

Act, 1867, to the provinces mentioned in that Act: that this parliament has a right to establish a new province, but the moment we establish a new province, there is a constitution ready-made which automatically attaches itself to that province, and to the terms of which this parliament can neither add to nor take from. Other hon. gentlemen who have already given their views to this House, hold directly opposite views, namely, that this parliament has the right, not only to establish new provinces of these western territories, but to give to these provinces whatever constitution we deem best. I must say, Mr. Speaker, for my part, that I think the language of the British North America Act of 1871 seems to substantiate this latter view. Section 2 of the British North America Act of 1871 has already been cited to this House, but I will take the liberty of reading it again. It is as follows:

The parliament of Canada may from time to time establish new provinces in any of the 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.

Now, if that section had stopped at the end of the word 'thereof,' in the third line, the argument of hon. gentlemen opposite would have appealed to me, because the British North America Act of 1886 states that the three British North America Acts—1867, 1871 and 1886—are to be read and interpreted together. But the section did not stop there, it continued and said:

And may at the time of such establishment make provision for the constitution and administration of such province.

Now, Mr. Speaker, where there is such a conflict of authority, every man, especially every member of the legal profession, must be responsible to his own judgment. For my part I am satisfied that the British North America Act of 1871 means what its language to me so clearly imports, that this parliament may establish a new province and may make provision for the constitution and administration of that province. It seems to me that where the imperial parliament gives that power to this parliament, it imports a discretionary power in this parliament which is not limited to the mere attaching or coupling together of the new province and the terms of the British North America Act, 1867. Now, Sir, if we have the right, and I think we have the right to give to the new provinces such a constitution as this parliament, in its wisdom, deems best, what constitution are we to give them? There are two proposals before the House, one by the government confirming the ordinances, the other by the

leader of the opposition in his amendment. I will deal first with the amendment of the leader of the opposition, which reads as follows:—

Upon the establishment of a province in the Northwest Territories of Canada as proposed by Bill (No. 69), the legislature of such province, subject to and in accordance with the provisions of the British North America Acts, 1867 to 1886, is entitled to and should enjoy full powers of provincial self-government including the power to exclusively make laws in relation to education.

Now, Mr. Speaker, what does that mean, and under it what kind of a school system can we establish in the new provinces, and what rights, if any, will it preserve to the minority in those provinces? Eliminating for the moment those words which do not refer to education, the amendment may be read as follows:—

The legislature of such province, subject to and in accordance with the British North America Acts, is entitled to and should enjoy the power to exclusively make laws in relation to education.

Now, if the words 'subject to and in accordance with the British North America Act' had been left out, it seems to me it would have been perfectly clear that the hon. the leader of the opposition meant that the provinces should have power to exclusively make laws in relation to education. But those words are not left out, and it seems to me that they have the effect of restricting and of limiting the power of the provinces to exclusively make laws in relation to education, because that power is made subject to the provision of the British North America Act. If there is any provisions in the British North America Act which gives to any class of persons rights or privileges in respect to denominational schools, the clause of the amendment which says the province should enjoy the power to exclusively make laws in relation to education is subject to that provision. To my mind, what this amendment means is that the legislature of the provinces shall have power exclusively to make laws in reference to education subject to the provisions contained in the British North America Act relating to education. These provisions are contained in section 93 of the British North America Act, 1867. That Act says:

In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions—

And these provisions referred to are the subsections of that section, the first of which subsections is the following:

1. Nothing in such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

Mr. LAMONT.