

Rupert's Land and the Northwestern Territory.
At the Court at Windsor, the 23rd day of June, 1870.

Present:—The Queen's Most Excellent Majesty, Lord President, Lord Privy Seal, Lord Chamberlain, Mr. Gladstone.

Whereas by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Address from the Houses of Parliament of Canada, to admit Rupert's Land and the Northwestern Territory, or either of them, into the Union on such terms and conditions in each case as should be in the addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act. And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the parliament of the United Kingdom of Great Britain and Ireland:

And whereas by an address from the Houses of the parliament of Canada, of which address a copy is contained in the schedule to this order annexed, marked A, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, to unite Rupert's Land and the Northwestern Territory with the Dominion of Canada, and to grant to the parliament of Canada authority to legislate for their future welfare and good government upon the terms and conditions therein stated:

And whereas by the Rupert's Land Act, 1868, it was (amongst other things) enacted that it should be competent for the Governor and company of adventurers of England trading into Hudson Bay (hereinafter called the company) to surrender to Her Majesty, and for Her Majesty, by an instrument under Her sign manual and signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers, and authorities whatsoever, granted or purported to be granted by certain letters patent therein recited to the said company within Rupert's Land, upon such terms and conditions as should be agreed upon by and between Her Majesty and the said company; provided however, that such surrender should not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land should be admitted into the said Dominion:

And whereas such surrender has been duly accepted by Her Majesty, by an instrument under Her sign manual and signet, bearing date at Windsor the twenty-second day of June, one thousand eight hundred and seventy:

It is hereby ordered and declared by Her Majesty, by and with the advice of the Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Acts of parliament, that from and after the fifteenth day of July, one thousand eight hundred and seventy, the said Northwestern Territory shall be admitted into and become part of the Dominion of Canada upon the terms and conditions set forth in the first hereinbefore recited address, and that the parliament of Canada shall from the day aforesaid have full power and authority to legislate for the future welfare and good government of the said Territory. And it is further ordered that, without prejudice to any obligations arising from the aforesaid approved report, Rupert's Land shall from and after the said date be admitted into and become part of the Dominion of Canada upon

Mr. D. D. McKENZIE.

the following terms and conditions, being the terms and conditions still remaining to be performed of those embodied in the said second address of the parliament of Canada and approved of by Her Majesty as aforesaid:—

1. Canada is to pay to the company £300,000 when Rupert's Land is transferred to the Dominion of Canada.

These are simply the steps that have been taken in regard to this land—in the first instance the conveyance of the title to the land to Her Majesty, taking it back from the company; in the next place granting to the parliament of Canada the powers they ask for to deal with this country, to make laws in respect to it and to exercise full control over it. Now, there is another matter of importance in view of the discussion which is now taking place in this House. What seems to be worrying us now is whether or not we have jurisdiction to deal with this question, whether or not we have jurisdiction to give a constitution to these new provinces. That is where some of our friends seem to find a difficulty. They say that the difficulty is not that they are not willing to extend these powers, but they question whether under the constitution they have the authority to do so. They would make us believe that they would be willing and pleased to extend these powers, but they say they cannot get away from the principles of the constitution.

That seems to be the position they take. Very shortly after confederation it became apparent to those governing Canada, that they would have to create new provinces in the Territories, and Sir John Macdonald was clear enough in his judgment and sound enough in his constitutional law to see that it would be necessary for him to get certain additional powers for this purpose. We need not speculate as to what Sir John Macdonald wanted, because he set forth his wish in a letter to Lord Kimberley, then Secretary of State for the Colonies, in which he wrote that he wanted an Act confirming the Act of the Canadian parliament 33 Victoria, chapter 3, as if it had been passed as an imperial statute. He further wrote that he wanted authority:

To empower the Dominion parliament from time to time to establish other provinces in the Northwest Territories with such local government, legislature and constitution, as it may think proper, provided that no such local government or legislature should have greater power conferred upon it than the power conferred upon 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 only limitation Sir John wanted was that the new provinces should be given no greater power than was granted to the older provinces at the time of confederation. If Sir John Macdonald wanted power simply to apply the British North America Act to the new provinces, he was clear-headed enough