

that principle even though we pass laws sometimes which are injurious to the English people, and which they would gladly disallow if it was in accordance with modern constitutional practice and usage. There is no possibility, therefore, of making the term "constitutional" of wider application than its application to the B. N. A. Act. Sir John Macdonald's words, his own subsequent actions in dealing with Provincial Acts, do not warrant any other interpretation than as applied to our new Constitution embodied in the British North America Act. Now the Provinces were content to accept those views so expressed by Sir John Macdonald, and rightly so expressed. He said:—"It is important that the course of the Local Legislatures should be interfered with as little as possible, and the power of disallowance should be exercised with great caution." I have demonstrated, Mr. Speaker, that so far from great caution being employed in the disallowance of the Streams Act, no caution at all was exercised. (Cheers.) If the slightest caution had been observed in respect to the Act no disallowance would have taken place. (Hear, hear.) Sir John Macdonald goes on to say:—"The course of the Local Legislatures should be interfered with only in cases where the law or the general interests of the Dominion demanded it." He thought it right to disallow on no other ground than when the law—which means the B. N. A. Act—was affected, or the general interests of the Dominion, and then only when imperatively demanded. (Cheers.) It will not do for some ingenious man with an ingenious argument to endeavour to prove that the Act will bear in some way upon the general interests of the Dominion in order to have it disallowed, but it must be demonstrated that the interests of the Dominion imperatively demand it. My hon. friend (Mr. Meredith) says that Sir John Macdonald must not be tied down to those rules formulated by himself. But Sir John meant that we should be tied down to those rules, and he meant the Provinces to be tied down to them, for he transmitted a copy of them to all the Provinces in order that they would know how Acts were to be dealt with, and they were dealt with accordingly for twelve years. (Cheers.) He goes on to recommend that upon the receipt of the Acts by His Excellency, the Minister of Justice should report to him with regard to them, and that he should make a separate report as to the Acts considered illegal or unconstitutional, and in cases where there is concurrent legislation, and where the Acts affect the interests of the whole Dominion.

Mr. MEREDITH—Hear, hear.

Mr. MOWAT—My hon. friend says "hear, hear," but he does not mean that his leader shall be tied down to these rules.

Mr. MEREDITH—I say it is not necessary that he should be tied down.

Mr. MOWAT—The people of all the Provinces want to tie him down, and will not be content, any more than Ontario, that their Acts shall be disallowed under any other conditions. (Cheers.) In order to make it still more clear, Sir John Macdonald proceeds in his report:—"Where a measure is considered as partially defective, prejudicial to the general interests of the Dominion, or as clashing with Dominion legislation, communication should be had with the Provincial Government with respect to such measure." What are hon. gentlemen opposite doing? They are defending a Government which disallowed this Act without any communication with us. (Cheers.) They approve of a Minister at Ottawa who is content with an *ex parte* statement by somebody whom the Act affects, and who ignores entirely the views of those who passed the Act. (Cheers.) Hon. gentlemen opposite are descended so low that they boldly declare their willingness that the Act should be disallowed, without giving us an opportunity to say a single word in its defence. The Minister of Justice may know nothing of the reasons which pressed upon us or the ground upon which we thought the Act necessary. He may know nothing of our view of the justice of it—not a single reason which influenced us may be known to him, and yet hon. gentlemen wanted to place him in the position to disallow the Act. I regret exceedingly that my hon. friends take that ground. They acted differently in past sessions with regard to the boundary matter—they acted with us in demanding that effect should be given to the rights of Upper Canada, irrespective of how their friends at Ottawa were affected; but now they had bound themselves up with the authorities at Ottawa, and they are willing to forego our Provincial rights. (Cheers.) Sir John Macdonald expressly declared that an Act disallowed under the conditions he enumerated should not be disallowed "until the Local Government has an opportunity of considering and discussing the objections taken, and until the Local Legislature has had an opportunity of remedying the defects." (Hear, hear.) This is fair; but hon. gentlemen say that a Provincial Act is to be disallowed on grounds which were negated by Sir John Macdonald in that paper, and that it may be disallowed without any communication with the Provincial Legislature. I confess that I think this a most serious departure from constitutional rule, and a most fundamental change from the position the Provinces occupied with reference to their Legislature. Hon. gentlemen say that the position taken by Mr. Blake while Minister of Justice varied from the views already laid down, and that his view was that other matters might be taken into account in disallowing Acts. I wholly differ in the construction to be placed upon the language used by Mr. Blake. But I say further, that if Mr. Blake laid down a doctrine like that contended for by gentlemen opposite then I do not follow Mr. Blake. (Cheers.) I say for my colleagues and for our supporters, in and out of the House, that if anybody, no matter who he is, be he Liberal or Conservative, has laid down a doctrine to justify the act complained of, then he has laid down a false doctrine and we will not subscribe to it. (Cheers.) But has Mr. Blake laid down such a doctrine or pursued it in practice? My hon. friends do not pretend that there is any more than one Act which will give colour to their argument, viz., the disallowed Manitoba Half-Breed Act, and that has been answered already. (Hear, hear.) There were several grounds which brought that Act within the conditions laid down by Sir John Macdonald. When the Manitoba Act, to which the later one was an amendment, was under consideration, all the circumstances out of which it had arisen were explained by Mr. Blake. He pointed out that the lands affected by the Act

