

CORRESPONDENCE.

matters appertaining to the exercise of the prerogative, it can only be the Parliament of which that exalted personage is a constituent part. It does not follow that the Lieutenant-Governor is not in some very important matters, and in a very dignified sense, the Representative of the Crown within the Province; and that he may not have his prerogatives, *quasi* royal ones, some of them, in his subordinate sphere of authority. In minor matters, and more limited spheres, Clerks of Courts, Sheriffs, and other public officers, in a sense, represent the Crown. Even the petty peace officer, when he executes his warrant, arrests his prisoner "in the Queen's name."

But it seems most strangely to have escaped general attention the last eleven years that the same principle which governs the appointment of Queen's Counsel applies equally to Justices of the Peace, whose appointment is the peculiar prerogative of the Crown. Indeed, the application is more plain and obvious in their case, because it was by virtue of the Royal Commission that our Governors, before Confederation, appointed those officers. I do not yet know the terms of the present Governor-General's Commission, but I know that the Commission of a former Governor-General expressly authorized him to appoint Justices of the Peace and Coroners throughout the Dominion. I think it was Mr. (now Judge) Savery, when a member of Parliament from Nova Scotia, who called the attention of the Government to this part of the royal instructions, and inquired if it was the intention of Ministers to advise His Excellency to act upon it. From the report of a discussion that took place, it seems to have been conceded by many lawyers who ought to have known better, that if the local Governments had not the power, the local Legislatures could give it to them; as if those Legislatures could legislate away from Her Majesty's Representative any portion of the authority with which she had been graciously pleased to clothe him. One Maritime Province acted on the suggestion: (See Rev. Stat. N. B., ch. 29 p. 208) the Government of another, without even that pretext, coolly usurped the authority, and a

sorry mess has been made of it! Why the average character of the appointments since 1867 has reduced a once venerated office to profound degradation; it was bad enough before, but every year since we have been taught that "beneath the lowest deep a lower deep still yawns." It is some solace to reflect that not one of these commissions is worth more than the ink it was written with. If it be not deemed desirable for the Dominion Government to make these appointments, Parliament (not the local Legislature) might possibly pass a valid enactment enabling the Governor-General to confer authority on the local Governors to make them subject to his ratification in each case, or to nominate them for appointment by him. Or I might venture to suggest that the Governor-General might have a "power of substitution" in these matters enabling him to delegate the authority to the local Governors. This, of course, depends upon Her Majesty's royal will and pleasure which might be invoked by an humble address of Parliament, praying her so to act. And if there be a doubt as to the authority of the Governor-General to appoint Queen's Counsel, Her Majesty might, in the same way, be induced graciously to confer upon him that authority, and included in the commission and instructions to his successors, but without such power of delegation. Then a judicious and careful selection might be made from our Bar, including, especially, those whom our local Government sought to honour, while they degraded the office. But among these, the stripling who has not won his spurs would step back into the ranks and bide his time; the man whose unprofessional practices render his society loathsome to his fellow-barristers would no longer take precedence of the upright and worthy; and the dissolute and abandoned would no longer carry his Q.C. into the haunts of prostitution, and trail the silk robe in the mire of profligacy and vice.

Yours, &c.,
LEX.

Nova Scotia, Feby., 1879.

[Whilst we do not pretend to have any knowledge of the character or fitness of the