

## DOMINION CONTROL OVER PROVINCIAL LEGISLATION.

England, Lord Carnarvon requests the careful consideration of your Excellency's ministers in respect to it. They submit that the proposed Act is subversive of the rights of property, and that it will prove most ruinous to proprietors in the colony, and a dangerous precedent to establish as a mode of allaying popular agitation; after entering upon details of the past, they submit that the Act is without a precedent in the history of legislation, and that even if it were called for as constitutional as respects its object, the mode of procedure adopted by it would prove most ruinous and harassing to the owners of property in that Island. They allege that the government, which is practically irresponsible as it cannot be sued in a court of law, might hold this Act over the unfortunate proprietor who cannot force on the proceedings when once commenced, nor obtain compensation or costs when such proceedings have been abandoned; and they dispute the recitals to the Act, and pray for the disallowance of the same. The other petitions allege various reasons in respect to which they, as proprietors and British subjects, would be much injured and damnified if the Act passed. The allegations in these petitions are very forcibly urged, and represent features *which cannot but be regarded as contrary to the principles of legislation in respect to private rights and property.*"

"The undersigned is of opinion that the Act is objectionable, in that it does not provide for an impartial arbitration in which the proprietors would have a representation for arriving at a decision on the nature of the rights and the value of the property involved, and also for securing a speedy determination and settlement of the matters in dispute.

"Under all the circumstances of the case, the undersigned has the honor to recommend that the Bill so reserved, intituled "The Land Purchase Act, 1874," do not receive the assent of your Excellency in Council."

This Report was duly approved, and the Bill was disallowed.

Subsequently, in 1875, the Prince Edward Island Legislature passed another Land Act. In his report on this Act, dated May 26, 1875 (Can. Sess. P., 1877, No. 89, 338), M. Fournier, acting-Minister of Justice, ob-

serves that the objections on account of which the prior Act of 1874 was disallowed have been removed, "and a fair representation of the interests of all parties concerned, has been provided for, and an impartial tribunal has been insured to each proprietor." He says, therefore, that he is of opinion "that the subject dealt with in the Bill, is one coming within the competence of the Legislature, and *inasmuch as the objectionable features of the previous Bill have been removed,*" he recommends that the Act of 1875 be assented to. The Act was accordingly allowed.

In 1876, an Act was passed to amend the said Act of 1875, and to validate certain proceedings had under it. This Act was reserved for the consideration of the Governor-General. Parties interested petitioned against it.

The nature of the provisions of this Act, are specially noticeable in connection with the present subject. In his Report on it, the acting-Minister of Justice, Mr. R. W. Scott, says:—(Can. Sess. Papers 1877. No. 89, p. 133)—

"The effect of the first portion of the Act, appears to be that the interpretation of the Supreme Court of the Island of the Act of 1875, upon which certain awards of Land Commissioners were held bad, is reversed, and the awards in question declared as valid. . . . The undersigned has the honor, under the circumstances, to report that there does not appear to be any reservation in the Act of the rights of . . . parties to whom awards made."

In conclusion he says:—

"That without giving weight or consideration to any great extent to the allegations in the petitions which are unsupported by any actual proof, he is of opinion that *the reserved Bill is retrospective in its effect; that it deals with rights of parties now in litigation under the Act which it is proposed to amend, or which may fairly form the subject of litigation; and that there is an absence of any provision saving the rights and proceedings of persons whose properties have been dealt with under the Act of*