

powers that can be given under any other constitution—where they at present fall short may be briefly stated as follows :

1. Limitation of the power to amend the constitution to a power to deal with elections simply.

2. The withholding from the Territories the power to borrow money.

3. The retention of the power to deal with the public domain.

4. For the absence of authority to establish such public institutions as hospitals, asylums, &c.

5. No power being given to take, cognizance in any way whatever of public undertakings other than such as may be carried on by joint stock company.

6. The assumption by the Dominion of the duty of administering criminal justice in the Territories.

Now, Mr. Speaker, we are called upon to add the little that is necessary in order to give full autonomy to these Territories. The first question to be considered is : Has parliament the power to legislate for these new provinces in the manner proposed ? And the second question is : Are the provisions for the establishment of these new provinces fair and reasonable in view of the conditions now existing in those Territories ? I will not repeat what I have just said about the Act of 1871. But it has been suggested that the provisions of the British North America Act apply automatically to the new provinces. What that means, I must confess, I am somewhat at a loss to understand. I think I heard it suggested by some that our authority in this parliament is limited to the making of a declaration that the territory affected is a province, and then the provisions of the British North America Act would be applicable. Is that what is meant by saying that these provisions apply automatically ? This might be possible with respect to those provisions that apply to all the provinces. But what of the others ? There are provisions that apply to Quebec, there are provisions that apply to Ontario, there are provisions that apply to Ontario and Quebec, there are provisions that apply to New Brunswick, there are provisions that apply to New Brunswick and Nova Scotia ; and there are some provisions that apply to all the provinces. Which of these would apply here ?

Let me here again lawyer-like appeal to precedent. Those who drafted the British North America Act and who may be supposed to have best understood its provisions, were called upon, very shortly after they had drafted the British North America Act to draft the Manitoba Act. How did they proceed ? Section 2 of the Manitoba Act is practically section 2 of this Bill. That is to say, in the Manitoba Act you find a section declaring provisions of the British North America Act applicable to Mani-

toba. If these provisions apply automatically where is the necessity for this section ? The same thing applies to Prince Edward Island and to British Columbia. When British Columbia came into confederation, in 1871, those who are curious enough to look into the details of this matter will find, in the Order in Council provision is made which is practically in terms identical with the section of this Bill. And the same thing applies to Prince Edward Island. In all these cases the terms of the British North America Act were applied to the new provinces, except so far as they may be varied or amended by the statute or the Order in Council.

Then it has been argued that the provisions of the British North America Act may be made applicable, but we have not the power to alter or vary the terms of the British North America Act. Here again I appeal to precedent. If we have no power to vary the British North America Act why did they insert in the Manitoba Act, in the Prince Edward Island Order in Council, and the British Columbia Order in Council, a provision that the sections of the British North America Act would be applicable to these provinces except in so far as they may be varied or altered by the Act or by the Order in Council ? If we are in error, it seems to me, we have ample precedent for our error. On that branch of my argument, the conclusion I come to is, that we have the power to give to these provinces such a constitution or administration as this parliament deems it expedient to give. But the most that can be said in favour of those who take the contrary view—and it has not been said so far as I am aware—is that inasmuch as the British North America Act, 1871, provides that the parliament of Canada may from time to time establish 'provinces,' the word 'provinces' as so used must be interpreted having regard to the meaning of that word in the British North America Act, 1867, and therefore the province so established must be an institution corresponding generally with the provinces whose constitution is fixed in the British North America Act. Admitting, for the sake of argument, that that is so, it can only require that the new provinces shall be constituted, as to correspond in powers with the other provinces so far as, with regard to any subject or class of subjects the powers of all the provinces are the same. I might labour the point indefinitely and not get much further on. In addition to the quotations from Sir John Thompson made by the leader of the opposition, I would refer to a further statement by that gentleman which will be found in 'Hansard' of July 16th, 1894, page 6130. It will there be found that Sir John Thompson, one of the greatest constitutional lawyers among the many eminent men who have filled the position that I now occupy, held clearly and distinctly that the constitution