

THE LATE HENRY O'BRIEN, K.C.: AN APPRECIATION.

By the Editor.

The passing of Henry O'Brien, K.C., at the great age of ninety-six years is an event that demands more than ordinary editorial mention in the CANADIAN BAR REVIEW. In the first place that mention is demanded for the reason that so long as he was with us he linked up the legal profession in Canada at the present day with the high traditions and aspirations that influenced our lawyers in the Victorian age; and secondly, because of the important share that he had in the foundation of this periodical in 1923 as the official organ of the Canadian Bar Association. Speaking more particularly of this last matter let me say that it was felt by all that if the then existing *Canada Law Journal* and *Canadian Law Times* were to be continued the new venture in legal journalism could not be successfully launched. It would intrude upon a fully occupied field. Negotiations were thereupon entered into between a committee of the Association and Mr. O'Brien, as chief editor and owner of a controlling interest in the *Canada Law Journal*, and the Carswell Company Limited, owners of the *Canadian Law Times*, which resulted in an agreement being arrived at whereby the two periodicals would be amalgamated with the CANADIAN BAR REVIEW and cease to be published separately. Mr. O'Brien's ready compliance with the wishes of the Association is thus recorded by the late Sir James Aikins, then President of the Association, in the first number of the REVIEW:

During the negotiations, Mr. Henry O'Brien, K.C., who was editor of the *Canada Law Journal* for half a century and its owner, stated that it was not started as a commercial venture but had been a labour of love and not a source of profit; and that in the thought that its spirit and traditions would be perpetuated in the REVIEW, which he believed would justify its existence by supplying the needs of the profession, in furthering its interest and supporting its dignity, he had pleasure in agreeing to its incorporation in the organ of an Association which had done such splendid work for our profession in Canada.

In the same number of the REVIEW Mr. O'Brien commended the new periodical to the support of the profession in Canada as follows:

In throwing our mantle to our successors, the editors of the *Canada Law Journal* do so with bright hopes and best wishes for the usefulness and consequent success of the new journal. As we have for over half a century endeavoured to help our brothers along the legal highway with, we believe,

some measure of success, so we venture to predict that the CANADIAN BAR REVIEW will, in the future, be even more helpful than has been the *Canada Law Journal* in the past.

This really ought to be the case, for ours was largely pioneer work, "blazing a trail," bumping over "corduroy roads" and make-shift bridges, looking ahead with initiative peerings into the distant landscape of legal scenery. The name of our successor is somewhat suggestive in this respect; for a "Review" not only considers the present, but also takes cognizance of the past, and can calmly contemplate what the future may have in store for its country through the agency of a profession which largely moulds its future—*Tempora mutantur et nos mutamus in illis.*

We know not what changes may take place in the jurisprudence of Canada in the future, but changes there surely will be. We trust, however, that in the future, as in the past, the professional mind will maintain a conservative tendency in thought and action and remember that it has been wisely said "make haste slowly," studying the past in view of the future.

That Mr. O'Brien should be moved to speak these gracious words caused no surprise to the present writer. Knowing, as I did, the value he placed on legal journalism I was confident that the attempt to found an official organ of the Canadian Bar Association would have his benediction. Although he pursued it assiduously, he was not wholly absorbed in the practical side of professional writing. In his editorial capacity he strove to arouse the interest of Canadian writers in that great field of the law that lies open to belletristic endeavour. Youth with an itch for writing is careless of what it means to become a bondman of the muses, but the memory of the thrill that follows upon the publication of one's first literary venture assuages to some extent the pains of production in maturer age. It was through Mr. O'Brien's kindness that my earliest work found its way into the pages of the *Canada Law Journal*, and the contact thus established between us ripened into a friendship that was interrupted only by his death.

Mr. O'Brien's career at the Bar dates its beginning in 1861, some six years before the Dominion of Canada was brought into being. It is not my purpose to review it. Suffice it to say that for many years he was associated in partnership with Christopher Robinson, K.C.—generally accounted as the greatest Canadian lawyer of his generation—a fact that would in itself attest ability in his chosen profession and unremitting fidelity to its ethical standards. I desire to speak only, and but briefly, of the qualities of the man himself. These I learned to respect in the very beginning of my acquaintance with him, and as time went on this respect deepened into the conviction that he was the most profoundly religious man that I had ever been privileged to know. It was said of one great

English lawyer that he regarded himself on week-days as a man of the law but on Sunday as God's man. Henry O'Brien was God's man on every day. That does not mean that he isolated himself from his fellows, and thrust aside his duties as a citizen. Such a presumption would be displaced by the fact that he was so popular a sportsman in his youth as to become the founder of the famous Argonaut Rowing Club. Then, again, his public spirit was shown by his service as a member of the Canadian volunteer militia which repelled the Fenian Raid of 1866, and by the prominent part he took in the municipal reform movement which agitated Toronto in the middle eighties of last century.

In his later years the deep piety of his nature was inflamed into action by the irreligious tendencies of the age, and in the newspapers and by pamphlet he warned of portending retribution for the individual and the State by reason of the godlessness and lawlessness that had overtaken civilization. In the light of present world tribulation did he not speak with prophecy? He found no justification for modernism in the pulpit or naturalism in literature, and communism as currently exploited he abhorred. He saw the breeding-ground of them all in the pig-sty of Epicurus. And yet all these dread omens did not dislodge his faith in the ultimate victory of good over evil. Indeed he felt that the cold hand of materialism would be struck from the hearts of men in the present generation, else why the stream of tendency towards belief in the old Christian creeds disclosed in the recent writings of some of our erstwhile sceptical men of science? Thus was he comforted as he left the scene where he had striven long and valiantly for the triumph of righteousness and truth and the coming of the peace that passeth understanding among the children of men.
