

to authorize the Lieutenant-Governor to make such appointments. They hold that the appointment of Queen's Counsel is the appointment to an office, and that under section 92, No. 4 (the establishment and tenure of provincial offices, and the appointment and payment of provincial officers), the provincial legislature has power to authorize Lieutenant-Governors to make appointments of Queen's Counsel for the purposes of the provincial courts, but they say: "We feel some doubt as to the power of the Lieutenant-Governor of any Province, other than Ontario or Quebec, to create Queen's Counsel with or without the incidental privilege of pre-audience. But in regard to Ontario and Quebec, we think, having regard to section 134 of the British North America Act, that the Lieutenant-Governors of the Provinces can create Queen's Counsel for the purposes of the provincial courts. Whether the Lieutenant-Governors can regulate the precedence of the members of the provincial bars *inter se* is one, in our opinion, of some difficulty. On the whole, we think not."

And in Sir George Cornwall Lewis' Essay on the Government of Dependencies more than one passage may be found which supports our leading proposition. Thus he says:* "An Act of legislation by a sovereign government implies the necessity of future executive Acts, and every executive Act presupposes a prior legislative Act which is carried into execution." And again:† "With respect to the comparative importance of the legislative and executive powers, it may be observed that a sovereign government possesses both, and that, inasmuch as each of these powers implies the other, neither can exist alone. . . . The power of making laws implies the power of determining the delegation of executive functions to subordinate officers, since it is by means of laws that the delegation is made."

Proceeding now to consider such decided cases not already referred to as illustrate our leading proposition, one of the earliest is *Queen v. P* 10,‡ where Draper, C.J., held that the Act of the Ontario legislature continuing in force an Act of the old Province of Canada which authorized the Government to appoint police magistrates was valid. He held that the latter Act, relat-

*Edition 1891, by C. P. Lucas, at p. 16.

†*Ibid.*, at p. 66.

‡4 O.P.R. 281, 1 Cart. 810 (1868).