

tive on us to pass it? It is evidently conceded that if this parliament has the power to adopt such a law, if it has the power to enact these educational clauses, that power must be found either in section 146 of the Act of 1867 or section 2 of the Act of 1871. Section 146 of the Act of 1867, which has been so often quoted, I may take the liberty of quoting again:

It shall be lawful for the Queen, by and with the advice of Her Majesty's most Honourable Privy Council, on addresses from the Houses of parliament of Canada and from the houses of the respective legislatures of the colonies or provinces of Newfoundland, Prince Edward Island or British Columbia, to admit those colonies or provinces, or any of them, into the union, and on address from the Houses of the parliament of Canada to admit Rupert's Land and the Northwest Territories, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed, and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the parliament of the United Kingdom of Great Britain and Ireland.

It seems to me that while this is not very definite with regard to the procedure, the words 'subject to the provisions of this Act' shows so clearly the intent that in all future considerations they should not be forgotten or overlooked. I do not think that in any future or subsequent additions to confederation, it was intended or expected that a new or different class of bargain, a new or different class of constitution, should be given, compared with what the different provinces confederated had at that time. That is strongly impressed on my view. Of course I know it is open to discussion, and other clauses come in that must be considered. Section 2 of the Act of 1871, which is known to you all as probably the main clause and which is regarded as giving the powers to enact the present educational clauses of the Bill before us, reads as follows:

The parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province and for the passing of laws for the peace, order and good government of such province, and for its representation in the said parliament.

This is the clause upon which those who favour the present Bill, on constitutional grounds base their claim as to the power of this parliament to enact; and there is no doubt that, looking at it in a certain way and from a certain standpoint, it is possible to read such a power within it. We have very different opinions, however, given by very able men upon that question. I shall not read them at length, but we have the opinion of Sir Louis Davies which does not

Mr. McINTYRE.

concede that power as being granted by section 2 of the Act of 1871. We have the same opinion given by the late Mr. Justice Mills, of the Supreme Court, and we have a contrary one from the late Sir John Thompson. All these are interesting and valuable; but considering the circumstances under which they were delivered, I do not think we can consider them as specifically definite or convincing. They were very likely political arguments delivered in the course of political speeches and not possibly evidencing as much care as had been recently given this question. We have likewise opinions from very able men indeed at the present time. The Prime Minister of this country no doubt thinks that the Dominion parliament has the power, under this section of the British North America Act of 1871, and should exercise it, or he would not have submitted to us the measure we are now considering. The ex-Minister of the Interior (Mr. Sifton) thinks also the Dominion has the power, but he prefers that we should not use it. He thinks it should be left to the new provinces; and he suggests that, in the event of our using it, it would be well to get a confirming Act. The hon. member for Jacques Cartier (Mr. Monk) thinks this parliament has only the power to create a province or call it into existence and to enact all the necessary details in that connection, and that after our powers in that respect are fully exercised, the province comes automatically under the control, of the British North America Act of 1867. We find further that that very able lawyer, Mr. Christopher Robinson, is doubtful whether the Dominion has the power. We find the leader of the opposition saying that we have no constitutional authority to pass the educational clauses. All these conclusions are arrived at from consideration of the same clause, and no doubt all these men have conscientiously come to these different conclusions through a desire to arrive at what is true and correct in the case. If that be so, it necessarily causes some anxiety to one who approaches the question for himself. I have watched with some interest the methods by which, as far as I can judge, these gentlemen arrived at their conclusions. If there be anything specially legal or constitutional in their methods that is shut out from ordinary laymen, then we must leave the question entirely to these legal gentlemen. We admire and cannot equal their very skilful method of presenting their arguments, but as far as I have been able to judge their methods of interpretation, I find they make selection of clauses bearing on the subject, I find that each one groups together the features that bear out his contention and draws comparison between the importance of those features and others that are antagonistic to it. There is a certain amount of inquiry as to the spirit of the law, there is an examination of certain words and phrases, and an examina-