

The Rt. Hon. Charles Scott Dickson, The Lord Justice-Clerk.
By The Rt. Hon. Lord Salvesen.

(Read January 8, 1923.)

CHARLES SCOTT DICKSON was born in Glasgow on 13th September 1850, his father being a well-known family doctor in that city. He was educated at the High School of Glasgow, from which he passed to Glasgow University, where he took his degree as M.A. His academic education was completed at Edinburgh University, where he attended the law classes necessary to fit him for his future career. He gave early promise of the distinction to which he afterwards attained, for he took his degree with honours in Mathematics and Mental Philosophy—an unusual combination,—which testified alike to his industry and his aptitude for acquiring knowledge in wholly divergent fields of mental activity. In neither did he pursue his studies in after life, and it cannot be said that either had much attraction for him when his qualifying course of study came to an end. A genius for mathematics is a rare attribute in the successful lawyer, and the same is generally true of metaphysics, although there are distinguished exceptions, such as the late Lord Moulton in mathematical science and Lord Haldane in philosophy.

It was wholly otherwise with the science to which Dickson intended to devote his chief energies. He was a born lawyer, although never a philosophical jurist, and the lectures on law which he attended were followed by him with absorbing interest. In 1871–2 he carried off the second prize in Scots Law against keen and able competitors, and he also gained the first of the prizes given by the Faculty of Procurators in Glasgow for eminence in a special written examination on the whole course of study. In the following session he was second prizeman in the Conveyancing Class.

In order to gain a practical knowledge of his profession he became apprenticed to a firm of writers in Glasgow, and qualified as a law agent in 1875. For a short time he practised as such, and quickly satisfied the shrewd writers who practised in the Sheriff Court that he had exceptional gifts as a pleader. All this was, however, merely by way of preparation for the career on which he had set his heart. In 1877 he was admitted to the Faculty of Advocates, and from that time till his death he was continuously resident in Edinburgh.

For most men who join the Bar recognition comes slowly if it comes at all. Some who have afterwards reached the highest pinnacle of distinction in their profession have been practically briefless for eight or ten years after they offered themselves for practice. It was otherwise with Dickson. His Glasgow friends who had known him as a pleader in the Sheriff Court showered briefs upon him, and before the year was out he found it necessary to resign a lectureship on Constitutional Law and History to which he had been appointed in Glasgow University. From that time onwards he had no lack of work, and for many years ranked as the busiest junior counsel at the Scottish Bar. For a short time he acted as an Advocate-Depute, a good preparation for the office of Solicitor-General, to which he was appointed in 1896. He held this position till 1903, when he succeeded Graham-Murray as Lord Advocate on the latter undertaking the duties of Secretary for Scotland. He held office as Lord Advocate till the winter of 1905-6, when a Liberal Government came into power. In 1908 he was appointed Dean of Faculty by the unanimous vote of his brethren at the Bar. He thus successively held all the highest honours that fall to the lot of the successful advocate. In 1915, on the retirement of Lord Kingsburgh, he was appointed Lord Justice-Clerk under the title of Lord Scott Dickson, and presided in the Second Division of the Court of Session until his death on 5th August 1922.

His political career was more chequered. From his student days his politics were pronouncedly Conservative, and as President of the Glasgow University Students' Association he was largely instrumental in securing the return of Disraeli as Lord Rector. He never changed his politics, although in Scotland there were then few seats where a Conservative had much chance of success. In 1892 he contested the Kilmarnock Burghs, in 1895 and again in 1896 the Bridgeton Division of Glasgow. In all three contests he was unsuccessful. In 1900 he was at last returned for Bridgeton, lost it again in 1906, but was returned at an election in 1909, and continued to represent it till he renounced politics for the serener atmosphere of the Bench. Few men who were not professional politicians worked so hard and sacrificed so much for the party to which they belonged.

In the House of Commons he had few opportunities of joining in debate, and then only in connection with Scottish Bills, but in the real business which is often done in Committee he was a most useful member. He was popular with all parties, and by the members of his own party was affectionately known as "Scotty." His freedom from bias and all trace of bitterness, combined with his sound judgment, accounted largely for his success in handling Scottish Bills.

Of the Church of Scotland he was a loyal son. He was an elder of St George's Parish Church, Edinburgh, and a frequent member of Assembly, where he was a vigorous advocate of the union of the Churches. His life was the best testimony of the faith that was in him. No one ever heard him utter an unkind or uncharitable word; to all who deserved it (and to many who didn't) he was generously and unobtrusively helpful. He was conspicuously sincere, sympathetic, open-handed, and tender-hearted. It is not surprising, therefore, that he inspired affection amongst those with whom he came in contact, to a degree that is indeed rare. At the Bar he was the most popular man of his time throughout his long career; on the Bench he was equally beloved by all his colleagues. When he died, spontaneous tributes of esteem and affection were published by such outstanding men as Viscount Cave, Lord Dunedin, and Lord Strathclyde.

From his boyhood his whole life was one of strenuous, unremitting work. Probably there is no profession that makes such calls on a man's energies as that of the successful advocate. When to that are added the constant claims of party politics, the burden is one that few can long sustain. Dickson bore it longer than most, but the strain had told upon him before he reached the Bench, and some of his energy had been sapped. He did not spare himself even then. During the last years of his life (apart from the War work which he undertook connected with recruiting, Red Cross, Child Welfare, and the like) he exhausted himself in taking long criminal trials which, consistently with even his high standard of duty, he might well have delegated to younger colleagues. When the summer session of 1922 closed and the Bench and Bar fled to the country to enjoy the long vacation, Dickson sat continuously as a member of the Judicial Committee of the Privy Council until the day before his death. He had just reached the country house which he had rented for the summer, when the overwrought system gave out, and he died during the night.

