of any question of precedence in the premises; but, however that may be, it is possible that the opinions to be expressed by the judges may be useful in matters other than those more strictly brought before them on this reference.

We notice that the opinion of Mr. Madden, a well-known Australian jurist, has been taken on a somewhat similar question in South Australia. His view is that the right to appoint Queen's Counsel can only be exercised by Her Majesty, or by some agent specifically delegated to exercise it, and unless this power has been specifically conferred on Governors they have no power to bestow the title. His view is apparently based on the supposition that the appointment of Queen's Counsel comes under the head of the royal prerogative of bestowing titles of honour. There is much force, however, in the argument that it is not merely a title of honour, but an office. The judgment of the courts on this subject will be received with much interest by the profession.

COMMENTS ON CURRENT ENGLISH DECISIONS.

The Law Reports for August comprise (1892) 2 Q.B., pp. 149-336; (1892) P., 237-261, and (1892) 2 Ch., pp. 277-373.

PRACTICE—COSTS—PROCEEDINGS ON CROWN SIDE—ORD. LXV., R.I—(ONT. RULE 1170).

In *London County Council* v. *West Ham* (1892), 2 Q.B. 173, the Court of Appeal (Lord Esher, M.R. and Fry and Lopes, L.JJ.) have held that the proceedings on the Crown side of the Queen's Bench are unaltered by the Judicature Act, and that Ord. lxv., r. 1 (Ont. Rule 1170), does not apply to such proceedings, and therefore there is no power to give costs to a successful appellant in a case stated by Quarter Sessions. In his judgment Lord Esher says: "I accept the doctrine that at common law no court of common law had jurisdiction to give costs at all, and that the whole power in those courts to give costs is given them by statute, and in such a case as this there was no statute which had given them jurisdiction to deal with such costs as are now in question." The Ord. lxv., r. 1, he holds altered the practice in cases where the court already had power to award costs, but did not enlarge the jurisdiction of the court to give costs in cases in which it had previously no such jurisdiction. See Criminal Code, s. 900, s-s. 7.

PRACTICE—DISCOVERY—INFANT.

In *Curtis* v. *Mundy* (1892), 2 Q.B. 178, a Divisional Court (Cave and Wright, JJ.) decide that an infant plaintiff cannot be compelled to make discovery of documents. We may note that this decision is opposed to the recent decision of Meredith, J., in *Arnold* v. *Playter*, 14 P.R. 399.

QUO WARRANTO—ACCEPTANCE OF INCOMPATIBLE OFFICE—NON-CORPORATE OFFICE.

The Queen v. *Tidy* (1892), 2 Q.B. 179, was a motion for a *quo warranto* against the defendant to show by what authority he claimed to exercise the office of vestry clerk. The defendant was a churchwarden, and while holding that office