

tured and not trampled under foot, and it is the duty of any administration worthy of the name in a democracy to leave the garden with these flowers stronger than before; not weaker than before. They are strong enough to withstand the depredations of minor potentates, but they are not strong enough to withstand a calculated and planned program of neglect by the federal authority in Canada.

Honourable senators, I say it is imperative that the federal government disallow oppressive legislation of these predator premiers such as Smallwood, Duplessis, Bennett, and now Barrett, and the failure of recent federal governments to do so is no precedent to be relied upon for now failing to exercise this clear duty. If the federal government will not do so, then no Canadian citizen lies safe in his bed at night secure in his person and his property.

Hon. Ernest C. Manning: Honourable senators, may I be permitted to make a few comments on the important, and certainly serious, issue that Senator van Roggen has brought to our attention. I am not acquainted with the particular piece of legislation in British Columbia to which he has referred, but if its impact and effect is as Senator van Roggen has described it, I probably would feel just as strongly as he that it is bad legislation, not the type of legislation that should be on the statute books of any province, and I would agree there are probably valid and strong arguments that can be advanced for its disallowance.

The first point I would draw to your attention, honourable senators, is that in considering an issue of this kind we need to weigh very seriously the negative as well as the positive consequences of federal disallowance of provincial legislation. I can speak as one with some personal experience because, as was pointed out, some legislation of the Government of Alberta, of which I was a member at the time, was disallowed, and also there was the withholding of royal assent in another instance. I draw this to your attention without arguing the merits of the case, but I do point out that in issues of this kind the argument is never wholly one-sided.

No government, provincial or federal, introduces legislation without some reason which, rightly or wrongly, it considers a valid reason for so doing. If there is a question of jurisdiction involved, the situation is very different from those cases where it is a matter of an alleged infringement of the rights of individuals or of some minority group, even though the power to act was within the competence of the legislature.

In the case of the legislation that was disallowed in Alberta, the jurisdictional issue was the key point. That was a long time ago.

Hon. Mr. Martin: In 1943, was it not?

Hon. Mr. Manning: However, I very well recall the intense resentment, even to the extent of what could be correctly described as public bitterness, at the federal government's interfering in an issue that was held to be within the competence of the provincial legislature. In that case there was the argument that the judgment that it was in their competence was wrong, and it was later held to be wrong by the Supreme Court. But if there is no jurisdictional issue involved, public resentment at federal

interference would be much stronger than where it can be established in the courts that the matter is outside the competence of the legislature.

In other words, if the federal government intervenes in situations of this kind, there is no way to avoid the public placing on that interference the interpretation that it is political interference on the part of the federal government with the actions of a duly elected provincial government. It is that aspect of the matter that gives a great depth of seriousness to this whole issue.

● (1530)

Federal-provincial jurisdiction is a very sensitive matter in Canada today. We all can name scores of cases where the provinces have felt there was federal interference in the field of provincial jurisdiction. In fairness I should say that there have been other cases where certain actions by provincial legislatures have caused concern in Ottawa, because of overlapping or interference in the Government of Canada's field of jurisdiction. I simply draw attention to the well-known fact that the whole question of federal-provincial jurisdiction is extremely sensitive in Canada today. We are all aware that one of the greatest threats to our national union is what is frequently referred to as a "growing regional alienation."

Honourable senators, I can think of few things that would cause greater regional alienation under present circumstances than for the Government of Canada to disallow the legislation of any province, not on constitutional grounds but on the ground that they are more concerned with the rights of individuals than the duly elected government of that province.

I am not arguing against the reasons that Senator van Roggen has enumerated as to why there should be federal interference; but I say that it would be a very serious thing today for the federal government to inject itself into the provincial field when the question of jurisdiction is not the issue, and justify its intervention by saying, "We are more concerned with the rights of your people than you are."

I submit that you simply cannot sell to the electors of any province the proposition that the federal government is more concerned with human rights than the provincial government which they have freely elected by the democratic process.

We are all aware that the more local a government is the closer it is to its people. The municipal governments are undoubtedly in closer touch with their electors than is the case with any other level of government. The provincial governments are next, and the federal government is the most remote. If you think for one moment that you are going to get the people of British Columbia, for example, to accept the proposition that the federal government is more knowledgeable of, and more sensitive to, the rights of the citizens of British Columbia, than the provincial government they themselves have elected, you are mistaken. I say that, much as I disagree with their government and its philosophy.

In my judgment, if we are really concerned about the sensitive areas that bear directly on the question of the future of Confederation, we ought to think very seriously before we recommend that the federal government should