

HENDRIE'S BILL IS HARMLESS.

The Dominion and the Veto Power.

Aylesworth on Some of Whitney's Doubtful Legislation.

Cobalt Lake, Fish and Game, Public Utilities and Marriage Act.

Ottawa, April 30.—The Dominion Government has decided not to disallow the several acts passed by the Ontario Legislature in the session of 1907, which have been called into question. The fact of non-disallowance is due to the desire of the Minister of Justice and his colleagues to interfere as little as possible with Provincial rights in the matter of legislation. In the minute of council passed this week recommending to his Excellency non-interference in the case of the Provincial statutes respecting the legality of the patent of the Cobalt Lake Mining Company, the Hon. Mr. Aylesworth says that while there is ample precedent for disallowance of the act, as interfering with vested interests and the title to property still in litigation, and although the legislation must be admitted to be harsh and unjustified in principle, yet on the general principle that it is not a matter of general Dominion interest he deems it wise to leave to the people of the Province the ultimate decision of approval or disapproval of the Provincial Government's course.

Wholly Inoperative.

In the matter of the Hendrie railway and public utilities act, the Minister of Justice points out that the act is wholly inoperative and harmless, and since it can be only the intention of the act to attempt to act under its provisions would ever be made, and if made, would be promptly set at naught by the courts, no further notice of it need be taken. The game and fisheries act of 1907 is found to be ultra vires in respect to some of its most important clauses, but since the incapacity of the Local Legislature to enact fishery regulations is so clearly established by the British North America Act, he finds no harm will be done by not disallowing the act, pending the elimination of the ultra vires clauses by the Legislature. The Ontario Government's amendment to the marriage act with regard to declarations of nullity of marriage in certain classes is regarded as of questionable constitutionality, but until any appeal is made to the courts of justice as to its legality the question is left in abeyance.

The Cobalt Lake Case.

In forwarding his recommendation with respect to the Cobalt Lake Mining Company act, Mr. Aylesworth notes that applications for its disallowance were made by Henry Dreany, who claimed a prior discovery and location of mining rights in the bed of the lake in July, 1905, and by the Florence Mining Company, whose claim was based on discovery, on March 8, 1906. The case upon which the petitioning company relied was briefly that under the provisions of the general mining law of Ontario they had acquired the right to mine the claim. But the Ontario Government proceeded to sell the property to the Cobalt Lake Mining Company, disregarding the rights of the petitioning company. On these being asserted in the courts the statute in question was passed, the effect being to preclude the petitioners from any redress, notwithstanding their claim to be the true owners of the property.

Sir John Macdonald's View. Quoting precedents in similar applications for disallowance, Mr. Aylesworth notes that in 1881 Sir John Macdonald, then Minister of Justice, reported in favor of the disallowance of the Ontario act entitled "An act for the protection of public interests in rivers, streams and creeks." In this report Sir John said: "I think the power of the Local Legislature to take away the rights of one man and vest them in another, as is done by this act, is exceedingly doubtful; but, assuming that such right does in strictness exist, I think it devolves upon this Government to see that such power is not exercised in flagrant violation of private rights and natural justice," etc.

Other authorities along similar lines are quoted. "These authorities, if followed," says Mr. Aylesworth, "would doubtless require the disallowance of the present act, but during later years different views have prevailed, and in many cases applications for disallowance upon the ground of undue interference with vested rights have been refused for the reason that it is contrary to the true intent and spirit of the British North America Act that the Dominion Government should inquire into or determine the merits of provincial legislation which is intra vires and not in conflict with Dominion policy."

Not Concerned With Policy.

"The Hon. David Mills, when Minister of Justice, had occasion to report upon an Ontario statute, E. V. L. chapter 21, as to which a petition had been submitted seeking disallowance for the reason among others that the act impaired or interfered with an existing contract. The Minister stated: 'The undersigned conceives that your Excellency's Government is not concerned with the policy of this measure. It is no doubt ultra vires of the Legislature, and if it be unfair or unjust or contrary to the principles which ought to govern in dealing with private rights, the constitutional recourse is to the Legislature, and the act of the Legislature is ultimately judged by the people. The undersigned does not consider, therefore, that your Excellency ought to exercise the power of disallowance in such cases.'"

