

law for the whole Dominion, providing for the liquidation of insolvent companies, then in all probability it would not have been in the power of the Legislature of a Province to pass a measure relating to that particular subject. I also understand its meaning to be, further, that the Local Legislatures may exercise certain powers in the absence of the exercise of the more general powers by the Dominion Parliament; and I go further, and taking that cause side by side with the expression of opinion in the Hodge case, that subjects which, in one aspect and for one purpose, may fall in section 92, may, in another aspect and for another purpose, fall in section 91, I think that the conclusion is not difficult to reach, that some powers competently exercised by a Local Legislature may be submerged in the event of a general legislation upon the same subject matter, in the interest of the whole Dominion.

Mr. HOUDE. That is encouraging.

Mr. MACMASTER. Why, Sir, it is no part of my duty to encourage the hon. gentleman; it is no part of my duty to intimidate or alarm the hon. gentleman; it is my duty, as I stated at the outset, as I conceive it is the duty of every hon. member who addresses himself to this subject, to expound the Constitution truly. If we do not expound it truly, we may be sure that in a very short time it will be expounded truly by the courts; and we may as well take time by the forelock, cast aside our prejudices and our predilections and our preferences, and address ourselves to the task of ascertaining, if possible, the true interpretation of our Constitution. A short time ago, when I was in England, I met Mr. Benjamin who practised so successfully on this continent and afterwards in England; and he said to me: "You appear to have great difficulty in interpreting your Constitution, which has only been in existence for fifteen years; but I can tell you, after a practice of thirty odd years in the United States, and subsequently in England, where I often had to do with cases relating to the Constitutions of the colonies in the House of Commons and the House of Lords, that these cases are increasing year by year and day by day, and although we thought in the United States that the difficulties of our Constitution would be settled in the first fifteen or twenty years of its existence, the present day has developed difficulties that we never contemplated, and that are ten times as great as any that existed in the first half century of its existence." These are difficulties, let me say to my hon. friend from Maskinongé, that are found in every written Constitution, whether the Constitution of Canada, of the United States, of France, or of Switzerland."

Mr. HOUDE. Will the hon. gentleman allow me to make a remark? What is the custom in England—to ask the courts to define the meaning of the British Constitution; or is it for the Legislature to create precedents and to establish usages which form part of the Constitution itself?

Mr. MACMASTER. My hon. friend is a man of far too great ability and learning not to understand that the British Constitution is not a written Constitution; and what the Judges in England do is to interpret the common law and the Statutes of the land. But what are the Judges asked to do in this case? They are asked to interpret one of the Statutes passed in England relating to the Government of this great and important colony; and in the interpretation of our Constitution, which is an Imperial Act, they apply the same rules of interpretation as would be applied to the interpretation of a Statute relating to the humblest concern or subject in the United Kingdom.

Mr. MILLS. I would like to ask the hon. gentleman whether he proposes to persist in this policy of submergence, to which he refers?

Mr. MACMASTER. My hon. friend is evidently somewhat submerged by this consideration of the subject. He evidently

Mr. MACMASTER.

sees the difficulty of grappling with that consideration. If my hon. friend were less disingenuous than his remark seems to indicate, he would have given me credit for saying that I regarded that as a possible view to be taken of the subject. I did not commit myself to that view; I simply said it was a possible view; and I very much doubt whether it is not the correct view, that the local power is over-borne by the Dominion power, under the terms of our Constitution in the circumstances I have mentioned. That may be right or it may be wrong. This document, the British North America Act, is not so sacramental that it cannot be changed by the same power that brought it into existence; but until the emergency arises, until it is clearly demonstrated that this Constitution works unfairly and unjustly to us, it would be premature and improper on our part, by suggesting possible difficulties, to go to the Imperial Legislature and ask for amendments to that Constitution. The hon. Minister of Public Works asks that it be referred to the Supreme Court and the Privy Council for determination. Hon. gentlemen object to that. We know that for years they objected to submit the great question of the boundary of Ontario to the Privy Council. They sang "Ontario, Ontario!" with that beautiful rhythm that characterizes their warbling throughout the country. They stated that by the refusal of this Government to ratify the award, Ontario was robbed of half its territory; but when the hon. leader of the Government proposed, in 1872, that the whole question should be relegated to the Privy Council, the highest Court in the Empire, and reiterated the proposition, in 1882, before the General Election, what did the hon. member for Bothwell say? He voted that it should not be so referred, in order that the question might be retained as a football to be played with before the electors of Ontario. Now, hon. gentlemen opposite and their friends at Toronto are also evidently determined that this question should be made a football. I have been discussing this question as a legal and constitutional question, entirely regardless of the political projectiles that may be thrown into it. My view may be right, or it may be wrong; I have no political ambition to serve in taking one view or the other. What I want, and what I take it every hon. gentleman in this House wants, is the correct interpretation of the Constitution. If it be found that the true interpretation is unsuitable to the progressive people that inhabit this country, if it be found necessary, in the interests of the Provinces and the whole Confederation, to modify our Constitution, then, I say, let us modify it. The men who were ready to bring this Constitution into action, would certainly be willing to see it modified, if necessary; but let it be clearly demonstrated that that modification is necessary before we risk experiments of that kind. I say further, if on a determination—and I say this not so much for myself as for my genial and intellectual friend from Maskinongé—if on a determination of this kind, it should appear that the jurisdiction of this question lies entirely with the Federal Parliament, and that it is for the best interests of the Provinces that it should be relegated to the Provinces, and that, in so doing, no injustice will occur to the public peace and order of the whole Dominion, I, for one, would be willing to consider whether it might not be better that this question should be so relegated. In the meantime, be it observed, I have only addressed myself to the constitutional question submitted to this House. Our duty is to give a true interpretation to the Constitution, and on this account, I am favourable to removing this question from the whirlpool of politics to a place where it can be calmly considered, the Supreme Court, and, if necessary, to the Privy Council, the highest Court in the Empire.

Mr. WELDON. My hon. friend entered into a lengthy discussion and quoted very largely from the cases bearing on this matter. He said he wished to approach the ques-