

me cite the views of the late Sir John Thompson, a great lawyer, a great constitutional lawyer, which were uttered in this House in the year 1894 :

What the constitution of the future provinces shall be, in view of the pledges which have been referred to, or in view of any other set of circumstances, will be for parliament to decide when it decides to create those provinces.

There was another gentleman, a lawyer who devoted himself, almost all his great ability, to the consideration of the constitution of Canada, a gentleman who, after being a colleague of my right hon. friend in his cabinet, was elevated to the Supreme Court of Canada, and whose loss by death a few years ago we all deplore. I refer to the Hon. David Mills, who, speaking also in this House, in 1894, used this language :

When the people of the Territories or any portion of the Territories are sufficiently numerous to constitute a province, when, in fact, they attain their majority in regard to local matters, and when they propose to set up for themselves, this parliament has no right to exercise control over them, no right to exercise any authority ; it can give good advice, but it has no right to give commands. But we are not dealing with the future. When the Territories have a sufficient population to entitle them to become a province they must decide for themselves whether they will have separate schools or not.

Another gentleman, at one time a prominent member of this House, now elevated to the bench of the Supreme Court of Canada, recently dealt with the permanency of institutions in the Northwest Territories. I refer to a very distinguished judge, to Mr. Justice Girouard. In a case lately decided in the Supreme Court in which he pronounced judgment upon the claim of certain municipalities in the Northwest Territories to impose taxation on Canadian Pacific Railway lands, Mr. Justice Girouard said this :

I cannot conceive that until provincial autonomy be granted under the imperial statutes to the Territories, or any part thereof, that the Parliament of Canada cannot amend, alter, or even repeal in whole or in part any provision passed for its government.

Could any language be stronger ? Continuing the learned judge says :

The express orders of parliament were to be the supreme law as long as the Territories remain part of the public domains of Canada, without provincial autonomy, which has not been granted to this day.

A former colleague of the right hon. gentleman, a man of great experience in this House, a man who was a constitutional authority, a man whose abilities as a lawyer were so eminent that my right hon. friend parted with him as a colleague in order that he might give his services to this country as a jurist upon the Supreme Court

—I refer to Sir Louis Davies—also dealt with this question. He said this :

The vast territory west of Manitoba through which the railway was to run was practically at the time uninhabited by white men. The provisions made for its future government were temporary, tentative and entirely subject to the control and guidance and supervision of the Dominion parliament and authorities.

Further on :

Most of the powers of the Territorial government were to be given in the discretion of the Governor General in Council from time to time and withdrawn when and as he thought fit.

And again :

The powers of legislation possessed by the Territorial council were delegated and not plenary powers. \* \* \*

All ordinances which the council had power to pass were to be subject to and not inconsistent with Dominion legislation especially relating to the Territories.

Mr. Clement, an eminent constitutional writer, at page 370 of the 2nd edition of his book has also dealt with this subject. I desire to make this question plain inasmuch as my right hon. friend has based his constitutional argument upon the permanence of those institutions upon the theory that, forsooth, because a certain enactment was passed in 1875 when there were only 500 people west of Manitoba, that provision must be, by the decree of this parliament, permanently impressed upon those territories although they now contain a population of 500,000. Here are the words of Mr. Clement :

From that time—

Speaking of the early history of the Territories—

—to the present, the Dominion parliament has had the power to legislate for the Northwest Territories in reference to all matters within the ken of a colonial legislature ; and although large powers of local self-government have been conceded to the inhabitants of these territories they are held at the will of the parliament of Canada. To what extent that parliament will interpose in reference to matters over which legislative power has been conferred on the Northwest Assembly, depends on 'conventions' not capable of accurate definition. No doubt before very long a new province or provinces will be formed out of these territories. The position, therefore, is so evidently temporary that it is difficult to decide to what extent of detail one should go in discussing the present position of the Northwest Territories.

Now, are not these authorities sufficient for my right hon. friend, or indeed sufficient for any hon. member of this House, to induce him to come to the conclusion that these provisions were absolutely temporary and tentative in their nature and that there exists nothing in the constitution which for one moment obliges us to impose this