

tion de l'ordonnance, et donna jugement suivant les conclusions de la contestation du demandeur. Elle décida, en outre, que le défendeur ne fût-il pas un *operarius*, elle condamnerait encore le tiers-saisi parce que dans sa déclaration, il avait failli de se conformer à l'art. 619 C.P.C., en ne dévoilant pas les conditions sous lesquelles le défendeur était à son service.

*Greenshields, Guerin & Greenshields*, pour le tiers-saisi.

*Lavallée & Lavallée*, pour le demandeur-contestant.

(L. A. L.)

#### APPOINTMENT OF QUEEN'S COUNSEL.

[Continued from page 111.]

SIR JOHN THOMPSON: Now, having said that much with regard to the hon. gentleman's contention, which he understood that his argument had established, and which he enumerated among the points which he had established, that Her Majesty is an integral part of the Legislature of the province, let me refer the hon. gentleman to the mistake which, I think, he made, in attributing that as the foundation of the decision in the case of *Lenoir v. Ritchie*. It seems to me, and it has always seemed to me, that the Executive Government, not only of Canada itself but of every one of her provinces, is vested in Her Majesty. It seems to me, that it is perfectly within the competence of a Provincial Legislature, to make enactments binding Her Majesty's prerogative, and binding that prerogative to the fullest extent, but only in regard to matters which are entrusted to the Provincial Legislature under the British North America Act; and this, for the very obvious reason, that, inasmuch as these powers are given to Provincial Legislatures, the Provincial Legislatures cannot fully legislate upon them without binding all the rights which Her Majesty has in regard to them, as well as the rights which Her Majesty's subjects have in regard to them. When we find the power to regulate the civil procedure of the courts entrusted to the Provincial Legislatures, it is surely competent for the Provincial Legislatures to control that Provincial procedure, even though it affects to some extent the use of Her Majesty's name, as, for

instance, in the issue of writs, which the hon. gentleman has referred to as running in Her Majesty's name. It seems to me perfectly within Provincial powers to control and to regulate that procedure, notwithstanding the mere fact that justice is supposed to be administered in Her Majesty's name, and that all who come within her courts are supposed to come at Her Majesty's summons. But the difference between the proposition which the hon. gentleman has laid down, with regard to Her Majesty being an integral portion of the Provincial Legislatures, and the principle which is laid down, rightly or wrongly, in the case of *Lenoir v. Ritchie*, seems to me to have been this: that the respect in which Her Majesty was said not to form a part of the Provincial Legislature by the Supreme Court of Canada, in the case of *Lenoir v. Ritchie*, was this respect, that Her Majesty could not be said to be bound in her prerogative rights, by a Provincial statute, unless the power of a Legislature upon that subject was expressly conferred by the British North America Act. It had been contended there by counsel, for the appellant, that even though the subject dealt with should be the distribution of honors and of titles—of honor proceeding essentially from Her Majesty as the fountain of honor—yet the Provincial Legislature might properly pass a statute binding Her Majesty in respect to the exercise of that prerogative, even though it was not conferred upon them by the British North America Act, on the ground that the Provincial statute being once passed, Her Majesty was bound to yield her prerogative in her assent to that Act. That involved the proposition that Her Majesty was a portion of the Legislature of the Province, and it was in that respect, with regard to the unrestricted legislative powers of the Provinces, that the Supreme Court of Canada, as I understand the decision in the case of *Lenoir v. Ritchie*, held that Her Majesty was not bound by a Provincial statute, and that she did not form part of the Provincial Legislature. The logical result of that conclusion was, not at all as the hon. gentleman seems to suppose, that Her Majesty could not be bound in any of her rights by a Provincial statute, but simply that Her Majesty was not