State, saying that the British Government intended in the future to protect British vessels fishing in the Behring Sea. As a result of this protest, the whole matter was submitted to arbitration, the two British arbitrators being Lord Hannen and Sir John Thompson. The United States also had two arbitrators: France and Italy, Norway and Sweden, who were also interested, had one each.

It is interesting to note that Charles Hibbert Tupper was selected to act as agent for the British Government in the

preparation of the case. The Tribunal met in Paris on April 4, 1893. After long discussions, judgment was finally given on August 15th, and decided against every claim of the United States and in favour of all the contentions of Canada and Great Britain. Canadian sealers were to be allowed to catch their products in that sea, and an indemnity was to be paid to the Canadian sealers by the United States Government for the losses they had suffered. After the Commission concluded, honours were bestowed on those persons who were active in its work. Tupper was being given a Knighthood in the Order of Saint Michael and Saint George and Sir John Thompson was appointed a Privy Councillor of the United Kingdom.

He received a splendid welcome on his return to Canada, and in an interview with the press the Prime Minister said that the American claims "were so aggressively urged that there could have been only one solution of the difficult situation if arbitration had not been resorted to, and that was war."

In March, 1894, commenced Sir John Thompson's last parliamentary session, and in October of that year the Prime Minister indicated his intention of going to London to be sworn as a member of the Privy Council. Before he went he had been examined by Canadian physicians who found symptoms of heart disease, and he had been advised to discontinue work. On reaching London, he was again examined by physicians who corroborated the opinion of the Canadian medical men, but were hopeful of recovery if the advice to discontinue work was acted upon. From London he went on a tour of the continent; then he returned to England and proceeded to Windsor Castle where on the 12th day of December, 1894, he was sworn as a member of the Privy Council. A few minutes after leaving the Council Room he was seized with a heart attack and almost immediately expired. The body was brought to Halifax on the warship *Blenheim*, and buried with all the stately ceremony of the historic church to which he belonged in the old city where he first saw the light of day.

It only remains to say something about the work of Sir John Thompson in the Ministry of Justice. The great monument to his administration there is the codification of the Criminal Law of Canada. The bill was first introduced in the session of 1891, and again introduced in the session of 1892, when it became law. It contained over one thousand clauses and filled 350 pages. After being introduced it was referred to a

joint committee of the House, where it received the most detailed attention. In introducing the measure, the Minister said:

It will deal with offences against public order, internal and external, offences affecting the administration of law and justice; offences against religion, morals and public convenience; offences against the person and reputation; offences against the rights of property and rights arising out of contracts, and offences connected with trade; it will deal with procedure and proceedings after conviction, and actions against persons administering the criminal law.

This codification of the Criminal Law has been so successful that it is almost impossible to imagine the inconvenience which must have existed before its enactment. For this achievement Sir John Thompson is entitled to the heartfelt thanks of the whole legal profession in Canada.