

indefinite privileges and immunities, by providing that such privileges shall never exceed those enjoyed by the Imperial House of Commons at a given date. The privileges and immunities herein referred to are those that might reasonably or unreasonably be claimed as inherent in, or necessarily attaching to, the Houses of the Canadian Parliament, pursuant to the maxim that 'all things necessary pass as incident.' By limiting such privileges and powers to those possessed by the Imperial House of Commons in 1867, it prevents, on the one hand, an undue encroachment or extension of privilege, and on the other hand secures to the two Houses and the members thereof respectively, the privileges, immunities, and powers appropriate to them as component parts of the Canadian Parliament.

"It has been urged that the Act to authorize the examination of witnesses on oath by Committees of the Senate and House of Commons of Canada, is an extension of their privileges, beyond those sanctioned by the B. N. A. Act, inasmuch as Select Committees of the Imperial House of Commons (not being Private Bill Committees) did not possess such power in 1867, or until, by the Imperial 'Parliamentary Witnesses Oaths Act' of 1871, such power was for the first time conferred upon them.

"It is to be observed, however, that the power so conferred upon Committees by the English House of Commons was not claimed as a 'privilege' inherent in that body. It was merely a power conferred by statute, to facilitate legislative inquiries, similar to that which has been repeatedly conferred upon Statutory Commissions; and in being so conferred it did not trench upon any prerogative of the Crown, or enlarge the constitutional rights of the House of Commons.

"The Dominion Parliament were therefore clearly competent, in my judgment, to confer a similar power upon Committees of the Senate and House of Commons, pursuant to the authority conveyed to that Parliament by the 31st clause of the British North America Act, 'to make laws for the peace, order, and good government of Canada.'

"In a word, the restrictions contained in the 18th clause of the aforesaid Act are restrictions upon claims that might be urged on behalf of the two Houses of the Canadian Parliament, or the members thereof respectively, to *inherent or excessive privileges*, and are not intended to prevent the exercise of *legislative powers* by the whole Parliament, provided that the same are exercised within appropriate constitutional limits.

(Signed) "ALPHEUS TODD.

"Library of Parliament,
1st May, 1873."

No. 2.

TELEGRAM RECEIVED IN QUEBEC, JUNE 27TH, 1873.

The EARL OF KIMBERLEY to EARL OF DUFFERIN.

"Oaths Act is disallowed."

No. 3.

The SECRETARY of STATE for the COLONIES to the GOVERNOR-GENERAL.

"MY LORD,

"Downing Street, June 30, 1873.

"I HAVE the honour to transmit to you an Order in Council disallowing the Act passed by the Parliament of Canada, 'to provide for the Examination of Witnesses 'on Oath by Committees of the Senate and House of Commons in certain cases,' and also the Certificate, as required by the 56th Section of the British North America Act, 1867, stating when the Act was received in this Department. Before tendering any advice to Her Majesty upon this Act, I referred to the Law Officers of the Crown, and I was advised that the Act was *ultra vires* of the Colonial Legislature, as being contrary to the express terms of Section 18 of the British North America Act, 1867, and that the