

LIVES
OF
EMINENT LAWYERS AND STATESMEN
OF THE STATE OF NEW YORK,
WITH
NOTES OF CASES TRIED BY THEM,
SPEECHES, ANECDOTES,
AND
INCIDENTS IN THEIR LIVES.

BY
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JOSEPH L. RICHARDSON.

His Memory intimately connected with the History of Cayuga County.—His Associates at the Bar.—Characteristics as a Lawyer.—The Effect of an Increase of Precedents upon the Profession.—The Training and Culture of Lawyers.—The Old Court of Chancery.—Lawyers who Reason and Study.—Those who Never Reason and Never Study.—All Professions Have Superficial Members who would regard Archimedes as Weak, and Newton Foolish.—Richardson as a Private Citizen.—Anecdote.—Richardson and the Church Meeting.—His Manner of Construing the Call Turns the Tables.—Daniel Kellogg.—Richardson is Appointed District-Attorney for Several Counties.—Manner of Discharging the Duties of his Office.—The Singular and Interesting Case of the People *v.* Bishop.—Richard Jameson.—The Journey by Moonlight through the Forest.—The Attack of the Robber.—Your Money, and be Quick about it.—The Conflict.—The Robbery.—Escape of the Robber.—The Pursuit.—The Arrest.—The Trial.—Elisha Williams.—Singular Discovery of the Robber's Shoe.—The Conviction of the Robber.—Richardson Retires from the Office of District-Attorney.—The Survivors of the Old Auburn Bar.—Richardson Appointed First Judge of Cayuga County.—Character as a Judge.—Negro Bill.—The Sentence.—Personal Appearance of Judge Richardson.—His Religious Character.—His Death.

THE name of Joseph L. Richardson is intimately connected with the history of Cayuga county. He was one of the earliest and most eminent members of its bar—one of its most incorruptible, impartial, and efficient judges. At the bar, or on the bench, he was most conscientious—a man of strict integrity—of a profound and comprehensive mind—a lawyer of the old school—the compeer of Platt, Marcy, Tompkins, Root, Van Ness, Williams, Noxon and Jewett. As the lawyer or the judge, he cast a quick penetrating glance over the facts and law in the case, then drew his conclusions with a logical precision for which he was distinguished.

Slenderly furnished with fancy or imagination, and wanting in originality, he was more capable of following a train of reasoning, of expounding the theo-

ries of others, and pursuing them to their legitimate consequences, than of striking out new theories for himself. Hence, he was able to perform much mental labor, though while he was at the bar, that multitude of legal reports which abound at the present day did not exist,—intolerably augmenting the labors of the student—tormenting the practitioner—substituting for the study of legal principle the empirical recollection of facts, and discouraging the acquirement of a scientific and philosophic knowledge of the law.

It cannot be pretended that he was a great lawyer, but he was learned and successful, and as has been already said, eminent in his profession. If he did not dazzle with sudden, bold, and exaggerated conceptions—if he did not startle and thrill with eloquence, the balance of his mind, his unwearied research in the tomes of old judges and reporters, his easy logic, his sound and practical good sense, his ready flow of language, rendered him a strong contestant in the forum, a versatile, safe, and ready counselor. Trained in the contests of stirring life, strengthened by enlarged experience, he was as successful as he was strong.

Judge Richardson was born at Tawneytown, Maryland, June 5th, 1777. At a very early age he emigrated to Cayuga county, and settled at Aurora. He read law with the late Walter Wood, a lawyer of considerable eminence, who in the year 1810 was appointed first judge of Cayuga county. Richardson prepared for the bar with Judge Wood, and in October, 1802, he was admitted to practice.

At the period when he was called to the bar, with all due respect to the profession at the present time be it said, the education and training of lawyers were severe and thorough. The principles of law adapted to the court of chancery alone, when well understood, rendered a lawyer accomplished and learned. It is too frequently the case at the present age, that while a profound and reasoning lawyer is carefully picking

his way through the tangles of a difficult case, carefully removing all obstacles in his way, like Application ascending the hill of science, those who never think, never study, jump as by intuition at the argument, often landing beyond it, and if they find themselves in an untenable position, and learning is not at hand, they ride home on an amendment, or recuscitate themselves by a special motion. Perhaps these men are as successful, and acquire as much money as their more learned and painstaking brethren.

