

erica Act, so far as it deals with land, deals with it in section 109. Section 109 gives the land to the provinces unconditionally. The hon. leader of the opposition (Mr. R. L. Borden) excellent lawyer as he is, before this question got to such a red heat as it is to-day, when the Bill was first introduced, suggested in this House, in connection with this land question, that it would be well to introduce an amendment by which, although the lands were given to the western provinces, they would not have absolute control of them; he would have some stipulations and conditions placed upon the manner in which they would hold the land, and would not give them an entirely and absolutely free hand. If it is proper for the hon. leader of the opposition to suggest that there should be such an amendment, if it would be proper to say that we should put such a proviso in section 109 of the British North America Act, what is the objection to making slight changes in other parts of the Act? If we have no power to touch it at all, if we cannot touch it in reference to schools, we cannot touch it in reference to lands; and if we can touch it in reference to lands, we can touch it in reference to schools.

Mr. R. L. BORDEN. Section 109 does not deal with the distribution of legislative power. Section 109 deals with the ownership of lands. It is only when the land is vested in the provinces that the question of legislative power arises, so they are two entirely distinct things.

Mr. D. D. McKENZIE. It is certainly an amendment of the Act.

Mr. R. L. BORDEN. I do not wish my hon. friend to misunderstand me. I said we could not alter the distribution of legislative power. That is the point I made.

Mr. D. D. McKENZIE. I understand that the position of my hon. friend is that we cannot amend the British North America Act.

Mr. R. L. BORDEN. No, we cannot; I do not take the position, however, that the 'terms and conditions' must always be the same.

Mr. D. D. McKENZIE. Does my hon. friend admit that we can?

Mr. R. L. BORDEN. As far as amending the Act is concerned, of course my hon. friend knows that section 146 of the British North America Act speaks of the terms and conditions on which provinces or territories may be brought in. That is one thing. But the distribution of legislative power is another and an entirely different thing.

Mr. D. D. McKENZIE. If we have no power to amend the Act, then we cannot touch it; and still it was quite competent, within the purview and terms of section 146 of which my hon. friend speaks, to

make terms and conditions, because that section of the Act contemplates two purposes. It contemplates the admission of Manitoba, British Columbia, Newfoundland and Prince Edward Island and other provinces, which are entities, provincial entities, at the time and capable of contracting. They were capable of going into this compact, of preparing a scheme in the shape of an address which is confirmed by Order in Council. It is quite true that they can put into it and take out of it, and slice it and form it, as it suits them, but the moment it receives the sanction of the Sovereign by Order in Council, then that is an end to it. In this case, instead of a compact, we have an Act of parliament. But my hon. friend takes the position that you cannot make any change in that Act, that you must simply make the conditions which suited New Brunswick, Nova Scotia, Quebec and Ontario, apply to the new provinces, because you have no sea room at all, you can do nothing. It is quite true that there was no limitation on the conditions which could be placed in the Order in Council, there was nothing to limit your sway in making the bargain; but will my hon. friend or his supporters submit that we have the same scope to-day? If they will admit that we have the same scope to-day, that we can put in the constitution which they are making for the new provinces every line and every word that we could put in an Order in Council bringing in British Columbia, Prince Edward Island or Newfoundland; if we have those powers under the constitution, then we have ample powers to put all these conditions into the new constitution. Will my hon. friend tell me, or tell this House or the country, that the provisions of section 92 or section 93 of the British North America Act were binding on Prince Edward Island when it was coming in, or on British Columbia when it came in? Nothing of the kind. They could make such provisions as they thought proper, and is it not right, when it is only this parliament that has the responsibility to-day—for there is no provision by which an address can come from the Territories, so that this is a one-sided negotiation, so to speak, and we take the full responsibility in this House for what this constitution will be—that we should be told that the constitution that would not stand in the way of the admission of New Brunswick or Prince Edward Island, or any other province, into confederation, must prevent us from making such terms and stipulations as we think are proper and right in bringing in new provinces from the west. I do not think that, as the leader of the opposition himself would say, it is either law or logic or sound argument to say that we have not as free a hand in making a province under the terms of the Act as we would have under the conditions which we could place in an Order in Council and in an address from an existing provincial entity. I submit, Mr.

Mr. D. D. McKENZIE.