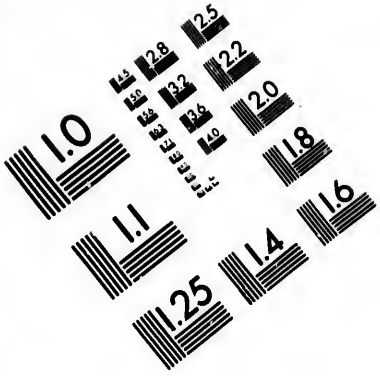

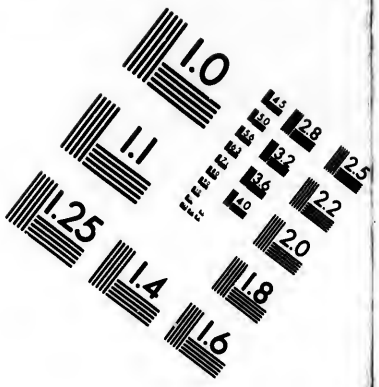

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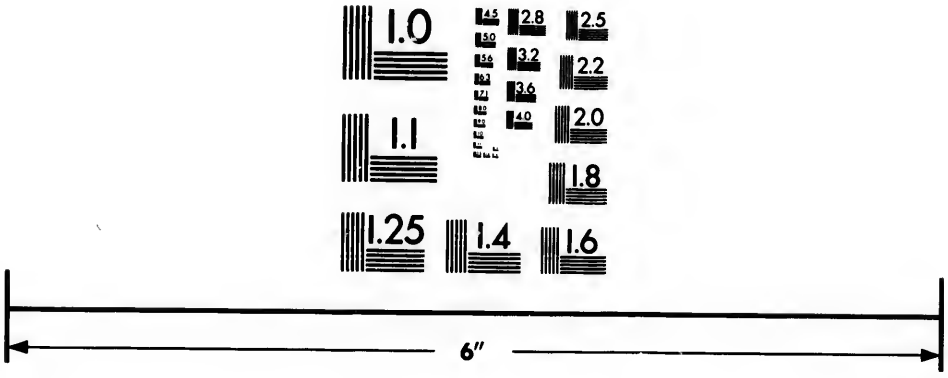

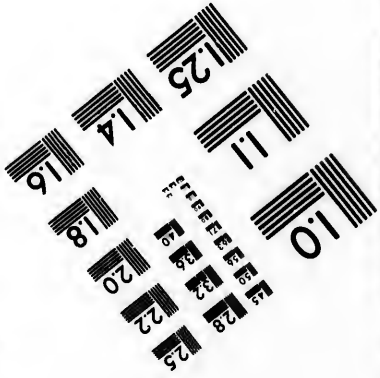

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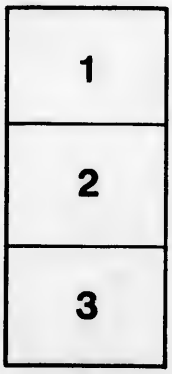

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SPEECH

BY THE

HONOURABLE J. BLANCHET

SECRETARY OF THE PROVINCE OF QUEBEC,

ON THE

AUTONOMY OF THE PROVINCES.

Delivered in the Legislative Assembly of Quebec, on the 21st and 24th April, 1884.

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1884

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The Honourable leader of the Opposition has been straining his imagination to show that the majority of this House, by voting against the previous question, submitted the other day by the honourable member for Drummond and Arthabaska, has been wanting in patriotism, has taken a ridiculous stand, and has voted against the principle laid down in the resolution of the honourable member for Ottawa. Really, it requires a very fertile imagination to draw such a conclusion, for. the majority has not voted against the question of autonomy on this occasion. It has only declared that the time to vote on it had not yet arrived. The majority has sought to, and in fact, it has protested against a procedure most wanting in courtesy and propriety under the circumstances, and it has refused to allow itself to be stifled, and nothing beyond that.

The majority believes, and is not wrong in its belief, that it, also, has a right to express its views and opinions upon all subjects that arise in this Assembly, especially on one of such importance as the autonomy of the Provinces.

The other side of the House seem to believe that the minority should monopolize all patriotism and enjoy the privilege of infallibility: unfortunately, this double preten-

sion has been discarded by the people during the last general election, and until the subverting of that verdict, the majority wish to retain and exercise all the rights and privileges entrusted to them by the electors.

The better to convey my idea, and demonstrate in what case the honorable member might be in the right, I will quote an example. Suppose the Federal Government were to submit to Parliament a resolution whereby it were proposed to grant various subsidies to the Provinces, and among others, a subsidy to the Province of Quebec, as an indemnity for the construction of the Quebec, Montreal, Ottawa and Occidental Railway. Thereupon, I suppose a member of the Liberal party of the Province of Quebec rises and says : " I vote against this resolution, and ask that it be rejected, because an indemnity should first be voted to Ontario, (which has already received twice the amount that is given us.) . This would be an anti-patriotic stand, because that member speaks and votes against the interests of his own Province. But, I suppose that on the third reading of that resolution, the same member, moved by a remorse of conscience and a salutary dread of his electors, suddenly deserts his leader, repudiates his amendment, throws himself in the arms of the Government and votes against all he has condemned half an hour previously, and approves all he has energetically censured ; I say : this is really a ridiculous position.

I trust the Honourable member has thoroughly unterstood this illustration.

The majority, in this present case, has done nothing of the sort. It has entrusted to the minority itself the task of withdrawing its own resolution. This miserable offspring had been carried to the baptismal fonts with great pomp. Its sponsors had shown it up to the gaze of the representatives of the people. as were the *Dauphins of France*, amidst all the legitimate joys of an unsuspected paternity. The ceremony had created a certain interest, when the Honourable member for Drummond and Arthabaska stepped forward and suddenly presented to his party the instrument of torture generally sent to Pashas in Turkey who have fallen into disgrace, *the silk cord*, or the previous question. This proceeding was a violent, cruel and even a sanguinary one. Fancy the opposition sacrificing the child of its predilection ! Incredible as it is, yet it is true. At the solemn moment,

these gentlemen suddenly become homicides; they have choked, strangulated and assassinated their resolution!

Whilst they were busy looking up precedents and consulting May, wherein they found the written proof of their crime, the Honourable member for Ottawa, presented, in turn, to the House, an infant born to live, bearing all the signs and characteristics of a strong constitution: this latter one need not apprehend any accident: it will live; and, could anything less be expected from the medical science, the ability and reputation of the devoted Doctor? (*)

This quester, Mr Speaker, of the autonomy of the Provinces, that is, the right of each of them to enact laws "exclusively on all subjects specially assigned to them by the British North America Act, and on all questions of a purely local private nature", has interested not only the members of this House, but imposes itself upon the attention of all those who have the future welfare of our country at heart. It is necessary, in order to secure that peace and harmony needed for the good working af our local institutions in their relation with the federal power, that, on either side, the exercise of the rights and powers given to each, should be marked with that degree of circumspection and that respect of our neighbour's right, which, in the ordinary paths of life, are the basis and the surest guarantee of individual and social security.

I am happy to testify to the perfect unanimity which seems to reign, on that point, throughout the Province and in this House. This has been proven by the debate on that question, and had the majority been allowed the indisputable right it enjoys, and of which it intends to avail itself, to express also its opinions on that important topic, a renewal of this debate would have been avoided.

