

until his wrongs were redressed; and when he had lost his seat and some other dignified member of Parliament—for we are wonderfully dignified at these times—had sat in his place, after the decision gave him back his seat he would have to come back to this House and say, "Smith, Brown, Jones or whatever your name is, you got there on a technicality; you got there on the decision of a rota Judge; the Court of Appeal says it is my seat; get out, you rascal, and let the man entitled to the seat have it." That is the state of unutterable chaos into which hon. gentlemen would lead us by opposing the legislation which my hon. friend has introduced. (Applause.)

Much Declaratory Law.

Mr. Ross went on to state that the English statutes are full of instances of declaratory law, mentioning the Magna Charta, the Statute of Treasons, the Petition of Rights (1627), the Bill of Rights (1688), Habeas Corpus act (Charles II.). He quoted also acts which overrule the opinion of Judges, instancing the law of criminal libel. Others corrected the mistakes of Judges. Instances of retroactive legislation in the Imperial statutes (1863) and cases cited where the verdict of the court was sometimes set aside by Parliament, as, for instance, in the cases of Barber, Halton; Stock, Wentworth, and Scott, Grey. It was, he asserted, the place of Parliament, as the high court of the land, to stand between a too literal—finicky, if you will—(laughter)—interpretation of the law, and in the interests of the people. Continuing, Mr. Ross made mention of several cases where the British Parliament had stood gallantly for the rights of the people against peculiarities of the laws, going so far even as to declare by an act that eels were not fresh-water fish when the court had held they were. (Laughter.)

It being 6 o'clock, the House rose.

Evening Sitting.

After recess Hon. Mr. Ross continued his argument before crowded galleries. To show that the character of the legislation to which his hon. friend is now objecting has not been unusual even in Canada, he cited the Confederation amendment act of 1871, which declared that the acts passed relating to Rupert's Land and Manitoba "shall be and be deemed valid and effectual for all purposes whatsoever from the date on which they respectively received the assent of the Governor-General in Council." That was retroactive legislation. (Cheers.) The British Parliament gave many instances of declaratory acts overruling the opinion of the Judges, notwithstanding that Lord Eldon had urged that declaratory legislation should precede and not follow judicial legislation. The argument of the Government is that, if the British House of Commons, in the exercise of its sovereign power, can pass declaratory legislation, why should not this Legislature? After referring to the act of 1875 in reference to the powers of the Parliament of Canada respecting the Northwest Territory, Mr. Ross pointed out that by the Dominion act of 1868, cap. 25, it was declared that every member of the Dominion

Parliament and certain others who held office in the Legislative Assembly of their respective Provinces, such as Mr. Chauveau, Hon. Mr. Duncan, Hon. Mr. Beaubien, Hon. Mr. Chambeau, Hon. Mr. Irvine, John Sandfield Macdonald, E. B. Wood and John Carling, were declared to have been capable of election and sitting in the House of Commons, and were indemnified also against all penalties. In section two of the act respecting E. A. Macdonald, Queen's Printer for Nova Scotia, who was elected for Lunenburg to the Com-

mons, it was declared that "he has been and is capable of sitting, notwithstanding his holding this office." (Cheers.) Coming more closely, in 1870 an act was passed amending the law relating to perjury, passed in 1869, declaring that the said act should be construed and have effect as if said section had been worded as hereby amended. In 1872 an act indemnified members of the Government for expenditure in excess of the Parliamentary grant incurred in repelling the Fenian invasion of 1870. In 1876 an act confirmed certain action of the Harbor Commissioners of Quebec and Montreal and the Minister of Marine and Fisheries, and held the same to have been valid. In 1877 an act declared that a certain class of shareholders had a right to vote, and that the right reverted back to 1871. (Cheers.) By the half-breed scrip act of 1879 the rights of half-breeds were made to revert back to the act of 1874, and in 1880 and 1881 an act was passed to remove doubt as to the rights of shareholders of the Northern Railway under the act of 1877. In 1880 and 1882 retroactive legislation respecting the disputed territory and the Northwest Territories was passed. Sir Charles Tupper, while Minister of Railways and Canals, was appointed High Commissioner to Great Britain, and spent part of his time in London and part in Ottawa. He did not draw any salary, but was paid his travelling and office expenses. Doubt was raised as to the right of any member of Parliament to hold an office of emolument under the Crown, even if he did not draw the salary attached to that office. Sir John Macdonald introduced a bill indemnifying Sir Charles Tupper against any penalty which might be brought against him. The last clause is as follows:—"This act may be pleaded as a bar and discharge to any suit pending or which may be brought against Sir Charles Tupper for any matter, cause or thing mentioned in this act, and shall also be a discharge of any judgment for any such penalty as is mentioned in the next preceding section, and any costs on such judgment." Note the words "and shall also be a discharge of any judgment for any such penalty." I suppose that the hon. gentleman will say that Sir John Macdonald was playing with legislation in this instance, as he was in 1887, and that there was no necessity for making it retroactive. (Government cheers.)

It had been said a few moments before that there were no judicial decisions in favor of suits pending. There they had an act of that kind. So much in regard to the legislation of the House of Commons of Canada. Turning to examples of declaratory legislation in