

Territories at the present time. I have already mentioned the provisions with respect to the Lieutenant Governor with regard to other matters such as sessions of the legislative assembly, proceedings of the legislative assembly, &c., I do not observe that these are, in all cases at least, provided for otherwise by this Act we are now considering. Well, is there not some danger that you may incorporate something into this statute which will be afterwards found not very desirable, and which after all we cannot repeal? Has the Minister of Justice or any officer of the department gone very carefully over all the provisions of the Northwest Territories Act in that view? That is what I am anxious about. For example, we might take for illustration section 14 of the Northwest Territories Act as amended and consolidated in 1896:

The legislative assembly shall pass all necessary ordinances with respect to education, but it shall therein always be provided that a majority of the ratepayers—

And so forth. Well, that is continued in terms by this, and I am putting aside for the moment the consideration of section 16, because at all events we do not want any conflict, we do not want a provision which is inconsistent in any way with section 16. But putting to one side section 16, then do you not incorporate section 14 of the Northwest Territories Act as a constitutional provision of this new province, and if you do bring about that result, is it not equally true that this parliament could not afterwards repeal that provision? I am mentioning that, not in a controversial spirit, but simply by way of illustration.

Mr. FITZPATRICK. I take it that the Northwest Territories Act provides that there are some provisions of that Act which reserve to the Dominion government control over legislation, that is to say, the Dominion government legislates to some extent for the Northwest Territories. The Northwest assembly has also powers of legislation. Now, as I view it here, the body of the law which is under the control of the assembly is continued, and also that law, in so far as it is a matter of Dominion concern, is continued. That portion of the law which is under the control of the legislative assembly can be amended, altered or repealed by legislative enactments; that part which is a matter of Dominion concern, remains under our control. Now there must be, of necessity, some matters under the control of the Dominion authorities in the Territories, as there are in all the provinces of the Dominion, and these laws remain subject to our legislative jurisdiction.

Mr. R. L. BORDEN. I appreciate that entirely. For example, there is the provision in that Northwest Territories Act with regard to the application of the criminal law of Canada. It goes without saying that

Mr. STOCKTON.

so far as that is concerned there would be no difficulty. There are the two classes which the Minister of Justice has mentioned, there is the class of legislation which will hereafter belong to the province, and there is the class of legislation which belongs to the Dominion. But it seems to me that in addition there is another class of legislation, namely, certain provisions in the Northwest Territories Act which might be regarded as constitutional provisions, which do not deal with the Dominion as a whole, but deal with the constitution of the Northwest Territories; and, as I said before, I thought it might be possible that under the very generous expressions which we are now employing, those constitutional provisions, not being inconsistent with any provision of this Act, and not being inconsistent with the general provisions of the British North America Act, which are brought into force by section 2, might be regarded as a part of the constitution of the province, and that somewhat unexpected results might be found to ensue from this general mode of legislation. The Minister of Justice will observe that the language is very general. When he spoke of it a little while ago, I noticed that he spoke of the effect of this legislation; he said what is no doubt very true, that the intention is to continue in force all such provisions as would be applicable to the new provinces. But there are no words of that character in this clause so far as I have noticed, possibly they may have escaped my attention.

Mr. FITZPATRICK. I gather that, from the use of the words 'inconsistent with the provisions of this Act,' anything that would be inconsistent with the provisions of this Act is excluded.

Mr. R. L. BORDEN. The expression is 'except as otherwise provided by this Act.' It might be worthy of consideration whether you should not insert some such expression as that which the Minister employed in explaining the legislation a moment ago.

Mr. L. G. MCCARTHY. Is it not possible that there are more than two classes of legislation incorporated in the Northwest Territories Act, I mean one class within the power of the provincial legislature, the other class in the power of the federal legislature? If there is not a third-class, then the suggestion which struck me most forcibly of the hon. leader of the opposition (Mr. R. L. Borden) is not effective because the provincial legislature having exclusive jurisdiction in one class, the federal power having jurisdiction in the other, if both of these classes are covered by both jurisdictions there cannot be any difficulty.

Mr. R. L. BORDEN. There is no doubt about that, but my point was that there was a third class.