In all professions there are those who would set down Archimedes for a fool, when after days of diligent, painful study, he danced for joy at the solution of a proposition, and who would mistake Newton for a mad man, when in his surplice, put on for chapel exercise in the evening, he was found in the morning, in the same place, in profound meditation on the theory of prismatic colors.

It is true that science alone is hard and mechanical, that it exercises the understanding upon things out of ourselves, while it leaves the affections unemployed; and thus all professions, followed with intense application, tend to narrow the intellect. But no professional student or practitioner, no statesman or legislator, can long remain the mere man of books, of classical erudition, for he is called upon to make acquaintance with so many practical matters, that something must be lost to particular skill and acquisition.

Judge Richardson was gifted with extraordinary powers of application, and he very early furnished his mind with a thorough knowledge of the common law. He was called to the bar when the principles of our jurisprudence were being formed by those master hands which have adorned it with more than trans-Atlantic learning and purity. This vigorous mind, unaided by the digests and abridgments of the present age, enabled him to aid in the great work of founding our legal system.

Fortunate in his pecuniary matters, he accumulated a large property. Indeed, he was charged with avarice and parsimony. That his love of money was very great, there is no doubt, and that he ardently sought to obtain it, is true; but in this he only anticipated, in a small degree, the wild and almost passionate clamor for money, which characterizes our own times. But really, that which in him was termed penuriousness, was only apparently so—it was the result of his fine sense of punctuality, exact dealing, and direct honesty. Prompt and accurate himself, he expected to find the same quality in others. It is related of him, that once a man called and paid him some money. In making change, he became the man's debtor to the amount of six cents.

“Never mind,” said the man, “this is near enough.”

“Oh no,” said the judge, “you shall have your pay when I see you again.”

It happened that they did not meet again until after the lapse of a year; but one day, the judge saw his creditor in the street,—walking up to him, he said:

“Now, Mr. Somers, I will pay you what I am owing you.”

“Pay me what you are owing me? Why, Judge, you don't owe me anything but good will,” said Somers.

“Oh yes I do. I owe you six cents, and here it is,” said Richardson, handing him the money.

“Never mind it, Judge, it is such a small amount, that it is of no consequence.”

“My dear sir, no sum is so small that it ought not to be paid. Small sums are like small stones in a great wall: as necessary to be kept in their place as the large ones. When the small stones become loose and detached, the whole wall soon falls down.”

This circumstance is a true interpretation of Richardson's character with regard to money matters.

Judge Richardson was for many years a member

of the Episcopal Church at Auburn. Some time about the year 1830, the church edifice was destroyed by fire. The congregation at this time was not large, or wealthy. In a short time after the disaster, a meeting of the parishioners was called, for the purpose of adopting measures to rebuild the church, at which Judge Richardson presided. After the meeting was called to order, one after another arose and stated that the parish was too poor to think of rebuilding; and one of the gentlemen present proposed a resolution to that effect. Before submitting the question, Judge Richardson said :

“Gentlemen, I think you have entirely misunderstood the object of this meeting; it was not called for passing the resolution just offered; on the contrary, it was called for the purpose of adopting measures to rebuild our church; that is the exact wording of the call; now, I propose that we proceed to carry out the object of the meeting, and as action is the best way to proceed, the first thing to be done is to ascertain what each person here present is willing to give; and as you have honored me by making me chairman, I will commence by stating what I will do—I will give one thousand dollars towards the object.”

This speech took the meeting entirely by surprise. It gave an entirely different turn to affairs, and before they adjourned, sufficient means were raised to rebuild the church in a very handsome, and for those times, elegant manner.

In the year 1801, the Legislature created the office of district-attorney, and divided the State into seven districts; soon after, five more districts were added, and one district-attorney was appointed by the governor and council for each district. The positions of these officers were nearly as responsible and important as that of the attorney-general. The counties of Cayuga, Cortland, Chenango, Madison, and Onondaga, constituted the ninth attorney district.

