SIR JOHN THOMPSON

SIR JOHN S. THOMPSON

SIR JOHN SPARROW THOMPSON, a distinguished Canadian statesman and jurist, the fourth Premier of the Dominion, was born at Halifax, Nova Scotia, Nov. 10, 1844, and died at Windsor Castle, Dec. 12, 1894. Early in his legal career he was the recognized leader of the Bar of that Province. He became a member of the Provincial government and for a short time was Premier. In 1882, he was appointed a judge, but in 1885 resigned to enter the Federal government, at Ottawa, in which he was appointed Minister of Justice. Upon the retirement of Sir John Abbott, in 1892, he became Premier of Canada and held the position until his sudden and lamented death at Windsor, England, at the early age of fifty. The circumstances of his death were exceedingly dramatic. During the autumn of 1894 he visited England to settle some details of the Bering Sea question, and to be sworn a member of the Imperial Privy Council. For this latter function he was summoned to Windsor Castle to take the oath of office before the Queen on the 12th of December (1894), and while there he was stricken with syncope of the heart and died instantly. His remains were conveyed by a warship to Halifax. Sir John Thompson was one of the best parliamentary debaters of his time. His speeches are remarkable for beauty and finish, for the clearness and vigor of his utterances, and for the cogency of the arguments advanced.

ON THE DEATH OF HON ALEX. MACKENZIE, M. P., PREMIER OF CANADA

DELIVERED IN THE HOUSE OF COMMONS, OTTAWA, APRIL 19, 1892

MR. SPEAKER,—I think that the first duty which the House owes to its own history and to the country, on reassembling after the vacation, is to notice the great loss which the House has sustained, and which Canada has sustained, by the death of the honorable member for East York. If it devolved upon me to-day—if it devolved upon anybody, indeed—to state the great public services, the estimable character and the worth of the late honorable member for East York, I would greatly prefer that that duty should have fallen to some of those among whom he served in public life when he was at his prime, because, when it was

my good fortune and my honor to enter this Parliament the honorable gentleman had ceased to take that active part in public affairs in which for many years he occupied so commanding a position and did himself so much honor and the country such useful, zealous services.

Fortunately, however, for me, Mr. Speaker, the history of the country supplies what is deficient in myself in this regard. The achievements of the late honorable gentleman, his zeal in the public service, the great position which he attained, not only officially in this country in connection with its public affairs, but in the estimation of the people of Canada, are all part of the records of this country now. I can only say, on behalf of gentlemen who are co-operating with me in this Parliament, that I am expressing their sentiments when I state that the services which I have mentioned and the qualities which I have referred to evoked from us the greatest esteem—those of us who were in the House when he was active in political struggles, and those of us who had not then entered on our duties here—and that we feel as deeply as I am sure honorable gentlemen on the other side of the House must feel that a great tribute of respect is due to the memory of the gentleman who devoted his great abilities, great zeal, and great talents disinterestedly to the service of Canada. We feel, therefore, that it is incumbent upon the House, out of respect, not only, as I have said, for its own history, but out of respect for the public feeling in Canada, that, instead of transacting the business which is on the order-paper to-day, we should ask an adjournment, and that the adjournment should take place until Thursday next in order that as many members of the House as feel able to do so may be present at the funeral obsequies which I understand are to take place in Toronto to-morrow.

With these observations, Mr. Speaker, which I am sure but very feebly express the sentiments of the House, but which are very cordially given, not only on my part but upon the part of those of whom I am the humble spokesman, I beg to move that when this House adjourns this day it do stand adjourned until Thursday next, in consequence of the lamented death of the Honorable Alexander Mackenzie, late member of the Queen's Privy Council of Canada, and out of respect to his memory.