It is not our desire, on this side of this House, to obtain a party victory on this point; we neither wish to restrict nor to check the discussion, for we respect the opinions of our friends opposite: Nor, do we intend to draw up a general act of accusation against the governments which have succeeded one another at Ottawa, since 1867, nor craftily to prepare, with a view to the next general elections, a plan of campaign, on their tendencies to centralization, whether true on fictitions. This serious and imposing question should be dealt with from a higher, a broader, a more moderate and, indeed, a more patriotic stand point. Our declaration as to the

(*) Dr. Duhamel.

entire and absolute maintaining of our rights must be free and independent from all personal feeling, from all party consideration ; it must be worthy of the people whose mandate we hold ; but it cannot, it must not be, a censure, a threat nor a provocation.

Having the public interest solely in view, our object in supporting the resolution of the Honorable member for Ottawa, is to put on the records of this House, a declaration that shall prove our attachment to our institutions, testify to our determination to protect them, not only against outside invasion, but also against the misgivings of those who have no belief in the future of Confederation, or against the disguised hostility of those who can fancy there is for us no other salvation than in the arms of the neighbouring Republic. Another result may attend this debate. There are in this Province a certain number of men who have always sought to lessen the influence and prestige of the Local Legislatures. I have read some pretensions to the effect that the Lieutenant-Governors do not represent Her Majesty, that the Queen does not constitute part of this Legislature, which is set down at a heat, as a mere municipal council ; that our powers are circumscribed and limited to such a degree, as to render their exercise almost worthless and that it would have been better to immediately adopt a regime which seems most inevitable in the mind of these men, that is, Legislative Union. The unanimous opinion of this House will surely convince the most obstinate that we share neither their opinions nor their regrets. We have faith in the future of this Province. If we only glance at the wonderful progress she has made since 1867, if we only realize her immense agricultural, mining, and forestry ressources, note her rapid strides towards colonization purposes especially since ten years, the great development of industry and her interior trade, (which are due in great part to our railway policy), and admire the thriving and intelligent population which inhabits her immense territory, are we not justified in saying and repeating to those who will still doubt : " Look at our past, it answers for our future, and with the aid of Providence, we shall still avoid all dangers, remove all obstacles and march towards our destinies.

We have indeed, Mr Speaker, a right to feel proud of our present and of our past. Our increase and our progress have been fostered by our own laborer and efforts, without any

external aid. The struggles we have valiantly sustained during one half century, added to our great energy, our perseverance and loyalty, have won for us the liberties we enjoy to day. We also cherish our Constitution, as one drawn up by ourselves and for ourselves. We had other constitutions before having the present one : they had been imposed on us against our will, and far from granting us liberty, they denied us the most elementary rights which are the pride of every British Subject.

That which now governs us, sanctions every principle of justice and equity which we could wish to obtain, the liberty of the subject, protection of the minorities, respect to all creeds, and the full enjoyment of all constitutional rights, which free men can envy, who live in a land free from all bondage.

The Confederation of all the British provinces of North America, has been severely criticized before and since its adoption, by the Liberal party. Our chiefs were then charged with wishing to drive the country to ruin and bankruptcy. Sir George Etienne Cartier, particularly, was reproached with having been a traitor to his countrymen, whose nationality and future he was represented as having sacrificed to his love of power. The experience of seventeen years under the new constitution has taught the country to learn on which side the truth is to be found; we now, have the satisfaction of hearing the Liberal party, in this House, own its mistake on this score, and accredit the great man, whom they never ceased to accuse and calumniate during his lifetime, with the title which we had bestowed on him long ago, and which he well deserved, that of a patriot and a Statesman.

The Union of the British Colonies in a confederacy was not only, on the part of the Conservative leaders, an act of wisdom and of high statesmanship, but it was, at that time, the only means left to us whereby to preserve our identity and our nationality, by sheltering us from an inevitable absorption by the neighbouring States. By removing the causes of dissension and of hostility which had sprung up between Upper and Lower Canada, and which almost paralized every government, this union confirmed the British supremacy on this Continent, and gave a solid basis to the future prosperity and greatness of the Dominion of Canada, whose territory, greater than all Europe, now extends from

the Atlantic to the Pacific, and whose population and revenue are increasing in so astonishing and considerable a proportion. Seldom had it been given to the world to witness such a spectacle as that of several colonies, till then separated by opposite interests, now willingly renouncing their rights, their privileges, and so to speak, their identity, to adopt, through their delegates in that great convention held in Quebec, amidst calmness, harmony and peace, the basis of a new constitution to which they were about to entrust their dearest interests and their most sacred rights. It is, indeed, remarked a distinguished publicist of those days, (Hon. Jos. Cauchon), not more nor less than a revolution, "not a bloody "one, yet as complete a revolution as if it had been achieved "by the shedding of blood and carnage. It is the transforma- "tion and almost the transubstantiation of our political and "social institutions ; the elements are, if you choose, the "same or nearly so, but they are made to combine differently "and enjoy other conditions of equilibrium. It is a new "society resting on a new basis, and having a different prin- "ciple of existence, a broader society, consisting of small "societies till then isolated from one another by language, by "religion, customs and manners, and even by the very nature "of their institutions, and which, for different causes, were "grouped together to constitute a nation.

"..... What rapid strides have we not made towards "pratical freedom ; what a brilliant victory over despotism "and oligarchy, immediately following the sinister and "bloody events which seemed to lead us on to other destinies !

"By what means have we thus converted our instru- "ments of torture and of bondage into a principle of life ? "By our wisdom, our moderation, our sense of justice and "the liberality of our principles."

We have, indeed, now the right to say to our adversaries : we are the followers and the successors of those great men who have introduced the constitutional system into the country, and who have asserted its existence and maintained its working in the Confederation Act. We shall never suffer it to be said that the conservative party might, at a given time, forget its glorious traditions of the past, and it self raise a sacrilegious hand on the sacred arch of our liberties.

The remembrance of our past struggles, the example of generous and patriotic men who defended with such devotion and energy the cause of the rights of the people : of such

men as La Fontaine, Baldwin, Taché, Morin and Cartier, are there before us to recall us to our duty, were we to prove forgetful of it. But, thanks to God, there is still in the conservative party, vigour, energy, intelligence and devotion enough to rise in the defence of our provincial institutions, against all attacks from outside. Nor is any other proof needed than the act, of our predecessors, as well as the firm and energetic attitude of the Federal deputation on the question of the provincial rights and their autonomy. The electors of Quebec can safely continue to entrust their destinies to that brilliant and patriotic phalanx which watches over the legislation at Ottawa, and is so devoted to the interests of the Legislature of Quebec.

The encroachments of the Federal government on the rights of the local legislatures have been argued at sufficient length by the honourable leader of the Opposition. He began his address by stating that he intended to discuss this question from a broad point of view, and to set aside all party spirit. Having made this declaration with a view evidently to save appearances, the honourable member then undertook carefully to demonstrate that since Confederation, Sir John had proven himself the enemy of the Provinces, whilst the Honourable Mr. Blake had been its greatest and most zealous champion. I am far from agreeing with him on these two points, and it is easy to prove he is much mistaken and errs when he makes this double assertion. As he himself admits, it is utterly impossible to trace back, step by step, the federal legislation since 1867, so as to ascertain every encroachment as it occurred. Moreover, as the greater number of cases cited, passed unnoticed, it is obvious that they are not of sufficient importance to arrest our attention in the present debate. To decide the question submitted to us, it is quite enough to treat cases which have given rise to serious and real conflicts between the different governments and especially those mentioned by the honourable leader of the opposition.

The discussion of the question is not a new one, it has not seen daylight yesterday; it sprang up the day following the putting into force of the federal pact, and has been developping according to circumstances, whenever there has been a conflict between the legislation of Parliament and that of the local legislatures, and always on subjects undefined by the constitution.

