verses the judgment of the Court of first instance, and that it awards to the appellants the right of precedence which they claim over the respondent, let me ask, What would happen in such case? How and against whom would they execute the judgment? Would they be able to issue a writ addressed to Sir William Young, the Chief Justice of the Superior Court, to enjoin him to recognise the precedence of the appellant? And if he refused, would there be issued against him an order for contempt of court? Judgments are executed against the parties and not against the judges. Would the appellants have the least means of forcing the respondent to desist from his precedence or to compel him to refuse to reply to the question which might be addressed to him by the Chief Justice, notwithstanding our judgment? Certainly not; the judgment would in this case be nothing but an expression of opinion which would remain a dead letter.

If I may not presume that an inferior Court will refuse to execute the judgments of this Court in ordinary cases because they may be contrary to their own,—I may not be wrong in thinking that in a case like this when it acts in the exercise of a discretionary power, which is not subject to our control, it would think itself justified in not conforming to it, in order to preserve intact its prerogatives and discretionary power. In the case supposed, we shall be exposed to seeing the Supreme Court of Nova Scotia, notwithstanding our contrary opinion, maintaining its own decision. Nothing of that kind could have happened, if instead of addressing the disciplinary jurisdiction of the Court, the validity of the letters patent had been attacked by *scire facias*. In that case the judgment would be executed as all others, and there would not be any possible conflict between the two Courts. I should be induced by these reasons to declare that this Court has not jurisdiction, and that it ought to abstain from judgment. But as I am under the impression that I am alone in entertaining this opinion, I shall briefly give the reasons of my decision upon the merits of the question submitted.

After Confederation, difficulties arose in the Provinces of Ontario and Nova Scotia, on the subject of the power of the Lieutenant-Governor to appoint Queen's Counsel. This question affecting the Royal prerogative was for this reason referred by the Privy Council of Canada, to the Secretary of State for the Colonies, in order to obtain the opinion of the law officers of the Crown. The memorandum of the Privy Council, signed by Sir John Macdonald, after having cited paragraph 14 of section 92 relative to the organization of the Courts, contains the following declaration :—"Under this power, the undersigned is of the opinion that the legislature of a Province, being charged with the administration of justice and the organization of the Courts, may, by statute, provide for the general conduct of business before those Courts; and may make such provision with respect to the Bar, the management of criminal prosecutions by counsel, the selection of those counsel, and the right of preaudience, as it sees fit. Such enactment must, however, in the opinion of the undersigned, be subject to the exercise of the Royal prerogative, which is paramount, and in no way diminished by the terms of the Act of Confederation."

To this part of the memorandum, the Colonial Secretary, Lord Kimberly, made the following reply, which may be found in his despatch of the 1st February, 1872 :—"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 Lieutenant-Governor, as above explained."

The Chief Justice, Sir William Young, in the reasons of his judgment in this cause, speaking of the effect of that correspondence upon the two Acts in question, expresses himself thus : "Among the grounds taken