

DOMINION CONTROL OVER PROVINCIAL LEGISLATION.

1875." He therefore recommends that the Bill entitled "An Act to amend the Land Purchase Act of 1875," do not receive the assent of the Governor-General in council.

The Bill was accordingly disallowed.

Shortly after this an Act was passed by the Legislature of Quebec, being 39 Vict. c. 7, "To compel Assurers to take out a license." A petition was presented to the Governor-General against this Act by the agents and managers of a large number of insurance companies carrying on business throughout Canada.

Mr. Edward Blake, then Minister of Justice, reported on this Act on Oct. 16, 1876 (Can. Sess. Pa. 1877. No. 89, p. 137). After remarking that the question as to the constitutionality of the Act might have much light thrown on it by a certain case then pending, and that therefore, it was better to defer any determination on this point for the present, and after disposing of the further objection that the law interfered with Canadian legislation, he goes on to deal with objections that had been raised by the memorialists with reference to the policy of the measure. This portion of the report has an obvious bearing on the present subject. The Minister observes that the tax to be raised by the requirement of a license is strictly for the purpose of revenue; and under B. N. A. (sec. 92 sub. s. 2) each Province may exclusively make laws in relation to "direct taxation within the Province in order to the raising of a revenue for Provincial purposes." He nevertheless proceeds to say:—

"The policy of laying a tax of this nature is open to great objection. It must fall, in the end, upon those interested in the assurances. It may be considered to be a tax upon providence and thrift, and its operation may have an injurious effect far beyond what may be recompensed by its pecuniary results, but these are views which, although they should be fairly weighed, *and although they might in some cases force upon the Canadian Government the necessity of disallowance*, are yet subject to this observation, that the people of a province who re-

quire to raise a revenue for their local wants, and who tax themselves for the purpose, may rightly claim, *and must fairly be permitted a considerable latitude in the determination what these shall be*, and that considerable confidence may be placed in local public opinion as a remedy for the indicated evils where they may exist."

He then goes on to observe that in one particular the Act appeared specially objectionable, viz., because it imposed upon companies, which had already contracted at a specified premium, calculated upon various elements, not, however, including a taxation of the gross premium,—a deduction not from its net profits, but from the gross premium—and the companies were not in a position to recoup themselves by calling upon the insured to pay the tax.

"This," he says, "seems objectionable in principle, and calculated to produce a feeling of insecurity abroad, with reference to Provincial legislation; and the undersigned recommends that the attention of the Lieutenant-Governor should be called to the provision with a view to its amendment during the ensuing session, at any rate, in so far as it affects contracts made before the passing of the Act."

In a report dated Oct. 19, 1876, duly adopted, the same Minister observes with regard to a certain Act of the Province of Quebec passed in 39 Vict. for the erection of certain parishes, that it is a question whether a Local Legislature can delegate its powers in the manner contemplated in that Act, and adds: "It seems to the undersigned, that it would avoid the questions to which he has referred, *and would be more in accordance with the true principles of legislation* that these cases should be dealt with, as heretofore, when they arise."

In the case of the Province of Manitoba there appear many specially strong examples of the exercise of the prerogative of disallowance. Thus in 1876 an Act respecting the survey of lands was disallowed on the Report of the Minister of Justice that it was "at present premature and unnecessary." (Can.