

“The Dominion Parliament were therefore clearly competent, in my judgment, to confer a similar power upon Committees of the Senate and House of Commons, pursuant to the authority conveyed to that Parliament by the 31st clause of the British North America Act, ‘to make laws for the peace, order, and good government of Canada.’

“In a word, the restrictions contained in the 18th clause of the aforesaid Act, are restrictions upon claims that might be urged on behalf of the two Houses of the Canadian Parliament, or the Members thereof, respectively, to *inherent or excessive privileges*, and are not intended to prevent the exercise of *legislative powers* by the whole Parliament, provided that the same are exercised within appropriate constitutional limits.

“(Signed) ALPHEUS TODD.”

“Library of Parliament,  
1st May, 1873.”

TELEGRAM RECEIVED IN OTTAWA, MAY 29TH, 1873.

*The Earl of Kimberley to Earl of Dufferin.*

“Your despatch dated the 3rd May, with its enclosures has been referred to the Law Officers of the Crown, who report that the Oaths Act is *ultra vires*.”

TELEGRAM RECEIVED IN QUEBEC, JUNE 27TH, 1873.

*The Earl of Kimberley to Earl of Dufferin.*

“Oaths Act is disallowed.”

[COPY.]

“*The Secretary of State for the Colonies to the Governor General.*

“DOWNING STREET, 30th June, 1873.

Canada, No. 198. “MY LORD,—I have the honour to transmit to you an Order in Council disallowing the act passed by the Parliament of Canada, ‘to provide for the Examination of Witnesses on Oath, by Committees of the Senate and House of Commons in certain cases’ and also the Certificate as required by the 56th Section of the British North America Act, 1867, stating when the Act was received in this Department. Before tendering any advice to Her Majesty upon this Act, I referred to the Law Officers of the Crown, and I was advised that the Act was *ultra vires* of the Colonial Legislature, as being contrary to the express terms of Section 18, of the British North America Act, 1867, and that the Canadian Parliament could not vest in themselves the power to administer oaths, that being a power which the House of Commons did not possess in 1867, when the Imperial Act was passed. The Law Officers also reported that the Queen should be advised to disallow the Act

“My attention has been called to the fact that by an Act of the Canadian Parliament, Cap. XXIV of 1868, provision is made by the first section for examining witnesses upon Oath at the Bar of the Senate, and that that Act has been allowed to remain in operation. It appears to have escaped observation both here and in the Colony that though such examination of witnesses is in accordance with the practice of the House of Lords, the powers of the Senate of Canada are limited by the British North America Act, 1867, to such powers as were then enjoyed by the House of Commons, and that the first section of the Canadian Act of 1868, was therefore in contravention of that Act.