As every one owns, we are a sovereign power, within the artributions granted us by the Union act. We have the advantage of enjoying a written constition, which defines the rights and powers of Parliament and of the Legislatures. But, as we cannot wage war with the Federal Government, on the one hand, with budget weapons and on the other with retaliation measures which would end by threatening the existence of Confederation, it is quite evident that when there arises a doubt or a difference of opinion on the subject of the jurisdiction of Parliament and of our various Legislatures, in certain cases not specially provided for by the constitution. there are only two means left us to solve those difficulties: that of referring to a judiciary interpretation of our law courts judging in the last instance. or that of petitioning the Imperial Parliament for a new definition of local or federal powers. In my opinion, we should, for the present, be satisfied with appealing to the interpretation of the Privy Council, whose decisions have the advantage of emanating from jurisconsults who are also statesmen. and who can scarcely be suspected of politicial favoritism. This is the only, national and logical means of securing on litigious points between the different governments, a decision which will bear authority, and be definitely binding on the parties. And it is for this reason that the Confederation act has enacted, by section 101, that the Parliament of Canada could, when circumstances would require so, adopt a measure " creating, maintaining and organizing a general Court of Appeal for Canada ". whilst still preserving the appeal to the Privy Council, which it was thought proper then not to abolish.

Notwithstanding so formal a wish expressed at the period of Confederation, we find, later, on the liberal party who created the Supreme Court, decreeing recklessly, and notwithstanding the opposition of Sir John and of all the conservative members of the Province, that the decisions of that tribunal should be final and executory ; thus conferring on the latter almost absolutely the power of centralizing as it would please, and as it has done since, by reversing the decisions of the Appeal Courts of the Provinces. May be, this is what the Honourable member had in view when he said of the Supreme Court, when he criticized its decisions with regard to the Queen's Counsel, that " it had given way to the spirit of centralization which had inspired its

creation" He could scarcely have condemned his friends in more formal terms, since its organization and the decree as to the final nature of its decisions, can be ascribed to them alone.

And now, by consulting the acts of the different conservative Governments which have succeeded one another in the Province of Quebec, it will be found that they have never neglected any opportunity of defending the provincial rights, of asserting them and of having them sanctioned by the tribunals. In that peaceful, but constant struggle, the Conservatives have not always met at the hands of the opposite party, that support which they had a right to expect from them on that question. On the contrary, for a long time past, the Liberal party of this Province have shown a marked tendency, first to be little our institutions, to lessen their prestige, and to reduce them to the level of mere municipal authorities The proof of these facts can be found in the tone and in the articles of the Liberal press since 1867, certain constestations brought up before the Courts by distinguished men of that party, and also in the writings of their publicists. All these contestations, the object of which was to diminish, weaken and nullify certain powers of our local legislatures, were certainly not prompted by a love of the autonomy of the Provinces.

By referring to the period when the project of Union between the provinces was discussed, it will be easily ascertained that all the chiefs of the Liberal party, without any exception, opposed Confederation on the grounds that, in their opinion, it would cause the ruin of the country and the downfall of the French Canadians of this Province. These gentlemen were most vigorous in their efforts to avert the adoption of this great project, and as they failed in their anti-patriotic designs, one would believe they endeavoured to prove since, that their predictions were correct, by breeding difficulties every where, and seeking to increase them and extend their development, with a view to justify their opposing the adoption of that important measure. And to-day, by a sudden change of front, the chief of the Liberal party in this Province and his friends are to be seen constituting themselves the champions of provincial rights, and trying to force the uninitiated and credulous into the belief that their party is the natural protector of the autonomy of the Provinces, and that we, Conservatives, who are

the authors of the Confederation, are its enemies. Nor, can there be imagined outside of the ranks of that small phalanx a greater dose of assurance, nor as much courage. Do they really believe that the people and the Conservatives of this Province will allow themselves to be deceived by a display of so much zeal, by these open declarations of patriotism so suddenly awakened in our opponents in this House?

No, Mr. Speaker, the past is still present to our minds; we are conscious of the perplexities of the present hour, and we will know how to guard against the dangers of the future. Our protection of the rights and powers of the provinces, since 1867, has been too effective not to convince the people of this Province that we shall not be more wanting in doing our duty in the future, than our predecessors have been in the past.

But, our opponents say it is those very rights which you have at heart, those privileges which you pride in so much that are now put in jeopardy by the leader of your party at Ottawa. and it is the Liberal party that has been and is actually the champion of the autonomy of the Provinces.

This two-fold affirmation is contradicted by the facts, and I submit, on the contrary, that the Conservative Governments at Ottawa are the only governments who have always been the true friends and the only real protectors of the Provinces, and that it is owing to their broad and generous policy, that the provinces have been able to preserve an autonomy which the Liberal policy would undoubtedly have wrested from them, by refusing to grant them the pecuniary aid which, at different times, they have stood in need of to maintain their existence.

No further proof of this is needed than Mr Blake's protestations, in Ontario in 1869, against the *Better Terms* granted to Nova Scotia, and the stand he has just been taking at Ottawa, seconded by Mr. Laurier, against the granting of any aid to the Provinces, an aid qualified by them both, as *degrading and demoralizing*.

But, let us examine the principal charges brought against Sir John, as chief of the Conservative Government at Ottawa, by the Hon. leader of the Opposition in this House.

Let us see how far these charges are justifiable. The first question brought up by the honourable member was that of disallowance. He told us that since Confederation, 250

provincial laws had been objected to. But we have not to deal here with objections to laws which do not stay their operation; we have only to deal with laws which really have been disallowed. Mr. Todd, page 371, says that of 4,006 provincial laws passed up till 1879, only 27 had been disallowed; and it is quite certain that as many have not been disallowed since. As far as regards objections and disallowances, it is an easy matter to establish that Mr. Blake carries the prize. A rapid glance at his reports as Minister of Justice will satisfy every one of the fact.

An attempt has also been made by the honourable leader of the Opposition to show that it is Mr. Blake who should be credited with finally settling, in 1875, the mode of disallowing the provincial laws, by causing the principle to be acknowledged and adopted by which the Governor in council, and not the Governor alone, should be invested with the right of dissallowing provincial laws. He has told us that in 1869, Sir John Young had received from Earl Granville instructions to the contrary, and which the Federal ministry had approved of by an order-in-council, bearing date July 17th,1869, which was sent, with Earl Granville's letter to all the Lieutenant-Governors. That these instructions of Earl Granville were sent to the different Governors of the provinces is quite true, but there exists no Order in Council approving them. The despatch letter of the 22nd July, 1869, states that they are sent to the Governors *for their information and guidance*, but truer than this is the fact that these instructions have never been followed by the Ottawa Government, and the reason why, is that Sir John was of an adverse opinion, as it may be ascertained by referring to the volume quoted by the honourable leader of the opposition, (Sessional Documents of 1870, p. 6.) There will be found a Memorial of the 8th June, 1868, submitted by Sir John to the Governor-General, setting forth the mode to be followed for the disallowance of the provincial laws. This document, on account of its importance, should be cited *in extenso*. It reads as follows :

DEPARTMENT OF JUSTICE,

Ottawa, June 8th, 1868

The undersigned begs to submit, for the consideration of Your Excellency, that it is expedient to settle the course to

be pursued with respect to the Acts passed by the Provincial Legislatures.

The same powers of disallowance as have always belonged to the Imperial Government, with respect to the Acts passed by Colonial Legislatures, have been conferred by the Union Act on the Government of Canada. Of late years, Her Majesty's Government has not, as a general rule, interfered with the legislation of Colonies having representative institutions and responsible government, except in the cases specially mentioned in the instructions to the Governors, or in matters of Imperial and not merely local interest.