The Principle at Issue.

Hon. Mr. Aylesworth shares the views expressed by Mr. Mills and Mr. Fitzpatrick. In his opinion it is not intended by the British North America Act that the power of disallowance shall be exercised for the purpose of annulling provincial legislation, even though the Federal Ministers consider the legislation unjust or oppressive or in conflict with recognized legal principles, so long as such legislation is within the power of the Provincial Legislature to enact. His memorandum to Council continues:

"The undersigned is of the opinion that where an act is of a merely domestic or local character and does not affect any matter of Dominion interest, your Excellency's Government

ought not to review the policy or propriety of the measure which is exclusively a matter of provincial concern, and he accepts the general view that it is not the office or right of the Dominion Government to sit in judgment considering the justice or honesty of any act of the Provincial Legislature which deals solely with property or civil rights within the Province."

"The undersigned observes that in Sir John Macdonald's report of June 8, 1868, submitted for the purpose of setting the course to be pursued with respect to acts passed by the Provincial Legislatures, only four cases are stated as proper subjects for consideration with a view to disallowance, namely, acts which the Minister may consider: '1. As being altogether illegal or unconstitutional. '2. As illegal or unconstitutional 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 of Canada."

Disapproval, But Not Disallowance. "The legislation in question, even though confiscation of property without compensation and so an abuse of legislative power, does not fall within any of the aforesaid enumerations. For these reasons the undersigned, although compelled to report to your Excellency strong disapproval of the policy of the statute, recommends that it be not disallowed, but be left to such operations as may lawfully be given to it."

The Public Utilities Bill.

In respect to Colonel Hendrie's measure designed to keep railway and other public utility corporations within Provincial jurisdiction, Mr. Aylesworth says, after briefly reviewing the main provisions of the act and noting the definition of "public utility" contained therein, that by section 91, paragraph 29, of the British North America Act, the exclusive legislative authority of the Parliament of Canada is declared to extend to such classes of subjects as are expressly excepted in the classes coming exclusively within the jurisdiction of the Legislatures. Among these exceptions are such local works as "although wholly situated within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more Provinces."

The Power of Parliament.

Mr. Aylesworth continues: "It is plain, therefore, that local works such as are by the said Chap. 37 included in the expression 'public utility' fall within the exclusive legislative authority of the Parliament of Canada if and when declared by Parliament to be for the general advantage of Canada. The Parliament of Canada has the sole right to make this declaration, and it seems, in fact, to have no other object than to assert Provincial legislative authority over a subject which under the British North America Act is within the exclusive jurisdiction of the Parliament of Canada."

"The B. N. A. Act has in terms assigned to the Dominion Parliament the uncontrolled discretion to determine what works are, for the general advantage of Canada. By the statute in question the Legislature of Ontario assumes to confer upon the Government of that Province the power to substitute this discretion in the premises and to destroy any Ontario company with regard to which Parliament may see fit to make such declaration."

A Basis of Action.

"It might be well that Parliament would be influenced in executing its power to declare the undertaking of a company a work for the general advantage of Canada by reason of the company possessing powers, rights, privileges and franchises conferred upon it by letters patent, or by a general or special act of Ontario, or by reason of municipal by-laws or agreements with a municipality, and it is impossible to suppose that these could be forfeited or taken away in any case for no other cause than that Parliament had seen fit to exercise its jurisdiction conferred upon it by the B. N. A. Act."

"From the time when the undertaking and works of any company have been declared by Parliament to be for the general advantage of Canada such company and its undertakings and works become just as much subject to the exclusive legislative authority of Parliament and just as completely withdrawn from the legislative authority of the local Legislature as if these undertakings and works had been expressly enumerated in section 91."

