

APPOINTMENT OF QUEEN'S COUNSEL.

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 Governor, as above explained.

I have, &c.,

KIMBERLEY.

To The Governor-General.

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 2nd October, 1872.

On a memorandum, dated 28th September, 1872, from the Hon. the Minister of Justice, reporting that it appears by the Ontario "Official Gazette," of the 16th of March last, that the Lieutenant Governor of that Province appointed the following gentlemen to be Queen's Counsel:—

Danl. McMichael, of Osgoode Hall, Esq., Barrister-at-law			
William Proudfoot,	"	"	"
Chris. Salmon Patterson,	"	"	"
Edmund Burke Wood,	"	"	"
John Anderson,	"	"	"
Samuel Hume Blake,	"	"	"
Thomas Moss,	"	"	"

The Minister states that, being of opinion that in the absence of legislation on the subject, the Lieutenant Governor of a Province of the Dominion had not, since the 1st July, 1867, the right to exercise the Royal prerogative in the appointment of Queen's Counsel, but that such power was vested in the Governor General, as Her Majesty's representative; he made a report to that effect, and His Excellency the late Governor General transmitted such report to the Secretary of State for the Colonies, for the purpose of obtaining the opinion of the Law Officers of the Crown on the subject.

That by a despatch, dated 1st February last, Lord Kimberley informed Lord Lisgar that the Governor General had the power, but that a Lieutenant Governor appointed since the union came into effect had not the power of appointment.

That under the circumstances, great doubt must exist as to the validity of the commissions issued to the gentlemen named.

That by the law of Upper Canada, Queen's

Counsel can, in certain cases, at the request of a Judge of the Superior Courts, perform certain judicial duties, such as the trial of civil and criminal cases. That their authority to act might be disputed, and that if it were eventually decided to be illegal, a failure of justice would be the consequence.

That under these circumstances, as the gentlemen mentioned are fully qualified to perform the duties of Her Majesty's Counsel, the Minister of Justice recommends that commissions be issued by the Government of Canada to those gentlemen, or such of them as desire to receive the same.

The Committee submit the above recommendation for Your Excellency's approval.

Copy of a Minute of Council, approved by His Excellency the Lieutenant Governor, the 23rd day of October, A. D. 1872, and sent to the Secretary of State for the Provinces.

The Committee of Council would respectfully call your Excellency's attention to the fact, that some of the gentlemen whom your Excellency appointed Queen's Counsel for Ontario, on the 16th March last, have during the present month received from the office of the Honourable Secretary of State for Canada, letters in the following form:—

DEPARTMENT OF THE SECRETARY OF STATE,
OTTAWA, 7th October, 1872.

SIR,—I have the honour to inform you that the question having been raised in the Province of Nova Scotia as to where the power of appointing Queen's Counsel rested since the Union of the Provinces, His Excellency the Governor-General, on the 4th January last, obtained through the Right Honourable the Secretary of State for the Colonies, the opinion of the Law Officers of the Crown in England on the subject. These officers advised that the Governor General has now the power, as Her Majesty's Representative, to appoint Queen's Counsel, but that a Lieutenant Governor appointed since the Union came into effect, has, in the absence of legislation, no such power of appointment.

Under these circumstances, and to remove all possible doubt as to the legality of your status as one of Her Majesty's Counsel for the Province of Ontario, I am commanded by His Excellency the Governor General to inform you that a Commission will be issued under the Great Seal of Canada, appointing you Queen's Counsel for Ontario should you desire it.

I have the honour to be, &c.,

E. PARENT,

Under Secretary of State.