Under the present constitution of Canada, the General Government will be called upon to consider the propriety of allowance or disallowance of Provincial Acts much more frequently than Her Majesty's Government has been with respect to Colonial enactments. In deciding whether any Act of a Provincial Legislature should be disallowed or sanctioned, the Government must not only consider whether it affects the interest of the whole Dominion or not, but whether it is unconstitutional; whether it exceeds the jurisdiction conferred on Local Legislatures, and in cases where the jurisdiction is concurrent, whether it clashes with the Legislation of the General Parliament.

As it is of importance that the course of local legislation should be interfered with as little as possible, and the power of disallowance exercised with great caution, and only in cases where the law and general interests of the Dominion imperatively demand it, the undersigned recommends that the following course be pursued :

That on the receipt by Your Excellency, of the Acts passed in any Province, they be referred to the Minister of Justice for report, and that he, with all convenient despatch, do report as to those Acts which he considers free from objection of any kind, and if such report be approved of by Your Excellency in Council, that such approval be forthwith communicated to the Provincial Government.

That he make a separate Report, or separate Reports, on those Acts, which he may consider:

1. As being altogethar illegal or unconstitutional.
2. As illegal or unconstitutional in part.
3. In cases of concurrent jurisdiction, as clashing with the legislation of the General Parliament.
4. As affecting the interets of the Dominion generally.

And that in such report or reports he *give his reasons for his opinions.*

That where a measure is considered only partially defective, or when objectionable as being prejudicial to the general interests of the Dominion, or as clashing with its legislation, communication should be had with the Provincial Government with respect to such measure; and that in such case, the Act should not be disallowed, if the general interests permit such a course, until the Government has an opportunity of considering and discussing the objections taken, and the Local Legislature has also an opportunity of remedying the defects found to exist. All which is respectfully submitted.

(Signed): JOHN A. MACDONALD.

Report of a Committee of the Privy Council, approved by the Governor General in Council, the 9th June, 1868.

The Committee have had under consideration the annexed memorandum from the Honorable the Minister of Justice and Attorney-General, on the subject of the powers of disallowance of the Acts of Local Legislatures possessed by the General Government of the Dominion, and submitting his views and recommendations respecting the course which should be pvrsued on all occasions when the Acts of the Local Legislatures shall be transmitted to the Governor-General; and they respectfully advise that the same be approved and adopted.

(Signed): WM. H. LEE,
C. P. C.

To the Honorable Secretary of State for the Provinces.

This doctrine was familar to those who had studied our Constitution.

A celebrated publicist (Mr. Cauchon) expressed himself thus, in 1866, in his "Etude du projet de la Confédération, p. 183".

"..... How is the act of vetoing in matters concerning

colonial laws, generally proceeded with at London ? A simple departmental clerk examines the draughts of laws and decides their fate ; it is his opinion that determines the Sovereign to accept on reject them. Whereas, when a law shall be reserved for the sanction and submitted to disallowance of the Governor-General, the *Ministers of the Crown having to be advised with* upon that sanction and upon that disallowance, the latter will not, only in extreme cases, run the risk of counselling the exercise of the veto, because the opinion which will have prevailed at the passing of the law will be represented in the Federal Parliament by a phalanx capable, when it may choose, of imperilling the existence of any government."

The President of the Lords of the Privy Council having been advised with on this important question, in connection with the New-Brunswick School law, expressed also the same opinion, as far back as 1872 : See sess. docts. of 1876, p. 85 :

Privy Council Office, 13th December, 1872.

Sir,

I have submitted to the Lord President of the Council your letter of the 9th Instant, transmitting a copy of a despatch from the Governor-General of Canada, with enclosures, respecting an act passed by the Provincial Legislature of New-Brunswick, with reference to Common Schools and requesting to know whether the opinion of the Lords of the judicial committee of the Privy Council on this question can properly be obtained.

It appears to His Lordship that, as the power of confirming or disallowing Provincial Acts is vested by the statute in the Governor-General of the Dominion of Canada acting under the advice of his constitutional advisers, there is nothing in this case which gives to Her Majesty in Council any jurisdiction over this question, though it is conceivable that the effect and validity of this Act may at some future time be brougth before Her Majesty, on an Appeal from the Canadian Courts of Justice.

This being the fact, His Lordship is of opinion that Her Majesty cannot with propriety be advised to refer to a committee of the Council in England a question which Her

Majesty in Council has at present no authority to determine, and on which the opinion of the Privy Council would not be binding on the parties in the Dominion of Canada.

I have, etc.,

HENRY REEVE,
Registrar,
P. C.

It is then evidently Sir John and not M. Blake who laid down the rule that the disallowance should be given only upon a report of the Minister of Justice, approved by an Order in Council, and that, far from barring the action of the local legislatures, Sir John recommended that the prerogative of disallowance should obtain with the greatest prudence and only in cases where the laws and general interests of the Dominion absolutely called for its exercise, and that even then, before disallowing a bill of the local legislatures, the provincial government should be notified previously, so as to afford the latter an opportunity of remedying the defects therein contained.

All the reports of the Ministers of Justice drawn up since 1867, with respect to the disallowance of provincial laws have been, one and all of them, submitted to the Governor in Council, and all disavowals have been carried out in the manner prescribed by Sir John. Todd, (P. S.), p. 342.

" As a matter of fact, ever since the passing of the British North America Act, *the Governor General has invariably decided upon the allowance or disallowance of provincial laws*, ON THE ADVICE OF HIS MINISTERS, and has never asserted a right to decide otherwise."

It is true that in 1875, the Honorable Mr. Blake, submitted to the House certain resolutions protesting against Lord Granville's instructions, and asking the House to declare its will to hold the Ministers of His Excellency the Governor-General responsible for his action in exercising the power of disallowance. It is obvious that if the disallowance carried out up to that date had been so by the Governor-General alone, in accordance with Earl Granville's instructions, instead of the Governor in Council, as had been done upon

Sir John's recommendation, it is obvious that Mr. Blake would have added in his motion a much more solemn protest. And so Mr. Blake withdrew these resolutions, Mr. Mackenzie, the leader of the Government, and Sir John, then leader of the opposition, having expressed the same opinion, there being, however, no doubt in the matter. The whole question is dealt with in the following despatch from Lord Dufferin to the Earl of Carnarvon :

GOVERNMENT HOUSE.

Ottawa, 7th April, 1876.

My Lord,

I have the honor to inform Your Lordship, that the Honorable Mr. Blake, member for South Bruce, on the 22nd February, gave notice that he would move, in the House of Commons :

" That by the 56th clause of the British North America Act 1867, it is in effect, enacted that when the Governor-General assents to a Bill in the Queen's name, the Queen in Council, may within two years after its receipt dissallow such Act.

" That by the 90th clause of the said Statute, it is enacted that the above provision shall extend and apply to the Legislatures of the several Provinces as if reenacted, with the substitution of the Lieutenant-Governor for the Governor General, of the Governor General for the Queen, of one year for two years, and of the Province for Canada.

" That, in the opinion of the House, the power of disallowance of Acts af a Local Legislature conferred by the said Statute is thereunder vested in the Governor General in Council, and that His Excellency's Ministers are responsible to Parliament for the action of the Governor General in exercising or abstaining from the exercise of the said power.

" That, by a letter dated 13th December, 1872, the Registrar of the Privy Council of the United Kingdom, conveyed to the Colonial Office the opinion of the Lord President of the Council, that the powers of confirming or disallowing local Acts is under the said Statute vested in the Governor General acting under the advice of his constitutional advisers.

" That, notwithstanding the premises, by a despatch dated 30th June, 1873, the Secretary for the Colonies, in response to an application from the Governor-General for instructions

on the subject, informed His Excellency that he was advised by the law officers of the Crown that the question of disallowance or allowance of Local Acts is a matter in which His Excellency, must act on his own individual discretion, and in which he cannot be guided by the advice of his responsible Ministers.