The Courts Have Power.

"Accordingly, if it were possible that the Provincial statute in question could ever be of any effect, action could never be taken under it by the Lieutenant-Governor in Council till after the company to be struck at had been completely withdrawn from Provincial jurisdiction. Necessarily such action then would be wholly inoperative, and the enactment is, therefore, the merest brutum fulmen. It can scarcely be imagined that any attempt to act under its provisions would ever be made, and it is very certain that such attempt, if ever made, would be set at naught by the courts."

It is further pointed out that in any event Parliament could at once repeal and confirm in each case the provisions of the Provincial Government by order in Council had declared were to cease."

"The legislation is so plainly ineffective and harmless," he concludes, "that it does not, in the opinion of the undersigned, call for any action by your Excellency or for further notice."

The Game and Fisheries Act.

"The incapacity of a local Legislature," he concludes, "to enact treaty regulations is, however, so clearly and indisputably established that these provisions now in question seem unlikely to do any harm, since there is now no time to correspond with the Government of Ontario upon the subject of the many serious and unquestioned provisions which this act contains, recommending its disallowance. He does recommend, however, that the above observations with regard to the said statute be especially called to the attention of the local Government, with a suggestion that legislation should be promoted to amend the statute by striking out these ultra vires provisions, which otherwise may perhaps in some cases prove misleading."

To cure a cold in one night—use Vapo-Cresolene. It has been used successfully during more than twenty-four years. All druggists.



A PRETTY FROCK FOR THE LITTLE GIRL.

No. 6147.—Girl's Over Dress.—Cut in five sizes, 4 to 12 years. Eight-year size will require 4 1/4 yards of 36-inch material. Valenciennes lace and insertion was used for trimming this dainty little dress of white lawn. It is in becoming blouse style with short, wide Mandarin sleeves and is equally pretty on a low neck dress or worn over a gümpe. Challis China silk, linen and gingham are all suitable.

A pattern of this illustration will be mailed to any address on the receipt of 10 cents in silver or stamps.

Address, "Pattern Department," Times Office, Hamilton.

It will take several days before you can get pattern.

Fun for Times Readers

Secrets.

I'd like to tell you everything
That happens where I am;
I want to lead an open life,
And show forms of abase.
But there are things I must not tell
In doing it I'd stammer.
For instance, what Dad said the day
His thumb nail fell the hammer.

There is a secret I must keep.
In fact I couldn't print it.
That happens where I am;
I want to lead an open life,
And show forms of abase.
But there are things I must not tell
In doing it I'd stammer.
For instance, what Dad said the day
His thumb nail fell the hammer.

Kind friends you must imagine now
Some things that have occurred.
At home there are occasions that
Defy the printed word.
Housecleaning time is now at hand.
To tell you I don't dare
What father said the night that he
Walked plump into a chair.

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replied the fair maid, as she adjusted
her bridal veil. "George confessed to
me last night that he hadn't money
enough even to buy a second-hand stove
so instead of losing me it looks as if
we were going to stay right with you."

Matter of Labor.

Lady—Yes, I advertised for a cook.
What wages do you expect?
Applicant—Ten dollars a week, ma'am.
Lady—I suppose you can furnish first
class references as to your ability?
Applicant—No, ma'am. I never did
any cooking in my life.
Lady—It seems to me you expect very
high wages for an inexperienced person.
Applicant—Yes, ma'am; but you see
it will be so much harder for me because
I don't know how.

Full of Scratches.

"What has this man been doing, sergeant?" gasped Officer O'Toole, as he rolled over and over on the sidewalk with his unruly prisoner.
"Held on to him," shouted Sergeant Baumgarten, as he sent in the call for the wagon. "He was a fence."
"A fence," is it?" he blurted. "Heads, from the looks at me hands he must be a bar-b-wire fence."

Sure to Sell Stock.