In April, 1815, Joseph L. Richardson was ap-

pointed by Governor Tompkins as district-attorney for these counties, in place of the late Daniel Kellogg, whose term of office had expired. Mr. Kellogg was an able lawyer, a distinguished, high-minded citizen, and for many years a man of much influence in the counties of Onondaga and Cayuga. During Mr. Richardson's official term, he was called upon to conduct many important and difficult prosecutions for the people. His speeches and arguments delivered on these occasions, were marked for their ability, their close texture, and their skillful adaptation of the law to his purpose.

One of the most singular and interesting cases which it was his fortune to conduct, was that of the *People v. Bishop*, a man charged with highway robbery. It was tried very soon after he was appointed a prosecuting officer.

In the month of June, 1815, one Richard Jameson visited a small settlement situated near the boundary line between the counties of Chenango and Otsego, for the purpose of receiving a considerable sum of money due by a man who then resided there. The money was paid; and after transacting some other business, he started for home, eight miles distant. It was nearly night when he commenced his journey, and his route lay through an almost unbroken forest, marked by a single path. But as he was familiar with the way, and there was a full moon, he was not the least disquieted with the thought that night would overtake him before reaching home; and he walked rapidly and cheerfully onward, happy in the thought that there were "eyes which would look the brighter for his coming."

At length he reached a wet and marshy turn in the path, where stood a blasted hemlock, upon whose few scathed and withered limbs the moonbeams fell like the weird drapery of Niobe, when a man of gigantic stature, disguised with a mask, suddenly sprang from a thicket, and, presenting a pistol at the breast of the

traveler, demanded his money. Jameson possessed a strongly knit and powerful frame; he was cool, courageous, and determined, and therefore not the man to yield to this demand without a struggle.

"Do you really mean what you say?" he coolly asked the robber.

"Yes! Give me your money, and be quick about it, or I'll blow your brains out, and take it from your dead carcass," was the savage reply.

With the spring of a tiger, Jameson grappled the ruffian before he could discharge the pistol, and a desperate contest ensued. Alone, in the depths of the forest, beneath the shades of night, and the uncertain glimmer of the moon, those strong and desperate men closed in mortal strife. There was something terribly appalling in this struggle. There was the tug, the grip, the blow. There was the quick, heavy, heaving breath, the low and deep-muttered curse. The gigantic ruffian writhed in the grasp of Jameson, like the Laocoon in the folds of the monster serpents—now springing forward with the hope of crushing his intended victim with his weight, and now attempting to clutch his throat with his huge hands, and now struggling to bring the muzzle of his pistol to bear upon the person of Jameson, who, "invulnerable still," held his desperate enemy at bay. At length the ruffian, by a sudden effort, succeeded in bringing the pistol to a level with the head of his victim, but as his finger was pressing the trigger, Jameson suddenly dodged, and the bullet grazed his cheek. Stunned by the report of the pistol, he fell senseless to the ground; when he came to his senses the robber was gone, and his money taken. After a short time, he recovered sufficiently to make his way homeward. He aroused his neighbors, and at early dawn they started in pursuit of the wretch. They first visited the scene of the robbery. There the ground exhibited the severity of the contest; but it was so soft and marshy, that most of the footprints of the parties engaged, were nearly closed by

the yielding earth. As no signs of the villain remained, they left the place and prepared to scour the country in pursuit of him. Several circumstances led Jameson to believe that the robber was a man by the name of Bishop, who had recently come into the country. Prominent among these circumstances was the fact that Bishop was a man whose size agreed with that of the robber. Search was made for him, and he was found at a house of which he was the sole occupant. He received his pursuers with reserve, but with no apparent fear or guilt. His person, and then the house, were searched for the pistol and the money, but in vain ; no traces of either were discovered. His clothing exhibited no appearance of the struggle, except upon the bosom of his shirt there were some dark stains which appeared like mud from the swamp, and in his hair there were some hemlock leaves.

If Bishop was the robber, he had evidently changed his outside apparel ; but the moment Jameson saw him, he was convinced that the man who had robbed him stood before him. Bishop was arrested. The magistrate before whom he was taken, after a close and well-contested examination, committed him to jail, to await the action of the grand jury. Within the space of three weeks of the commission of the crime, he was indicted and brought to the bar for trial. Such was the alacrity with which crime in those days was followed up.

The celebrated Elisha Williams, then one of the most brilliant and successful lawyers in the State, was retained for the defense, and a trial of unusual interest took place. Hon. Joseph C. Yates, afterwards governor of the State, presided. One of the principal grounds upon which Mr. Williams rested the defense was the identity of the accused. So ably and adroitly did this great advocate manage the defense, so searching was his cross-examination of Jameson, that the escape of the prisoner seemed probable, notwithstanding the great ability and power with which Richardson

conducted the prosecution. He was thoroughly convinced that Bishop was the real criminal. Stimulated by professional pride and an honest desire to punish a guilty wretch, he made every exertion in his power to succeed. The first day of the trial ended with Jameson still in the witness box. During the day, the district-attorney learned that when Bishop was arrested, he wore a pair of perfectly new shoes. This circumstance suggested to Richardson that perhaps in the struggle with Jameson, the accused had left one or both of his shoes in the marsh where the crime was committed. So thoroughly did this thought impress itself upon his mind, that he determined to satisfy himself by searching the ground, and two constables with assistants were immediately sent there with orders to search, and, if need be, turn over every inch of the ground where the struggle occurred. The trial was resumed the next morning. Noon came, and the prosecuting attorney had exhausted nearly all his evidence, but it was apparent that he had made out at the best only a doubtful case, against which the eloquence of Williams would thunder like a terrible bombardment on a weak rampart. No tidings were received from the absent officers. After the recess for dinner, he again resumed the case, placing upon the stand his last witness. He protracted his examination with the hope of lengthening out the case until the return of his men, but still they lingered. Often during the cross-examination did the anxious attorney walk to a window near the bar, which commanded a view of the road over which they must pass in returning; but just as he was about to rest the case for the people, the officers arrived, and he was secretly notified that their search had been successful. To him the case now reached a point of dramatic interest. Would the shoe fit the prisoner?—would the court permit him to ascertain this?—were the absorbing questions with him now. After a moment's reflection, he arose and stated to

the court that he was nearly ready to submit the case, but he would beg a moment's time to consult as to the propriety of introducing other evidence. This request was readily granted, and a short recess was directed, during which he privately examined the shoe which the officers had found. It was very large and heavy. From the heel strong iron nails protruded, and the soles were of unusual thickness. It was found very near the spot where Jameson fell, tightly wedged between two large roots, and nearly covered with mud. In the mind of Richardson, there was no doubt but that the shoe belonged to Bishop. If it was so, then his doom was sealed, and the triumph of the young attorney would be great as well as righteous. After the lapse of fifteen minutes, he returned into court, and announced his readiness to proceed with the case.

"Have you any further evidence, Mr. Richardson?" asked Judge Yates.

"I have," was the reply; "but before proceeding, I desire to ascertain whether a shoe which I have will fit the prisoner's foot or feet, and I ask your honor that the sheriff may make the necessary trial."

"Do I understand the counsel aright? Is it possible that he proposes to interrupt the proceedings of this court for the purpose of trying an experiment, for the purpose of making testimony?" said Williams, warmly.

"I mean to be understood that I have a shoe, which has just been found on the ground where this robbery occurred. I think it belongs to the prisoner, and I ask that the sheriff may ascertain whether it does or not," said Richardson.

A livid paleness overspread the features of Bishop at these words, which was noticed by his quick-eyed counsel, who, with all his energy and powerful rhetoric, resisted the motion. But the court directed the sheriff to remove the prisoner to a private room, and with proper assistants try the shoe on his foot.

This was soon done, and in a short time the officer returned into court and reported that the shoe exactly fitted the accused. This circumstance led to the conviction of Bishop.

Mr. Richardson continued to discharge the duties of prosecuting officer under the large district system until the year 1818, when the duties of district-attorneys were confined to a single county. He was then appointed district-attorney for Cayuga county. His term of office continued until January, 1821, when it expired, and John Porter, of Auburn, was appointed in his place.

