

May 2, 1872

Hon. Mr. HOWE said that when on a previous occasion the member for Halifax (Mr. Jones) introduced in the discussion on the Senate, illustrations of violations of the constitution in another House, hon. gentlemen opposite enjoyed it very much; but now when illustrations were taken from the Ontario matters, they objected altogether. It would appear that what was sauce for the goose was not sauce for the gander. (*Laughter.*)

Hon. Mr. MACKENZIE said, in the matter of the Senate, the illustrations were not drawn from local matters.

Mr. MILLS referred to the coalitions of 1854 and 1867, and said the member for Lanark North (Hon. Mr. McDougall) seemed to have forgotten the position he then occupied. He maintained that the Quebec Act of 1869 was not limited to locality, but to the Judges personally.

Hon. Mr. HOLTON asked whether the motion was to be declared carried.

Hon. Mr. CAMERON (Peel) appealed that the motion should be withdrawn, as after the declaration of the Government the object had been attained.

Hon. Mr. HOLTON said, that having attained his object, he had no desire to press the matter, but a difficulty arose in consequence of the line adopted by the Minister of Militia, who maintained the course taken by Government.

Hon. Sir GEORGE-É. CARTIER said the Government maintained that their action had been legal.

It being 6 o'clock the House rose.

AFTER RECESS

Mr. COLBY rose to move the House in Committee on the Bill to repeal the Insolvency Laws.

Hon. Mr. GRAY said that before going into Committee he desired to make a few remarks. He was entirely opposed to the repeal of the Insolvency Law. He would call attention to the fact that the Law as it now stood had been framed after a great deal of labour and consideration. It was framed in a great measure from the experience of the hon. member for Argenteuil (Hon. Mr. Abbott), one of the best authorities on the subject. On the Committee, all the different Provinces were represented. Each particular Province pointed out the peculiar reasons why the Bill should be adopted, and it was afterwards carried by a large majority of the House. He would call the attention to the disadvantage the separate Provinces would labour under if the Act should be repealed. This matter being one that was exclusively within the jurisdiction of the General Parliament, the Local Legislatures could not legislate upon it.

In New Brunswick a peculiar disadvantage would result from the repeal of the law. Before Confederation, that province had a law providing for the discharge from arrest of a debtor, which was working more or less to the satisfaction of the country. It had afterward been found unsatisfactory in some respects and the Legislature passed an Act to amend it. The Supreme Court, however, decided that in cases carried before it on appeal the Provincial Legislature had no jurisdiction over the subject. If, therefore, this law were repealed, the Provincial Legislature would have no power to substitute anything else for it, not even a law to provide for the discharge from arrest of an unfortunate debtor, who would be left completely at the mercy of any relentless creditor who chose to pursue him. If the supporters of this Bill pressed it upon the House he would offer an amendment exempting the Province of New Brunswick from its operation.

Mr. JONES (Halifax) desired to say a few words in support of the opinions of the merchants of Halifax. He thought that in all business communities it was necessary to have a well regulated and well defined law regarding debtor and creditor. Previous to the Union, Nova Scotia laboured under disadvantage in not having a good insolvency law. They had endeavoured on many occasions to frame such a law as would be acceptable, but from one cause or another they had not been successful. He had known on many an occasion where a debtor had been compelled to meet his creditors and was so entirely at their mercy that he had been driven from the country. He had seen the want of a well adjusted measure and thought that one should, in a new country like this, profit by the experience of older countries like Great Britain and the United States. Some amendments to our law might be necessary. He would not say that it was perfect, but he held that those gentlemen who held views in favour of repealing it were bound to give better reasons than they had yet been able to do for such repeal.

The chief arguments that he had heard against it had not been so much against the law itself as against its administration. (*Hear, hear.*) Most of the gentlemen who had spoken had taken ground chiefly against the expense which attends the administration of the law and the imperfect manner in which it was administered. He held that if such were the case, they should not take the grave step of repealing the Act, but should offer some amendment which would enable the law to be carried out in the way most desirable.

It had been said that in the Province of Quebec they would be in a better position than the other Provinces, if this law were repealed, and he would say that if such a law existed in the Lower Provinces as that now in force in Quebec, there would perhaps not be the same objection to repealing the Act. But it should be remembered that if this law were repealed they would simply have to revert to the machinery of olden times. Then again there would be no provision for winding up estates at present in bankruptcy, and hon. gentlemen should show how they proposed to meet that objection. It was much easier to pull down than to build up, and until they proposed some better law it should remain as it was. When giving the vote he did on a previous occasion, he thought he was in accord with the commercial community of Halifax, but the day following