

favourite one with natives and visitors. Moved by some evil genius the majority in the Town Council, as then constituted, determined to knock the whole wall down and build a terrace of dwelling-houses in its stead. Some people hinted that as some of the Town Councillors were also possessors of property on the hill, it was to their advantage. They were led by the Provost, a man of considerable wealth and few scruples, but the Bank failure ruined him not only in purse, but as he attempted to cheat his creditors he ruined himself in character as well. The party that wished the wall preserved got up their spirits and were preparing to fight. At this point an ironmonger got permission to make a hole in the wall to cut away the rubbish of some building operations he was carrying on. The wall-preservation party held an indignation meeting where speeches were made full of "Bannockburn and glory;" a meeting was held by the other party, at which a Town Councillor, a born eccentric, turned the tables on the preserving party by showing that the parts of the wall which have now disappeared had been taken down by the parties on the platform at the previous meeting or by their fathers. This Councillor (John Thompson) is a man that so delights in contradiction that he has contradicted himself more frequently than any one can count. On one occasion, on being challenged for voting one way at one Council and the directly opposite the next, he answered: "Man, a' couldna resist the deevilment it wad mak." He lives on the rents of his property, and poses as the workingman's candidate. He denies the existence of beauty, yet visited most of the Cathedrals in England and not a few in France, and when the School of Design here was going to the wall, spent both time and money to get it resuscitated. He is an enthusiast in the antiquities of Stirling, and yet would pull down what remains of the old town wall. He admits that love of contradiction is a besetting sin, and that the most dangerous position for his moral character would be the society of "good folk," but adds, "I'm in nae danger in the Town Council."

The wall-preservation party made a desperate fight at the election a year ago to seat one of their party in the Provost's chair. Their representative was an excellent "Free Kirk" man, accused by the humour of the town with being an atheist. In vain did he multiply his attendance at prayer meetings and religious conferences and pathetically record his confession of faith in the local newspaper; still the people would have it that he was an atheist. Against him the destructionists set up a burly M. P., a staunch teetotaler, who owns or has fitted up more public houses than any other man in the town. The preservationists sustained a heavy defeat. They accused their opponents of all manner of unfair dodges; the Provost elect, who had posed as a representative disestablishmentarian, was declared to have promised all manner of monetary advantages to the "auld kirk folk," and Councillor John Thomson, uncompromising Protestant as he had been in the past, was said to have frequented midnight mass in order to gain the Roman Catholic vote. However, as the year wore on it was found that a number of the destructionists were weak-kneed and were converted into preservationists, so that by a majority the Council ordered the ironmonger to build up the "hole in the wall." Being a man of resource, the ironmonger quietly waited and held on to what he had got, expecting that this new election would permit him to take complete possession of the wall.

The fight has been a furious one. The ex-Provost, notwithstanding his discreditable performance in the City of Glasgow Bank's business, armed with the money of a relative, was fighting for a seat in the Council again. The ward in which he is eligible is somewhat rough, so the ward meetings had a striking resemblance to Billingsgate with an occasional liability to resemble Donnybrook. The actual leader of the preservationists is an able-bodied tanner, who is an elector in this same Cowan Street Ward. With sturdy lungs and a ready command of racy English, flavoured with Scotch, he is an awkward customer to meet. His friends call him "the Rupert of debate," his opponents call him "Baron Munchausen." The only justification of the latter title is his habit of making use of the rhetorical figure *hyperbole*. He had actually said that it would take half the National Debt to carry out some project of the Council, whereas it would only take about ten times the worth of the thing when done, not the hundred thousandth part of the aforesaid debt. So the scene at the meetings were always exciting and generally amusing to outsiders. One meeting there was in which the various speakers informed their audience that the rest were all blackguards. For aught I know, or care, it might be all true, but the lawyers promised themselves a nice harvest over the matter; the clergy came in and spoiled that hope.

We may not be very religious in this good town. Indeed, could one believe the account each gives of his neighbours, we are a very irreligious class of people—but we are very ecclesiastical. Every one belongs to some one or other of the ecclesiastical divisions into which Scotland is split up. Of course, most of the Magistrates are elders in one or other of the Presbyterian sects. The ex-Provost honours the Establishment with his support; true his ideas of commercial honesty are somewhat peculiar, and in other matters, though I never saw him drunk, report does not credit him with asceticism. Once when presiding at a prayer-meeting, in his ecclesiastical capacity of elder, he actually repeated the Lord's Prayer without stumbling; the observants noted that the Bible was open at the sixth chapter of Matthew. Hence the ecclesiastical

connection of any man is important. I was pathetically informed that had one congregation not split its votes they would have seated two of its three members in the Council.

