

I. DISALLOWANCE OF ACT.

No. 1.

The Secretary of State for the Colonies to the Lieutenant Governor.

Downing Street, 4th August, 1862.

SIR,—In your Despatch of the 7th July 1862, I received among other Acts one intituled “An Act to amend an Act intituled ‘An Act to authorize the appointment of Commissioners in the United Kingdom and other parts of Her Majesty’s Dominions, and in the United States of America, to take Affidavits and Acknowledgments of Deeds and other Instruments relating to matters in this Province.’”

The circumstances under which this Act is passed are as follows:—

The Act of 1860, which it is proposed to amend, enabled the Governor of New Brunswick to appoint Commissioners to take oaths in various parts of the world beyond the jurisdiction of the New Brunswick Legislature, and enacted that these Commissioners should possess *inter alia* all the powers and authorities by the seventh Section of an Act made and passed in the 19th year of the Reign of Her present Majesty, intituled “An Act in further amendment of the Law,” given to a Judge of any Court of Justice in the United Kingdom, or in any Foreign State, or in any British Colony.

The Law Officers of the Crown, in a report which was transmitted to New Brunswick in Sir G. Lewis’s Despatch, dated the 6th November 1860, explained the objections to which these provisions were liable, and which were such as to make it impossible that Her Majesty should allow it to remain in operation unamended.

The Government of New Brunswick replied by a Memorandum transmitted in Mr. Manners-Sutton’s Despatch of February the 18th, 1861. This Memorandum was submitted to the Law Officers of the Crown. As in my Despatch of the 10th of April, conveying the opinion of the Home Government on this Memorandum, I did not enclose a copy of the Law Officers’ report, I now communicate it to you.

You will perceive, by a perusal of these papers, that the Act now passed is wholly inadequate for its purpose. In what manner it is inadequate I shall not now attempt to explain, inasmuch as I am unable to express myself with greater clearness than I have already done in my Despatch of the 10th April, or than the then Attorney and Solicitor General (Sir R. Bethell and Sir W. Atherton) have done in their report of the 30th October 1860.

I can only say that I find myself obliged very reluctantly to advise Her Majesty to disallow the two Acts, viz:—No. 2734, Cap. 26, of 1860, “An Act to authorize the appointment of Commissioners in the United Kingdom and other parts of Her Majesty’s Dominions, and in the United States of America, to take Affidavits and Acknowledgments of Deeds and other Instruments relating to matters in this Province;” and No. 2886, Cap. 31, of 1862, “An Act to amend an Act intituled ‘An Act to authorize the appointment of Commissioners in the United Kingdom and other parts of Her Majesty’s Dominions, and in the United States of America, to take Affidavits and Acknowledgments of Deeds and other Instruments relating to matters in this Province;’” and that the order of disallowance will be forwarded to you as soon as it is passed.

You will clearly understand that I only take this course because the proceedings of your Government have left me no alternative.

I have, &c.

(Signed)

NEWCASTLE.

Lieut. Governor the Hon. Arthur H. Gordon, &c. &c. &c.

[Enclosure.]

The Law Officers to the Duke of Newcastle.

Lincoln’s Inn, 27th March, 1861.

MY LORD DUKE,—We are honored with Your Grace’s command signified in Mr. Elliott’s letter of the 19th March, instant, in which he stated that he was directed by Your Grace, to transmit to us a copy of a Despatch from the Governor of New Brunswick, with a Report of the local Attorney General upon our opinion of the 30th October, ultimo, respecting the New Brunswick Act, entitled “An Act to authorize the appointment of Commissioners in the United Kingdom and other parts of Her Majesty’s Dominions,