"That this House feels bound, in assertion of the constitutional rights of the Canadian people, to record its protest against and dissent from the said instructions, and to declare its determination to hold His Excellency's Ministers responsible for his action in the exercise of the powers so conferred by the Statute."

An apportunity of bringing the subject before the House did not occur until Wednesday, March 31st, when Mr. Blake moved the adoption of the resolutions of which he had given notice ; but after a debate, in the course of which Mr. Mackenzie and Sir J. A. Macdonald expressed their assent to the constitutional doctrines laid down by Mr. Blake, that gentleman withdrew his motion, &c., &c.

DUFFERIN.

Thus, Mr. Blake's merit on this question is reduced to very little. It consists in merely asking the House to assert a doctrine which had been admitted, acknowledged and followed by Sir John's Government and admitted also by the Honourable Mr. MacKenzie. since he asked Mr. Blake not to insist on recording in the proceedings of the House a truth which no one denied. What initiative then can Mr Blake claim ?

His great zeal for the guarantee of the provincial legislatures is not so very extraordinary, since the latter were not in peril ?

And this is the act which the opposition recalls, hoping to prove that Mr Blake has rescued us from danger on this important subject, whilst Sir John is represented as being totally indifferent ; when, in point of fact, the truth is that Sir John was the first to lay down the principle and to practise the doctrine prescribing that the disallowance of provincial laws cannot be exercised otherwise than by the Governor in Council, and that when Mr. Blake tried to obtain a declaration of the House upon the same, he was told that the matter was so clear that no declaration was required, that his resolution was of no use, and he had just as well withdraw it ;

and Mr. Blake, submissive to his chief, and owning his remarks were, just withdrew his motion; and the disallowance is carried out to day as it was during Mr. MacKenzie's reign, and as it was also during Sir John's time, as far back as 1868.

This it not the first mistake that occurs in the remarks of the leader of this opposition. He pretends that Sir John had shewn tendencies to centralization " by attempting in 1872, to wrest from the Lieutenant-Governors the right of appointing Queen's counsel, and compelling the latter ty deny the local authority which had conferred on them a mark of distinction at the bar, and to submit to that of the federal power.

Here again the Honorable leader of the opposition is guilty of a great mistake, one not easily to be forgiven in a man occuping his position; a mistake which is not calculated to enhance the confidence we might have in his allegations. Thus, on the 3rd January, 1872, Sir John, in a report to the Governor General, (Doutre, Constitution of Canada, page 59) states that the government or ministers of Nova Scotia raised the question as to their right of nominating Queen's Counsel within their own province, and that they entertained the opinion that they were nots invested with that right. After studying the point, Sir John expressed his opinion, as Minister of justice or head of the government in these words:

Ottawa, 3rd January, 1872.

"The undersigned has the honor to report to Your Excellency, that the question has been raised by the Government of the Province of Nova Scotia as to whether they have the power of appointing Queen's Counsel for the Province, their opinion being that they have no such power.....

Under this power (section 92 B. N. A. Act) the undersigned is of opinion that the *Legislature of a Province*, being charged with the administration of justice and the organization of the courts, *may, by statute, provide* for the general conduct of business before those courts; and may make such *provisions with respect to the bar, the management of criminal prosecution by counsel, the selection of those counsels and the right of pre-audience, as it sees fit.* Such enactement must, however, in the opinion of the undersigned, be subject to the exercise of the royal prerogative, which is paramount, and in no way diminished by the terms of the Act of Confederation."

He adds that, as this question involves the prerogatives of Her Majesty, he recommends that it be referred to the

Secretary of State for the Colonies with a view to obtain the opinion of the Crown Law Officers as well as Her Majesty's decision; the question and the memorial having been forwarded to the Secretary of State for the Colonies, the Earl of Kimberley sent the following reply, dated February, 1872:

".....I am further advised that the Legislature of a Province can confer, by statute, on its Lieutenant-Governor, the power of appointing Queen's Counsel; and with respect to precedence or pre-audience in the courts of the Province, the Legislature of the Province has the power to decide as between Queen's Counsel appointed by the Governor General and the Lieutenant-Governor, as above explained."

Thus on this point the Federal and Imperial Governments agree. It is in the power of the legislatures to pass laws which allow the Lieutenant-Governors to appoint Queen's Counsel and to assign them a certain precedence, The provinces were advised of this opinion, and our legislature passed immediately the Act 36 Vic., chap. 13, sanctioned the 26th December, 1872, by virtue of which a certain number of Queen's Counsel were appointed and who have held their rank and title since. It is true the Ontario Government, unaware likely of the decision given by the authorities in England, had in 1872, nominated Queen's Counsel, without having previously passed a bill to that effect. That Government was notified by the federal authorities of the doubts existing in that respect, and, after certain preliminaries, it was agreed, in order to remove all embarrassment, that the federal Government would appoint the same persons under the great seal of Canada.

The Ontario Government protested against the view of the case, and declared its exclusive right to nominate Queen's Counsels. The Federal Government maintained its pretension, and suggested a settlement by which the Queen's Counsel appointed by the Governor General should be acknowledged by Provincial Courts, and those appointed by the Lieutenant Governors acknowledged by the Courts of the Dominion.

Agreeable to this understanding, the Ontario Legislature authorized by Statutes the nomination of Queen's Counsel, and these Statutes, as well as our own, met with no disavowal. Todd, p. 242.

This opinion of Sir John and of the Crown Law Officers

in England, was entertained by the Supreme Court of Nova-Scotia, in a judgment rendered in 1877, *in re* Lenoir vs. Ritchie. This case was appealed from in the Supreme Court, but the appeal was dismissed.

Since that period, all Queen's Counsel nominated by the Governors of Provinces under acts passed to that effect have retained their title, and no further argumment has since been raised on that point.

And it is in presence of these facts, which no one can contest nor contradict, that the leader of the opposition dares to say that Sir John "*made an attempt, in* 1872, *to divest the Lieutenant Governore of the right to appoint Queen's Counsel.*"

An assertion of this kind, grounded on facts that never existed, and tending to charge Sir John with an offence he, not only never was guilty of, but which he never dreamt of perpetrating, since he entertained quite a different opinion from that he is credited with, is sufficient to give an idea of the confidence that can be placed in the assertions of the honorable member. I admit that the Supreme Court has expressed upon the rights of Legislatures on this subject,—*without, however being called upon in the premises*,—an opposite opinion I suppose with the honourable member that again, in this instance, it gave way to the "centralization ideas which presided over its creation."

The honorable member has made another complaint, just as groundless. I refer to the nomination of Justices of the Peace. The honorable member has ventured to establish that on this score there also existed a peril, nay even an attempt to encroach. He is, however, careful in this instance, not to implicate Sir John's Government, as it would be no easy matter to prove his sayings.

At the sitting of the 2d February, 1881, which he speaks of, Mr. McCuaig moving for "A copy of all correspondence between any one of the provincial governments and the federal government, concerning the right of the local administrations to appoint police Magistrates, justices of the peace and inspectors of licence," added that the wording of the Confederation Act was ambiguous on that point, and that the Supreme Court of Nova Scotia has held that the local government had not that right. But it was shewn, during the debate, that at the time this decision was given, no law had been passed in Nova Scotia, as in the other provinces, authorizing the Lieutenant Governor to appoint Justices of

the Peace. Several members joined in this debats and some spoke in favor of the right of the legislatures. Moreover, as the Honorable Mr. Blake said himself, when speaking on the subject, "the Federal Government has never attempted, under the reign of either party, to exercise the PRETENDED RIGHT of nominating Justices of the Peace, except perhaps by exceptional legislation, passed specially for districts coming directly under the administration of the Government of Canada; we have therefore an establish custom of 13 to 14 years, based on the interpretation given by the provincial legislatures and governments or to be inferred from the action or want of action, as to that clause of the constitution." Mr. Blake might have added that our Statute 31 Vic., ch. 15, authorizing the appointment of Justices of the peace, and those of the other Provinces were never disallowaned by Sir John.

