

Sir LOMER GOUIN (Minister of Justice): My hon. friend has asked that the House should declare that the government has been guilty of abuse of the Dominion powers by disallowing chapter 177 of the legislature of the province of Nova Scotia of the year 1921, because such statute is entirely *intra vires* of the province and does not interfere with the Dominion policy of administration. He declares that this statute, referring to civil rights, was strictly within the jurisdiction of the province, and that there is no power of disallowance in this country which could interfere with such legislation. He has given us the history of the case and has put before the House the facts which gave rise to this statute. With your permission, Mr. Speaker, I will give my version of the facts, and there may be some little difference between my hon. friend's version and mine.

In 1911 F. W. Sparrow and Francis MacNeil were doing business in Montreal as general contractors. They had been in business for some years. MacNeil was a native of Sydney Mines, Nova Scotia. For some time he had been speaking to his partner, trying to induce him to purchase a certain gypsum property situated in the province of Nova Scotia, for which he had an option. He was urging the purchase of that property for \$2,000, stating that they could sell it at a very much increased price and be in a position to meet their liabilities. Sparrow finally accepted the proposition of his partner. They had no money. They went to the Molsons Bank in Montreal and asked for an advance of \$2,000. The manager of the Molsons Bank, on their representation, consented to give them \$2,000, with the understanding that the money would be used for the purchase of that property.

Sir HENRY DRAYTON: If these are the facts will he give us his authority for them? Will my hon. friend give us the evidence and tell us whether that evidence was contradicted or uncontradicted on the records?

Sir LOMER GOUIN: I will give the judgment of the trial judge, who decided in favour of the MacNeil family. I refer to the 47th volume of the Nova Scotia law report, page 408, where I find the judge said:

I find on the evidence that the gypsum property was bought with the money of Sparrow & MacNeil and not with the individual money of the defendant, Francis J. MacNeil. On this point I discredit the evidence of the defendant, Francis J. MacNeil, and I may add that his manner and demeanour on the witness stand were unsatisfactory and very far from convincing. The \$2,000

cheque with the proceeds of which the gypsum property was purchased was a cheque of the firm signed by Sparrow and counter-signed by MacNeil in accordance with their practice in regard to firm cheques. Speaking of this cheque Mr. Johnson, the Manager of the Molsons Bank at Montreal, says: "That cheque was got to buy a gypsum property on Little Bras d'Or Lake, N.S. MacNeil did not see me on the occasion of this cheque, it was asked for by Sparrow and MacNeil; then the firm asked for an advance of \$2,000, to complete the payment on this property on which Mr. MacNeil had an option. I gave the firm that advance understanding that it was to be for the benefit of the firm, and that the property when bought would be the property of Sparrow & MacNeil. MacNeil & Sparrow both asked for the advance for the purpose of buying the gypsum property. I understood from them that this gypsum property was to be the property of the firm; otherwise would not have made the advance." Sparrow's evidence is to the same effect.

This is to show, Mr. Speaker, that the money was advanced to the firm. At that time in April it was perfectly well known that there was some gypsum on that property, and the firm was trying to buy the property because there was gypsum on it. After MacNeil got the \$2,000 he went down to Nova Scotia, met the proprietor of that gypsum property, a man named MacLeod. He purchased the property from him, had it conveyed to his sister, Jane MacNeil, and he paid the price agreed upon, \$2,000, being the same amount that he had received from the firm of Sparrow and MacNeil. This was on the 18th April 1911. On the 10th May MacNeil gave an option to a man named Fletcher for the sum of \$25,000 or \$30,000, the option being signed by his partner Sparrow as a witness. This was one month after the conveyance of the same lot to Jane MacNeil. They received on account \$1,000, which was forfeited, because Fletcher did not complete his agreement. On the 27th June, a month later, Francis MacNeil deeded to the defendant, Jane MacNeil, certain lands which he had at North Sydney. On the 12th July the firm went into liquidation. On April 12th, at the request of the creditors, the curator Sharpe took action against Francis MacNeil and his sister Jane MacNeil to set aside the two conveyances that I have mentioned. The defendant Jane MacNeil pleaded a general denial. She pretended that she had purchased the property herself, paid for it out of her own money, and that she had acted in good faith. She did not prove any of these lines of defence. At the trial she first tried to establish that she had paid out her own money, but on cross-examination she had to admit that the price was paid by the cheque of Sparrow and MacNeil.

As to the Sydney property, the trial judge declared that that property had been deeded to Jane MacNeil without any consideration;