Outside of his own profession Dickson received full recognition of his many eminent qualities. Thus both the Universities at which he had studied conferred upon him the degree of LL.D.

As early as 1884 he was elected a Fellow of the Royal Society of Edinburgh. At that time he was in the full swing of his practice as a junior counsel, and had no time for other occupations. As the years went on, his practice, along with his pursuit of politics, became more and more engrossing. It is not, therefore, surprising that he took little or no advantage of his opportunities as a Fellow, and it must also be confessed that science in the ordinary acceptation of the term had little attraction

for him, although he had no difficulty in mastering such parts of a scientific subject as formed the subject of a litigation in which he was engaged. Such knowledge, however, being quickly acquired and for a special purpose only, is as quickly forgotten.

Although endowed with a splendid constitution, he was one of the least athletic of the Faculty of Advocates. He indulged in no outdoor recreations, and found his sole recreation in the companionship of his friends, with whom he loved to exchange his views. For many years before his death he never even took a "constitutional," and seemed to require no physical exercise outside of his work. When he became a judge and ceased to make the same vigorous use of his lungs as when conducting a lawsuit or addressing political gatherings, which stood him in good stead as a substitute for the exercise of his limbs, his bodily health gradually declined and his gait became feebler and slower on his short walk from the Parliament House to his club or home. It is not improbable that this want of attention to the physical side of his nature may have contributed to his premature death. I say premature, for, although he reached the age of seventy-two, so far as one could judge from his intellectual powers he appeared to have years of usefulness as a judge before him.

The enormous practice which he enjoyed for so many years is the most conclusive proof of his capacity as a counsel. Even the best backing will not enable an advocate to maintain a practice for long unless he possesses the qualities which satisfy those who instruct him as well as the clients for whom they act. A pleader in the law courts has the most competent and discriminating critics in those able men of the other branch of the profession who sit behind him and listen day after day to his conduct of a great case. They have been responsible for its preparation, and if he fails to make the most of every point of which the facts are capable, or displays any lack of mastery of the law applicable, or does not come up to the standard of some brilliant opponent, a mental note is made which may affect future employment. The special gifts which an advocate displays come under the same keen scrutiny. Some who are admittedly in the front line in conducting proofs are voted useless for jury trials. Others shine more in the region of debate than in cross-examination, and their practice becomes restricted accordingly. Others, again, are admitted to be experts in one branch of the law and in no other. No such limitations applied to Dickson. He was a first-rate all-round counsel, to whom the intricacies of feudal conveyancing or of patent law presented no special difficulties. He was just as much at home in addressing juries as Courts of Appeal, and his cross-examination of

witnesses was always vigorous and effective, if it sometimes lacked finish. The same may be said of his style of argument. The sentences were sometimes disjointed—the periods were seldom rounded—the words were not carefully chosen; but the substance was there, and received expression in simple, terse, and direct language that could not be misunderstood. No wonder, then, that Dickson enjoyed the confidence of his clients and their immediate advisers, for whether he won or lost they always felt that no one could have identified himself more thoroughly with their point of view.

As a senior counsel he did not come quite up to the level of expectation derived from his success as a junior. This was noticeable only when he appeared in the Divisions or before other appellate Courts. Some of his contemporaries outshone him in well-ordered, close, and consecutive reasoning such as the finished presentment of a purely legal argument demands if it is to conform to the highest standard.

He came too late to the Bench and occupied it for too short a time to play any conspicuous part in the development of the common law of Scotland. His conservative instincts and his deference to authority militated against his taking a bold or independent view, however much he might be satisfied that it was more in accordance with the underlying principles of jurisprudence than previous decisions. No better illustration of this tendency can be given than his being a party to a decision which affirmed that it was the law of Scotland that no woman, however old, can be considered as past child-bearing. There was no prior binding decision to this effect, although it had some support from one or two judges of former generations who were ignorant of the facts of medical science. The truth was that Dickson's unrivalled acquaintance with case law tended to fetter the free use of his intellect when questions of legal principle called for decision. The common law of Scotland is based on the experience of the race, and is supposed to represent the highest embodiment of the commonsense of the community for the time being. It is therefore capable of development as human knowledge broadens the outlook, and is thus unlike statute law, which, so long as the statute remains unrepealed or not in desuetude, must be interpreted strictly in the light of the language in which it is embodied. Judged by this standard the law as to the age of child-bearing (as it has now been provisionally settled) is in accordance neither with human experience nor medical science.

So far as the public, including especially the pleaders, were concerned, Dickson was an ideal judge. He was patient, courteous, attentive in his attitude to the Bar, absolutely impartial and painstaking in his judgments.

No one who pleaded before him could ever say that he had not been fully heard or understood. In his conduct of criminal trials he leaned more to the accused than to the prosecution, and his sentences, if they erred at all, erred on the side of leniency.

For the reasons I have already indicated, Dickson cannot be ranked among the few who can be justly called great judges. But if he was not a great judge, he was at all events a great personality, and, what is still better, a delightful personality. As Lord Strathclyde wrote in a masterly appreciation that appeared in the *Juridical Review*: "His genuine humanity will continue to live for many a day in the haunts which he brightened by his sunny presence. . . . It is by nothing that Dickson said or wrote, but by his own fine nature made manifest by what he did and was, that his memory will long remain green among us."