Thus it can be seen that, whatever the opinions expressed by some members on this subject, the federal Government has never tried to interfere nor to prevent the local Governments from appointing Justices of the Peace. Finally, as evidence that Sir John has acknowledged this right in the Provinces in a formal manner, we need only to refer to an Order in Council of the federal Government dated the 20th August, 1869, granting the Governor General's sanction to a bill of the New-Brunswick Legislature relative to the appointment of Justices of the Peace in that Province. We could give no better proof that in the premises, he acknowledged the provinces the right to nominate Justices of the Peace.

As to the new electoral law proposed by the federal Government, it is surprising that the chief of the opposition and his friends should find occasion to attack the federal Government on that ground. Reference to section 41 of the North British America Act will show that the Parliament of Canada has been given by the constitution itself, the right to legislate on that question. The natural order of things prescribes that the House of Commons be invested with a right both inherent to its functions and even necessary to secure its independence. Can one imagine the disastrous consequences which would follow from a system by which Parliament would have to apply to each local legislature, to obtain a necessary amendment to its franchise and the eligibility or qualification of its candidates. The federal Government would then be abso lutely fettered by the local legislatures.

The absurdity of such a pretension would equal that of the federal Government being allowed to impose an electoral law to each province; this would subvert all accepted ideas on constitutional Government: it would amount to subjecting the federal parliament to the local legislatures? whilst, according to the constitution, parliament is supreme in its own sphere, even as the local legislatures are in theirs. Here is what Sir John said on the subject. (Debates on Confederation, page 33): "We have adopted a clause similar to that contained in the Union Act of both Canadas, passed in 1841, to wit: that the laws relating to the franchise and the eligibility..... would apply to the first election of the confederation parliament,..... One of the first acts of the confederate parliament shall be to settle the question of qualification or eligibility, so as to apply it to the whole confederation."

The disallowance of the *Stream bill* of Ontario, and of the laws of the Province of Manitoba, respecting railway sections has also been alleged as a proof the centralizing ideas of the Federal government. It is perhaps no easy matter to discuss topics upon which we lack necessary information; but, as regards the Stream Bill, we may say that the Ontario Legislative gave to its act a retroactive effect, by interpreting a law anterior to confederation, and giving it a meanning contrary to the decision of chancellor Proudfoot, confirmed since by the Supreme Court. It was indeed scarcely becoming to legislate on a subject pending before the Courts of Justice, and in a sense contrary to their decision.

As to the disallowance of the laws of the Province of Manitoba, relating to the embranchments of the Pacific, the Province of Quebec should be the last to utter a complaint. The object of these laws was to allow these sections to be built to give an outlet to the trade of the Pacific Railway through the United States, and to divert the Western trade from Ontario and Quebec. This pretension of the Manitobans was unjust towards the older provinces which contribute so large a share to the developing of that section of the country, and it was in opposition to the policy adopted on the subject by Mr. MacKenzie, and by the conservative governments. For it had always been understood and agreed to that no railway sections would be allowed to be constructed to the south of the Pacific converging towards the United States, and the Province of Manitoba which was aware of this policy, had

accepted it and has submitted to it anew when the Honorable Mr. Norquay, asked for a dissolution of the House and had recourse to a general election on that ticket.

The only questions now left to be studied, Mr. Speaker, are those of the License and Railway Bills of 1882.

As to the License question, I have already cited in this House Sir John's report as Minister of Justice in 1871, wherein, after examining our License Law of 1870, and expressing some doubts as to the constitutionality of many clauses of the same, he recommended that the statute be not disallowed, stating that the law being a mere consolidation of the law previously in force, was good in itself, and it would rest with the persons injured by its operation, to have it decided by the Courts whether it were constitutional or not. I have also quoted the Honourable Mr. Blake's opinion, in 1876, on the same point, wherein he expressed nearly the same doubts.

No government had interfered in that question until this last year. It is a remarkable feature in connection with that question, that the Provinces themselves and not the Government were the first to contest the License Acts. The Province of Ontario was also obliged to defend its own law in that respect. In the Province of Quebec, the cases of Poulin, Blouin, Poitras, and of Hart against the county of Missisquoi, aimed at obtaining from our courts and from the Supreme Court a decision to the effect that the Quebec Legislature had no right to an absolute prohibition of the sale of liquor, that such a power rested solely with the Federal Parliament; that a partial prohibition, that concerning the closing of taverns on the Saturday night and on Sundays, implied the right of absolute prohibition, which was equivalent to a legislation on trade and commerce, a right which was not ours.

Fortunately for the Quebec Government, its legislation on that question was maintained by the courts, upon its principal points, notwithstanding a certain organization which was anxious to have it set aside; and at that time, the liberal press did not fail to proclaim aloud that this law was unconstitutional and that the Supreme Court would set it aside.

The MacKenzie government seemingly entertained the same opinion in that respect, during the session of 1878,

since the speech from the Throne contained the following paragraph:

"It is very desirable that there should be uniform legislation in all the provinces respecting the traffic in spirituous liquors. Hitherto that trade has been regulated by provincial laws, or laws existing before the Confederation of the Provinces, although there has been lately a conflict of authority as to the jurisdiction of the local authorities. A bill making the necessary provision will be submitted for your consideration.

The draught of that bill was intituled as follows, (41 Vic. 1878, chap. 16): "Whereas it is very desirable to promote temperance in the Dominion, and that there should be uniform legislation throughout all the Provinces respecting the traffic of intoxicating liquors." Therefore, &c.

When submitting this law to the House, M. Mackenzie said: "A question of jurisdiction is here at stake: we have to find whether this matter is within the province of the Federal Parliament or of the Local Legislatures, and although a decision rendered recently has somewhat affected the solution of this question, yet it cannot be said that it has been fully determined. However, Government has thought that in a matter of such importance, when the country expects them and Parliament to take the initiative, it is desirable that some steps be taken, and this bill has been prepared as an optional measure to be placed in the hands of the people of all the Provinces, and has been drawn up in such a manner as to give the public an opportunity of judging its merits."

It was not, therefore, Sir John's, but Mr. Mackenzie's Goverment that was the first to encroach on the powers of the local Legislatures, and had the prohibitory by-law embodied in this laws been carried by all the counties of the Province,—a by-law which could remain in force 3 years,—the provincial revenue would not only have decreased, but would have almost dwindled down to nothing. At that time, neither M. Mackenzie nor his followers seemingly troubled themselves much about the autonomy of the Provinces.

Since this law was passed, the Privy Council rendered judgment in a case of Russell vs. Regina, 23rd January, 1882, and the Lords composing the Judiciary Committee arrived at the conclusion that the disputed law did not come within the range of subjects exclusively assigned to the provincial legislatures. They considered it unnecessary to examine the

next question, whether the clauses of that law could rank with the subjects enumerated in article 91 of the British North America Act, and that judgment consequently declared this law of 1878 to be constitutional.

