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THE SCOPE OF THE POWER OF THE DOMINION GOVERNMENT TO DISALLOW PROVINCIAL STATUTES.

The recent refusal of the Minister of Justice to recommend the disallowance of two Ontario statutes, (6 Edw. VII., ch. 12, and 7 Edw. VII., ch. 15), which, according to the allegations of the petitioners, deprived them of their vested rights, has once more directed attention to a very important, but still unsettled question of constitutional law. viz., what are the appropriate limits of the power which the British North America Act confers upon the Dominion Government with regard to the avoidance of Provincial legislation? It is hoped, therefore, that a disquisition upon the subject will not be without interest at the present time.

The position of the Minister of Justice is thus formally stated in his Report to the Governor-General:

“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 Your Excellency's Ministers consider the legislation unjust, or oppressive, or in conflict with recognised legal principles, so long as such legislation is within the power of the Provincial Legislature to enact it.”

Reference may also be made to another passage, in which, after specifying the classes of cases in which he considers that the power of disallowance should be exercised, he concludes in these terms:

“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 enumeration.