

It was the case of the Attorney General of Quebec against the Attorney General of the Dominion. It was held in the province of Quebec, that, under section 109, the lands in dispute reverted to the Crown in right of the province. In the courts of the province of Quebec they held that upon the ground that, as the province had the exclusive right to legislate in regard to property and civil rights, it followed as a consequence that it might have legislated equally in regard to these lands, and consequently that these lands were the property of the province. And that judgment went through the courts and was maintained in the Privy Council. Then there was the Mercer case in Ontario. I speak of that from memory only and under correction. The last court of appeal in Ontario held that escheated lands fell to the Dominion, if I mistake not—the contrary of what our own Court of Appeals held. But the matter went to the Privy Council, and the Privy Council held that in the case of an escheat, the province had the right to the land under section 109. And, in the case of the St. Catharines Milling Company vs. the Queen, a case that lawyers will remember, the question involved was as to an Indian reservation which had been abandoned by the Indians. The Privy Council held that, under section 109 of the Confederation Act, these lands, abandoned by the Indians who were under control of the Dominion government and under the legislative control of the Dominion parliament, fell into the provincial domain under section 109. The latest case I have is the case of the Attorney General of British Columbia vs. the Attorney General of Canada, in which the question arose in a still more pointed manner and in which, I think, the Privy Council went even further. In that case, as hon. members will remember, British Columbia had conceded to the Dominion government a forty-mile strip upon the line of the Canadian Pacific Railway for a consideration, I believe, of \$100,000 a year. That was an absolute cession of the lands. Gold was found in that forty-mile strip, and the question arose as to whether the Dominion power or the provincial power had a right to that gold and the royalties upon it—which of the Powers owned the mineral wealth. In that case, if I remember aright, the Lords of the Privy Council held that the words 'British Columbia' must be read into section 109 of the Confederation Act—that not only the four provinces then parties to the confederation compact, but, said the Lords of the Privy Council you must read into section 109 the names of British Columbia and all the provinces that have since been added to the Dominion, and the right to this gold and the royalties upon it is in the Crown in right of the province. So I am

correct, I think, in saying that jurisprudence seems to favour the view that section 109 is of a most general character, and that all lands belonging to the Crown, fall to the Crown in right of the province the moment that province is created. It was so understood in regard to the provinces that entered the Dominion since confederation. It was so understood in regard to British Columbia. There was no special mention of the lands in the Order in Council by which the gates were opened to that province for its entry into confederation. There was no mention of lands in the Order in Council under which Prince Edward Island came into confederation. But, in the case of British Columbia these lands, by the very vigour of the Confederation Act were supposed to remain the property of the province, and, in the case of Prince Edward Island, where there were no public lands, the Dominion had to agree to a certain sum to be given to the province in lieu of public lands. So, I say, by common understanding of section 109 and the interpretation put upon that section since our constitutional questions have arisen, it would seem to be evident that public lands, by the very terms of the constitution belonged to the province the moment they enter confederation. And I see no reason for departing from that rule in regard to the province created out of a portion of the Northwest Territories.

Mr. BELCOURT. Are we not proprietors of the land in Manitoba, and proprietors of the lands in these provinces?

Mr. MONK. I do not know that that makes any difference. And as regards the observation of the Solicitor General (Mr. Lemieux) that we purchased the lands, I do not think that that proposition is well founded. Even had we purchased the lands, they are not vested in the Dominion government, they are the property of the Crown, the property of the King. And under our confederation scheme, all public lands situated within the province continue to belong to the King in right of the province. As a matter of fact, we did not purchase the landed rights. There was an amount given to the Hudson Bay Company in consideration of the abandonment of its rights in that territory. But those rights were not rights in the lands, but hunting rights and commercial rights under charters obtained long ago under Charles II. But I do not think that those charters conferred any special title in the lands. So I do not think the hon. gentleman is right in saying what he does as to the purchase of the lands. The same remarks apply to that section of the Act in which we enjoin upon the province that it shall not interfere with the Canadian Pacific Railway. I venture the opinion that that is not *intra vires*. We can create a province, but we have no