

## SELECTIONS.

## THE JUDICIARY OF LOWER CANADA.

The *U. C. Law Journal*, in noticing our reports of the *Ramsay Contempt Case*, takes occasion to make some rather severe reflections upon the Bench of Lower Canada. The purport of this article is, that such a case could hardly have occurred in the Upper Province, the Bench there being in the full enjoyment of the esteem and veneration of the Bar. The article concludes as follows:—

“For our part, indeed, we hope that this unpleasant episode respecting legal life in this Canada of ours may not be further agitated in the English courts, and that however interesting the points in dispute may be in themselves they may be considered settled as they now stand.

“That such a state of things as have resulted in the *cause célèbre* of *Ramsay*, plaintiff in error, v. *The Queen*, defendant in error, exhibits, could not well occur in this part of Canada, we may well be thankful for. That such a boast may be as true of the future as it has been of the past, should be the constant aim and exertion of all those, who, on the bench at the bar, or in the study of the laws, desire the welfare of their country. The heritage left to us by those able, courteous and high-minded men who set the standard of the profession in Upper Canada cannot be too highly prized; and he who first, whether by his conduct on the bench or at the bar brings discredit upon their teaching, will, we doubt not, meet the universal contempt which such conduct would deserve.

“The bench of Lower Canada is not (with some honorable exceptions) what it ought to be. The conduct of Lower Canada judges has, on more than one occasion, caused Canadians to blush; and we regret to say that people abroad know no distinction between the bench of Upper and Lower Canada, and so in their ignorance cast upon the Bench of Canada, the obloquy which appertains to that of the Lower Province alone.”

Hard words need not cause us any concern unless they are true. The question then, is are these things true?

We think that the majority of the gentlemen holding high judicial office in Lower Canada, will not compare unfavourably with the judges of Upper Canada or any other Province, but we must confess that there are exceptions, and it is these exceptions that have, unfortunately, brought discredit upon our Bench. The judges of England have obtained a wonderful repute for the calm and dispassionate discharge of their functions. Within the last two centuries they have become the pride and boast of the English people, and now it is a thing unheard of, for the faintest suspicion of partiality for prejudice to alight upon their decisions. In Upper Canada, the judges seem to be regarded with almost

equal affection and reverence. Why cannot we say the same here?

Many of our readers will probably be able to answer this question quite satisfactorily for themselves, and in putting down the following observations, we are only expressing what is probably patent to all. In the first place, then, we believe that judges have sometimes been unfortunately selected from among men to whom the bench was not the scope of a noble aspiration, who did not regard the judicial office with the respect pertaining to it, who accepted it simply as a retreat from political uncertainties, or the inevitable incumbrance on the enjoyment of an official salary.

Secondly, men have been placed on the Bench, who were involved in pecuniary difficulties. A man may be perfectly honest and upright, though unable to meet his liabilities, but he is not so well qualified for an office of dignity. LORD ABINGER was so strongly impressed with the belief that easy circumstances are necessary to keep up the respectability of a barrister, that it is stated he at one time intended to propose a property qualification for members of the bar. £400 a year was, in his opinion, the smallest income on which a barrister should begin. How much more necessary that the judge, who is every day called upon to dispose of cases involving large pecuniary interests, should have no fear of the bailiff in his house, of executions against his lands—should at least, if not endowed with worldly goods, be able to say that he owes no man anything! We feel bound to add here that our judges are not fairly treated with respect to remuneration. The judicial salaries, especially in the large cities, should at least be doubled, and the retiring pensions should be adjusted on a more liberal footing.

In the third place, men have sometimes been placed on the Bench who had no love for their profession, who lacked a sound judgment, who had not gone through the toil and study necessary to fit them for their high office, and whose private life was far from inspiring respect.

It may be expected by some that we should add to this list, the appointment of politicians. But, in our humble opinion, the appointment of lawyers who have been engaged in political affairs, cannot be condemned, if the record of their political career is fair and honorable, and if they have also been distinguished at the bar. It is but right and reasonable that lawyers of integrity and ability should seek to enter the Legislature, where their opportunities of usefulness are greater and more extended. The real difficulty is, that in Canada politics in the past have been too petty, too selfish, too full of personal animosities. Thus it may happen, that a hot politician of one party is appointed to the Bench, though personally obnoxious to members of the Bar of the opposite camp. We trust that under the new Dominion this will cease to be the case. There is now no excuse for improper appointments, for we have at the bar no lack of men