A QUESTION OF SIMPLE JUSTICE

[Extracts from a speech delivered in the Canadian House of Commons, March 27, 1889, on a motion asking for the disallowance of the "Jesuits' Estate Act." [1]]

NOW, let me call the attention of the House to a brief statement with regard to the position of these estates, not for the purpose of showing that this society in the Province of Quebec, whatever its character and merits may have been, had a legal title to the property, but for the purpose of showing that this is not a question which we can decide, but is one which must and ought to have been left to that authority which the constitution makes, not only competent to deal with such questions, but omnipotent in

[1] The Legislature of the Province of Quebec passed an act in 1888 granting $400,000 in full and final settlement of the long-standing dispute between the Jesuits, the clergy of the Roman Catholic Church, and the Province of Quebec, arising out of claims for compensation for property confiscated at the expulsion of the Jesuits from Canada, which property had escheated to the Crown and had become the property of the Province. During the following session of the Federal Parliament, Colonel O'Brien, supported by the late D'Alton McCarthy, Q.C., and eleven other members, brought up the question in the House, moving for an address, asking the Governor-General to exercise the federal veto and disallow the act of the Quebec legislature. The motion was resisted by the government, whose principal defence was made by Sir John Thompson, the Minister of Justice.

dealing with them, subject only to control in so far as the rights of the whole Dominion or the policy of the Empire may be involved.

Now, sir, the House will remember that, long before the cession of Canada to the Crown of Great Britain, the Jesuits had labored in the wilderness, and in the schools of Canada, and in the churches of Canada, and that as a reward for their missionary zeal, for their talent as teachers, and for their services to this, one of the great colonies of France, that Order had been erected into an incorporated body under the most solemn acts which the King of France could pass under his hand, had been endowed with these estates by the King of France and by private donors, who wished to place in their hands the means by which the work of Christianity and civilization among the savages could be carried on, and by which the work of education among the youth of the Province of Quebec could be carried.

These were the terms on which they held their lands when the battle was fought on the Plains of Abraham, and the conqueror took possession of Canada under terms which are in the first place set forth in the capitulation of the city of Quebec, and afterward in the capitulation of the city of Montreal, and under terms which are plainly defined by the law of nations, recognized by every civilized country in the world.

What are these terms? By the law of nations, recognized, as I have said, in every civilized country in the world, the conquering power took possession of all the rights, privileges, and property of the conquered monarch in the country, but he took no more. He took the sovereignty of the country, he took the king's fortifications in the country, he took the king's stores of arms and ammunition in the country, he took

the king's lands in the country, he took the king's treasures in the country, but he had no right by the law of nations to lay his hand on the property, movable or immovable, of the humblest subject in the country.

If he had despoiled private property it would have been an outrage which would have disgraced the British arms, and he would have committed an act, let me tell the House, which, irrespective of the law of nations, the conquering general stated in the terms of capitulation begun at Quebec, repeated at Montreal, he would not do. It has been said in the debate that, by the terms of capitulation the Jesuits of the Province of Quebec, and all their property, were placed at the mercy of the conqueror. I do not so read the terms of capitulation. Let me see article 34 of the terms of capitulation of Montreal:

"All the communities [and at that time the Jesuits were in community in the Province of Quebec] and all the priests shall preserve their movables, the property and revenues of the seignories and other estates which they possess in the colony, of what nature soever they be, and the same estates shall be preserved in their privileges, rights, honors, and exemptions."

That was the request made, and the answer given to that request was unequivocal—"Granted." And yet we are told that these estates, which came within the exact words of that provision as to the seignories and property, movable and immovable, of the priests and religious Orders in the Province of Quebec, were reserved to the king's mercy.

It is true that the preceding section 33 was refused until the king's pleasure should be known, and in that there was a distinct reference to the Jesuits, but that article referred, not to the property only of the Jesuits, but asked, in addi-

tion to the provisions as to their property in section 34, that they should have all their constitutions and privileges; that their monasteries should not be entered by troops; that safeguards should be given to them from military intrusion; and that they should preserve their rights to nominate to certain curacies and missions as theretofore. Those privileges, vague and undefined by the terms of the article, were met by the words, "Reserved until the king's pleasure be known," although the response to the article, dealing with the properties of these people, was the unequivocal one—"Granted."

The conquering arms of England were used against the soldiers of France, but not against individuals, either religious or secular, either in France or in Canada. Now, we go a step further, and we read the treaty of peace. The war had gone on, and the treaty was not made until 1763, and let me read to the House a passage from the treaty, because the terms of capitulation are liable to be qualified by the final and definitive treaty at the close of the war. . . .

