

## THE NEW JUDGE.—IN RE ELECTION FOR BROCKVILLE AND ELIZABETHTOWN. [Q. B.]

of Lord Justice Clerk in Scotland prior to 1734. Walpole, in that year, introduced the statute (7 Geo. II. c. 19) which incapacitated Judges from being members of Parliament, with the view, it was said, of fixing Lord Grange to his judicial duties. When that became law, the exasperated Judge resigned his dignities and entered Parliament in order to oppose Walpole's Government. Obtaining small success in this direction, he returned to practice at the Bar, and without obtaining further preferment died in London in 1754, in the 75th year of his age.

It will be seen that all these were cases of constrained or enforced abandonment of office, during the period when the duration of the Judge's office was *durante bene placito*, and was terminated by the demise of the Crown,—with the exception of the last, in which we have a voluntary resignation on the part of the Lord Justice Clerk, at a time when the Judges held office *quamdiu se bene gesserint*.

We know of no other examples in any of the Courts of Great Britain or her dependencies, and we do not propose to cite any instances from the Courts of the adjoining Republic.

## SELECTIONS.

## MR. JUSTICE ARCHIBALD.

Mr. Archibald, of the Home Circuit, who has been appointed by Lord Selbourne to succeed Sir James Hannen as a judge in the Queen's Bench, is the second surviving son of the late Honourable S. G. W. Archibald, Master of the Rolls, and judge of the Vice-Admiralty Court of Nova Scotia, who was previously for nearly twenty years Speaker of the House of Assembly there, and whose name is to this day held in affectionate memory throughout the province. His elder brother is the present able Consul-General at New York, Edward Mortimer Archibald, Esq., C. B., whose services have frequently called forth the marked approval of the authorities at the Foreign Office, as well as the good will of the citizens of the United States.

Mr. Archibald was called to the bar by the Society of the Middle Temple in 1852, after having practised for nearly eight years as a special pleader. He joined the Northern Circuit immediately after his call, but in 1853 he changed to the Home, of which he has continued to be a member up to the present time. In February, 1868, he was appointed by Sir John Karslake, then Attorney-General, to succeed Mr. Justice Hennen as junior counsel to the Treasury, the duties of which important

and responsible office he has, for nearly five years, discharged with very great ability and distinction. During his career at the bar, Mr. Archibald has enjoyed a very varied and extensive practice, and has been engaged in very many important cases. We may mention, among others, the great Shrewsbury case, where he was junior for the claimant (the junior opposed to, him being Mr. Hannen, whom he now succeeds); the case of *Tapling v. Jones*, in the House of Lords; the Fenian and Bribery Prosecutions; the Dundonald and Wicklow Peerage cases; besides Colonial, Indian, and Patent cases in the Privy Council, and nearly all the great Ecclesiastical appeals of recent years. A most useful reform, which has been productive of great relief to suitors against the Crown—we mean the Petitions of Right Act—ably carried through Parliament by the present Lord Chief Justice Bovill, was, we believe, suggested and drawn by Mr. Archibald. We may add that Mr. Archibald, like Mr. Justice Denman, has been connected with the *Law Journal Reports*: Mr. Archibald having done one of our Digests, and Mr. Justice Denman having been a reporter on the staff of the *Law Journal Reports* in the Court of Queen's Bench.—*Law Journal*.

## ONTARIO REPORTS.

## QUEEN'S BENCH.

(Reported by CHRIS. ROBINSON, Esq., Barrister-at-Law.)

## IN RE THE ELECTION FOR THE TOWN OF BROCKVILLE AND TOWNSHIP OF ELIZABETHTOWN.

*Controverted Election—Corrupt Practices—“Illegal and Prohibited Acts in reference to Elections”—Selling and giving Liquor—Carriage of Voters—Right to reserve questions of law—32 Vict., ch. 21, 34 Vict., ch. 3.*

Upon questions reserved by the rota Judge under “The Controverted Elections Act of 1871,” it appeared that H. and B. voted for Respondent. H. kept a saloon, which was closed on the polling day, but upstairs, in his private residence, he gave beer and whiskey without charge to several of his friends, among whom were friends of both candidates. B., who had no license to sell liquor, sold it at a place near one of the polls to all persons indifferently. This was not done by H. or B. in the interest of either candidate, or to influence the election, B. acting simply for the purpose of gain; and the candidate did not know of or sanction their proceedings.

*Held*, (though with some doubt as to B.) that neither H. nor B. had committed any corrupt practice within sec. 47 of 34 Vict., ch. 3, and therefore had not forfeited their votes; for they had not been guilty of bribery or undue influence, and their acts, if illegal and prohibited, were not done “in reference to” the election, which, under sec. 47 of 34 Vict., ch. 3, is requisite in order to avoid a vote.

The words “illegal and prohibited acts in reference to elections,” used in sec. 3, mean such acts done in connection with, or to affect, or in reference to elections; not all acts which are illegal and prohibited under the election law.

The right to vote is not to be taken away or the vote forfeited by the act of the voter unless under a plain and express enactment, for it is a matter in which others beside the voter are interested.

One M., a carter, who voted for Respondent, at the request of P., the Respondent's agent, carried a voter five or six miles to the polling place, saying that he would do so without charge. Some days after the election, P. gave M. \$2, intending it as compensation