

observed that inasmuch as the British House of Commons did not acquire the general right of examining witnesses on oath until a date subsequent to the passing of the Union Act, the Dominion Parliament was precluded by the terms of the foregoing clause from investing the Canadian House of Commons with the powers in question.

It strikes me, however, that the 18th clause of the Union Act was not framed for the purpose of restricting the legislative action of the Dominion Parliament, but that the terms "immunities, privileges, &c.," refer to those immunities and privileges which are inherent in the British House of Commons as a separate branch of the Legislature, and this view seems to be confirmed by the use of the word "defined."

The manifest purpose of the Act was to endow the Canadian House of Commons with a status analogous to that enjoyed by the House of Commons at home; and for obvious reasons it was necessary that the attributes of this status should be distinctly specified in the manner provided for by the 18th clause, but it could scarcely have been intended to preclude either branch of the Canadian Legislature from acquiring, by Act of Parliament, such other powers as experience might prove to be necessary, providing these powers were constitutional in themselves, and did not infringe the prerogatives of the Crown.

That this view was held by my predecessors as well as by the Imperial Government may be deduced from the following circumstances:—

The Canadian Senate is also endowed by the 18th clause of the Act of Union with the same privileges and attributes as the Imperial House of Commons, but these "privileges," &c., are confined by an identic formula within the same limits as those which restrict the powers of the Canadian House of Commons, and which are supposed to render the present "Oaths Bill" *ultra vires*, viz., to such as were possessed by the British House of Commons at the passing of the Act. Yet one of the first Acts of the Canadian Legislature was to invest the Canadian Senate with a general power of examining witnesses at its Bar—a power which was not possessed by the British House of Commons until long after the passing of the Union Act.

It is possible that this Act may have been assented to by the Governor-General, and acquiesced in by the Imperial Government through inadvertance, in which case it could not be appealed to as a precedent for sanctioning an obvious illegality, but there are no corroborating circumstances to justify me in acting on so unlikely an assumption.

Under these circumstances, I trust your Lordship will consider that I have done right in giving the assent of the Crown to the Canadian "Oaths Bill."

Had I deferred doing so, very prejudicial results would have arisen. The investigation of a charge of the gravest nature, affecting the honour of my constitutional advisers would have appeared to be indefinitely postponed, while it was being loudly asserted and widely credited throughout the country, that the delay had been contrived at the instigation of Sir *John Macdonald* and his confederates, who were seeking by these devices to defer the exposure of their guilt.

But for this circumstance, I might have been tempted, as the point raised is a purely legal one, to have reserved the Bill for your Lordship's consideration, and the more Department of Justice, so because, as you will perceive by the enclosed minute, Sir *John Macdonald* is inclined to share the misgivings of those who question the competence of the Canadian Parliament in this matter; but as the issue is one not of Colonial but of Imperial concern, and as Sir *John* tendered his opinion merely for my information, and not as my adviser—indeed he intimated that he would be glad if I saw my way to assenting to the Bill,—I felt at liberty to consult my own judgment, more especially as it may be presumed that my Government would not have promoted the "Oaths Bill" in the House of Commons and fathered it in the Senate, had the Minister of Justice entertained a decided conviction of its illegality.

My conclusions have been further fortified, not only by the opinion of many legal authorities whom I have consulted, but more especially by that of Mr. *Alpheus Todd*, the author of "Parliamentary Government in England," who, as your Lordship is aware,