

## RESIGNATION OF VICE-CHANCELLOR MOWAT.

## RESIGNATION OF VICE-CHANCELLOR MOWAT.

Our readers cannot but be aware that the senior Vice-Chancellor has resigned his seat on the Bench to take the position of Attorney-General for Ontario, in the place of Hon. Adam Crooks, and to become Premier of the Government of Ontario, instead of Hon. Edward Blake.

The "decline and fall" of the Hon. Oliver Mowat is an episode in the nature of history-making, that would form sufficient subject-matter for a Canadian Gibbon to produce a book of no small interest or importance. We do not propose, however, to encroach on the general ground; nor on grounds better adapted for discussion in a political paper, but simply to notice the aspects which the facts present from the stand-points of the judiciary and the profession.

Whatever view the outside world may take of the matter, it will not prevent strong expressions of opinion from astonished lawyers and more guarded utterances from surprised judges, at the untoward event which at once has lost to the Court a learned brother, and found for the profession a co-labourer in the common ranks. A rude shock has been given to the stability of the judicial position, which the judge himself ought to have been the last to have occasioned. It is not the fact simply that a judge has for good cause, or for no assigned cause, retired, directly and promptly, from the bench, as that he might have done, and as has been done before with dignity and honour, both maintained and perpetuated; the trouble is that a descent like this is not a retirement, nor even an abandonment; but has the appearance of a fall, by reason of an improper pressure that should not have been tolerated by the custodian of an office so sacred and so important. The decline is what gives impetus and force to the fall. The lever that gave to the bench the descending inclination is one of the objectionable features in the movement, and the facts point to go pointedly to an inclination in the direction of the fall not to believe in its existence. We do not say that a judge is bound to continue on the Bench at the sacrifice of his health, or of an increased income, (though this has been done time and oft by judges jealous of the traditions of their order); but there is a glaring impropriety in this step, and in the pre-

cedent negotiations, which cannot but strike the most superficial observer; though, strange enough, it seems to have escaped the attention of the late learned Vice-Chancellor himself. For his own sake, we regret that it did so.

Individuals may or may not believe that a judge who leaves the bench for politics, at the request of the leader of a party with which he was formerly allied, has all along been an ardent politician. This, however, in itself, is no real grievance, so long as it does not interfere with, or in any way affect the judicial mind, as, for example, in the case of the Lord Chancellor in England; and, as far as Mr. Mowat is concerned, there has never been the slightest evidence of a tendency to fear, favor or affection. But whilst we are prepared to assert, and do assert this, as well of him as of all our judges, it is nevertheless a fact that the great mass of the people will certainly begin to attribute improper motives to judgments, which to the profession may be most unassailable, and will look upon judges as politicians in disguise, when a judge leaves the Bench directly and avowedly to go into politics, without any interval even to "give colour" to the change. What will be the confidence of the public in the trial of election petitions by judges, if the very judge who one day tries the case and unseats a sitting member, is the next day found leading a government to which the respondent was violently opposed. Better repeal that which was till now a most wise and proper enactment, and let the right to the seat be fought out by partisan committee men.

This view of the matter, if entertained generally, would introduce into the forum a bone of contention in addition to the "pound of flesh" usually in dispute by litigating Shylocks. Counsel would not only be bound to prepare himself for, and apply himself to the conviction of the mind judicial, but also to the mind political of the court. Those judges whose zeal for politics blinded their judicial discernment, would give greater attention to the political charlatan than to the counsel learned in the law. Desperate efforts would be made by suitors of a recognized political stripe to get their cases before the judge tinged with the hue of their party. In such cases political proclivities would lead to the selection of counsel adapted to the ear of the supposed partisan judge. In this way the worst features of political corruption would be