In the year 1800 the last Jesuit died, and I think that by the law of England, applicable, perhaps at that time to this property in Canada, on the death of the last surviving member of the corporation the property escheated to the Crown, and the Crown could have taken possession of it as escheated lands.

Steps were taken to assert this right on the part of the Crown; but the question had been complicated in the meantime by the fact that the Pope had suppressed the Company of Jesus nearly all over the world. By the terms of that suppression and by the terms of the civil law, which, it is contended, still prevailed in the Province of Quebec, the properties, instead of reverting to the Crown, passed to the ordinaries of the dioceses in which they were situated.

I do not mean to say that that is so: I present that to the House as one of the questions which has been raised, and which tends to make this case anything but a plain one. I will do more, I will admit the honorable member for Simcoe's [D'Alton McCarthy, Q.C.] contention that the common law had in the meantime been introduced, that the civil law had been superseded, and that by the terms of the common law these estates had become escheated to the Crown.

One of the questions, however, which has been constantly agitated ever since in the Province of Quebec is this, that if you are to subject this property to the rigor of the common law you at least ought to give the benefit of that principle of the common law which declares that whenever property of any kind has been escheated to the Crown some consideration should be shown to the persons who are morally entitled to it, and regard should be had to the use to which it was intended to be applied.

By this rule of practice the escheat does not wholly result as an emolument to the Crown or as an augmentation of the revenue, but a liberal proportion is appropriated to the intention of the donors or to those who morally may be considered entitled to it. If that consideration were to prevail to any extent, the clergy, and it may be the Jesuits, on the reinstatement of the Order, would have some kind of moral right to compensation respecting these estates.

But let me call the attention of the House to this fact, which I think has been kept out of view, and which certainly the honorable member for Victoria [Mr. Barron] who addressed the House last night, overlooked in his argument, that the very brief by which these properties were taken possession of on the part of the Crown, when they were eventually seized, does not allege the right of escheat, but

declares the right by which the Crown intended to claim the properties to be the right of conquest,—a right which, as I have said, is repudiated by the law of nations, was repudiated by the Crown officers of Great Britain at the time, and which, after all that has been said in this debate, has not had one word said in favor of it. That was the only title by which Great Britain claimed she had a right to these estates. . . .

I contend that the legislature had supreme authority to decide, and had a perfect right to decide, without veto or controlling authority at Ottawa, even though we thought they had decided erroneously.

Now, sir, having asked the House to bear in mind the situation in which these properties stood in the Province of Quebec, the way in which an attempted sale was met by protest which completely frustrated the sale, let me call the attention of the House to another state of facts as regards the various claimants upon this property. There were the bishops of the Province who said:

"As a result of the suppression of the Society of Jesus in this Province we were vested with all the estates as the Ordinaries of the various dioceses in which these properties were situated."

Nay, more, they said:

"We have inherited their moral claim too, because, when the means were stricken from their hands of carrying on the missionary work and the work of education, we took it up, and, by the sacrifice of our people's labors and treasures, we built up institutions of education all over this country."

The Society of Jesus had in the meantime been reinstated and reorganized in the Province, and upon this point let me call the attention of the House to the argument of my honorable friend from Simcoe [Mr. McCarthy] which was that by

the decree of suppression in France the Order became extinct in Canada. He cited to prove that the decision of the Parliament of Paris, which merely decided that the Jesuits in France were liable for the debts of the Jesuits in Paraguay, because the properties of the two sets of men were held in solidarity. That decision has not the remotest effect upon the status of the Jesuits in Canada, who, themselves, were a body corporate under the most solemn instrument which the King of France could give them to indicate his will in that regard. I have mentioned that the bishops claimed that they represented the moral right, which, as I have said, the legislature thought was worthy of compensation, and the Jesuits claimed it likewise.

Look at this as a business matter. Look at this matter simply as relating to a piece of land in the city of Quebec, and tell me how, under these circumstances, the title was ever to be cleared of this dispute. Obviously not by compensating first one party and then the other, because under those circumstances the legislature would have had to pay twice the value of the claim. It could be settled only by getting the two parties to arbitrate, and to leave it to some person to settle their mutual dispute, or by saying: "You must conform to the decision of some person who has authority over you both."

