

Kimberley be moved to submit to the Imperial Parliament, at its next session a measure:

1. Confirming the Act of the Canadian Parliament, 33 Vic., cap. 3, above referred to, as if it had been an imperial statute, and legalizing whatever may have been done under it, according to its true interests.

2. Empowering the Dominion Parliament from time to time to establish other provinces, in the Northwestern Territory, with such local government, legislature and constitution as it may think proper, provided that no such local government or legislature shall have greater power than those conferred on 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 Acts so constituting such provinces to have the same effect as if passed by the imperial parliament at the time of the union.

It is subsequent to this that the Imperial Act of 1871 was passed. Sir John Macdonald had not only applied for authority to lay down the terms and conditions on which the Territories might be admitted, but also for authority to frame their constitution; and that constitution was to be such as the Dominion parliament would deem proper to grant them, provided it did not give them greater powers than the other provinces enjoyed. Under these circumstances, the imperial parliament enacted for us section 2 of the Act of 1871:

The parliament of Canada may from time to time establish new provinces in any of the territories then forming part of the Dominion of Canada, but not comprised in any province of that Dominion; and may, at the time of said establishment, enact provisions for the constitution and administration of any such province and for the passing of laws concerning the peace, order and good government of such province and for its representation in said parliament.

Well, that clause providing for the creation of new provinces, enacted at the request of Sir John Macdonald, in the words just quoted, and contained in the very Act which confirms that of 1870 to restrict the powers of Manitoba, that provision, as all will see, is very broad in its wording. The imperial parliament was aware of what had occurred in the case of Manitoba. It was stated at the same time in section 5 of the same Act, that the Manitoba Act 'would be and was considered as having been in force'; that it was not void, as had been contended; and with a knowledge of these facts, parliament, in the broadest terms, authorizes parliament to establish new provinces. If the Dominion parliament desired that we should not have the right to restrict the powers of the new provinces, that was evidently the time to say so.

The hon. member for Lincoln and Niagara spoke last evening of mandator and mandatory. I am glad he has suggested such an example. Let us suppose that in the ordinary course of things a proxy informed his principal that he has possibly

exceeded his powers and requests him to endorse his action. Suppose also that by the same deed the mandator authorizes his proxy to make similar agreements; would there be any court of justice to decide that the proxy had exceeded his powers in acting as formerly?

But some object—and I regret that the hon. member for Jacques Cartier (Mr. Monk), a distinguished lawyer, professor of constitutional law, who made an eminently patriotic speech the other evening, has thought fit to uphold the first contention of the hon. leader of the opposition. He claimed that parliament had not the power to restrict provincial rights. He said: When I consider the wording of the Act of 1871, I am forced to the conclusion that, in accordance with the construction generally put on it, this clause would give parliament unrestricted powers; however, on closer consideration, I come to a different conclusion. He takes up, to begin with, the words: 'To constitute and establish.' These are not the words used in the Act; in the French as well as in the English copy the word 'constitution' is used. According to the hon. member for Jacques Cartier, 'constitute' would mean to fix the boundaries of the provinces and to decide on the date of their admission into the Dominion, and also to manage their affairs up to the date of the coming in force of the constitution.

Mr. Speaker, such a construction is in contradiction with the meaning given to the word 'constitution' in chapter 5 of the British North America Act. It is seen there that provincial constitution applies to the executive and the legislative power. Should there be any doubt on this point, we might consider the other terms used in section 2 of the Act of 1871, which enables us not only to enact provisions for the constitution and government of the provinces, but also 'for the passing of laws concerning peace, order and good government'; which evidently apply to the legislative power. If we were merely to admit these new provinces into confederation under the provisions contained in the British North America Act for Ontario and Quebec, they would be without a constitution, since they have not any as was the case with the province which came into confederation in 1867. New Brunswick, Nova Scotia, British Columbia and Prince Edward Island had their constitution just the same as Ontario and Quebec. But in this case it is necessary to decide on the terms of the constitution of these new provinces, since they are without a constitution at the time we are granting them provincial autonomy.

Other objections are made: If you are entitled, they say, to interfere with some of their rights, why not with all? Has not the Dominion parliament enacted laws concerning property in connection with railways, although that is a matter which comes within the purview of the provinces. Why should we have all these Dominion laws

Mr. L. P. DEMERS.