

RETURN

To an Address of the House of Commons, dated 22nd April, 1869; for Copies of any Correspondence which has taken place between the Government of the Dominion and the Governments of Ontario, Quebec, Nova Scotia, New Brunswick, or either of them, regarding the power of disallowance of Local Legislation, claimed by the Dominion Government, under the 90th Section of the British North America Act.

By Command.

HECTOR L. LANGEVIN,
Secretary of State.

Department of the Secretary of State,
Ottawa, 26th April, 1869.

(Copy.)

DEPARTMENT OF JUSTICE,
Ottawa, 8th June, 1868.

The undersigned begs to submit for the consideration of Your Excellency, that it is expedient to settle the course to be pursued with respect to the Acts passed by the Provincial Legislatures.

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. Of late years Her Majesty's Government has not, as a general rule, interfered with the legislation of Colonies having Representative Institutions and Responsible Government, except in the cases specially mentioned in the instructions to the Governors, or in matters of Imperial and not merely local interest.

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 Acts of a Provincial Legislature should be disallowed or sanctioned, the Government must not only consider whether it affects the interests 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 the general interests of the Dominion imperatively demand it, the undersigned recommends that the following course be pursued:—

That on receipt, by Your Excellency, of the Acts passed in any Province, they be referred to the Minister of Justice for report, and that he, with all convenient speed, do report as to those Acts which he considers free from objection of any kind; and, if such report be approved by Your Excellency in Council, that such approval be forthwith communicated to the Provincial Government.

That he make a separate report, or separate reports, on those Acts which he may consider:—

1. As being altogether illegal or unconstitutional;
2. As illegal or unconstitutional in part;