Parliamentary Government in the British Colonies, pp. 331-345).

Assuming that in the exercise of this prerogative, the Governor-General will always, as in the case of the Public Streams Bill, consider it his duty to act by and with the advice of his Privy Council, it remains to consider what precedents and authoritative documents indicate as to the limits of the constitutional exercise of the prerogative of disallowance.

Mr. Todd, in the standard work above referred to, cites a number of precedents to prove that under the B. N. A. Act the control of the Crown over the Provinces of the Dominion is now exercised, not directly by Imperial authority, but indirectly through the instrumentality of the Dominion Parliament, and that it is incumbent upon the Governor-General in Council, in the exercise of his constitutional supremacy, to respect the rights of the Provinces in matters of local legislation, so far as the same are defined by the B. N. A. Act.

It is the second portion of this proposition of Mr. Todd's that it is proposed to examine.

Before the time for disallowance (one year: B. N. A. Act, sec. 90) of acts passed in the first session of the various Provincial Legislatures of the new Confederation had expired, a correspondence took place between the Imperial and Dominion Governments on the question of the exercise of this prerogative.

In a Report dated June 8, 1868 (Can Sess. Papers, 1870, No. 35), Sir John Macdonald, the then Minister of Justice, says :—

"The same powers of disallowance as have always belonged to the Imperial Government, with respect to the acts passed by Colonial Legislatures, have been conferred by the Union Act on the Government of Canada.....Under the present constitution of Canada, the general Government will be called upon to consider the propriety of allowance or disallowance of Provincial Acts much more frequently than Her Majesty's Government has been with respect to Colonial enactments.

In deciding whether any Act of Provincial Legislatures should be disallowed or sanctioned, the Government must not only consider whether it affects the interest of the whole Dominion or not, but also whether it be unconstitutional; whether it exceeds the jurisdiction conferred on Local Legislatures, and in cases where the jurisdiction is concurrent, whether it clashes with the legislation of the general Parliament.

As it is of importance that the course of local legislation should be interfered with as little as possible, and the power of disallowance exercised with great caution, and only in cases where the law and *general interests of the Dominion imperatively demands it*, the undersigned recommends that the following course be pursued :—

He, then, proceeds to suggest that all provincial Acts be referred to the Minister of Justice for his report, and that he report separately on those Acts which he may consider :—

1. As being altogether illegal or unconstitutional.

2. As illegal or unconstitutionl in part.

3. In cases of concurrent jurisdiction as clashing with the legislation of the general Parliament.

4. As affecting the interests of the Dominion generally. And also that in such report he give his reasons for his opinions.

This report was approved by the committee of the Privy Council and the Govenor-General, and copies were sent to the several Provincial Govenors.

The Minister of Justice on July 1, 1868, proceeded to report on various Acts passed in the first session of the legislature of Ontario as objectionable, because *ultra vires*.

This report was forwarded by Sir John Young, the Governor-General, to the Secretary of State for the Colonies, at that time Earl Granville, asking him to consider it and take the opinion of the law officers of the Crown.

By a second despatch of the same date the Governor-General points out "the probability of misapprehension and future diffi-