

# Canada Law Journal.

VOL. XLVI.

TORONTO, AUGUST.

Nos. 15 & 16.

## *THE INDEPENDENCE OF THE BENCH AND EXTRA JUDICIAL DUTIES.*

For many years back the safeguards on which the public have been wont to rely for securing the independence, the purity, and the dignity of the Bench, have been gradually giving way to other considerations. No longer can our judges be regarded as a body apart from and above the rest of the community, removed from all temptations of personal advantage, or political advancement, chosen as possessing special qualifications which they were prepared to devote to the public service, content in the emolument provided, and satisfied that in the discharge of the important duties of their office, they could attain a position than which none could be more useful to their fellow subjects or more honourable to themselves.

Far from such being the case the Bench nowadays is too often looked upon as a reserve of rather able men who, for various reasons have gone into temporary retirement, but whom a government in difficulties or a party in distress may draw upon to obtain the special instrument required to meet the emergency.

The example set us by the Liberals when they induced Sir Oliver Mowat to leave the Bench, which he adorned, to become their leader in a party fight, and followed by Sir John Macdonald who took a similar course for the purpose of strengthening his own administration, has led to the practice now quite common of looking to the Bench for political leaders. What the Liberals have this year done in Alberta the Conservatives have done in the Dominion. Both parties have thus adopted a course which makes the position of a judge not one of the highest and most honourable in which a member of the legal profession can attain, but a mere stepping stone to political advancement.

Nothing can be conceived more likely to lower the position of the Bench in public estimations, and thus weaken its influence and impair its usefulness than the action to which we have re-