

Bills of this Legislature should be subject to the disallowance of the Governor-General, and should in certain cases be reserved for the assent of the Governor-General—that these Bills should be enacted in the name of Her Majesty. A good deal of light, he thought, was thrown on this subject, by contrasting the provisions as to the legislative powers of the Dominion and the Provincial Legislatures respectively. In the construction of statutes, where there were provisions as to two analogous subjects, the absence of a provision as to the one which existed as to two other, indicated an intended divergence. As regarded the Dominion, the 9th section of the Confederation Act said—"The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen." There was then a provision that the Government of the Dominion should be carried on by the Governor-General—on behalf and in the name of the Queen—with a Council, which, in the 11th section, was styled—"The Queen's Privy Council for Canada." As to the legislative power of the Dominion, the 17th section said—"There shall be one Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons." We knew that it was the Legislature which enacted—and it appeared here that the Legislature of Canada, as well as of England, consisted of the three estates, the Queen and the two Houses of Parliament. The 55th section provided that when Bills passed by Parliament were presented to the Governor-General "he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the Bill for the signification of the Queen's pleasure."

Str HENRY SMITH—Does the hon. gentleman understand that the second alternative, withholding the Queen's assent, is to veto the Bill.

Mr. BLAKE—Not a doubt of it. This case would arise when the Bill was contrary to the royal instructions. As to the powers of the Dominion Parliament there was yet another provision, section 91, that the Queen, by and with the advice and consent of both Houses, may make laws. We thus found very particularly prescribed the mode in which Acts of the Dominion Parliament were to be framed, the authority under which made, and the assent to be given; and there could be no doubt that the proper form for Acts of the Dominion Parliament would be, "Her Majesty, by and with the advice and consent, &c., enacts, &c." He would now contrast the different provisions with reference to the legislative and executive powers of the Province. Under the head "Executive Power," the 58th section said—"For each Province there shall be an officer styled the Lieutenant-Governor, appointed by the Governor-General in Council"—that is, the Governor-General, acting as a Canadian officer—"by instrument under the great seal of Canada." He held office during the pleasure of the Governor-General in Council, and if removed—after the permanent appointments shall have been made—the cause has to be communicated, not to the English Houses, but to the Senate and House of Commons of the Dominion. Then, the Executive Council of the Province is to be composed of such persons as the Lieutenant-Governor thinks fit. As to the legislative power, the 69th section said—"There shall be a Legislature for Ontario, consisting of the Lieutenant-Governor and of one House, styled the Legislative Assembly of Ontario." While the Canadian Legislature consisted of the three estates—the Queen and the two houses—the Ontario Legislature consisted of the Lieutenant-Governor and the Assembly. And, if it was the Legislature which made the laws, it was the Lieutenant-Governor and the Assembly which made them, and not the Queen and the Assembly. The 92nd section said—"In each Province the Legislature may make laws"—whereas, speaking of the Dominion Parliament, the 91st section said "It shall be lawful for the Queen, by and with the advice and consent, &c., to make laws." Then, as regarded the mode of assent to bills, the 90th section should be construed in connection with the 55th. The 90th section declared that certain provisions, as to the assent of Bills, &c., should extend and apply to the Legislatures of the several Provinces, with the substitute of the Lieutenant-Governor for the Governor-General, of the Governor-General for the Queen and for a Secretary of State, of one year for two years, and of the Province for Canada. Making these substitutions, the 55th clause

would read—"Where a Bill passed by the Legislative Assembly is presented to the Lieutenant Governor for the Governor General's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to the Governor-General's instructions, either that he assents thereto in the Governor-General's name, or that he withholds the Governor-General's assent, or that he reserves the Bill for the signification of the Governor-General's pleasure. If then their Bills were to be assented to in the Governor-General's name or reserved for the signification of the Governor-General's pleasure, were they entitled to arrogate to themselves the dignity of having their Acts styled the Acts of the Queen? If the constitution had been framed differently, it might have added to the dignity of this Assembly that they should arrogate to themselves the position of acting with the Queen in making laws, but it added to no man's dignity to assume false and unfounded pretensions. If the house was not satisfied with the present provisions of the constitution, let a Bill be brought in to change them, and if approved of by the Governor-General in council, it would become law. They might then say of their laws, "Her Majesty enacts," but as the matter stood at present, they did not stand any the better for decking themselves in borrowed plumage.

Hon. J. S. McDONALD said if he had anything to do with the framing of the Confederation Act, he did not think that, as a British subject, he would have been content with the substitution of the Governor-General for the name of Her Majesty in matters pertaining to the laws enacted in the different Provinces. But they had to deal now with the question as it actually presented itself. The matter had been considered by himself and his colleagues to-day, and they had come to the conclusion that, in the fourth clause, the Governor-General should be substituted for the name of the Queen. In this connection, they had considered the 82nd clause. "The Lieutenant-Governor of Ontario and of Quebec shall from time to time in the Queen's name, by instrument under the great seal of the Province, summon and call together the Legislative Assembly of the Province." They clung to the use of Her Majesty's name where they could, and had come to the conclusion that the name of Her Majesty should be used in the enacting clause of all their Acts, as they failed to find any prohibition. But, in reading the 55th and 57th sections, in connection with the 90th, they found that as to money votes, assent to Bills, &c., they were circumscribed, and that the name of the Governor-General had to be substituted for that of Her Majesty, in giving assent to Bills. There might be some reason for the veto power remaining in Canada, so that the Queen or Colonial Secretary might not have appeals made to them with regard to our Local Legislation. The Lieutenant-Governor might reserve Acts for the signification of the Governor-General's pleasure—but not by instructions from the Governor-General. There were no instructions.

Mr. BLAKE—But there may be.

Hon. J. S. McDONALD did not see that, under the Confederation Act, there could be. He should be sorry if it could be made out, that they could not enact laws in the name of Her Majesty. If the member for South Bruce was right, all the legislation of this session would go for nothing. He thought the hon. gentleman's construction was a wrong one, but it was clear that the 4th clause should be amended.

Sir HENRY SMITH said the argument of the member for South Bruce was a very strong one. He wished to know whether the Lieutenant Governor would assent to a bill as a branch of the Legislature, or whether he would assent to it in the name of Her Majesty.

Hon. J. S. McDONALD—No, in the name of the Governor-General.

Sir HENRY SMITH said in that case, it appeared to be an indignity to Her Majesty to say that she enacted a law, and then leave it to her servant, the Governor-General, to disallow it. This was a matter in which there should be no question of party. It should be approached by hon. gentlemen with a sincere desire to have it settled in accordance with correct principles. Would it not be well to let the committee rise and report progress, so as to allow further time for consideration, in the hope that some better solution for the difficulty might be found than now presented itself.

Mr. BLAKE said that so far from looking on this as a question of party, he had taken the liberty some time ago of communicating his views upon it to the Government. He thought it would be very unfortunate that