

hope that whatever perplexities or difficulties may be before me and my people we shall all unite in facing them resolutely and calmly, and with public spirit, confident that under Divine guidance the ultimate outcome will be to the common good."

### THE DOCTRINE OF "STARE DECISIS," IN COUNTY COURT AND MECHANIC'S LIEN APPEALS.

The recent decision of the Chancery Division in *Farrell v. Gallagher*, 23 O.L.R. 130, indicates a rather surprising extension of a principle which was first emphasized in this province in *Canadian Bank of Commerce v. Perram*, 31 O.R. 116, and subsequently followed in *Mercier v. Campbell*, 14 O.L.R. 639. As a preliminary to the discussion of these decisions, it is desirable to refer to s. 81 of the Judicature Act, which is as follows:—

"81. (1) The decision of a Divisional Court of the Court of Appeal on a question of law or practice shall, unless overruled or otherwise impugned by a higher court, be binding on the Court of Appeal and all Divisional Courts thereof, as well as on all other courts and judges, and shall not be departed from in subsequent cases without the concurrence of the judges who gave the decision, unless and until so overruled or impugned. (2) It shall not be competent for the High Court or any judges thereof in any case arising before such court or judge to disregard or depart from a prior known decision of any court or judge of co-ordinate authority on any question of law or practice without the concurrence of the judges or judge who gave the decision; but if a court or judge deems the decision previously given to be wrong and of sufficient importance to be considered in a higher court, such court or judge may refer the question to such higher court: 58 V. c. 12, s. 79; c. 13, s. 9."

It is stated in *Holmsted & Langton* that the above quoted sub-s. (2) was intended to prevent such a result as occurred in *Stevens v. Grout*, 16 P.R. 210, and *McDermott v. Grout*, 16