

and on address from the Houses of parliament of Canada to admit Rupert's Land and the 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, 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.

Hon. gentlemen will notice that the governing words of this section are the words 'subject to the provisions of this Act.' That is subject to the provisions of the whole of this Act; that is, subject to the provisions of section 93 of this Act. And we cannot bear the provisions of that section too strongly in mind:—

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

Let me now advert to the British North America Act of 1871, section 2:—

The parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion, 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 particular section is necessarily recited in the preambles of the Bills now before the House and is apparently so cited with a view to the possibility of the contention which has been raised by some speakers on the other side, namely, that the words which I have quoted 'make provision for the constitution' authorize this parliament practically to hand out to those new provinces any kind of constitution we may see fit. But it is to be observed that these general words must be taken in conjunction with and subject to the restrictive power of the particular words contained in section 93. Then, let us look at the British North America Act, 1886, where we find in section 3 this provision:

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.

This is, in effect a statutory enactment of that other canon of construction which the law provides, viz.: that the true construction of any writing must be arrived at while giving due force to all its parts; by harmonizing all these parts and making the writing one harmonious whole. And the effect of the joint application of these two canons of construction to these three Acts of 1867, 1871 and 1886, is, in my humble opinion, that parliament is not justified, while framing a constitution for the two new provinces, in inserting any provision

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that is at variance with sections 92 and 93 of the Act of 1867. Examine for a moment sections 91, 92, and 93 of the British North America Act of 1867. We find section 91 headed 'distribution of legislative power' and that it contains 29 subjects of legislative power which it assigns to the exclusive jurisdiction of the Dominion parliament. Section 92 is headed 'exclusive powers of provincial legislature.' It contains an enumeration of sixteen subjects of legislation which it exclusively assigns to the provinces. Then follows section 93 (headed 'Education') which provides that 'In and for each province the legislature may exclusively make laws in relation to education.' Can it for one moment be contended that there is any greater warrant for the Dominion parliament attempting to invade the exclusive legislative field of the provinces stated in section 93, than that in 92? Manifestly not. Now, let us look for a moment at the amended clause 16 as proposed by the right hon. Prime Minister. That amendment says:

Section 93 of the British North America Act, 1867, shall apply to the said province, with the substitution for subsection 1 of said section 93, of the following subsections:—

Then follow the three subsections which are to be substituted for subsection 1 of section 93. It is hardly necessary to observe again that we have here the bold, bald proposition to amend the British North America Act, an imperial Act—an impossibility. It appears to me that our power as the parliament of Canada is exhausted when we create a province, and that then section 93 automatically comes into effect. The general rule is contained in the body of section 93 which I have twice read to the House. But the body of the amended clause 16 says that the whole of section 93 as amended shall apply to Alberta and Saskatchewan, that is with the substitution for subsection 1 of section 93 of the three subsections of the amended clause 16. Why, let us ask, is this done? It is done because the government know that these restrictive subsections of sections 93 do not and cannot be made to apply as they stand and unless, amended by the amended clause 16. And let us see why that is so? If we turn to the restrictive subsection 93 we find these to be their provisions:

Nothing in such law shall prejudicially affect any right or privilege with respect to denominational schools—

The amendments to clause 16 say 'separate schools.'

—which any class or persons have by law in the province at the union.

Subsection 2 says:

All the powers, privileges, and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic