

THE CANADIAN BAR REVIEW

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PIERRE BASILE MIGNAULT

A unique figure has vanished from our midst. A little gray man who bore so bravely, almost jauntily, the burden of his ninety-one years, has disappeared. For the last time has he doffed his hat to Notre Dame as he crossed Place d'Armes promptly at five minutes of ten each morning. Pierre Basile Mignault is dead. He died last Monday, as the evening was ebbing into night. He died as he had lived, serene and unafraid.

The previous Monday, he had been at his usual tasks, smiling, debonair, alert but knowing full well that he stood on the outmost frontier of his allotted span. "My share of birthdays has been ample," he wrote in answer to a birthday note, "and you wish me many more. As God will — that is all I can say and I say it most gratefully."

His illness was short. Through it, his powerful mind never faltered, his faith never weakened.

We have met here this morning, not so much to mourn him as to recall the achievements, the labours, the talents and the virtues of his long life devoted to the law.

Judge Mignault was born in Worcester, Mass. His father was a medical doctor, his mother, of whom he spoke frequently and reverently, Catherine O'Callaghan, inspired his youth and was the intimate associate of all his boyish hopes and illusions, triumphs and disappointments. English was the language of the home. He spoke English idiomatically and without any trace of accent. To my sensitive ear, an English accent always seemed to permeate his French.

He was born in 1854, the year that Lord Elgin negotiated with the United States the Treaty that brought the first breath of general prosperity to Canada. As a small boy, he came to Montreal with his parents. One day, when he was eleven years old, he ran all the way home to tell his mother that Abraham Lincoln had been murdered. That was in 1865, two years before Confederation.

He attended St. Mary's College conducted by the Jesuit Fathers. There he studied Greek and Latin with friends like Charles Doherty who, as Minister of Justice, was later to appoint him to the Supreme Court of Canada. He graduated from McGill Law School in 1878 where he won the emblem of superiority, the Elizabeth Torrance Gold Medal. Among his classmates were Joseph Adam, Simeon Beaudin, Selkirk A. Cross, Henry T. Duffy — later Provincial Treasurer, Henry J. Kavanagh — one time Batonnier Général, Husmer Lanctot — Magistrate, and Archibald Dunbar Taylor, who also lived to be ninety years of age.

Born in the United States, completely bi-lingual, his outlook **was temperate and free from all bias**. He studied, wrote, taught and practised law for nearly three score years and ten.

In 1888, he published

"Le Manuel de Droit Parlementaire."

In 1891,

"Le Code de Procédure Civil Annoté."

From 1892 to 1904, he was one of the Editors of the Official Law Reports of Quebec. In 1893, he published

"Le Droit Paroissial",

and, finally in 1895, he began the publication of

"LE DROIT CIVIL CANADIEN"

basé sur les

"Répétitions écrites sur le code civil de Frédéric Moulton avec revue de la jurisprudence de nos tribunaux."

This was his magnum opus. For thirty years or more, as practising advocate, as counsel of high authority, as controversialist, as teacher, even as member of the Joint International Waterways Commission, he never wearied or wavered in his march towards the goal which he had set himself in early manhood: the publication of a complete commentary on the Civil Law of the Province of Quebec and a review of the judgments interpreting that law rendered by the Courts of the Province. The closing paragraph of his preface to the first Volume is in these terms:

Ma suprême ambition sera atteinte, si on me rend le témoignage d'avoir été utile, non seulement à mes confrères dans la profession légale, mais surtout à ceux qui aspirent à le devenir.

He quoted it in the Preface to the last one. He achieved his purpose; the last of nine Volumes was published in 1917: the usefulness of this great work to all who would know the Civil Law of Quebec is undisputed.

Throughout this period he was busy with practice: he was before the Courts and took a leading role in all the great legal battles of his time. He was one of those chosen to represent the Dominion of Canada in the Marriage case which arose out of the promulgation in Canada of the *Ne Temere Decree* and a Bill introduced into Parliament, the constitutionality of which was submitted to the Courts. He and the late I. F. Helmuth of Toronto were assigned to attack the constitutionality of the Bill: Messrs. Eugene Lafleur and Wallace Nesbitt to uphold it. The bill was declared unconstitutional.

But it was as Counsel and Adviser that he played his great role, his wisdom and his temperance in thought and expression pervading all his opinions.

In 1914, he was appointed to the Chair of Civil Law in the Law Faculty of his Alma Mater, McGill, in succession to his friend, the Right Honourable Charles Doherty, then Minister of Justice. In 1914, he was appointed to the Joint International Waterways Commission in succession to the late Honorable Thomas Chase Casgrain who had entered the War Cabinet of Sir Robert Borden.

In 1918, he went to the Supreme Court of Canada, which was never stronger than during the period of his incumbency. There he remained until September 30th, 1929, when, having completed his seventy-fifth year, he retired under the terms of a Statute which terminated services, in that Court, of judges who have become seventy-five years of age. After his retirement, he returned to Montreal to old associations and familiar surroundings where his opinions were frequently sought and greatly respected.

In 1893, the Earl of Derby made him a Queen's Counsel. In 1904, he became a member of the Royal Society of Canada. In 1905, he was elected Syndic of the Montreal Bar and the next year, Batonnier. In 1904, Laval University conferred upon him the degree of Honorary LL.D. In 1920, McGill conferred upon him the same Degree and in 1929, the University of Montreal did him a like honor. In 1935, he received the rare and much coveted Doctorate of the University of Paris.

