

Canada, by adding to the lists of voters for members of the General Assembly the names of all officials and employees of the Dominion Government qualified to vote at elections of members of the General Assembly under the laws in force in Nova Scotia on the 1st day of July, 1867, but who may have been disqualified by any Act of the legislature of the province passed after the said day. The lists first made shall form the register of electors of members of the House of Commons until the next year's lists shall be made and perfected and the provisions of sections 25, 26 and 27, respectively, of the said chapter shall be held applicable to such future lists. For any neglect or wilful breach of duty under this section the revisers shall be subject to the like penalties prescribed in section 24 of the said chapter.

Now, Mr. Chairman, when I spoke last night, it was from memory, because I had sent to the Library for the Act of 1871, but could not get in. The hon. member from Yarmouth (Mr. Flint), the hon. member for Halifax (Mr. Russell), and, if I mistake not, the hon. member for Inverness (Mr. McLennan) made the statement to the House last night, that there was only one set of lists made out, and that one set of lists made out by the revisers was used for Dominion elections and for provincial elections alike. My object is simply to call the attention of the House to the fact which I have mentioned, and to show that I was speaking from the authority of the Act. Before taking my seat, I wish to call the attention of the Solicitor General and the other lawyers in the House to section 41 of the British North America Act. It reads as follows:—

41. Until the Parliament of Canada otherwise provides all laws in force in the several provinces at the union relative to the following matters, or any of them, namely: the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution, shall respectively apply to elections of members to serve in the House of Commons for the same several provinces.

I am not a lawyer, and it is hardly necessary for me to say so, but I would like to get the opinion of the hon. the Solicitor General and other hon. members who are lawyers, on this point: As to whether this Parliament has the power now, after having in the year 1885 adopted a law of this Parliament for the purpose of governing all the federal elections throughout Canada, and which took the place of the then existing provincial laws; I ask now, whether this Parliament has the power to go back again to the provincial laws for the purpose of elections to this House? Can this Parliament now saddle on the provincial authorities the ob-

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ligations to take any part in the preparation or the carrying out of the laws which appertain to the election of members to this House? Section 41 of the British North America Act, it will be remembered, distinctly says:

Until the Parliament of Canada otherwise provides.

I take it, from that section, that after the Parliament of Canada did provide, then the Parliament of Canada, if it complies with the provisions of section 41 of the British North America Act, cannot go back and exact from the provincial or municipal authorities the service in regard to Dominion elections which this Bill casts upon them.

The SOLICITOR GENERAL (Mr. Fitzpatrick). That is a question of very considerable importance, and I expected to hear it asked in the course of this debate. At the proper time, I will be prepared to discuss it at greater length; but for the time being I may say, that, after having considered that question, I believe that we can adopt the provincial franchises. Of course, under our view of the case, we are not giving the local legislatures the power to make our franchises; we are simply adopting for our purposes the franchise they use for theirs. In that view, we do not, in my judgment, come into contact with this section of the British North America Act. The position, as I view it, is absolutely the same as if we took the provincial franchises and incorporated them in our Bill.

Mr. WOOD (Brockville). If my hon. friend (Mr. Fitzpatrick) did that, then he would make the creation of this new part of our constitution fixed and permanent. The question put by my hon. friend (Mr. McDougall) is this: That, inasmuch as the British North America Act, which is our written constitution, provided that we should, at a certain time, create a law in accordance with the 41st section of the British North America Act, and that, as we have created that law, then it is part of our written constitution, and cannot be changed. I understood the hon. Solicitor General to say, that he anticipated that question would arise in the debate. If you adopt the provincial franchises, as they are to-day, you make them a part of our constitution, so far as that section is concerned.

Mr. McDOUGALL. I would like to call the attention of the hon. Solicitor General to another section of the Act which it might be important for him to consider in conjunction with the one I have already indicated. I refer to section 92, on exclusive powers of the provincial legislatures. These include: "direct taxation within the province in order to the raising of a revenue for provincial purposes," "the establishment and tenure of provincial officers, and the appointment and payment of provincial officers." They are provincial officers who have