Some of these provincial premiers now behave as if they were princes or electors of the Holy Roman Empire. They behave as if the Government of Canada were some foreign power, and a very wicked and malicious, even malevolent, foreign power into the bargain. They behave as if they were almost sovereign states, they behave as if any exercise of dominion power is almost an insult to their imperial majesties. I think this can be overdone.

Possibly the Fathers of Confederation did not give the provinces as much place in the scheme of things as they should have. No doubt circumstances change. No doubt public opinion and public temper change. No doubt there have been changes, in effect, in the jurisdiction of the dominion and the provinces, as a result of the interpretation by the courts of the British North America Act.

But when all that has been said, I think there is some ground for saying that as long as we have not got the kind of constitutional protection—and I use "constitutional" in the legal American sense, embedded, entrenched, constitutional protection—of private rights, that they have in the United States, there is some ground for saying that the power of the Government of Canada to intervene to protect private rights, even where they are affected simply by legislation within the power of the province, is worth preserving.

I am rather inclined to regret that in recent years, and in some very flagrant cases, governments on both sides of politics have passed by on the other side when they were presented with a serious case of invasion of private rights, sometimes of individuals and sometimes of groups. I have been more sensitive to the latter in, as it were, my official and professional capacity as a trade union official. But I think I have tried to take some account of the others too.

Incidentally, in some of these things that we objected to from the labour movement, there were confiscatory provisions, notably in the Padlock Act, of course, and in the Newfoundland Act, where there were provisions allowing the Lieutenant-Governor in Council not only to dissolve a union but to make regulations for the distribution of its assets.

So I am very glad, in short, that Senator van Roggen has brought this up. I think it deserves a thorough ventilation. I think it may be salutary, however valid the ground the British Columbia Government may have for this particular piece of legislation, for the British Columbia Government to realize that in this chamber at least there is a body of people who are keeping track of what goes on. I think this is a valuable service the Senate can render. Sometimes the mere exposition of the powerful case that I think Senator van Roggen made may have some effect upon the provincial government concerned. I do not think we should be afraid of discussing these things. I do not think we should be afraid, if the case has been thoroughly made—and I do not say it has been completely made in this instance—of urging the Government of Canada to exercise its powers. This is a valuable part of our Constitution, and should not be allowed to fall into desuetude.

● (1600)

I might remark in passing, for those who think that what I have been saying is pure old John A. Macdonald conservatism—which in some sense it is—that one of the patron saints of the Liberal Party—I suppose he still is—the Honourable George Brown, laid it down in the Confederation debates that this power existed for the prevention of injustices; there could be no injustices in local legislation without appeal. Senator van Roggen quoted from Sir Georges Cartier somewhat to the same effect, though in a narrower context.

I think we should do well to remember that there is perhaps some room for a balance between the exercise of dominion and provincial powers under the Constitution, and even possibly that the balance has in recent years tilted rather too far towards the provinces. This, I know, is terrible heresy. This is the heresy of one who is an unrevised and unrepentant follower of Sir John Alexander Macdonald in matters constitutional. But I am not persuaded that Sir John was quite the numskull that he is sometimes nowadays made out to be by his critics, and I am perfectly content to take my place beside him.

I do not know that there is anything much else I desire to say on this subject, honourable senators. There is just one thing, perhaps. I had made a note which I had forgotten about. I think it is important to realize that in certain instances the Government of Canada in, from the years I have reached, relatively recent times has exercised its power of disallowance on the ground of violation by a provincial statute of reason, justice and natural equity.

The most recent case I know of, and one of the most striking, is the *MacNeil* case in Nova Scotia. It was a statute of, I think, 1921, disallowed here in 1922. What happened then was that a certain Mr. MacNeil died, leaving his property to his sister. However, he and his partner had very large debts, and after he had died his creditors proceeded in the courts, and the courts said in effect, "No, the property does not belong to Miss MacNeil; it belongs to the creditors." That went right up to the Supreme Court of Canada, as I recall. Miss MacNeil was not satisfied with this, and she had a shot left in her locker. She interested a fellow clansman, Mr. Grant MacNeil, an M.P., for one of the British Columbia constituencies and secretary of the Great War Veterans Association, in her case. Mr. MacNeil had been a veteran. There was a tremendous hullaballoo, which wound up with the Dominion Government, on the recommendation of the Honourable Sir Lomer Gouin, then Minister of Justice, disallowing this particular act.

I am getting ahead of myself. Miss MacNeil went to the Nova Scotia legislature first of all. (I am getting it wrong. Perhaps this should be expunged from the record. I do not suppose it will be. It will be a monument to my carelessness at certain moments in speaking.) Miss MacNeil went to the Nova Scotia legislature and asked to have the property vested in her; in other words setting aside the judgment of the Supreme Court of Canada. The legislature did it. Then the creditors also had a shot left in their locker. They appealed to Ottawa for disallowance and the disallowance went through. The Minister of Justice, supported by the Cabinet, said that this was a gross violation of reason, justice and natural equity, that it was a terrible thing to set aside the verdict of the highest court of the land in this matter, and the thing was disallowed.

I remember that case particularly, because I had occasion to refer to it in proceedings before the Joint Committee on Human Rights and Fundamental Freedoms in 1947, when the Honourable Senator Gouin, who was a member