It is only since this judgment has existed that the Federal Parliament has thought fit to pass the act of 1883, which has been discussed so much since, especially in view of the judgment rendered in the case of Hodge vs. the Queen. It is quite clear that the last judgment contradicts the first, nor can there be any doubt that section 92 of the British North America Act confers on the Logal Legislatures the right " to exclusively make laws in relation to shop, saloon, tavern, " auctioneer, and other licences, in order to the levying of a " revenue for provincial, local or municipal purposes."

There can also be no doubt that our Municipal institutions, which have been withheld in the same legal conditions as they stood before Confederation, all had the power to entirely prohibit and to allow the sale of liquor within their respective limits, and that they still have the same powers.

There can be no doubt, moreover, that in the mind of the authors of Confederation, the revenues deriving from licenses, were meant as a revenue intended to assist in the working of our local institutions.

By referring to section 126 of the Union Act we will find it declared " that such portions of the duties and revenues " over which the respective legislatures of Canada, Nova " Scotia, and New Brunswick, had before the Union, power " of appropriation, *are by this act* RESERVED to the respective " governments of the provinces, and all duties and revenues " raised by them in accordance with the special powers " conferred upon them by this act, shall, in each province, " form one consolidated revenue fund to be appropriated for " the public service of the Province."

Now, the revenue deriving from licenses has been left to the provinces,—this is beyond a doubt,—and as we also enjoy the power to legislate exclusively on license matters which are to yield us that revenue, it follows necessarily that Parliament has no power and no control over the subject: *inclusio unius fit exclusio alterius.*

This will prove amply the legality and constitutionality of all the enactments of our license act. And accordingly, our government has thought proper to maintain the working of our local law and to contest before the courts the right of the Federal Parliament to make laws on this subject.

It would be contradictory to the facts and to the truth to conclude from the passing of that law that the Conservative governments have since 1867, founded and continually practised a system of centralization. As I have remarked before, the Federal government never interfered in this question previous to the decision of the Privy Council in the case of Russell vs. Regina. This judgment, rendered by the court of last appeal in matters concerning our constitutional rights, seemed to finally settle the interpretation of our constitution on this point, since it declared that Mr. MacKenzie's law, the Scott Act of 1878, did not come within the range of subjects specially assigned to the local legislatures.

It is not astonishing that in the face of such a decision, the Federal Government should have thought it advisable to legislate on that subject, in order, quoth Sir John, in his speech on the floor of the House of Commons, that a question of such magnitude should not be left unsettled so as to protect, as much as possible, the people of the Dominion, against the ever-increasing vice of intemperance and drunkenness.

The decision in the case of Hodge vs. the Queen, has considerably changed the position by judging that the License Bill of Ontario was not *ultra vires*. In the face of this decision the Federal Parliament has done what was proper, by virtually suspending the operation of the law, since it has withdrawn its sanction of the same, by enacting that parties holding a license from the local Legislatures would not be sued for penalties, leaving us perfectly free to carry out our law. The question shall, as soon as possible, be submitted to the tribunals fairly and squarely; and I trust the decision of the Privy Council will put an end to all discussion. It is not likely this tribunal will contradict itself, and we have reason to believe its decision will be favorable to the local laws, and will maintain them as they are.

As to the law passed last year, deciding that a good number of our railways are works of general advantage to the Dominion of Canada, it is well at first to remark that that power, by section 92, paragraph 10, of the Union Act, is given specially to the Federal Government.

It may possibly be necessary, before long, to secure an interpretation on this point of the Constitution. I wish only to remark, for the present, that this legislation was enacted neither at the instigation of our Legislature nor of our Government of Quebec, but likely at the request of interested

companies who wished to benefit by the advantages proffered them by the federal legislation on railways. We cannot easily prevent private companies from seeking to obtain at Ottawa, such protection and advantages as are not to be had under the operation of our law. Here it may be stated that if these railways become controlled by the federal administration, this does not signify that they would not be liable to be taxed by the Local Government, should the Province adopt direct taxation; and this is the most interesting feature of the question, more particularly as the Opposition seems now to cherish this mode of securing revenues, which the people, however, will not hear talk of.

This subject has already come up before the federal ministers at Ottawa, and by consulting a report made by Mr. Blake as Minister of Justice, it will be seen that he, as one of Her Majesty's Advisers, has had to deal with this question. It was with regard to the Montreal, Chambly and Sorel Railway, incorporated by the Quebec Statute, 35 Vic., ch. 29. By a statute of the Federal parliament passed in the following year, this company had been granted the power to issue promissory notes and to enter into contracts and agreements with other railway companies, and that statute directed that this railway was a work of general interest to Canada. By a subsequent statute of the Province of Quebec, 37 Vic., ch. 10, the name of the Company was changed into that of the "Montreal, Portland and Boston Railway Company."

The following are Mr. Blake's remarks to the Quebec Government:

"By the British North America Act, section 92, the "powers of Provincial Legislatures with reference to local "works and undertakings, are expressly declared not to "extend to works, which before or after their execution, are "declared by the Parliament of Canada, to be for the "advantage of Canada, or for the advantage of two or more "of the Provinces.

"The embarrassment and confusion which would result "from concurrent legislation under the circumstances "detailed is too obvious for argument.

"The undersigned recommends that the attention of the "Lieutenant-Governor should be called to this Act, with a "view to its repeal before the time arrives within which it "must be dissallowed."

As may be seen, Mr. Blake was afforded a formal opportunity of acknowledging the rights of the Provinces, and of submitting that such federal legislation was an infringement on the rights of the local legislatures. Instead of declaring the federal law unconstitutional and an usurpation of power, he declares himself ready to dissallow the local law, giving a further proof that the Liberals, when in power, do not always adhere to the doctrines extolled by them when they are on the opposite side of the House; this, very likely, accounts for the people of the Province and Dominion being determined not to believe their brillant and patriotic protestations, when they fill the seats of the Oppositon, being always ready to abandon these protestations and declarations as useless and flimsy baggage when they chance to secure the reins of power.

To all these reasons we might add that its liberal grant of subsidies to those lines of railway, gives to a certain extent, to the federal Government, the right of controlling them and of overseeing their administration. The federal legislation, whilst conferring to these companies important advantages, such as, for instance, the power of entering into an agreement with the great lines of the Dominion, as to their traffic, does not fail to attend to the protection of trade and travellers. This legislation, controled by the deputation of all the provinces, must certainly offer an easy means of remedying any abuses which might be complained of as to traffic, or the conveyance of freight, and thus the danger of having different tariffs and different regulations at each frontier, ought also to be avoided, for the Provinces, might at any time, determine within their own territory, differential tariffs as fully detrimental to trade as were the old Custom tariffs which existed in each one of them.

And finally, as an instance of the centralizing proclivities of Sir John, the fact is cited of the Federal Government claiming the escheat property of Mercer, of Toronto. Sir John had already replied in the House of Commons that that claim had been made by virtue of a report of the Minister of Justice under the Mackenzie administration, the said report declaring that escheats were the property of the Federal Government and not of the local legislatures. Therefore, it was Sir John who was the first to lay down this rule, the responsibility of which rests entirely with the Mackenzie administration.

Morever, Mr. Blake, as Minister of Justice under the MacKenzie Government, had himself uttered this pretension a long while before, when laying a claim, as escheats, to the estate of Edward Fraser, of River du Loup, who died intestate and heirless, several years ago. Fortunately, Mr. Blake's views on that point were set aside by our Court of Appeals: but, as, it may be seen, it is the Liberal and not the Conservative power that is to be held responsible for a pretension which the leader of the Liberal party in this House, now styles a centralizing tendency.

Such, then, are the different accusations brought against the Conservative governments of Ottawa since 1867. I believe I have proved that all these accusations are unfounded, and that it is utterly impossible for any one guided by a sense of impartiality and of good faith, to pretend that either the Federal ministers, on the Dominion Parliament are actuated by an organized system of centralization.