Gunner—Why in the world does Brainwood roll in his sleep and blow like a steam engine?
Guyler—Why, he is dreaming of his great scheme.
Gunner—What scheme?
Guyler—Why, a scheme to form a stock company and drop the north pole into Vesuvius and supply the world with steam.

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AMONG THE JEWS

News Notes About Them From All Over the World.

The excesses of the Kaimakum of Jaffa have received prompt punishment. The report that the guilty Kaimakum has been dismissed has been confirmed. Last week the Chacham Bashi received from the Sultan the official intimation of the dismissal. At the same time the Sultan conveyed his greetings to the Jews and expressed his sympathy with them.

The Queen of Holland has conferred the rank of the Commander of the Order of Orange Nassau on Mr. F. S. Van Nierop, of Amsterdam, chairman of the Royal Commission of Inquiry into municipal finances.

Last week a Consumptive Hospital for Children was opened by the Queen-Mother at Katwyk-on-Sea, Holland. The hospital is endowed through the munificent generosity of Herr A. S. Van den Bergh, of Rotterdam (who contributed the sum of £18,000), and is replete with every modern scientific appliance.

An unidentified Jew died the other day in St. Petersburg. In his room was found the enormous sum of two hundred thousand rubles. The money, as his heirs are unknown, was declared to be the property of the city of St. Petersburg.

Joseph C. Cowen, one of the most prominent Zionists in England, and one of the directors of the Jewish Colonial Trust, has arrived in New York, and will address a number of meetings on topics pertaining to his work in connection with the Zionist movement movement and other Jewish interests.

A touching appeal is being made to save the family of the late Jehuda Steinberg, the Hebrew author, from starvation. The appeal is printed in Hebrew and is signed by Prof. Solomon Schechter and other notables.

Through the efforts of Maurice Wiedenthal, editor of the Jewish Independent, the obnoxious caricatures of the Jew on the stage have been driven away from the theatres of Cleveland.

Another Jew has obtained promotion on the Bench in Bavaria, which is continually giving proofs that it is one of the most liberal of the German States. Dr. Theodore Engelmann has been appointed Councillor of the Supreme Court; he has hitherto held the important post of Chief Crown Attorney.

The Municipality of Nuremberg is displaying warm interest in a movement for the establishment of a Jewish Orphan Asylum in that town, and has offered generous concessions to the promoters.

It is stated that the late Professor Gustav Oppert has bequeathed to the Lehranstalt für die Wissenschaft des Judentums in Berlin, the sum of 300,000 marks for the creation of a chair of Semitic languages.

Joseph Popper, Austrian philosopher, poet and thinker, has celebrated his seventieth birthday in Vienna.

More than fifty thousand pounds of matzos were distributed daily, for the whole week, by the United Hebrew Communities Charity, New York. The number of people applying for such aid was enormous.

Rabbi Hezikiah Chabetai, Chief Rabbi of Tripoli, has been elected Chief Rabbi of Aleppo. He is a doctor of law, and a profound talmudist.

Jewish students in Germany are excluded from the Victoria School and Seminary for Female Teachers.

Dr. Sigmund Gottschalk, the well known gynaecologist, has been appointed professor of gynaecology at the University of Berlin.

Lieutenant-Colonel Salmon Lutz Levy, director of engineering at Nantes, has been promoted colonel and retained at his present post. Several other promotions of Jews in the French army are recorded in the Official Journal.

A Judische Volksgruppe has been formed in St. Petersburg for the uplifting of the Jewish workman.

Alexander Lwovitch Karawajew, member of the Second Duma, champion of the Jewish cause in Russia, who was advocating that Jews be granted equal rights, has succumbed to the wounds he received from the hands of members of the Black Hundred.

A glowing tribute was paid to the Jews of America, as well as to Judaism, by Bishop Scadding of Portland, Oregon. Bishop Scadding has for three years lived in the overcrowded east side of New York, and the opinions expressed are the result of his study of Jewish characteristics.

