

at that time enjoyed. The Act of 1867 provided only for the establishment of four provinces and their union into one under the name of the Dominion, and for the extension of the Dominion by admission into it of other parts of British North America. But by the Act of 1871 new powers are either granted or confirmed to the Dominion parliament: First, to administer the Northwest Territories as such without giving them the rights or the status of provinces; second from time to time to establish new provinces and at the time of such establishment to make provision for the constitution and administration of such provinces. Now, observe that the words of section 146 of the British North America Act of 1867 'Subject to the provisions of this Act' do not appear in section 2 of the Act of 1871. The words 'may make provision for the constitution and administration of any such province' are not restricted or qualified by any thing in this section contained, and are as broad and comprehensive as words can be for the purpose of enabling this parliament to frame a constitution for any province it may deem expedient to establish. I am not unmindful that in the last paragraph of the Act of 1886 it is said:

This Act and the British North America Act, 1867, and the British North America Act, 1871, shall be construed together, and may be cited together as the British North America Acts, 1867 to 1886.

Does that mean that you are to give effect to clauses in any one of the Acts, that are obsolete? Or does it mean more than this? That you are to read all the Acts together, so as to give each section in each Act its full effect in order that it may have its complete operation? These words in section 146 'subject to the provisions of this Act' have their meaning and their place in that section. What occurred with respect to that section? The imperial parliament passed the British North America Act of 1867, not merely, as an Act is passed under ordinary circumstances, to give effect to the intention of the legislature, but to give effect likewise to a solemn compact entered into between three distinct and separate political entities; and when that Act was passed, provision was made that by exceptional legislation—that is to say by Order in Council—Her Majesty was empowered to bring other provinces into confederation and to allow other provinces to be carved out of the Territories. Therefore it was of prime importance that in that provision authorizing Her Majesty to exercise these exceptional powers, under these exceptional circumstances, a restriction should be put upon the exercise of those powers, and that Her Majesty should be told: You can bring in new provinces, you can carve out new provinces in these Territories, but you shall do it subject to the Act we have

Mr. FITZPATRICK.

passed. There are reasons for these words in these circumstances; but when the imperial parliament in 1871 delegates these powers to the Dominion parliament, to be exercised by that parliament absolutely and for all time, just as they would be by the imperial parliament, we are acting, not under the provisions of an Order in Council, but under the authority of an imperial Act.

I am not quite sure that there are many members in this House who have observed a subsection of section 2 of the Act of 1886, upon which I do not care to lay much stress, but upon which, if I had a weak case, if I had a case which was not superabundantly proved otherwise, I might lay considerable stress. Section 2 of the Act of 1886 contained this extraordinary provision:

It is hereby declared that any Act passed by the parliament of Canada, whether before or after the passing of this Act, for the purpose mentioned in this Act—

The purpose was the representation of the province in the parliament of Canada.

—or for the purpose mentioned in the British North America Act, 1871, has effect notwithstanding anything in the British North America Act of 1867.

That is to say, the imperial authorities in 1886 declared, in anticipation, that any Act passed under the authority of the Act of 1871 shall be valid and effective. What could be the object of such legislation? I do not require to rely upon it; but it seems to me, as I said a moment ago, that if I wanted to indulge in a little hair-splitting, I would find here all the comfort I require.

Chapter 16 of the statutes of 1871, and chapter 5 of the statutes of 1872, were passed to provide for the government of the Northwest Territories. And finally, in 1875, an Act was passed which may be very correctly described in my opinion, as the constitutional Act of the Northwest Territories. That Act was amended on several occasions and consolidated in 1880 and again consolidated in 1886. In 1888 and in 1894 other Acts were passed which gave to the Territories practically local self-government and what is their position to-day? In order that there may be no doubt about that I will read an extract from the letter written by Mr. Haultain to the Prime Minister (Sir Wilfrid Laurier) and published in the Ottawa 'Citizen' of March 13th last:

The new territories have for a number of years been under one government and legislature performing most of the duties and exercising many of the very important powers of provincial governments and legislatures. There has never been any suggestion that the territorial machinery was in any way inadequate for the purposes for which it was created.

In a word, it is admitted on all hands that at present time the Territories have already been granted nearly all the legislative