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Special Articles

The Relation of Credit to Modern Business
By W. W. Swanson, Ph. D.

Banking and Business Affairs in the U. S.,
By Elmer H. Youngman.

Conditions in the West,
By E. Cora Hind.

National Foresight and Preparedness,
By E. St. John Wileman.

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Home-Rule and the Veto

THE Irish question is naturally engaging much attention at present and many suggestions are offered as to methods by which there may be brought about that co-operation between the different sections of Ireland that is so desirable. The fear of the Ulstermen that in an Irish Parliament their interests would suffer is met in some quarters by the argument that they will be adequately protected by the veto power of the Crown on Acts of the Local Legislature. This view was forcibly presented in a recent article in The Montreal Gazette, which said:

"The fears of Ulster stand in the way of a settlement, fears of unfair treatment by the majority, of contraction of civil and religious rights, of undue taxation. But these fears appear unfounded if an appeal from the legislation of an Irish Parliament lies to the British Parliament, if, in a word, such a system as exists in Canada is introduced, by which all provincial legislation is subject to review by the Dominion Government. The Ulsterites may properly insist on such a safeguard, and having it, wherein does their danger consist? Their civil and religious liberties could not be contracted, save with the consent of the British Government in whom their confidence is now reposed, nor could any undue burden of taxation be placed upon them except with the approval of the same authority."

There are, we believe, other reasons why Ulster should not fear an Irish Home Rule Parliament. The northern part of Ireland, through the forces of its education, industry, enterprise and wealth would surely exercise an influence on Irish affairs much more than proportioned to the number of its population. But it is a mistake to ask Ulster to believe that in the Canadian system "all Provincial legislation is subject to review by the Dominion Government." It is true that technically the Canadian constitution gives the Dominion Government a power of veto on Provincial legislation; but that is only true in the same sense that the Imperial Government have a power of veto on the Canadian Parliament's Acts, and that the King has a power of veto on the legislation of the Imperial Parliament. The power exists in name, but only in name, because there is a very clear understanding that it shall rarely, if ever, be exercised. If the King should use his power to veto Acts of the Imperial Parliament, he would soon cease to be King. If the Imperial Government should veto Acts of the Canadian Parliament, the good relations existing between the Mother Country and the Dominion would quickly be changed. If the Dominion Government should

exercise freely its power of disallowance of Provincial laws, the Canadian constitutional system would be a failure.

In the case of the King as respects the Acts of the Imperial Parliament, and in the case of the Imperial Government as respects the Acts of the Parliament of Canada, these principles have long been recognized. In the case of the relations, in Canada, between the Dominion and Federal authorities there was at first a tendency on the part of the Dominion to resist these principles and to claim and exercise such a right of "review" of Provincial legislation as our contemporary assumes is now in existence. Sir John Macdonald was a strong centralist. If he could have done so he would have made the Canadian union Legislative instead of Federal. He would have had all the law-making power centered in one Parliament at Ottawa. He yielded with reluctance to the Federal idea, being obliged to acknowledge that in a country of such wide extent and diversified population as the British North American Provinces a Legislative union was impracticable. But though he had to accept the letter of the Federal principle and allow the Provinces to have their local Governments and Legislatures, he was slow to accept the spirit of that principle. As the Premier of the Dominion in its early years he manifested a marked desire to treat the Provincial authority as one subordinate to the Federal. He wished to make the veto power real. He claimed that it was the right of the Federal Government to sit in judgment on Provincial laws and to disallow any that were not pleasing the Ministers at Ottawa. His contention in this respect and his action in disallowing Provincial Acts raised an issue in which he was opposed by leaders of Provincial Governments, particularly by Mr. (afterwards Sir Oliver) Mowat. In this fight over the respective constitutional rights of the Dominion and the Provinces, Mr. Mowat and his associates were clearly the victors. The Provincial Legislatures were, under the judgments of the Privy Council in London, held to have larger exclusive powers than Sir John Macdonald had been disposed to allow them.

Out of these conflicts has grown a clearer and better understanding of the question of disallowance of Provincial legislation. While theoretically the power of disallowance remains unlimited, in practice the power is limited to certain well defined classes of cases. Apart from these the constitutional authority of a Provincial legislature is full and complete and not open to "review" by the Federal Government. If a Provincial Act is found to be in conflict with some policy which has been laid down by the Imperial or Dominion Government—as for example an Act which aims at the restriction of some right granted to aliens by Imperial treaties—it will properly