

a court of competent jurisdiction by declaring retrospectively that the law always was and is different from that laid down by the court.

In that case the judgment was dependent, we might say, on a question of law. In the present case it was the finding of facts which were declared to be fraudulent, and it is because of such fraud that the Supreme Court of Nova Scotia and the Supreme Court of Canada gave their judgments.

Sir HENRY DRAYTON: Is not that citation the case which in the first instance gave rise to the Quebec conference? And is it not also true that while that position was at first taken by the Dominion, the precise bill was again passed and was allowed to become law?

Sir LOMER GOUIN: This was one of the reasons why the conference was called at Quebec. There were many other questions considered at that very important conference.

Sir HENRY DRAYTON: Certainly, but it was a reason.

Sir LOMER GOUIN: I admit that the very same statute was passed three times by the Ontario legislature. Twice it was disallowed, but when the Privy Council reversed that judgment of the Chancery Court of Ontario the government said: "There is no longer any legislative injustice because the Privy Council has decided that the judgment should be reversed." In this case the position is the contrary. We had parties fighting before the courts in Nova Scotia and before the Supreme Court of Canada. Judgment was rendered and five years after, I repeat, Mr. Speaker, without any notice to the interested party, one of the parties goes to the legislature of Nova Scotia and secures the passing of such legislation. My hon. friend was speaking of finality in litigation and legislation. Will there ever be any such finality in this country if we are to say that such a statute as the one now under consideration is to be assented to by this parliament? There is something else which the hon. member did mention but which he did not insist upon. This legislation is extraordinary in its character; it is extreme to the limit in its injustice. It was so found by the judges who tried the case and by the public generally. When we had to consider the merits of that statute we wrote to the Attorney General of Nova Scotia and the reply was to the effect that the government of that province was satisfied that the statute should be disallowed. My hon. friend has been referring to the dicta of certain ministers of

justice, which are not binding on himself or on his party, or on this parliament. But I would like to point out that before the present government was charged with the administration of the affairs of this country the minister of justice of that day had already notified the government of Nova Scotia that that legislation would have to be repealed or that it would be disallowed. My hon. friend will find in the records which he has had in his hands for a long time a letter from Mr. Newcombe, Deputy Minister of Justice, written to the Attorney General of Nova Scotia in November 8, 1921, as follows:

The minister desires that I should draw your attention to a recent act of the legislature of Nova Scotia, chapter 177, of 1921, an act to vest certain lands in Victoria county in Jane E. MacNeil. It is represented to the department that this statute in effect reverses the judgments of the courts, including the Supreme Court of Canada, in which it was ultimately decided that the defendant, Jane E. MacNeil, had acquired the title fraudulently, held the lands in trust and should convey them to the curator for the benefit of creditors. It would be the duty of the Minister of Justice, as you will perceive, to consider the propriety of recommending disallowance of this statute, and he would be glad, in considering the matter, to have before him any explanation or representation which your government would desire to submit.

Mr. MEIGHEN: Does the minister say that committed the previous Minister of Justice to recommending disallowance?

Sir LOMER GOUIN: That is what I infer from that letter. I believe that if the minister of Justice of that day had been in charge of affairs in the month of August, when we did disallow that statute, he would have recommended that disallowance and my right hon. friend the leader of the Opposition would have voted for it.

Mr. ARCHAMBAULT: Who was the Minister of Finance at the time?

Sir LOMER GOUIN: Mr. Speaker, we found in this statute such gross injustice that we thought it our duty to give to the parties hurt by the legislation a remedy which they could not get in any other way. We disallowed it because, having asked the advice of the government of Nova Scotia, we were told by the attorney general, speaking for the whole executive, that they had no objection to such disallowance. But there is more than that. Reference has been made by my hon. friend to the report of Sir Allen Aylesworth in the Cobalt case, and he pretends that that expression of opinion with regard to the right of disallowance should be accepted by this government for ever, and that in no case should disallowance be exercised when the legislation in question relates strictly to matters within the exclusive jurisdiction of the province. But Sir