And now, if we consider this question of the autonomy of the Provinces in another light, we will be easily convinced that the Conservative governments at Ottawa have alway's been the staunch friends of the Autonomy of the Provinces, and that the Liberal party have little to boast of on the score of assisting the latter.

The surest means for the central government to prove that they hold to the maintaining of the provincial institutions, is to help them when they can show that their revenue is not sufficient to administer their affairs profitably and advantageously.

Well, whenever a Province applied to the Conservative governments at Ottawa, since 1867, to obtain better terms, its application has always been favorably entertained. Nearly all the Provinces have, one after the other, presented themselves before the Federal Government, and, after explaining the difficulties that beset them and the dangers which were likely to arise therefrom, for the future of Confederation, Sir John's Government has always come to their rescue, and granted them liberal means wherewith to secure the maintaining of their provincial independance.

In 1873, Sir John gave another proof of his good will towards the Provinces of Quebec and Ontario, by agreeing that the Federal Government would assume the surplus of the debt of the old Province of Canada, then amounting to nearly eleven millions. Our share of this sum must assuredly

have amounted to four or five millions; but, by a statute passed by Sir John in 1873, Parliament discharged the Provinces of Quebec and Ontario from their share of this debt. And not later than yesterday, the Federal government has given us a proof of its good will and of its interest in the maintenance of the local institutions, by granting us a subsidy for our old Provincial railway, and by settling an outstanding account with the Province, the result of which will be to increase our annual revenue by $250,000, which sum, at 5 per cent, represents a capital of about five millions.

Our Province will thus be somewhat relieved. This very timely aid will allow us to pursue the administration of our affairs without resorting to direct taxation. These are abundant and substantial proofs of the good will of the Federal government towards the Provinces, and it may be asserted unfearingly that had Sir John been, as he is represented to be, the enemy of the Provinces, his government would not have availed itself of every opportunity to adopt all the means possible to avert the unhappy issue, which this Province shall always repel; I mean that of a Legislature Union.

After all, the general Government is interested in exerting itself to maintain the local institutions, because it would be impossible for Parliament to legislate upon all the local affairs of the Provinces, without being permanently in session, and without involuntarily bringing about difficulties which, in practice, could scarcely be overcome. How could members of the Maritime Provinces legislate, with a fair conception of things, on local matters concerning British Columbia, and *vice-versa?* Besides, such a dangerous innovation, already repelled by all the Provinces, would be opposed by the common sense of the federal deputation itself. On the other hand, we may add unhesitatingly that, had Mr. Mackenzie and Mr. Blake been in power since 1867, the Provinces would most probably stand in a much different position from that in which they stand at present. Indeed, Mr. Blake's policy is, and has always been, not to change the financial conditions laid down by the Federal pact of 1867. And this is the reason that led him in 1869 to have an address to Her Majesty carried in the Legislature of Ontario, praying Her to interfere with a view to prevent the Federal Government from granting *better-terms* to the Provinces; and, quite recently, they both have declared, during the last session

that the system of granting subsidies to the Provinces is both *degrading* and *demoralizing*.

It is then quite clear that if Mr. Blake had held the helm of State, the Provinces would never have had the *better terms*. The Government would have been satisfied with subsidizing railways in Ontario, as Mr. MacKenzie did, leaving the other Provinces to manage their affairs as best they might ; the great enterprises undertaken by them would have been neglected, and instead of seeing prosperity and progress prevailing every where, we would witness nothing but poverty and the *statu quo*.

A like programme would have seriously imperilled the autonomy of the Provinces ; uneasiness and hardship would have bred disaffection, and gradually, the Provinces, dissatisfield with their fate, would have sought to be separated from the Confederation, with a view to a better future elsewhere.

I will resume my remarks in a few words.

The Legislatures and Parliament are each, in their own sphere of action, sovereign powers.

Every infringement on the part of one of the powers on the ground reserved to the others, is an act, the nullity of which every body can invoke.

None of these powers can acquire a right which it has not, either by possession or by prescription.

The only two means at our disposal to prevent Parliament from exceeding its powers, by legislating on matters exclusively within our province, are the appeal to our Courts of Justice, or to the British Parliament.

All other means may serve to breed a passing agitation, and promote party ends ; but, can be conducive to no other serious result than that of deceiving the public.

No term of existence of a legislative measure *ultra vires* could give it a legal effect. It could always be attacked by the injured party, *contra hostem æterna sit autoritas*. No prescription obtains on this subject. However so long the usurpation, it must yield to the first attack. This proposition cannot be contested. This is, moreover, Mr. Blake's opinion, as is evidenced by his letter to the Secretary for the Colonies, on the question of disallowance, dated 22nd December, 1875. I quote the passage which relates to the present question :

"The powers of Provincial Legislatures are, by their

constitution, limited to certain subjects of a domestic nature, so that their legislation can affect only provincial and at most Canadian interests.

"Provincial Acts are, to the extent to which they may transcend the competence of the Legislature, inoperative *ab initio*. There is no power to "allow" them, nor can any attempted "allowance" give them vitality, so that void acts left to their operation remain void thereafter.

"Provincial Acts are, to the extent to which they may be within the competence of the Legislature, operative *ab initio*, and so continue unless and until disallowed."

One is easily satisfied, by reading this passage, that the notions entertained by Mr. Blake on our powers, when a Minister, do not appear *very much exaggerated*. And yet, if we apply to the Federal Parliament the principle, in itself so just, that all acts not within its own jurisdiction are null *ab initio*, we come to the inevitable and irrefutable conclusion that Parliament can never allege either possession or prescription as a means of divesting us of our real rights. It is never too late to claim them, and the autonomy of the Provinces can never be seriously affected by encroachments which it is always in their power to repeal, even after many years existence.

In the working of a new constitution these conflicts of jurisdiction and their causes cannot be avoided: they have occurred more frequently in the United States, and the least complicated laws will always present, at every step, the same difficulties and doubts. Indeed, we have reason to rejoice that we have not had oftener, during the last seventeen years, to appeal to the tribunals for the settlement of troubles and dissensions which the interpretation of the Federal pact might have given rise to. Let us hope that mutual wisdom, prudence and good will, shall cause them to disappear entirely and for ever.

We have now only to ask who are the most faithful guardians the people can rely on for the protection and defense of rights and interests so dear and so sacred. Must we not, in that case, look up to the fathers of Confederation; to those who have taken an active part in its working since 1867; to the friends of Confederation, in preference to its adversaries? The past record of the Conservative party is in itself a sufficient guarantee.

It is a well known fact that we stand by the autonomy of

the Provinces, that we hold to maintain the enactments of the Federal pact, and every one knows also that no one among us has ever had the remotest desire to cowardly abandon the institutions which we live under, either to seek annexation to the United States, or to test, by a precocious and premature emancipation, an independance which would merely prove a downfall and a bondage. The world knows that we hold to live for a long time under the régime which governs us, under that colonial dependance which, as the Marquis of Lorne has remarked in England, recently, is a true independance, *minus* the heavy burdens which an absolute independance would impose on us. We enjoy, under the Empire and the Constitution which govern us, all the rights a free and independent people can wish for. We enjoy the right of governing ourselves in the fullest meaning of the word, and England extends its powerful arm to protect our liberty and defend our territory, without our being in any wise, bound to contribute to the maintenance of its army and marine.

Let us reap the benefit of this peace and security by continuing, as in the past, to develop our immense resources, to spread education among our population, to colonize our wide-spread territory, multiply our industries, and extend our commerce ; and let us employ our talents and energy in strengthening and consolidating lastingly the basis of the Great Dominion inaugurated in 1867.