

the warped and narrow restrictions which are now incorporated in it—restrictions as to which I shall have something to say presently. It were better by far that these Territories be left as they are, better by far that this Act should not pass, better by far that we should wait for a better order of things and until wiser counsels prevail, than to give these Territories provincial autonomy shackled by the impediments, so grievous and burdensome which are contained in this measure. Our original powers as a Dominion were derived from the British Crown under the British North America Act of 1867. And there were no narrow dealings in connection with that legislation; the lines of it were broad enough to suit the conditions which existed at that time. And, Sir, referring to that Act and its history, and going back to the Quebec resolutions which are the basis of it, it is important to observe at the outset that the provisions of the British North America Act were the result of treaty, of consent or agreement. Thirty-eight years before the leader of the House introduced this Bill, on the 21st of February—thirty-eight years before, within a few hours, the Earl of Carnarvon was speaking in the House of Peers in England on the question of the federation of the British North American colonies. I quote from his speech at page 576b :

We are laying the foundations of a great state, perhaps one which at a future day may even overshadow this country. But, come what may, we shall rejoice that we have shown neither indifference to their wishes nor jealousy of their aspirations, but that we honestly and sincerely, to the utmost of our power and knowledge, fostered their growth, recognizing in it the condition of our own greatness.

But there was a little temerity shown in the introduction of this Bill in the House of Lords in England. It was looked upon rather as an experiment. This experiment of confederation had been tried only four times, and in two of these four cases the confederation had subsequently dissolved or those who had been parties to it had retired from the agreement which led to it. This speech of Lord Carnarvon was quoted to considerable extent by my hon. friend from Labelle (Mr. Bourassa). In it some references were made to the question of education, which is now before the House. One of the cardinal principles which the noble earl laid down was that the federal parliament of the Dominion should be strong enough to maintain its own opinions and to resist the sudden gusts of popular opinion, and secondly, that it should not be so strong but that it should be amenable to public sentiment, and therefore out of harmony with the other branch of the legislature. There was doubt in the mind of the noble Earl, when he introduced this Bill, as to the use which might be made by parliament of the powers which were to be given to it in respect of the creation

of provinces, powers which, as he points out, might lead to oppression, to the improper use of too strong a majority; doubts whether, when the parliament of Canada exercised its powers under this Act, and when the time came, as it was hoped it would come, when provinces should have to be created, that there would be an overcrowding of power, an infliction upon the provinces of powers which were not suitable and which would amount, possibly, to coercion. My hon. friend from Labelle (Mr. Bourassa), in the course of his remarks referred to the Earl of Carnarvon's speech as proving that the powers which are now under discussion were contemplated on the introduction of the Bill. At page 3399 of 'Hansard' the hon. gentleman (Mr. Bourassa) said :

Sir, a clearer definition was given in the British parliament when the Bill was introduced there, and I suppose we will all accept the good British theory that if there is a division of opinion as to the effect of a law, we must go to the real thought of the enacting legislature in order to properly understand it. Lord Carnarvon said in the House of Lords on the 19th of February, 1867, when moving the second reading of the British North America Act :

In this Bill the division of powers has been mainly effected by a distinct classification.

Does he say that the classification is threefold? No, Sir.

That classification is fourfold: First, those subjects of legislation which are attributed to the central parliament exclusively. Secondly, those which belong to the provincial legislature exclusively. Third, those which are the subject of concurrent legislation, and fourth, a particular clause which is dealt with exceptionally.

He enumerates all the powers that belong to the provinces and the powers that belong to the federal parliament, none of which includes education; and he continues :

Lastly, in the 93rd clause which contains the exceptional provisions to which I refer, your lordships will observe some rather complicated arrangement in reference to education. I need hardly say that that great question gives rise to nearly as much earnestness and division of opinion on that as on this side of the Atlantic. This clause has been framed after long and anxious controversy in which all parties have been represented and on conditions to which all have given their consent.

Mr. hon. friend from Labelle, who, I regret to say, is not now in his seat, stopped at that point, although he stated that the noble earl continued and gave the rest of it omitting certain sentences that were uttered by the noble earl between the one which ends the quotation which I have just given and the one with which the hon. gentleman (Mr. Bourassa) proceeds, which is :

The object of the clause is to secure to the religious minority of one province the same rights, privileges and protection which the religious minority of another province may enjoy. The Roman Catholic minority of Upper Canada, the Protestant minority of Lower Canada, and the Roman Catholic minority of the maritime