formal instruction, but it was a case where a nod is as good as a wink. It turned out after thorough investigation that there had been telephone conversations in which he was advised—a pleasant euphemism—that it would be desirable to reserve these bills for the signification of the Governor General's pleasure.

The total number of acts disallowed is 112. Acts of every province in the country have been disallowed—except for the Province of Newfoundland, which arrived rather late on the scene, of course, and Prince Edward Island. Prince Edward Island has had a tremendous number of withholdings of assent and reservation of bills, but it has never had a disallowance, to the best of my knowledge.

The last disallowance was of an Alberta act in 1943, an act dealing with Hutterite lands, if my memory serves me. Senator Manning can, of course, correct me on this if I am wrong. That particular case, I think, was rather a freak, because it was declared by the Government of Canada that this particular act interfered with the Defence of Canada regulations and that it was therefore highly undesirable that it should be allowed to go into effect.

I do not think there has been any other case exactly like that.

Apart from that, the last disallowances before that were acts of the legislature of Alberta, under the administration of which Senator Manning was a distinguished member, some of them dealing with purely social credit theory and related matters—I mean the application of social credit theory—and some merely dealing with the postponement of interest or the reduction of interest, or the cancelling of certain obligations or the reduction of certain obligations, which were disallowed in rapid succession by the Government of Canada at that time.

Honourable senators, that is a brief look at the actual number of acts disallowed. It is true, as Senator van Roggen said, that the question of whether provincial acts are *ultra vires* of the provincial legislature has been a factor in the majority of cases where disallowance has taken place. There have not been, to the best of my knowledge, too many cases where *ultra vires* has been the sole ground of disallowance.

I think that of the 112 acts, 32 have been disallowed on the sole ground that they were beyond the powers of the provincial legislature. The practice in recent years, in general, has been to leave the question of jurisdiction to the courts to settle. In general, I should be inclined to agree with the view expressed on that subject by Senator van Roggen, though I would qualify it in cases where it appeared that there might be virtually irreparable damage to person or property, especially to rights of people outside the province concerned—irreparable damage by the time the courts got round to dealing with the matter.

Senator van Roggen pointed out in the case of the Padlock Act that it took twenty years to get the matter to the Supreme Court of Canada. This is a rather long delay and a good deal of damage could be done in the meantime. One of the minor comedies of the history of the Padlock Act was that the powers of confiscating literature under that act were on one occasion exercised to confiscate the official literature of the Liberal Party of Quebec. That was, I suspect, a slight excess of zeal on the part of the provincial police rather than a deliberate act on the part of the provincial government.

In many cases, the question of *ultra vires* has been a ground for disallowance, but associated with other matters where it was felt that there was some general national interest—dominion policy, dominion legislation, dominion interest—in conflict with this. If there was felt to be that, then the acts were disallowed partly on the ground that they were *ultra vires* or even solely on the ground that they were *ultra vires*, simply because it was felt it would be extremely injurious to the public interest to keep them in effect.

Much the more important question for our purposes today is, of course, the one that has been raised specifically by Senator van Roggen about the exercise of the power of disallowance in cases where the legislation is, certainly or almost certainly, within the powers of the provincial legislature.

I should not go, as I have indicated, the whole way with Senator van Roggen in saying that if it is a matter of jurisdiction it can always be left to the courts. And I should not be prepared to go the whole way with those who say, let the provincial electorate deal with it: if they do not like the provincial government, they can throw it out at the next election. This is true, but the particular invasion of private rights which may have occurred, may not bulk very large at the provincial election some years hence. There is also the question of whether the interests of people outside the province are involved. There is no use saying, when the property of someone outside the province of British Columbia is involved, "Don't worry. You can vote the government out at the next election". They won't be there. They will be in Newfoundland or Nova Scotia or Ontario or Quebec, and they will be perfectly powerless to produce any effect on the British Columbia election—except possibly by making contributions to campaign funds which, I suppose, might indeed be a potent way of making their views felt.

I am not well enough acquainted with the circumstances surrounding the particular piece of legislation in British Columbia which was the occasion of Senator van Roggen's inquiry to be able to speak with any assurance about it. I think it is well in those circumstances for anybody—and more particularly for a layman not a lawyer—to obey the ancient legal maxim *audi alteram partem*, hear the other side. There is perhaps more ground for this legislation than appears on the face of it.

I agree also with what Senator Manning says, that we must be very careful—this has always been the view of ministers of justice in the dominion government—we must be very careful in interfering with the exercise of provincial legislative power within the areas of provincial competence. This can lead to a great deal of difficulty, a great deal of frustration and a great deal of resentment, as Senator Manning said. But I do not know that we should be so desperately afraid to exercise the constitutional powers of the Government of Canada in these circumstances. There has been a tendency in recent years to blow up the provincial governments and legislatures to something far beyond anything that the Fathers of Confederation ever intended for them.