

EDITORIAL NOTES—RIGHT OF QUEEN'S COUNSEL TO DEFEND PRISONERS.

The following advertisement appears in an Oshawa paper :

"I am prepared to do all manner of conveyancing at charges lower than any one in town, also to collect accounts, attend to Division Court business, collecting of rents, letting houses, posting books and making out accounts, etc.

"N.B.—Legal advice free of charge."

The extract from which the above was taken has been sent to the Attorney-General, so that the proper authority may know the kind of thing country practitioners are subjected to. The man who has the cheek to advertise as this impostor does has also the hardihood to give advice to any one on any subject brought before him. The not unlikely result might be ruin to the person advised. It will be no answer in the mouth of those who are responsible for legislation that "it served him right." The ignorant public ought to be protected as well against legal quacks as against medical quacks. How legislators can reconcile it to their legislative conscience to give this subject the go by we cannot understand.

RIGHT OF QUEEN'S COUNSEL TO DEFEND PRISONERS.

Though the legal atmosphere has been much disturbed of late by the questions whether the Dominion or a Provincial Government has the right to appoint a Queen's Counsel, and whether such appointment confers a "title of honour," and so comes from the Crown as *onus honoris*, or means only an "office," or a general retainer from the Crown, which entitles the barrister holding a patent as "one of Her Majesty's Counsel learned in the law" to pre-audience in Court, owing to "the dignity of his client," nothing has as yet been said respecting the peculiar duty of a Queen's Counsel—long known and still recognized in England—not to appear against the Crown in any civil or criminal cause unless by special license.

In Gude's Crown Practice (v. 2, p. 599) a form of petition for this license is given. It sets forth that the petitioners are prosecuted at the suit of the Crown, and then proceeds "That—, one of Your Majesty's Counsel learned in the law would be very useful for your petitioners in defending them therein. Your petitioners therefore humbly beg Your Majesty would be graciously pleased to grant your Royal dispensation to the said —, to be of counsel for your petitioners in their defence."

The form of license is given at p. 390 of the same work, and after reciting the petition, reads: "We being graciously pleased to condescend to this request, do accordingly, by these presents, dispense with the said —, and grant him our Royal license to be of counsel," etc. A note to the form states: "The certificate from the Secretary of State's office is considered sufficient for counsel to authorize him to receive the brief, without having the license itself."

The relations of Queen's Counsel to the Crown, may, be better understood when it is stated that the two principal members of that select body, are Her Majesty's Attorney and Solicitor-General; and if either of these counsel who are more especially Her Majesty's law officers can, without license, take briefs against the Crown, *a fortiori*, may those holding the subordinate rank and office of Her Majesty's Counsel, take briefs and be engaged in causes against the Crown.

The first barrister appointed by the Crown to be a Queen's Counsel was Lord Bacon, in 1590. His appointment was that of Counsel Extraordinary to the Queen; but no fee was then attached to the office. Soon after the accession of James I, he was constituted by Letters Patent, "King's Counsel," having been previously knighted.

The next appointment of King's Counsel was in 1668, when Sir Francis North received a silk gown. It is said that, being desirous of making himself known at Court as an anti-Parliamentarian lawyer, he volunteered to argue for the Crown before the House of