

*Amer*, 42 U.C.Q.B. 391, is a prerogative right, and in that case a commission issued by the Deputy Governor-General of the Dominion was upheld; but the court declined to say whether or not a similar commission issued by the Lieutenant-Governor would be valid. The reporter adds a *semble* to his head note, to the effect that it would; but it seems to us the *semble* is not well founded, at all events, if the commission purported to empower persons who were not duly appointed judges by the Governor-General, to act as judges. For the trial of the Biddulph murder case commissions were issued both by the Governor-General and the Lieutenant-Governor.

The power conferred by C.S.U.C., c. 11, s. 2, to appoint temporary judges of assize it seems to us can now only be exercised by the Crown as represented by the Governor-General, to hold otherwise is virtually to create an exception to s. 96 of the B.N.A. Act.

In like manner the power formerly conferred on the Chancery judges to appoint a Queen's Counsel to hold sittings of the Court of Chancery would seem to have come to an end at the passing of the B. N. A. Act, because the Parliament which conferred it having become defunct, and being no longer able itself to exercise the power, neither could its delegates do so, otherwise it could be in effect perpetuating its authority after it had ceased to exist and after its authority had been transferred to some other functionary. If, for instance, the Parliament of the former Province of Canada had conferred on the judges of the Court of Chancery power to appoint judges to that Court as often as vacancies occurred, could it be pretended that such power could now be exercised? Surely not. Can it make any difference because the power they had was merely to appoint temporary judges?

The Ontario Legislature, however, appears to have thought otherwise, and it has not only introduced the provisions of C.S.U.C., c. 11, and 29-30 Vict., c. 39, into the Provincial Statute Book, but has also from time to time supplemented them with similar legislation: see 37 Vict., c. 7, s. 36, and has purported