DOMINION CONTROL OVER PROVINCIAL LEGISLATION.

(Continued from page 221.)

The next precedent specially worthy of notice appears to be that of the Act relating to the Goodhue Will, being 34 Vict., c. 99, Ont., which has been already alluded to. The Lieut.-Governor, Sir W. Howland, assented to the Act, but in transmitting it to the Governor-General, said: "I regard the principle involved in the Bill, and sanctioned by the Assembly, as very objectionable, and forming a dangerous precedent; but in the absence of instructions, and upon the advice of my Council, I gave it assent" (Can. Sess. P. 1877. No. 89, p. 181.).

Mr. Becher, one of the trustees under the will, however, memorialized the Governor-General against the Act, in which he submitted that the enactments of the said Bill were beyond the powers of the Legislature, "and unconstitutional in depriving persons of rights and property without their consent and without any compensation whatever." And he annexed a list of his objections to the Bill, in which he argued that it was without precedent, unnecessary, and a violation of the rights of property—(*ib.* p. 181-184).

The Minister of Justice, Sir John Macdonald, however, on Feb. 22, 1872, reported simply that "as it is within the competence of the Provincial Legislature," it should be left to its operation. This was accordingly done.

It is noticeable, however, that when the validity of this Act came before the Court of Appeal (19 Gr. 367), all of the judges who touched on the merits of the Act at all expressed strong disapprobation of such legislation. Chief Justice Draper, indeed, goes so far as to say, (p. 381)—

"It would be indecorous to express what it would be fitting for a Court to express, if such changes had been procured in the testator's lifetime, by or through any fraud or imposition upon him. . . . It cannot, however, be disrespectful to quote the language of Lord Tenterden: 'It is said, the last will of a party is to be favorably construed, because the testator is *inops consilii*. That we cannot say of the Legislature; but we may say that it is *magnas inter opes inops*.'"

And, as has been shown above, he indicates in the passage there quoted that in his view the Governor-General might rightly have disallowed the Act.

Such an opinion is clearly an authority in favor of the constitutional right to veto such legislation, and the expressions in that and other of the judgments as to the injustice of such legislation, may have influenced the Dominion Executive in their action as regards subsequent legislation to which similar objections were held to apply.

The next case in point seems that of Mr. Ryland, who in 1875 petitioned the Governor-General complaining of a bill then pending in the Quebec Legislature, which he alleged, was to the detriment of his vested rights and interests in respect of the registrarship of Montreal, which had been conferred upon him, by the Imperial Government, in lieu of a patent office formerly held by him under the crown in Canada.

A number of the professional and influential inhabitants of Montreal, also memorialised the Governor-General against the bill, declaring that "if carried into execution, it will cause inconceivable difficulty and confusion, in procuring the necessary information in the transfer of property and investment of capital, and, in many cases, will quadruple the present cost and expense of registration." (Can. Sess. Pap. 1877. No. 89. p. 257).

Mr. Edward Blake, then minister of Justice, in a long report as to this act, expressed views favorable to the justice of Mr. Ryland's complaints, and, saying he was disposed to believe that the considerations to which he had adverted could not have been brought to the attention of the local authorities, he recommended that they should be afforded an opportunity of reconsidering the the legislation in question with the light