Let me argue this question throughout, if we can, without feeling that we belong to different religious persuasions, without feeling that the religious question is mixed up with it at all; and therefore let us leave out for the moment any name which might excite the prejudices of some portions of the community. The bishop of Quebec and the other contesting parties who struggled for compensation for this moral claim were all members of the same Church, and by their mem-

bership recognized supreme authority in the head of that Church to settle their disputes, even though the settlement should be against their will.

The head of their Church had that authority, not by any provision of the law of Quebec, mind, not by any provision recognized by English law, mind, but by the consent of the parties who were free to belong to that Church and free to leave it, and, while they did belong to it, were subject to a spiritual superior. He had that power by their choice; he had the right to say to one or to the other, no matter how small or how great the proportion might be that was divided between them: "You must submit; it is a fair settlement between you, and I, as your supreme arbiter, bind you by my decision."

The government of Quebec, therefore, having made up its mind to recognize the moral claim, if for no other purpose, for the purposes of public policy, found that they could not arrive at a solution of the question without some person to act between the claimants and to bind them both. It was only by a method like that, that they could reach a solution, paying once, and once only, the value of this moral claim.

Now, that being so, let me see what was done in pursuance of that method of settlement. The head of that Church so possessed with power to preclude the Jesuits from making any further claim, so possessed with power to preclude the bishops from making any further claim, authorized, in 1884, —and this is an important fact, as the House will see when I proceed a little with the argument,—authorized the archbishop of Quebec to act as his attorney in the negotiations for the settlement. . . .

I go further and say that, within the limits of its authority and subject only to the power of disallowance a Provincial

legislature is as absolute as is the Imperial Parliament itself. The Imperial Parliament is not restricted as to the subjects over which it can legislate, the Provincial legislatures are restricted in regard to the subjects on which they can legislate, but in legislating upon these subjects a Provincial legislature has all the rights which it is possible for the Imperial Parliament to confer. I say more: I say that a Provincial legislature, legislating upon subjects which are given to it by the British North America Act, has the power to repeal an Imperial statute prior to the British North America Act affecting those subjects. It has been urged upon the House these two days that we had no power, and that the Act of 28 & 29 Victoria—called the Colonial Enactments Act—provided that no statute of a colony should have force as against an Imperial statute.

But after the statute of 28 & 29 Victoria the British North America Act was passed, and it gives us, as I have said, a division of powers between the two bodies; but it gives the two bodies, in legislating in their respective spheres, all the powers that the Imperial legislature possessed. . . .

We will all cherish the principle that there should be no Church control over the State in any part of this country, but my honorable friend proposes something worse than that control. He proposes that we shall step into the domain of a Provincial legislature, and shall say that no Provincial legislature shall have the power to vote any money to any institution if it partakes of a religious character. It may profess any other kind of principle. It may profess any objectionable principle, and it is lawful to endow it; but if it professes the Christian character, it is, forsooth, unconstitutional to allow such an Act to go into operation.

I listened to the remarks which the honorable member for

Simcoe [Mr. McCarthy] addressed to the House on the third branch of his argument, as to the objectionable teachings of this Society, with some surprise, though I do not intend to-night to challenge his ample liberty to differ from me as to correctness and propriety of those observations. I hope that in this discussion he and those who will vote with him will not prove themselves any less friends of religious liberty than they have professed to be in the past, but I assume—I think I have a right to assume—that, when the case of the gentlemen who are opposed to the allowance of this Act is placed in the hands of an honorable member who is so able and so skilled in argument as he, we are not to be condemned for not asking his Excellency to disallow this Act, unless the reasons which he urged with such great force this afternoon are reasons which I could use in addressing his Excellency on this subject. Surely I have a right to assume that the honorable gentleman has put forward the best case he could, and I am not to be condemned unless I could avail myself of his reasons in asking his Excellency to disallow the Act. If I could picture myself going to his Excellency and asking for the disallowance of this Act for the reasons which the honorable gentleman [Mr. McCarthy] presented in the latter part of his address, I would imagine myself just fit to be expelled from his Excellency's presence as quickly as possible.

