

Err. & App.]

IN RE GOODHUE, ETC.

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bills and the final act of legislation, there should be some stringent rules as to full particulars of notice, and providing for a long interval between the first reading and the third; and again for ample time for a report by the Law Officers of the Crown, as to the protection of any private interest involved. These, however, are not questions for our consideration.

"As to what has been said as to a Law not binding if it be contrary to reason, that can receive no countenance from any Court of Justice whatever. A Court of Justice cannot set itself above the Legislature. It must suppose that what the Legislature has enacted is reasonable, and all, therefore, that we can do, is to try to find out what the Legislature intended. If a literal translation or construction of the words, would lead to an injustice or absurdity, another construction possibly might be put on them, but still it is a question of construction, and there is no power of dispensation from the words used."—(*Per Lord Campbell in Logan v. Burslem*, 4 Moo. P. C. C., p. 296.)

Mr. Sedgwick, in his learned and admirable treatise upon Statutory and Constitutional Law, argues, and I think unanswerably, that the Judiciary have no right whatever to set aside, to arrest or nullify a law passed in relation to a subject within the scope of Legislative authority, on the ground that it conflicts with their notions of natural right, abstract justice, or sound morality."—(P. 187.)

Again, Chancellor Kent (1 Com. 408) writes, "Where it is said that a Statute is contrary to natural Equity or reason, or repugnant, or impossible to be performed, the cases are understood to mean that the Court is to give them a reasonable construction. They will not, out of respect and duty to the lawgiver, presume that every unjust or absurd consequence was within the contemplation of the law; but if it should happen to be too palpable to meet with but one construction, there is no doubt in the English Law of the binding efficacy of the Statute."

A late British writer has remarked, it may be argued, that a second Chamber is considered a valuable element in the Constitution, (in the mother country,) and that as to its importance he makes no dispute. "On the principle of a division of labour it is wanted for the despatch of business, and it is also required for the interposition of discussion and delay between the hasty introduction of bills and the final act of legislation."

In regard to the absence of a second chamber, it may be further observed, so far at least as estate or private bills are concerned, that as such bills involve ordinarily no mere party political considerations, all those whose interests are or may be touched have a right, in the first place, to expect a careful examination of their contents, on the part of the Provincial Executive—and a withholding of the Royal assent if it is found that the promoters of the bill are seeking advantages at the expense of others whose interests are as well grounded as their own. And further, if from oversight, or any other cause, provisions should be inserted of an objectionable character, such as the deprivation of innocent parties of actual or even possible interests, by retroactive legislation, such bills

are still subject to the consideration of the Governor-General, who, as the representative of the Sovereign, is entrusted with authority,—to which a corresponding duty attaches, to disallow any law contrary to reason, or to natural justice and equity. So that while our legislation must unavoidably originate in the single chamber, and can only be openly discussed there, and once adopted there, cannot be revised or amended by any other authority, it does not become law until the Lieut.-Governor announces his assent, after which it is subject to disallowance by the Governor-General.

I can find neither principle nor authority upon which to hold that the Courts of this Province have jurisdiction to override or pronounce nugatory Acts passed by the Legislature in relation to matters coming within the classes of subjects enumerated in the 92nd section of the British North America Act. We have not failed to consider the exception in the 129th section in connection with 14 Geo. III., c. 83, s. 10; but we think that we could not hold that these provisions place beyond the power of the Provincial Legislature an Act like that in question.

I have not omitted to consider the difference of the language used in, as well as the substance of the clauses of the British North America Act, 1867—on erecting the Parliament of the Dominion, and the Legislatures of the respective Provinces.

In and for the Dominion, there is one Parliament, consisting of the Queen, the Senate, and the House of Commons, and the Sovereign being one branch of this Parliament, provision is made for the Royal assent being given by the Governor-General in the name of the Sovereign, whose commission, under the Great Seal of the United Kingdom, he holds, to such Bills as the two Houses pass, or for the reservation of any such Bills for the signification of Her Majesty's pleasure. An Act assented to by the Governor-General may, however, be disallowed by the Queen in Council, within two years after it has been received by one of the principal Secretaries of State, to whom it is the duty of the Governor-General to transmit it.

But, in the Province of Ontario, there is constituted a Legislature, not as in the Dominion, a Parliament, which, Legislature consists of the Lieut.-Governor—and of one House, styled the Legislative Assembly of Ontario.

As to assenting to Bills passed by the Legislative Assembly, it is provided for only under sec. 90 of the British North America Act, 1867, which extends the provisions of that Act, regulating (among other things) the assent to Bills, the disallowance of Acts, and the signification of pleasure on Bills reserved, to the Provincial Legislatures with some alterations and substitutions. The assent to bills is regulated by sec. 55 of that Act, thus: "where a bill passed by the House of Parliament is presented to the Governor-General for the Queen's assent, he shall declare according to his discretion," &c., &c. Reading this, together with sec. 90, a doubt may possibly be suggested, whether in relation to the Provincial Legislatures, it should be read—"where a Bill passed by any of the Provincial Legislatures is presented to the Lieut.-Governor for the Governor-General's assent—he