were the property of the Dominion in the Province, and although the legislation might ordinarily be within the competence of the Legislature, on this particular subject, the position of Manitoba was exceptional, and that legislation regarding them ought to be enacted by the Dominion. Further, that Act provided for certain things to be done by the parties concerned within three months, and the statute provided for the giving of three months' notice. No notice was given, and the matter came before Mr. Blake after the expiration of the three months. One of the Ministers of the Manitoba Government told Mr. Blake that they had not advertised the notice because they expected the Act to be disallowed, and it had not therefore properly been regarded as an Act of the Legislature. During the time of Mr. Blake and of the Liberal Administration a great number of Provincial Acts were passed, and my hon. friend, with all his industry, has not been able to find a single disallowed Act upon which to hang an argument except this one, and that I have shown not to be a case in point. (Cheers.) My hon. friend says that he can find expressions in Mr. Blake's paper on the Quebec Insurance Act to show that he did not consider the Government should be confined to the conditions laid down by Sir John Macdonald. Let me call the attention of the House to two or three expressions made use of by Mr. Blake to show that his contentions do not favour the position taken by my hon. friend. I may say that the Act under consideration, and with reference to which he was making these observations, he did not disallow. The Act was to tax insurance policies. There is not an exclusive power regarding taxation vested in either the Dominion or the Provinces. The Dominion has unlimited power of taxation. It may levy direct taxation or indirect taxation. The Provinces, on the other hand, can tax, but it must be a direct tax, except in the case of licenses, when they are permitted to tax for the purpose of revenue. To a large extent, therefore, and in an important sense, there is concurrent jurisdiction in the matter, and our taxing as a Province might justly be regarded as an interference with the general interests of the Dominion. Bearing that in mind observe what Mr. Blake says. The insurance companies objected to it, and memorials were presented against it, and various reasons urged for disallowing it. Mr. Blake, in discussing those reasons, pointed out that Acts levying taxes in the Provinces might in some cases force upon the Canadian Government the necessity of disallowance. No doubt they might, because the Dominion itself has the right to tax, and there might be a clashing with the Dominion legislation. He goes on further to say that the matter was subject to this observation:—"That the people of the Provinces requiring to raise a revenue to tax themselves for the purpose of a local want might claim, and be admitted, a considerable latitude as to the determination of what their taxes should be." There must be no unnecessary interference on the part of the Dominion; there must be no pretence that the Act interferes with Dominion interests. It must be a reality, and great caution must be employed before the right of disallowance, which the Imperial Parliament has regarding legislation interfering with Imperial interests, should prevail. (Hear, hear.) Mr. Blake goes on to point out another feature of the Bill which he thought to be objectionable, and to which he asked the attention of the Government. My honourable friend must know very well that it has been the habit of the Imperial Government up to the present time to make observations and point out their objections to Provincial Acts, which at the same time they had no thought of disallowing, and which they expressly refused to disallow. As an example, the Home Government entirely disapproved of the removal of Lieutenant-Governor Letellier. Despatches were written expressing in a strong manner their opinion against any such course of conduct on the part of the Dominion Government, but did not advise His Excellency in interfering with the course which his counsellors might choose to advise. So that if it were a piece of impertinence on the part of Mr. Blake to make observations on this Act, it was impertinence which he shared with the Imperial authorities as long as these matters have been dealt with, and it is impertinence, I venture to say, that plenty of illustrations will be found on the part of Sir John himself. Returning to the subject, let us see what are the grounds upon which the Minister of Justice, in his report, recommended disallowance of the Act in question here. One objection to which he refers is that our Act was retroactive, and we have heard a great deal on the same point on the floor of this House. Everybody knows, and my hon. friend will not deny, that retroactive legislation is sometimes necessary in the interests of justice. It is legislation in regard to which Legislatures ought always to be cautious, but yet it is legislation that cannot be avoided without submitting to a great deal of injustice. There are numerous instances of retroactive legislation both in our own statute books and in those of the old Province of Canada, so that there is no necessity to object to it. With reference to the subjects to which our jurisdiction extends, if retroactive legislation is required, I do not suppose that anybody would doubt that the principal quarter to which to go in order to obtain that legislation would be the Provincial Legislature. If the matter had to do with our municipal interests those who desire it should come here, because we have jurisdiction over municipal institutions. If any person required retroactive legislation on questions affecting civil rights or property he should come here also, because in these matters we have jurisdiction. But here is a new departure, in contending that wherever legislation is retroactive the Dominion Government shall assume the authority for disallowance. I thought that matter was sufficiently settled by the rules which Sir John laid down at the early period at which he considered the subject and prepared the memorandum to which I refer. It is not that no instances of the kind had come before the notice of the Dominion Government. Instances had occurred in which they had to consider that question—instances not only before a Liberal Minister of Justice, but also before a Con-