On this occasion, he and Madame Mignault went to Europe for the last time. There she shared all the honors which were so properly and abundantly showered upon her husband.

Judge Mignault was equipped with many supreme abilities. His perception was quick, his eye sure: he never misread a passage. His power of assimilation was unrivalled. He possessed a superb memory, great mental curiosity and a genius for lucid exposition. He arrived at his conclusions easily and rapidly. He was untroubled by doubt and seldom worried by any sense of error. Having consulted him about a judgment which I thought should be appealed, he advised against it. He told me that the judgment was sound and that the tribunal from which I was thinking of seeking redress, would not bear with me long, did I advance to it the propositions of law which I had submitted to him. When, sometime later, the newspapers announced that the appeal had been maintained, he came to my office, and, placing his hands on my shoulders, assured me, with a twinkle in his eye, that "This was not the first time that that court had gone wrong."

In him there was a rare combination of qualities. He was a student, deep and learned, but above all, he was a man of discipline and of order. He was never absent-minded. Mental absorption, however intense, never dimmed his sense of time or caused him to forget duties or appointments. He never hurried; he never permitted others to hurry him. He was never flurried, he was never late. He arrived at the office with a punctuality which put many of his juniors to shame but he left the office with the same punctuality. In the winter time, he put away his books and always had his rubbers on five minutes before the time of his departure. His going, as his coming, was a ceremony. He bowed deep and low to those about him, uttered a friendly greeting and was on his way. With him each hour had its allotted task. Each hour yielded its return of achievement. He never lost time; it was saved, not only in the regularity and continuity of his effort but by habits of order and accuracy. Even in advanced age, he never mislaid a document or misread a text. Some fourteen years ago, he moved into the office he occupied until his death; his one stipulation then was that the books in their new abode should be placed in the same sequence as they occupied in the quarters he was leaving.

Not only did he never forget a case, but he never forgot a reference. He rarely had more than one book on his desk

at a time. He took what he wanted from a tome and replaced it before taking down another.

The volumes containing his opinions are complete, beginning with the one written shortly after his admission to practice as if, sixty-seven years ago, he realized that he was going to be a great jurist and that he should conserve, in his storehouse, a full record of his work, wisdom and learning upon which he could readily draw.

Courtesy was another characteristic. He was of that antiquated variety of human nature, that "remnant of feudalism", as some have called it, a Gentleman. His attitude to men and problems was respectful. He was tenacious of his own opinion but always conceded to others the right to theirs. His attire was always spotless and correct and to the last detail, his bearing towards those who surrounded him was that of affectionate kindness.

These characteristics were but the reflection of an inner life which was sweet, serene and detached. He was singularly free from the spiritual cankers and distempers of our time. The feverish haste, the consuming ambition, the asperities and bitterness of an age of ultra-competition, were diseases to which he was completely immune. His work called for great courage and perseverance. His modesty amid his talents, his humility among those of lesser endowment, make of him a model and an inspiration. He was the doyen of the Bar, the doyen of the retired Judges, the doyen of the past Batonniers, he was the living embodiment of the Civil Law. In the language of the Book: "There was a man . . . simple, and upright, and fearing God."

PIERRE BASILE MIGNAULT

Clarum et venerabile nomen,

will remain indelible in the history of Civil Law on the North American Continent and his memory will long be cherished as that of a courtly gentleman, greatly loved and learned in the law.

At a Special General Meeting of the Bar of Montreal held on October 22, the following Resolution was passed on the motion of John T. Hackett, Batonnier (who delivered the speech reproduced above), seconded by Antonio Perrault, ex-Batonnier General :

WHEREAS the Members of the Bar of Montreal regret the death of its most illustrious and learned Member, the Honourable Pierre Basile Mignault, K.C., Doctor of Laws, one time Judge of the Supreme Court of Canada, teacher, writer, interpreter of the civil law and Dean of the retired Judges, of the past Batonniers and of the Legal Profession; and

WHEREAS the late Mr. Mignault has rendered great service to his Country, his Province and his Profession; and

WHEREAS it is fitting that his unselfish work, his talent and example be suitably commemorated; and

WHEREAS the Members of the Bar of Montreal wish to express their sorrow and sympathy to Madame Mignault and to the other members of the family of their deceased confrere and friend;

BE IT RESOLVED: that the Members of the Bar of Montreal in Special General Meeting assembled 10., do express their regard and sorrow at the death of their friend and confrère, the late Honourable Pierre Basile Mignault, K.C.; 20. do commemorate in an appropriate way the work, talent and example of their late confrère; 30. do instruct the Secretary of the Bar to send a copy of this resolution to Madame Mignault and the other members of the family of their late confrère.

The following Telegram was also received from the President of the Canadian Bar Association:

Winnipeg, Man., 19

JOHN T. HACKETT, ESQ., K.C.,
Batonnier, Bar of Montreal,
Aldred Bldg., 507 Place d'Armes,
Montreal.

The Canadian Bar Association extends its sympathy to the Bar of Montreal in the loss it has sustained by the death of the Honourable P. B. Mignault. The Association is also conscious of the fact that the loss is that of the whole Bar of Canada. A great lawyer, a jurist of repute, and a very courteous Christian gentleman who served his country, his profession, and the Association with the greatest of distinction has gone from us and we can never fill the place he made so peculiarly his own and desire to be associated with the resolutions you propose to pass on Monday.

E. K. WILLIAMS,
President,
Canadian Bar Association.