The balance sheet issued by the Jewish Colonial Bank shows the institution to be on the path of progress. The profit last year was £17,550, about two thousand pounds sterling more than in 1906. Six hundred and fifty pounds were expended on altering the statutes of the bank. During 1907, shares to the amount of 1,323 pounds were sold.

The Society for Relieving the Aged Needy of the Jewish Faith of London is in need of funds. Since the year 1829 this society has been distributing pensions to the old men and women who are past self-support. The age of the beneficiary must be 60 years or upwards, and the pension is five shillings per week. There are now 129 pensioners on the books of the society, and an equal number of cases are in course of inquiry.

The annual report of the British Ophthalmic Hospital, Jerusalem, has just been issued. The statistics prove that the amount of work done by the staff in Jerusalem has been far in excess of this society. The number of consultations in the out-patient department showing an increase of nearly 5,000.

By decree of the President of the French Republic, a commission has just been formed at the Ministry of Labor to study the measures which should be taken in order to attenuate the stoppages of work which result from periodical economic crises. Several Jews are members of this commission.

Rabbi Harrison, of St. Louis, has started a movement to have a free lecture course given nightly in the public school buildings. Such a series of lectures, in his opinion, would reach the people more than a hundred universities.

Dr. Magnes, speaking of anarchism at

the Temple Emanuel, of New York, said that the mass of Jews are opposing anarchistic doctrines. "In no other people in the world is there such an opposition to bloodshed and violence as among the Jews."

So numerous and pressing have been the calls this spring on the United Hebrew Charities of New York, that despite the \$40,000 recently collected by Dr. Lee K. Frankel, it is barely possible to meet even the most urgent demands for help.

The Jewish Hungarian Literary Association, that has done so much for the advancement of Jewish literature in that country, has decided upon building a new library, consisting exclusively of literature pertaining to Jews.

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PHONE 995

Ladies

Commencing May 1st we will make to your order suits from our latest designs for a cash price of

\$15.00

Satisfaction Guaranteed

WE CUT PATTERNS TO MEASURE 25c UP

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Try the Little Railway Size Admission Tickets for Church Concerts and Entertainments of all kinds

Nothing So Handy
Numerically Numbered
100 Different Patterns

Nothing So Cheap
Easily Kept Track of
Can't Be Counterfeited

Only \$1.50 Per 1000

And in larger quantities cheaper still.

The TIMES is the only office in the city that supplies this class of tickets, and we print millions of them during the year.

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THEY ALSO MAKE BUILDING PAPER AND ARE THE LARGEST MAKERS OF SULPHITE PULP IN CANADA

Head office, Mark Fisher Building, Montreal, where all correspondence should be addressed.

STATUS OF QUEEN'S.

The Trustees Refer Question to General Assembly.

Kingston, April 30.—Queen's trustees, after debating a proposal to change the constitution, so that the professors can be eligible for the Carnegie foundation fund, agreed, with practical unanimity, to send the proposal to the General Assembly for advice, in view of the fact that the trustees, at the request of the Assembly, agreed to maintain the "status quo" between the Church and the university.

Those opposed declare the changes would undoubtedly separate Queen's from the Presbyterian Church, in spite of the assertions by members of the Senate that the hold and influence of the Church would still remain. Dr. James Douglas, New York, and Dr. B. MacLennan, K. C., Cornwall, support the changes.

Some of the clerical members of the trustee board vigorously oppose the proposition. Rev. Dr. Campbell, Montreal; Rev. Alfred Gaudet, Toronto, and G. M. Macdonnell, Kingston, being the leaders. There was no guarantee that Queen's would benefit to any extent in the way of endowment if the university was made non-denominational. The Dominion or Provincial governments could not be expected to do much for her. No help the professors a pension fund might be arranged when the \$500,000 needed is raised, of which only \$90,000 is required.

The legal aspect was spoken of, and advice may have to be secured before definite action is taken.

Had No Interest