513. On 25th April, 1890, Hon. Mr. Blake, on motion, in the Dominion Commons, to go into supply, said: "Pursuant to the notice which I gave some days ago, I rise to move an amendment,

"That it is expedient to provide means whereby on solemn occasions touching the exercise of the power of disallowance or of the appellate power, as to educational legislation, important questions of law or fact may be referred by the executive to a high judicial tribunal for hearing and consideration in such mode that the authorities and parties interested may be represented, and that a reasoned opinion may be obtained for the information of the executive."

514. In discussing this, Mr. Blake said: "I would say that recent current and imminent events have combined to convince me that it is important in the public interest that this motion should receive attention during this session." He proceeded to discuss the word "constitutional," saying that "we in Canada had fallen into the use of the word in two very different senses—one, the English sense, whether an Act is in accord with or in violation of the spirit of the constitution; the other, to express an Act in excess of the legal powers of the Legislatures or the Parliament, under our written constitution. In the first class of cases, however obnoxious may be the Act which we condemn, it is perfectly valid. In the second, however useful we may consider the Act we are discussing, it is null and void. The first class is that in which the proposal comes before the executive to disallow an Act of a Provincial Legislature on the ground that the Act is *ultra vires*. These should not be disallowed but be left to the action of the courts, as a general rule. It is nevertheless, and I think with sound reason, contended that circumstances of great general inconvenience and prejudice from a Dominion standpoint and involving difficulty, delay, or the impossibility of a resort to law may justify the policy of disallowance, even in cases in which the Act is *ultra vires* and therefore void. * * * The other class to which my motion alludes is that of the educational appeal which arises under Sec. 93 of the Constitutional Act and under the analogous provision of the Manitoba Constitutional Act. Under these clauses a limited power to make educational laws is granted to a province, provided, amongst other things, that nothing contained shall prejudicially affect any right or privilege with respect to denominational schools which any of the Provinces had by law, or, in the case of Manitoba, by practice, at the Union. There is another class of restrictions which I do not in terms touch here, but to which, in cases in which an appeal is raised upon them, my observation would apply. This limitation upon the power of a Province giving an appeal to the Dominion executive from any Act or decision of the Provincial Legislature or authority affecting any right or privilege of the Protestant or Roman Catholic minority in relation to education, and whereby, also, in case of the non-execution by the Province of the decision of the executive this Parliament may make remedial laws for the purpose of effectuating that decision."

515. Sir John A. Macdonald, following Mr. Blake, said: "I am strongly of opinion that this resolution should meet with the favourable consideration of the House. * * * I coincide with my honourable friend in the belief that the Crown should have the power to submit such a question (the