Meantime I learn the result of the contest has been to the honour of Stirling, the return of that worthy, the ex-Provost, and maintenance of the majority for preserving the town wall. So *gaudeamus*.

*A Scottish Student.*

## QUEEN'S COUNSEL.

### No. II.

In order to understand fully the present uncertainty respecting the proper *fons* of this *honor*, it is necessary to go back to the year 1871. During that year the attention of the Government of Canada was directed to the expediency of appointing Queen's Counsel for Nova Scotia, the Government of that Province being of opinion, that of itself it had no authority to grant such honours. Under these circumstances, it was deemed advisable by the Dominion Government to submit the matter to Her Majesty for the opinion of the Law officers of the Crown, and this was accordingly done by Lord Lisgar, then Governor-General, in a despatch dated the 4th January, 1872. This despatch we reproduce below, together with the report made to the Privy Council by Sir John A. Macdonald, Minister of Justice, a copy of which was transmitted with the communication of Lord Lisgar:—

OTTAWA, 3rd January, 1872.

"The undersigned has the honour to report to your Excellency that the question has been raised by the Government of the Province of Nova Scotia as to whether they have the power of appointing Queen's Counsel for the Province, their opinion being that they have no such power. The undersigned is of opinion that as a matter of course, Her Majesty has directly as well as through her representative the Governor-General the power of selecting from the bars of the several Provinces her own Counsel, and as *fons honoris* of giving them such precedence and pre-audience in her courts as she thinks proper.

"It is held by some that Lieutenant-Governors of the Provinces, as they are now not appointed directly by Her Majesty, but by the Governor-General, under the British North American Act, 1867, clause 58, do not represent her sufficiently to exercise the Royal prerogative without positive statutory enactment.

"This seems to have been the view of Her Majesty's Government in 1854, when they refused to confer the pardoning power on the Lieutenant-Governor.

"On the other hand, it is contended that the 64th and 63th clauses continue to the Lieutenant-Governor the powers of appointing Queen's Counsel which they exercised while hold commissions under the great seal of England.

"Reference is also made to the 63rd section, by which the Lieutenant-Governors of Ontario and Quebec appoint Attorney-Generals, and the Lieutenant-Governor of Quebec also a Solicitor General. However this may be, it will be seen that by the 92nd clause of the Act, it is provided that 'The Legislature of each Province may make laws in relation to the administration of justice in the Province, including the constitution, maintenance and organisation of Provincial Courts, both civil and criminal jurisdiction, and including procedure in civil matters in those Courts.'

Under this power the undersigned is of 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 these Courts, and may make such provisions with respect to the bar, the management of criminal prosecutions of counsel, and the right of pre-audience, 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.

"As the matter affects Her Majesty's prerogative the undersigned would respectively recommend that it be submitted to the Right Honorable the Secretary of State for the Colonies, for the opinion of the Law Officers of the Crown and for Her Majesty's decision thereon. The questions for opinion would seem to be:—1. Has the Governor-General (since 1st July, 1867) power, as Her Majesty's representative, to appoint Queen's Counsel? 2. Has a Lieutenant-General, appointed since that date, the power of appointment? 3. Can the Legislature of a Province confer by statute on its Lieutenant-Governor the power of appointing Queen's Counsel? 4. If these questions are answered in the affirmative, how is the question of precedence or pre-audience to be settled?

"All which is respectfully submitted.

(Signed)

*John A. Macdonald.*

To this the Earl of Kimberley, Secretary for the Colonies, replied as follows:—

February 1st, 1872.

"In compliance with the request contained in despatch of the 4th January, I have taken the opinion of the Law Officers of the Crown on the questions raised therein, with regard to the power of appointing Queen's Counsel in the Provinces forming the Dominion.

"I am advised that the Governor-General has now power, as Her Majesty's representative, to appoint Queen's Counsel, but that a Lieutenant-Governor, appointed since the Union came into effect, has no such power of appointment.

"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 the Lieutenant-General as above explained.

*Kimberley.*

On the 16th of March following the *Official Gazette* of Ontario contained a list of Queen's Counsel appointed by the Lieutenant Governor. Upon this, and by the recommendation of Sir John A. Macdonald, an Order of the Privy Council of Canada was passed setting forth:—

That in view of the despatch of Lord Kimberley great doubts must exist as to the validity of Commissions issued by the Lieutenant-Governor of Ontario; that by the law of