

same time to continue in force in the province those provisions of the Northwest Territories Act as amended which are not inconsistent with the terms of this Act. I do not think that by any possible construction this would make applicable section 11 of the Northwest Territories Act of 1875. The section is drafted so as to continue the whole body of the law as they have it in the Northwest Territories—the law as introduced by the Northwest Territories Act, the law as introduced since that time by the ordinances, the law in existence subsequent to the union and previous to the union of Great Britain and Ireland, and the law as introduced by the Dominion of Canada. All that law is to be continued until such time as the province deals with it itself. With respect to legislation under the powers of the Dominion of Canada, that can only be amended and altered by us; with respect to the law in force in the Territories which is the result of imperial legislation, that can only be touched by the imperial parliament; and with respect to that in force by virtue of the ordinances, that will be dealt with by the province. But if there is any form of words which my hon. friend will suggest to make it absolutely clear that there is no intention by this section to continue in any way, directly or indirectly, the school provisions in the Act of 1875, my hon. friend has only to suggest it and I will make the change.

Mr. LENNOX. My hon. friend will understand that I did not come to the conclusion that it does so. I merely wanted to know what the meaning of that was, and I may have something to say of it again. I want to look over it more carefully.

Mr. R. L. BORDEN. I have just looked over the Northwest Territories Act as amended for the purpose of seeing just how this provision would work out. It may be, as the Minister of Justice says, that it will work out all right. I am not prepared to say at the moment that it will not. It will of course require very careful consideration of the various sections of the Northwest Territories Act, and I have no doubt the Minister of Justice has given them the most careful consideration. I observe that section 5 of the Northwest Territories Act provides that the Governor in Council may from time to time appoint an administrator to execute the objects and functions of the Lieutenant Governor during his absence, illness, or other inability. That would not be inconsistent, I suppose, with anything contained in this Bill; but is it the intention that this parliament or the legislature of the province should make provision for such a case? I am not mentioning this because it is of very great importance, but only as an illustration of what might be brought as an unexpected result.

Mr. FITZPATRICK.

Mr. FITZPATRICK. I would think that provision would be continued; at the same time, I would like to consider that further. But that is simply illustrative of the general position as to what provisions of Dominion legislation will be continued and what legislation will remain subject to our control. Possibly we may be continuing Dominion legislation which may be very embarrassing to the provincial authorities, and which can only be repealed by ourselves. I did not draft this clause, and I am somewhat embarrassed by the form of the language in the first line. It was drawn by Mr. Newcombe, who is much more familiar with this kind of work than I can presume to be. The explanation I have received is that the intention is to repeal the Northwest Territories Act, but at the same time to continue those provisions of that Act which would form the body of the law—in fact, the common law of the Territories, and of course only those provisions which are not inconsistent with the provisions of the Act which we are now passing.

Mr. R. L. BORDEN. It may be that more careful consideration of that section, which does not deal with a matter of very great importance, would show that it would work out all right. Of course, it may create some inconvenience, but it would hardly justify us in going to the imperial parliament. We must remember, when we are establishing provinces under this Act, that we cannot amend it afterwards. That is a very good reason why we should examine all these provisions with much care. As I understand it, the Minister of Justice does not desire to press this clause this afternoon.

Mr. FITZPATRICK. What I would like to see is how far we have covered the points of difficulty that might arise. It is not like the case of Manitoba where there was no provincial power before, nor is it like the case of a province in the full exercise of its full provincial authority. It is practically dealing with a territory which has been exercising almost all the powers of a province but powers which are under delegation from us. So it is a case of exceeding difficulty, and I want to see that in this important constitutional Act we are making provision for everything that can possibly arise.

Mr. BARKER. I would like the minister to explain this. It has been understood that clause 16 is to disappear from this Bill and what we may call the hon. member for Brandon's clauses are to take its place. But under section 15 as it is now worded will not section 16 come back as section 11 of the Act of 1875 and be beyond the control of the provinces?

Mr. FITZPATRICK. Would not section 15 of the Act of 1875 be inconsistent with section 16 as it is proposed to amend it and if it is inconsistent with that section as it