

*Disallowance*

In another judgment in the same court, to be found at page 131 of the reports, Mr. Justice Fournier declares with reference to the power of veto:

No doubt this extraordinary prerogative exists and could even be applied to a law over which the provincial legislature had complete jurisdiction. But it is precisely on account of its extraordinary and exceptional character that the exercise of this prerogative will always be a delicate matter. It will always be very difficult for the federal government to substitute its opinion instead of that of the legislative assemblies, in regard to matters within their province, without exposing themselves to be reproached with threatening the independence of the province.

Now, Mr. Speaker, of course the Minister of Justice can point to the fact that the right of disallowance has been exercised in other cases, but I do not think that he can do that with respect to one case that is identical in character with the present, during the last twenty-five years. We have been growing, we have been changing, the public rights are daily becoming more confirmed, the right of the provincial legislature to enact laws within its own sphere has become more and more recognized; my hon. friend cannot find within the last twenty-five years any disallowance which at all resembles the disallowance in this case; indeed, I do not think he can find any such instance since Confederation. Previous to that there had been disallowances such as brought about the indignant protests which were voiced at the Quebec conference and resulted in the passing of resolutions on the subject. The minister can, however, point to acts which were disallowed because there was a conflict between Dominion policy and provincial policies, between a Dominion administration and a provincial administration; to cases where there was a conflict of Dominion interest as against provincial interest. He can refer to the railroad cases in Manitoba and a good many like cases. Hon. Mr. Doherty, Minister of Justice in the former administration, looked with a little more favouring eye on disallowance and doubtless the present Minister of Justice will refer to some reports on disallowance drawn up by him. He may, perhaps, in the case of the late minister cite dicta suggesting something of the nature of the grounds which are relied upon to justify action in the present case. But he will find only one case at all resembling the present one where an act was disallowed. That was an act of the province of British Columbia, enacted, I think, in 1917, and disallowed in 1918 by the federal authority, simply because there was a conflict between a Dominion contract and a provincial statute. It was the case of the Railway Belt. Where the rates arising under a Dominion contract, were in dispute and

[Sir Henry Drayton.]

therefore the right of disallowance was exercised. There is one peculiar thing which goes to show how hard it really is to keep these matters just where they ought to be unless they are left within their proper channels and proper jurisdiction. Why, before the present Minister of Justice was here, and when Mr. Doherty was minister, MacNeil came down to see the minister. And when the Great War Veterans found out how badly this case had gone and how badly MacNeil had been treated they came down and interviewed Mr. Doherty and he told them he could not do anything for them. He refused to interfere; he said it was impossible. He told them to go down to Nova Scotia, that it was a matter in which the local people should act. Well, after all, it does not matter very much what is said by this or that minister; we are dealing with a matter of very much greater importance than anything which can be established by the statement of any hon. gentleman. We are dealing with a question to-day which, if this course of action be proceeded with, can be the most formidable challenge to the proper continuance of our Dominion Confederation. If this practice be followed out we are dealing with a question which would enable the central authority to interfere with the deliberations of provincial legislatures, with a question which if it proceeds along these lines, invades the rights of justice possessed by a province and interferes with its legislation. We are dealing with a question to-day which, as I said in opening, was made the subject of the first two counts by the thirteen American colonies when they rose in rebellion; a question which led to the passage of resolutions at the Quebec conference when the provinces were endeavouring to get away from what they felt were improper attempts at interference, those attempts being far less serious than the attempt we have here. The provinces desired to have this power taken away from the Dominion minister who might well be interested in politics—if it was to be so used as to encroach upon the jurisdiction of the province, and placed in the hands of the Imperial authorities. I hope my hon. friend on consideration will see that this is a very grave question, and that everyone in the House may take the attitude that the Nova Scotia legislature is a supreme and sovereign body within its own powers, just the same as any other legislature in this country, and has the right to pass its own laws, under the sections of the act establishing the legislative rights of the provinces.