

the Provinces. The first question to be asked is: Is the Act in controversy within the exclusive jurisdiction of the Province? If it is, upon what grounds can its disallowance be called for? Where the Minister of Justice thinks an Act is *ultra vires*, and that serious wrong might be done by allowing it to come into operation, he may make it a subject of correspondence with the law officer of the Province, and if, after full discussion with that law officer, he is still of opinion that the Act is *ultra vires*, he may disallow the Act, instead of leaving it go into operation until pronounced void by the courts. Now, what the hon. gentleman who has made this motion proposes is to convert Parliament into a Court of Appeal. He proposes to make this House a court for the purposes of deciding the limits of local and federal jurisdiction. Well, this Parliament may have a question of that sort, when it undertakes itself to legislate, forced upon it, and it must, for its own purpose, decide whether the question is *ultra vires* or *intra vires*. The House, it seems to me, is a body ill-suited to exercise judicial functions, and to undertake to say, in any question or proposition of this sort, what is the exclusive jurisdiction of the Province, and the exclusive jurisdiction of the Dominion. Now, when we look at the Constitution, we find that everything relating to property and civil rights is under the control of the Local Legislature, except in so far as the control of property and civil rights is specifically given to the Dominion in the provisions of section 91. I am inclined to think that we often forget how comprehensive those words are: "property and civil rights." Civil rights, barbarians of course have none. The civil right is a right regulated by the State. It is the exercise of a right, that belongs to the individual, in a way consistent with the rights and liberties of another individual. It may embrace religious as well as political creeds. The relations between parent and child, between guardian and ward, between master and servant, are all civil rights. The relations between the Churches and the State are civil rights. It is possible for a Local Legislature to say this religious body may be endowed by the State, and another shall not be endowed. There is nothing in the Constitution to prevent a Local Legislature endowing a church, if it sees proper to do so. In the exercise of those powers over property and civil rights, it may do so. It may regulate the observance of the Sabbath and the observance of holidays. It may make our school system secular or denominational, in so far as it is not prevented by a specific provision of the Constitution. It may make the school system wholly religious. The Province of Ontario to-morrow might make a provision doing away with public schools and adopting a system of denominational schools in its stead. I do not know any ground upon which we could interfere on the subject of the relations between Church and State in a Province, except it would be in saying that a person belonging to one denomination may have the elective franchise and another not. The hon. gentleman told us yesterday that the connection between Church and State was entirely abolished by the Act of 1854. The hon. gentleman sought to leave the impression on the House that that Act was a finality, that the Provinces were restrained in some way by that Act. Why, the Province of old Canada, which passed that Act, might the next year have repealed it, and have established the old Church of Scotland as the Established Church of Canada, or the Church of England, or the Methodists, or some other body. Of course, in my opinion, as an opponent of the connection of Church and State, it would be unfortunate to do any one of these things, but the power is not taken away simply because it would be unwise, or inexpedient to use it. Now, the Local Legislature in any Province may very widely depart from the order of things which existed at Confederation. Everyone who knows the history of this Union knows right well that, at the period of Confederation, there was a disposition on the part of Ontario to take one view

of public policy, and on the part of Quebec to take another view. There were a number of questions upon which there was friction; and what was one of the objects of the dissolution of the old Legislative Union, and the establishment of the Federal Union in its place? It was to get rid of those difficulties, by allowing each Province to take its own course. Whether that was wise or unwise, whether it was the best in the interests of civilisation, or whether it would lead to a different result, each Legislature was free to decide for itself, within the limits fixed by the Constitution, what course it would adopt. The hon. member for North Simcoe (Mr. McCarthy) yesterday concluded his speech by a quotation from a speech of Prof. Caven. I have not the pleasure of knowing Prof. Caven personally, but everything I have heard in regard to him has led me to the conclusion that he is one of the ablest thinkers in the Dominion, and that he is not a gentleman likely to form an erroneous conclusion when all facts are properly before him; but he lays down in that speech three propositions. One was that the appropriation of these funds in the Province of Quebec was a malversation of public funds. Now, that is not so. That is a total misapprehension of the state of the question. Quebec may have acted very unwisely in dealing with the funds as she did, but the Legislature of Quebec was as free to deal with the funds under the control of that Province as this Legislature is, or as a private party is to deal with the moneys and property belonging to him. Whether Quebec has used the moneys wisely or unwisely it is not necessary here to discuss. The fact is that the money was her own to do as she pleased with. It was under her sovereign control—for, for this purpose, she is sovereign—and it was no more a misappropriation of her money than it would be if we were to take moneys which we have been in the habit of devoting to one purpose, and were to withdraw them from that purpose, and to use them for some other and different purpose. We have had discussed here these three questions: To whom did this property belong? how was it acquired? how was the ownership lost? In part it is said to have been granted by the King of France, in part it consisted of private benefactions, and in part it was property purchased by the society with its own money. Now, as to the first two classes of property, they were given to the society to propagate the Roman Catholic religion. The society itself was not an end. It was not for the advantage of the society, as a society, that it was given, but it was given to the society as a means to an end, and that end was the propagation of the Roman Catholic faith, the society forming a part of that church. If the views of that society were in any respect at variance with the views of the church, then the property was not given for the promotion of those views. The hon. member for Simcoe (Mr. McCarthy) said that the church to which he belonged had been despoiled of its estates when the Clergy Reserves were secularised. Why, the Clergy Reserves never belonged to the church. They were reserves, not grants. They belonged to the State. The State held them during its pleasure for a particular purpose, and, while that pleasure continued, the State applied the proceeds to that purpose. But there were 57 rectories, and those were grants, and, when the connection between Church and State by the Act of 1854 was declared to be abolished, those 57 rectories were not taken from the church. The church retained those rectories because they were its private property at the time this Act of 1854 was passed. Let me state some of the analogies which I think may be fairly used to illustrate the position of this Jesuit Society. That society had very much the same relation to the Roman Catholic Church in New France as the trustees of Queen's College have to the Presbyterian Church, or Victoria College to the Methodists, or the trustees of McMaster Hall to the Baptists.