

right to formulate an enactment in the creating statute to say that the province or its municipalities that may in future exist shall not tax the Canadian Pacific Railway Company. That is an interference with that provision of the Confederation Act contained in section 92 which gives the provinces absolute and exclusive control over municipalities. It is an interference with section 92 which says that the province shall have the right to raise money by direct taxation within its limits. I do not say for instance that the Canadian Pacific Railway has not any valid defence to offer to any exactions that may be made by the province or by municipalities within that province. There may be a defence, although the question is certainly one that admits of much doubt. But in my understanding of the constitution, we have no power by positive enactment to say to the new province: Here are two powers which you have under section 92, the power of taxing directly, and the absolute control over municipalities, but you shall not exercise these powers in either case with respect to this particular company.

Mr. BELCOURT. It seems to me the point to decide is the jurisdiction of this parliament concerning lands contained in the Bills now under consideration. I would like to know from my hon. friend exactly what his legal view is. I understood him to say, in reply to my question, that the provision in the Manitoba Act with reference to lands, by which the control of these lands was retained in the Dominion government, was *ultra vires*, but that that defect was cured by the Confederation Act of 1871, section 4, which he read to the House. I would like to know whether, in the opinion of my hon. friend, the amendment of 1871 has had the effect of amending the British North America Act of 1867 generally or only with reference to Manitoba, particularly as regards lands?

Mr. MONK. Well, it has amended the Confederation Act, no doubt; it has added powers in order to define more clearly our power to create provinces. But the question has never arisen before the courts as to the validity of our enactment with regard to lands in Manitoba.

Mr. BELCOURT. I want to know whether, in the opinion of the hon. gentleman, our powers given in the British North America Act of 1867 have been extended by the provisions of 1871, not only with reference to Manitoba, but with reference to any new province coming into the Dominion?

Mr. MONK. I think section 2, which is the basis of our powers under which we are acting now, is an addition, a further extension of what is contained in section 146 of the Confederation Act. There is an increase of powers—if that is what my hon.

Mr. MONK.

friend means. Now, Mr. Speaker, I wish to be brief, and I find it is very difficult. I am arriving at the point I wish to make with reference to the Educational Act. I have wandered away from it in order to give the House a better understanding of my opinion of these Acts, since we are on the second reading, and it will save me the trouble of explaining my views at a later stage. I hope that is the view which will prevail. I would like to point out, as a member from the province of Quebec, that it would be a great calamity indeed if the Minister of Justice and the government did not arrive at a conclusion that it is necessary to modify that section which has regard, for instance, to the lands. I do not see, looking upon it as a question of policy, what we have gained in the province of Quebec, and in the older provinces generally, by this enormous indemnity we are undertaking to pay the new provinces of the Northwest for their lands. As I understand it they have a legal claim to these lands. They are better able to administer them than we are here in Ottawa. They are on the spot, they know the necessities of their province, they have every interest in administering them with care, because these lands are their principal asset, and they are the best judges of the requirements of their province in respect to the lands. As to us in the province of Quebec, why, Sir, we have over 25,000,000 acres of good land for settlement, which we are trying to settle, which we are doing our best to settle. Instead of devoting all our energies and all our moneys and public resources to settle the lands in our own province, under the terms of the constitution, we are going to pay millions of dollars to keep a hold on the lands of the Northwest, which properly belong to our sister provinces. That is the way I understand this clause, and I hope it will be reconsidered.

Now, Sir, taking the views which I have offered to the House, being my own humble interpretation of the constitutional Act, I have entertained no doubt at any time that section 93 of the Act applies to this territory which we are to-day erecting into provinces. In section 93, as we all know, there was a protection for the rights of the minority in those new provinces. I assume that, but is it the case? Eminent lawyers, men whose authority on constitutional matters is far greater than my own, do not assent to this view. They do not think that section 93 applies to these new provinces, which is a proof, if proof was required at all, that lawyers, like doctors, will disagree on constitutional points particularly. There is no set of cases coming before our courts where we have had a more uniform spectacle of disagreement among our judges than constitutional cases. Therefore, I say there is a grave doubt in my own mind as to whether section 93 applies. If it does not apply, then what guarantee, what security has the minority of these two provinces on entering confederation? If it applies, if that