Mr. Porter is still a resident of Auburn ; for many years he occupied a prominent place at the bar, ranking with the ablest lawyers of Central New York. In the year 1828, he was appointed surrogate of Cayuga county, discharging the duties of that office until the year 1836. He represented the seventh Senatorial district in the State Senate for the term of three years, and as a member of the Court for the Correction of Errors, the able opinions which he wrote, during his Senatorial term, exhibit a high degree of legal learning and judicial ability.

He continued to practice until within a short time ago, retaining the confidence and esteem of the people.

Warren T. Worden, a contemporary of Mr. Porter, and lawyer of very decided ability, still continues in practice at Auburn. Michael S. Myers, a lawyer of great respectability, is also one of Mr. Porter's contemporaries. These three gentlemen are the only surviving representatives of the old Auburn bar, excepting the Hon. William H. Seward, who retired from practice many years ago.

The Cayuga bar has always been one of the ablest in Central New York ; many of its members have occupied some of the highest positions under the State and national government.

The name of John W. Hurlbert ranks among the ablest and most eloquent advocates of the State ;

while that of George Rathbun stands full as high on the roll of fame. A long list of honored and distinguished names might be taken from its roll.

After Richardson's term as district-attorney expired, he continued the practice of his profession, with some interruptions, until January 8, 1827, when he was appointed, by Governor Clinton, first judge of the Cayuga Common Pleas, a position which he held nineteen years in succession.

The manner in which Judge Richardson discharged his judicial duties gained him universal respect. His legal learning and long experience at the bar rendered him familiar with the rules of evidence, with precedent, with the common and statute law.

He was a man of strong feelings, somewhat impetuous in his nature, sometimes exhibiting on the bench a warmth and hastiness incompatible with the character of a judge ; but this was only on rare occasions.

His deep-seated sense of right and justice rendered fraud and crime odious to him, and he was in every sense of the word a terror to evil doers.

Few men ever sat upon the bench with more native dignity than Joseph L. Richardson ; dignity was a characteristic which never forsook him, even in those instances when his hasty temperament usurped the dominion of his naturally well-balanced mind.

There was in him a vein of humor, a strong flash of wit and pleasantry, which often gave light and beauty to his intellect. This feature of his character often appeared while on the bench, much to the amusement of the bar. During his extensive judicial career, numberless amusing instances of his ready and graceful wit occurred, which will long be remembered by the older members of the bar.

A negro, known by the name of Bill, was once convicted in his court of the crime of burglary. He had long been a resident of Auburn, and for several years was a sort of privileged person in the village. At length he acquired the habit of thieving on a small

scale, and was brought before Judge Richardson, who discharged him, after inflicting a small fine.

Profiting nothing by these admonitions, he at last committed the crime for which, as has been stated, he was convicted. When Bill was brought in to receive his sentence, he was ordered to stand up.

“You have several times been before this court,” said the judge, “and the light punishment you received has been of no advantage to you, and now the people have come to the conclusion, that they must either lock up their property or have you locked up, and they have concluded to have you locked up; and therefore the sentence of the court is, that you be sent to hard labor in the State prison for the term of ten years, and the court indulge the hope, that during this term, you will reform, or at least forget how to pick locks, or in case your memory continues intact, we hope that during your imprisonment, locks may be invented which you will not be able to pick.”

Judge Richardson was tall and commanding in his person. His features strongly resembled those of Andrew Jackson, and indeed, he resembled the old hero in his manners and general appearance. He possessed those qualities that endeared him to his family and to his friends. He was a true, unvarying friend, but as an enemy, unrelenting and bitter while the reason for enmity continued; yet generous and prompt in his forgiveness of an injury.

He possessed that congeniality with spiritual truths, which is the best evidence of a Christian life. His love of the church to which he belonged, his ardent devotion to her ancient, ever-living, fresh, and beautiful ritual, evinced his strong attachment to the worship of his Maker, his allegiance to the great truths of revelation, and his delight in its lofty and purifying manifestations.

Judge Richardson died at Auburn on the 15th day of April, 1853, in the seventy-seventh year of his age.