

The disallowance of provincial legislation is not a matter subject to the parliament of Canada. I mean it is not the parliament of Canada which has to do with the disallowance of provincial acts. That does not come under section 91 of the British North America Act, which covers all that is within the jurisdiction of the parliament of Canada. It comes under a special section, namely section 90, which coupled with section 56 of the British North America Act provides that provincial statutes have to be sent by the lieutenant governor of the province to the Secretary of State, and that the governor in council, if it thinks fit, may within one year disallow this legislation, or allow it to take its proper course. It is an action for the governor in council, and not for the parliament of Canada.

Of course the parliament of Canada may criticize the action of the governor in council. The governor in council is responsible to parliament and when the governor in council has taken action under the constitution its action or lack of action is a proper subject for discussion by parliament. But so long as the delayed time within which legislation has to be considered and passed upon has not expired, and so long as no action has been taken, there is no possible grievance on the part of any member of parliament with regard to the action or inaction of the governor in council, and the discussion would be merely a discussion of a provincial act, which should not take place.

Moreover the Minister of Justice who has to consider such legislation **first has to make** his recommendation to the governor in council, not to parliament. And may I call the hon. member's attention to this fact: I shall not be able to answer anything he says to-night about it. I cannot give my report to him or to the house; my duty is to give the report and make the recommendation to the governor in council. So all the hon. member may say will be in the nature of representations which have been made by various parties with regard to this legislation. Does he not think that interference by the House of Commons in a matter of this kind, one which under the constitution has to be dealt with by the governor in council, is rather exercising a pressure amounting to almost intimidation upon the Minister of Justice; because I shall have to do my duty and deal with the matter as I think it should be dealt with, irrespective of what the hon. member may say to-night.

What I have said is in conformity with the practice. The practice is that when a

decision has been reached in connection with a matter of this kind an hon. member may move for the production of papers, and then it is discussed in parliament by way of motion or otherwise. That is the proper time to do so. I would call the hon. member's attention to what Lefroy says at page 32 of his book, *Canada's Federal System*.

Moreover the dominion House of Commons cannot constitutionally interfere with the operation of provincial acts by passing resolutions urging their disallowance by the Governor General.

Lord Kimberley in a dispatch of June 30, 1873, said:

If such resolution were allowed to have effect, it would amount to a virtual repeal of the section of the British North America Act, 1867, which gives the exclusive right of legislating on these matters to the provincial legislatures.

As I have said, I hesitate to raise a definite point of order, but I do not think this is a proper way of proceeding with a matter of this kind. I would not like to establish a precedent whereby the legislation of provinces may be discussed in the House of Commons before action has been taken on them in the way provided for by the constitution. If it is done with regard to the so-called padlock law, nothing would prevent anyone from on another day raising the question as to why we should not disallow the recent legislation of the Alberta legislature, or that of any other province. This is not the way which the law provides for, and I believe it is establishing a bad principle. As I have said to my hon. friend, if he proceeds with his remarks, I am sorry, but I shall not be able to say a word about it in reply to him. And it is not very pleasant for any man not to have a reply made on a question of this kind.

Right Hon. R. B. BENNETT (Leader of the Opposition): My right hon. friend the Minister of Justice (Mr. Lapointe) must have overlooked the leading authority on the case. Listening to him, I at once realized that the greatest debate which has ever taken place in this house on the question of disallowance was with respect to the Jesuits' bill. On a motion to go into supply an amendment was moved. I have it beside me; I sent for it while the right hon. gentleman was speaking. It was moved by Mr. O'Brien:

That an address be presented to His Excellency the Governor General, praying him to disallow an act of the province of Quebec intituled: "An act respecting the settlement of the Jesuits' estates;" Debate thereon adjourned.