

legislature, there would be no means of creating or electing a legislature. The representation of the province in this parliament had to be settled. All these are constitutional details relating peculiarly to the particular province, and in no way affecting the relations of the provinces to the Dominion. Such provisions were necessary to constitute a province, but does it follow because you must make such provisions to enable a province to set up housekeeping, to get to work, that that necessarily involves a power to upset the whole basis and foundation of confederation as to relations between the provinces and the Dominion? Surely not, and the Minister of Justice surely knows that not only do we give them merely such a constitution as I have described, but that at the very first meeting of the new legislature they can themselves amend what we so give, and if they please can make a new constitution. This is not a matter of opinion, it is settled by statute. Let me read section 92 of the British North America Act, 1867.

In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say:

1. The amendment from time to time, notwithstanding anything in this Act, of the constitution of the province, except as regards the office of Lieutenant Governor.

That shows clearly what in the Act of 1871 is meant by provision for the constitution of a province. It means simply authority to so constitute the province that it may elect a legislature and have a working and administrative organization. There is no foundation for the extravagant notion that this parliament, for the purpose of establishing one or two provinces out of the Northwest territory, was given power to overturn the whole scheme of confederation as regards legislative powers. You might as well say that under section 92, subsection 1, the province could upset the distribution of legislative power under the British North America Act as to say that this parliament can do so under the Act of 1871.

The Minister of Justice went on to read the next part of clause 2 of the Act of 1871:

—and for the passing of laws for the peace, order and good government of such province.

The hon. gentleman actually read this as if this parliament were to make such laws for the peace, order and good government. I have quoted the whole section, and it means only that we are to make provision for a constitution and to make provision for the passing of laws by the new legislature. I think the hon. gentleman knew that as well as I do.

By the fourth section of the Act of 1871, provision is made for the temporary government of the Territories by this parliament. That is a distinct clause and gives this parliament authority to make laws

during the territorial period and until a province is established. In this case the territorial period has been 35 years; and of course it was essential to provide for administration for the time being.

Section 4 reads:

4. The parliament of Canada may, from time to time, make provision for the administration, peace, order and good government of any territory not for the time being included in any province.

What does that mean? Is it not perfectly clear that this is a temporary provision to enable this parliament to make laws for the territory until such time as the province to be created shall have power to make laws for itself. What more?

Not for the time being included in any province.

The moment the Territories or any portion of the Territories is established as a province, our temporary authority ceases. We could only bind them for and during that interim period, a period in which they have been governed very much as a Crown colony is governed.

We sitting here, by the voice of parliament, and frequently only by the voice of the cabinet, told them what the laws was to be and they had to obey during the territorial period. To say that a people so governed, having no voice in the laws that apply to them, should be bound for all time by what we commanded them to do, seems to me to be absolutely absurd.

There is a further matter in connection with the Act of 1871, that I call attention to. When that Act was passed enabling us to establish provinces in the territory, that territory was already part of the Dominion, and was entitled to all rights and privileges as provided in the British North America Act. Surely it cannot be contended that as to a Territory so entitled, this parliament, in the absence of most explicit words in that Act of 1871 can pretend to any authority to take away any right or impose any obligation. In every way you look at it the intendment of that second section was to enable us to simply organize new provinces, so that they might pass laws, and administer their affairs. In support of my contention that it was never contemplated that we should be given power to subvert the constitution, I quote from the Hon. Mr. Blake, who speaking in 1869 said:

It is perfectly clear on great and obvious principles that the basis of union settled by the British North America Act is not capable of alteration by this parliament.

What language could be stronger than that? There you have the declaration of as eminent a lawyer as ever sat in this House, that the whole scope of the British North America Act indicated that parliament should have no power to alter its terms; and yet under an authority to constitute provinces in the Territories we are to