

these matters as are confined within the bounds of provincial jurisdiction shall be subject to a repeal by the provincial legislature?

Mr. FITZPATRICK. I think that is practically what it is. Let me express it in my own way, that we may see whether my hon. friend (Mr. R. L. Borden) and I are at one in our understanding of the matter. The Northwest Territories Act is a Dominion Act, and, as such, it can only be amended by us. If it is allowed to continue in operation it will form part of our consolidation of the statutes. But the intention is to repeal that Act, but, at the same time, to incorporate the provisions of that Act, so far as they are not inconsistent with the provisions of this Act, into this Act for the establishment of the province of Alberta, so that it will become their law instead of ours. It disappears from our statute-book, but it becomes part of the statute law of the new provinces.

Mr. STOCKTON. And liable to be changed by them?

Mr. FITZPATRICK. Absolutely—as much so as if it was their own statute. Do I make myself clear?

Mr. R. L. BORDEN. The object is to repeal the Northwest Territories Act and to incorporate into this section the provisions of the Northwest Territories Act which are applicable to the newly constituted provinces?

Mr. FITZPATRICK. Yes.

Mr. R. L. BORDEN. It seems to me that the danger of general words of that character is that you may get something into this new law that you do not intend to include such as I suggested with regard to section 5. Then there was the point which was mentioned by my hon. friend from South Simcoe (Mr. Lennox), which had occurred to me before he spoke. The Northwest Territories Act deals with a number of matters, which, under the constitution of the new provinces, are not to be the subject of provincial legislation. When you legislate by reference to the Northwest Territories Act you may embody something in the constitution of the new provinces which cannot be dealt with afterwards, either by the provincial legislature or by this parliament—the provincial legislature being unable to deal with it because the subject is not within the sphere of the provincial authority, and this parliament not being able to deal with it, because, under the terms of the British North America Act, 1871, we cannot amend legislation of this kind after we have once passed it. That is the difficulty in a general way as it presents itself to my mind. I do not know whether, upon examination of the Northwest Territories Act, any difficulty would be found,

but it seems to me that the Northwest Territories Act should be very carefully scrutinized with that view. And it occurs to me that it might be found more expedient, if not absolutely necessary, to adopt another course; that is to say, instead of incorporating the provisions of the Northwest Territories Act by a general reference, such as has been made in this section, to select those sections of the Northwest Territories Act which deal with matters necessary to provide for and to incorporate in this section these particular provisions by reference to the sections which contain them. I do not know whether I have succeeded in making myself clear.

Mr. FITZPATRICK. Quite so, I see the point. It seems to me in cases of this kind we ought as far as possible to make enactments of a general nature so as to avoid particularizing. I hate to get down to details in a matter of this description. It seems to me that we might bear this in mind: We are here creating a province, we are giving to that province certain powers, in these provinces of the Northwest Territories Act, which, shall remain part of their legislation; those powers that would be matters of Dominion concern would not pass to them at all. The intention is to give out of the Northwest Territories Act to the province those powers which they might themselves create in the exercise of their provincial authority.

Mr. STOCKTON. Otherwise they would not have any law at all to govern them.

Mr. R. L. BORDEN. I appreciate the argument of the minister. But looking at the provisions of section 15, omitting the immaterial words, you will observe this:

Except as otherwise provided by this Act, all laws, including the provisions of the Northwest Territories Act and amendments thereto existing immediately before the coming into force of this Act, shall continue as if this Act had not been passed, subject, nevertheless, to be repealed, abolished or altered by the parliament of Canada or by the legislature of said province, according to the authority of the parliament or of the said legislature under this Act.

Well, assuming that we have the power under the British North America Act of 1871, which the Minister of Justice suggests—I am adopting his premise for the purpose of discussion—does not that bring into force in the new province certain constitutional provisions which already exist in the Territories? I think such will be found to be the case, upon an examination of the Act, and by the reservation which you have made of repeal by this parliament, can you really reserve to this parliament the right to repeal, having regard to the fact that under the Act of 1871 you cannot alter this constitutional Act after you have once created it? There are certain constitutional provisions with regard to the Northwest