

the Legislature and of the Lieutenant-Governor of the Province, as to the validity and the effect of certain Provincial legislation and certain Provincial executive action thereunder, and as to the status and precedence in the Provincial courts of members of the Provincial Bar; that unsuccessful efforts have been made to arrange with the Government of Canada or otherwise for the submission to a judicial tribunal of the important questions so raised; that in the ordinary course of the courts there seems no adequate means for procuring an authoritative and conclusive decision on these questions; that confusion, uncertainty, and inconvenience has been produced by the existing state of matters, and it is in the public interest that the questions involved should be settled by judicial decision."

The case signed by the Attorney-General and referred to in the Order in Council contains the correspondence which has taken place between the Dominion and Ontario Governments and the Home authorities on the subject. This correspondence commenced in 1872 by a report made by the Minister of Justice of Canada to the Governor-General, giving his views on the matter and asking the opinion of the law officers of the Crown on the questions submitted. These questions were as follows: (1) Has the Governor-General (since 1st of July, 1867, when the union came into effect) power, as Her Majesty's representative, to appoint Queen's Counsel? (2) Has the Lieutenant-Governor, appointed since that date, the power of appointment? (3) Can the Legislature of a Province confer by statute upon its Lieutenant-Governor the power of appointing Queen's Counsel? (4) If these questions are answered in the affirmative, how is the question of precedence or pre-audience to be settled?

The answer was given by the Colonial Secretary as follows:

"I am advised that the Governor-General has now power, as Her Majesty's representative, to appoint Queen's Counsel; but that a Lieutenant-Governor, appointed since the union came into effect, has no such power of appointment. I am further advised that the Legislature of a Province can confer by statute on its Lieutenant-Governor the power of appointing Queen's Counsel; and, with respect to precedence or pre-audience in the courts of the Province, the Legislature of the Province has power to decide as between Queen's Counsel appointed by the Governor-General and the Lieutenant-Governor, as above explained."

Subsequently, the Legislature of Ontario passed an Act respecting the appointment of Queen's Counsel and an Act to regulate the precedence at the Bar. These enactments are now consolidated in the Revised Statutes as c. 139.

A despatch from the Lieutenant-Governor of Ontario to the Secretary of State in January, 1886, gives in full and at great length the views of the Ontario Government on this much-vexed question, referring therein to the case of *Lenoir v. Ritchie* in 3 S.C.R. 575. A short reply from the Secretary of State then follows, wherein the Dominion Government advises His Excellency the Governor-General that "so long as the judgment in *Lenoir v. Ritchie* is not reversed, it is the duty of Governments and individuals in Canada to respect and conform to that judgment. No inconvenience has been occasioned by the judgment, nor has anything occurred since it was rendered, so far as His Excellency's advisers