

called the educational clause and contains provisions in some respects wider in their scope than section 93 of the British North-America Act. Section 30 has reference to the ungranted land which remained vested in the Crown. Now, Mr. Speaker, I have drawn the attention of this House especially to these three sections of the Manitoba Act, and I have drawn the attention of this House to those three sections because these sections contain almost in terms those provisions of the Act now under consideration, which are especially attacked, and in connection with which the doubt has been expressed as to our power to constitutionally deal with this Bill. Let us look at the origin and history of these sections. Bear first in mind, that the Manitoba Act which contains the provisions I have just mentioned was drafted by Sir John Macdonald the father of confederation, then Attorney General of Canada, and it was introduced by him into this House and subsequently passed through the Senate at a time when the men who were most familiar with the scope of the provisions of the British North America Act, when the men who had discussed that Act section by section, line by line, word by word, were all either in this House or in the Senate. I have searched the debates of that day in vain for one word said in criticism of any of these three sections. There is not one word to suggest even that this parliament was not competent to pass such legislation. To set that question at rest, because it is of some importance, I have made an analysis of the debates which will be found in 'Hansard' of 1870, pages 1287 and following. If those who are interested in this question consult 'Hansard' they will find that Sir John Macdonald introduced the Act, and he said among other things:

The proposition of the government is that the people of the province shall be represented in the senate by two members until the province shall have a population at the decennial census of 50,000, &c.

Then Mr. Mackenzie spoke at page 1296, and he was followed by Cartier; then Mr. Macdougall intervened, then Mr. Ferguson, then the Hon. Joseph Howe, then again Sir John Macdonald, then Mr. Wood, then Mr. Harrison, then Mr. Mills, then again Mr. Macdougall and then again Sir John Macdonald; and it will be found that not one of these gentlemen ever referred to the question as to whether or not it was competent for this parliament to pass these sections. There was not a single voice in this House raised in protest against the action of the government at that time with respect to the Manitoba schools. I know it is said, that we cannot derive any advantage from an examination of the Manitoba Act because that Act was not in reality passed by this parliament. It is

said that, while it is admittedly true that such legislation was put through this House because of a doubt that had arisen it was found necessary to refer the Act to the imperial parliament, and it is said that consequently we have to examine it absolutely in the same way as if it had been an Imperial Act. Let us see what occurred in that connection. After the Act was passed here it was thought necessary to refer it, I admit. When it was referred, was any doubt suggested with respect to the right of this parliament to pass the three clauses in question? Those who are interested in this aspect of the case can see Sir John Macdonald's report—he was then Minister of Justice—printed at page 9 of Hodgins' collections. It will be there found that Sir John Macdonald said:

A question was raised as to the power of parliament to pass the Act and especially those of its provisions which give the right to the province to have representation in the Senate and House of Commons of the Dominion.

That was the only point with respect to which any question was raised as to the validity of the legislation. But, Sir John Macdonald goes on further and he says:

Under these circumstances, as a question as to the constitutionality of the Act of the Canadian parliament has been raised, and as a doubt may cause grave disquiet in the Territories which have been or may hereafter be added to the Dominion, and in order also to prevent the necessity of repeated applications to the Imperial parliament for legislation respecting the Dominion, the undersigned has the honour to recommend that the Earl of Kimberley be moved to submit to the imperial parliament at its next session: first, confirming the Acts of the Canadian parliament, 33 Vic., chap. 3, the Manitoba Act, as if it had been an imperial statute and legalizing whatever may have been done under it according to its true intent. Second—

To this clause of the report I wish specially to draw the attention of the House:

Second, empowering the Dominion parliament from time to time to establish other provinces in the Northwestern Territories with such local government, legislature and constitution as the Dominion parliament may think proper, provided that no such local government or legislature shall have greater powers than those conferred on the local government and legislatures by the British North America Act, 1867; and also empowering it to grant such provinces representation in the parliament of the Dominion, the Act so constituting such provinces to have the same effect as if passed by the imperial parliament at the time of the union.

Now, Mr. Speaker, it has been said that no argument can be drawn from the Manitoba Act because the Manitoba Act was passed subject to a doubt which was expressed with respect to its validity, and that it was necessary to get a confirming Act from the imperial parliament. Let us see how far the doubts then expressed