

Chapter 34.—By the 16th section of Chapter 34, intituled: "An Act respecting the Bar of the Province of Quebec," the Batonnier of the Province is given precedence over the other members of the Bar. A similar provision was contained in the 16th section of the Act of the same Legislature, 44-45 Victoria, Chapter 27, which was left to its operation without comment. It is to be observed, however, that in *Lenoir vs. Ritchie* (3 Can., S. C. R. 5785) Henry, Taschereau and Gwynne, JJ., constituting a majority of the Court, held that a Provincial Legislature has no power to authorize the Lieutenant Governor to appoint Queen's Counsel or to grant to any member of the Bar a patent of precedence in the Courts of the Province, as the prerogative of raising practitioners in the Courts of justice to a superior eminence by constituting them Sergeants, &c., or by granting letters of precedence to such Barristers as Her Majesty thought proper to honor with that mark of distinction, whereby they were entitled to such rank and pre-audience as were assigned in their respective patents, belonged in Canada, to Your Excellency, as the representative of the Crown, and not to the Lieutenant Governors. In coming to this conclusion, it will be seen by reference to the report of the case, that the learned judges did not overlook, but took into consideration and discussed, the fact that in his despatch of 1st February, 1872, to Lord Lisgar, the Earl of Kimberley stated that he was advised that the Legislature of a Province could 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 had power to decide as between Queen's Counsel appointed by the Governor General and the Lieutenant Governor. Since 1879 *Lenoir vs. Ritchie* has continued to be, and until reversed, should be accepted and respected as the authoritative enunciation of the law on the subject. It is clear, the undersigned thinks, that a Legislature cannot in this respect exercise directly a power which it cannot enable the Lieutenant Governor to exercise.

For these reasons the undersigned is of opinion that the section referred to should be repealed or at least should be so amended as to show clearly that the Legislature intended the enactment to be, as Sir John Macdonald, then Minister of Justice, in his Report of 3rd January, 1872 (Provincial Legislation, p. 26) states it must be, "subject to the exercise, by Your Excellency, of the Royal prerogative, which is paramount and in no way diminished by the terms of the Act of Confederation."

Chapter 39.—The undersigned will make Chapter 39, intituled: "An Act to authorize certain Corporations and Institutions to lend and invest moneys in this Province," the subject of a separate Report.

Chapter 49.—By the 1st Section of Chapter 49, intituled: "An Act to amend the Act of this Province, 45 Victoria, Chapter 103, respecting the Town of Richmond," the Town Council is given the power not only to restrain and regulate the sale of spirituous liquors, but also to prohibit such sales. Probably under the decisions this is in excess of the powers of the Legislature.

Chapter 98.—The 1st Section of Chapter 98, intituled: "An Act respecting the Executive Power," declares that "The Lieutenant Governor or person administering the Government of the Province is a corporation sole." This section is taken from the Consolidated Statutes of Canada, Chapter 10, Section 1, which may possibly by virtue of the 65th Section of the British North America Act, 1867, be in force in Quebec in respect of the office of Lieutenant Governor. The provision, however, is clearly one that relates to the office of Lieutenant Governor, and as such is withdrawn from the legislative authority of the Legislature of Quebec by the 92nd section of the Act last referred to.

In January last an Act passed by the Legislature of the Province of Manitoba, intituled "An Act respecting the Lieutenant Governor and his Deputies," which contained a similar provision, and also a provision authorizing the Lieutenant Governor to appoint deputies was disallowed, on the ground that the Act was not within the legislative authority of the Legislature of the Province of Manitoba.

In the opinion of the undersigned this section should be repealed. The undersigned respectfully recommends that the substance of this report, if approved, be communicated to the Lieutenant Governor of the Province of Quebec, and that in the meantime action be deferred in respect to Chapters 34 and 98.