

TELEGRAM RECEIVED IN QUEBEC, JUNE 27TH, 1873.

*“The Earl of Kimberley to Earl of Dufferin.*

“Oaths Act is disallowed.”

[Copy.]

*“The Secretary of State for the Colonies to the Governor General.*

“DOWNING STREET, 30th June, 1873.

Canada, No. 198. “MY LORD,—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 Canadian Parliament could not vest in themselves the power to administer oaths, that being a power which the House of Commons did not possess in 1867, when the Imperial Act was passed. The Law Officers also reported that the Queen should be advised to disallow the Act

“My attention has been called to the fact that by an Act of the Canadian Parliament, Cap. XXIV of 1868, provision is made by the first section for examining witnesses upon Oath at the Bar of the Senaté, and that that Act has been allowed to remain in operation. It appears to have escaped observation both here and in the Colony that though such examination of witnesses is in accordance with the practice of the House of Lords, the powers of the Senate of Canada are limited by the British North America Act, 1867, to such powers as were then enjoyed by the House of Commons, and that the first section of the Canadian Act of 1868, was therefore in contravention of that Act.

“But though the Act of 1868 was not disallowed, I have to point out to you, that under the second section of 28 and 29 Victoria, Cap. 63, this first section is void and inoperative as being repugnant to the provisions of the British North America Act, and cannot be legally acted upon.

“So far as regards the powers given by the Act of 1868 to Select Committees upon Private Bills, they would appear to be unobjectionable, as like powers had, before the passing of the British North America Act, been given to the House of Commons by 21 and 22 Vict., Cap. 78.

“I have, &c.,

“(Signed)

KIMBERLEY.”

“Governor General The Right Hon.,

“The Earl of Dufferin, K.P., K.C.B.”

&c., &c., &c.

At the Court at Windsor, the 26th day of June, 1873.

PRESENT :

The QUEEN'S MOST EXCELLENT MAJESTY,

Lord President,

Earl Granville,

Earl of Kimberley,

Lord Chamberlain,

Mr. Gladstone.

“WHEREAS by an Act passed in the Thirtieth year of Her Majesty's Reign, entitled ‘An Act for the Union of Canada, Nova Scotia and New Brunswick and the