always—a great deal of almost irreparable, perhaps quite irreparable, damage would have been done. We felt that there was room here for the exercise of the power of reservation in somewhat the same way as an interim injunction may be used in proper cases—and there are improper cases—in ordinary legal proceedings.

Anyway, honourable senators, I must say that in all those four cases in which I was active in trying to obtain disallowance, I was as unsuccessful as I was in my attempts to be elected either to the Montreal City Council, the Legislature of Ontario, or the other place. The government in every case declined to disallow. I am inclined to think that possibly in the Prince Edward Island case, the government may have dropped a strong hint to the Government of Prince Edward Island about the situation, because, in the next year, the legislature removed nearly all, if not all, of the obnoxious sections of the act of 1948.

Incidentally, this is an interesting feature of the history of disallowance, that in a great many cases the Government of Canada secured changes in, or the repeal of, obnoxious provincial legislation—obnoxious for a variety of reasons—by saying, shortly before the period for disallowance ran out, by wire to the Lieutenant-Governor of the province concerned, "Unless your advisers are prepared to recommend repeal or amendment of the legislation," as the case might be, "before the period of disallowance runs out, and it runs out tomorrow, we shall be obliged to recommend disallowance." And that in a great many cases appears to have done the trick. So that the actual number of disallowances is not altogether representative of the effect that this power may have on provincial legislation.

It may be worthwhile, honourable senators, as I have just mentioned the actual number of disallowances, to amplify a little, and perhaps correct in minor ways, the figures that Senator van Roggen gave on the withholding of assent, the reservation of assent and the disallowance of provincial acts.

Hon. Mr. Martin: May I ask Senator Forsey if in this review of the past he could tell us in what situations, and particularly the last time in 1943, there was any prior review of this matter in either House of Parliament?

Hon. Mr. Forsey: Well, I can come to that. That is a rather long story. As Senator Martin has asked the question—I don't think I have the document with me today; I think perhaps Senator van Roggen has a copy of it—but some years ago this matter came up in the House of Commons, in the days when the present Governor General was Speaker of the House, and relying on a wholly erroneous, a flatly and flagrantly erroneous, citation in *Beauchesne*, the Speaker ruled that this matter of disallowance could not be even discussed in the House of Commons, and that no questions should be asked about it, until the period for disallowance had expired. Then anybody could bring the question up and move censure on the government, either for disallowing when it should not have, or for not disallowing when it should have. The fact is that this doctrine is, of course, wholly unfounded.

The classic case, to which *Beauchesne* does make a slight and erroneous reference, was, of course, Mr. Costigan's motion in 1873 saying that it was the duty of the Government of Canada to disallow the New Brunswick Common School Act which had just been passed, amending common school legislation in that province. That was carried by 98 to, I think it was, 63 on May 15, 1873 with the government opposing it. It was carried after a long debate. No question was raised of the propriety, and the government, of course, quite properly, that is, as it was entitled to, disregarded the resolution passed by the House of Commons. There were no subsequent resolutions to that effect passed, but there were a great many cases where the matter was brought up in a motion—sometimes defeated and sometimes not carried to a vote—and where there was discussed in considerable detail the question of the right of Parliament to offer advice, to exercise what Edward Blake called, "the great power of Parliament, the power to advise the executive,"an undoubted power, completely supported by numerous citations in *May*, for example, and supported by an immense volume of precedent in the Parliament of Canada.

There have been, I should say at a rough guess from memory, eight, ten or a dozen times when this matter has been discussed, at least in the other place—I cannot say how often it has been discussed here—before the period for disallowance ran out. Sometimes there was a motion to disallow, and no disallowance took place. I don't think there was any case in which a disallowance took place after a desire for disallowance had been expressed in the House. However, that is rather by way of parenthesis, and I had not intended to go into that, except that Senator Martin raised the matter.

The last time, I think, that the matter was discussed at any length in the other place, in the context of Senator Martin's question, was, I think, about 1916, when Sir Robert Borden explicitly declared that it would be proper for the late Honourable Ernest Lapointe to present a motion asking for disallowance of some objectionable Manitoba school legislation.

However, if any honourable senators are interested, I can very easily provide them with an ample dissertation—rather too ample, in fact, and rather more ample than this extended, superfluously extended, perhaps, as it has been—an ample dissertation on this subject in which they will find, with copious footnotes, all the precedents in the other place that I have been able to discover.

The actual withholding of assent by Lieutenant-Governors has taken place, to the best of my recollection, 30 times since Confederation, the last time being in Prince Edward Island in 1945—a very curious performance, where the Lieutenant-Governor publicly announced beforehand that he was very much opposed to a particular piece of legislation, and he was going to veto it. And he did! However, that is extraneous to this matter.

So far as reservation is concerned, the number of reservations has been, I think, 70, and to the best of my belief 14 of those bills—and not 13 as Senator van Roggen said—have received the Governor General's assent.

● (1550)

The last occasion was, of course, in 1961, the Saskatchewan bill dealing with mineral contracts. The last occasions before that were three occasions of reservations in 1937 in Alberta, where the Lieutenant-Governor—as it turned out many years afterward—had been informally instructed by the Government of Canada to reserve. There was no