

however, the subject is one which is left to the jurisdiction of this parliament. It cannot be said that in that respect the provinces are on equal terms. And it must be borne in mind that that power was left to the province of British Columbia when it entered this union, three years after our Federal Act came into force. We allowed British Columbia to retain that power, either expressly or by implication, although the question is exclusively within the jurisdiction of this parliament, according to section 91 of the British North America Act.

Mr. STOCKTON. Is it not provided in the British North America Act that all laws in force in a province at the time that Act came into operation shall continue in force until repealed, and were not the divorce courts of Nova Scotia and New Brunswick continued under that section of the Act?

Mr. GUTHRIE. It is quite possible that that clause to which the hon. member refers is the one under which these courts do exist; but I am pointing out the inequality which does exist to-day between the legislative powers in the different provinces. Let me point to another matter with regard to British Columbia. By section 92 of the British North America Act, the lands of the provinces shall be exclusively under their own management. Yet the lands of the province of British Columbia were not left entirely to it. Large portions of those lands were transferred to the Dominion government. And when the province of Manitoba was carved out of the Territories, its lands, which would otherwise have become provincial lands, were expressly excepted and came under the management and control of the Dominion parliament, contrary to section 92 of the Confederation Act. Such cases might be multiplied. The case of the exemption from taxation of the Canadian Pacific Railway has already been mentioned, and you must not fail to mark that all municipal rights of taxation, belong exclusively, under section 92, to the provinces. And now that we are about to create these two new provinces, the right to tax those Canadian Pacific Railway lands, which otherwise they would have, we are not granting them. In Ontario the Canadian Pacific Railway lands could be taxed and I presume also in Quebec. All these go to show that in the different provinces which we have taken into the union, as well as in those which originally came into the union, there has been no hard and fast line laid down at all, and no rule followed by which they would be all on the same basis and enjoy the same legislative power.

Another question presents itself with regard to this matter, and it is this. Is there any right on the part of the Territories to come here and demand from this parliament provincial autonomy as something we

cannot refuse? Has this parliament not the right to refuse to grant it? I submit that we have a perfect right either to grant or withhold autonomy, and if we have the right to grant it, cannot we limit it? Surely the one proposition is a corollary of the other. Should we refuse to grant it altogether, what is there to prevent the people of those Territories appealing to the imperial parliament, which has a plenitude of power in the matter? And if the imperial parliament saw fit to grant their petition and enact this legislation with regard to education which we wish to enact, would not that parliament have the power to enact it? I submit that if the imperial parliament has the power, so have we, because it is a matter beyond dispute that the powers of this parliament, in all that is granted to us under this British North America Act, are what we know as plenary powers. They are powers as ample and complete as these of the imperial parliament in this respect. They are not delegated powers. We are not acting as agents of the imperial government, but are acting by virtue of our plenary powers to pass this legislation; and in this respect our powers are as high as those of the imperial parliament itself. This view of the law has been given out by the very highest authority. It will be found in the Privy Council cases, and I submit that on that ground the Bill before us is strictly constitutional. For the sake of argument let me put this case. Let us suppose that there is no reference whatever in this Bill to the subject of education. Let the Bill go through without any educational clause whatever in it, what will be the position of the new provinces? They would come under the main part of section 93 which says that education shall remain exclusively within the jurisdiction of the provincial legislatures. The subsections would not apply because they only apply to provinces which have established rights regarding denominational schools. They would come in under the first clause of section 93 and there would be no right to have any denominational schools.

Then I take the case of the free colonial legislature of Newfoundland. I do not know whether there is a system of separate schools in that colony or not, but I will assume that it has by law such a system; and I say that if Newfoundland should knock at the door of confederation for admission and we should admit her, that colony would come in subject to the provisions of section 93, subsections 1, 3 and 4, as it is a colony with a free legislature, able to enact its own laws, and higher than a territory governed from another source. It would therefore come in under section 93 while a territory would come in practically unrestricted. I submit then that a free colony is in a minor position to a