What would be the reason which I would urge? I am not finding fault now with the strictures that the honorable gentleman made in regard to the Society, but, forsooth, I am to go to his Excellency and ask him to disallow this Act because, in the year 1874, a quarterly review published an article denouncing the Jesuit Society and its teachings. Am I not right in taking the argument and the evidence which he

produces to-day as the argument and the evidence which I should produce to his Excellency?

If I were to go to his Excellency and say that the quarterly review, published in 1874, denounced in language as strong as could be the tenets and teachings of these people, his Excellency might ask me a number of perplexing questions, one of which was levelled at the honorable member from North Simcoe this afternoon without much profit to him. Let me suppose that his Excellency asked me: "Mr. Minister of Justice, who is the author?" My answer would have to be—surely I cannot do better than take the answer of the honorable member from Simcoe—my answer would have to be: "I really do not know who is the author; but, your Excellency, I am sure that nothing would be published in the review which could not stand criticism."

I am afraid that his Excellency might not be satisfied with that answer, and that he might put me another more puzzling question: "Mr. Minister of Justice, are you aware that these able and eloquent but anonymous publications in that review have been refuted time and again until the slanders have been worn threadbare?" I would ask my honorable friend from Simcoe what I should answer to that questions? . . .

If I were to advise his Excellency to disallow the Act on the ground of the expulsion of the Huguenots, the Revocation of the Edict of Nantes, the Franco-German war, the expulsion from France in 1818, the expulsion from other countries, I am afraid his Excellency might tell me that all the statements of fact were disputed, and that he might read me a lesson in ancient and modern history of which one of the deductions could be that, in some of these countries, to say that the court was opposed to the Jesuits, or to say that

the court was opposed to the Protestant reformers, was no discredit to either the Protestant reformers or to the Jesuits.

I do not think, sir, that I need dwell on that branch of the subject any longer. I think that 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 good will and kindly charity of all our people toward 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, whether it be the great Province of Quebec or the humblest and smallest Province of this country, can be governed on the fashion of three hundred years ago.

DEAN STUBBS

VERY REV. CHARLES WILLIAM STUBBS, an eminent English clergyman and author, Dean of Ely, was born at Liverpool, Sept. 3, 1845, and received his education at the Royal Institution School in that town and at Sidney Sussex College, Cambridge, where he graduated with high honors. In 1868, he became senior curate of St. Mary's, Sheffield, and from there he was transferred to Granboro', Buckinghamshire, where he was vicar for thirteen years. From 1884 till 1888 he was vicar of Stokenham, South Devon, and from 1888 to 1894 rector of Wavertree, Liverpool. In the latter year he was appointed Dean of Ely. From 1881 till 1895 he was select preacher at Cambridge, and in 1883, and again in 1898–99 he filled a similar post at Oxford. He served for two years as president of the Liverpool Royal Institution. Among his publications are: "Village Politics," addresses and sermons on the labor question (1878); "Christ and Democracy" (1883); "The Conscience, and Other Poems" (1884); "God's Englishmen," sermons on the prophets and kings of England (1887); "Charles Kingsley and the Christian Socialist Movement" (1898); "Christ and Economics" (1893); "Christus Imperator" (1894); "A Creed for Christian Socialists" (1896); "Pro Patria" (1901). In 1900, he visited the United States, preaching at Harvard University and elsewhere. To visitors from this country to the English Cathedrals, he is perhaps best known by his "Historical Memorials of Ely Cathedral," and by his "Handbook to Ely Cathedral."

INTERNATIONAL PEACE

"A YOUNG MAN'S VISION"

[A sermon preached at The Hague in connection with the Peace Congress, Whit-Sunday, 1899.]

"And it shall come to pass afterward that I will pour out my spirit upon all flesh, and your sons and your daughters shall prophesy, and your old men shall dream dreams, and your young men shall see visions."—Joel ii, 28.

THESE words of the prophet Joel had their fullest accomplishment, as you all know, in that new revelation of God to the world symbolized in the rushing wind and the fiery tongues of Pentecost, which we to-day are commemorating on this Whit-Sunday, on this great Church