

Provincial Act of 1874, although the subject of education is placed within the exclusive jurisdiction of the Province by the B.N.A. Act, section 93. Hagarty, C. J., delivering judgment, says: "The case on behalf of the defendants was argued by Mr. Crooks in a very fair and candid spirit, admitting, as, of course, was necessary, with the Federation Act before us, that, if the Imperial Parliament distinctly legislate for us, they can do so, notwithstanding any previous enactment or alleged surrender of the power of exclusive legislation on any subject Where the Federation Act speaks of exclusive right, it means exclusive as opposed to any attempt to legislate by the Dominion Parliament."

As to the power of the Canadian legislatures to alter or repeal pre-Confederation Imperial legislation in force in Canada, the B.N.A. Act is perfectly plain. Section 129 enacts that all laws in force at the date of Confederation shall so remain subject to alteration by the Canadian authorities, but no change can be made of laws that were enacted by the Imperial Parliament (m).

Mr. Lefroy formulates his opinion in the following proposition: "The powers of legislation conferred upon the Dominion Parliament and the Provincial Legislatures, respectively, by the B. N. A. Act, are conferred subject to the sovereign authority of the Imperial Parliament" (n). And keeping in mind the duty of the Home Government to watch over the interests of the whole Empire, it cannot be imagined for a moment that the Imperial Parliament, even if it could do so, would shackle itself for all time in regard to the subjects enumerated in the B.N.A. Act, for by such a course the welfare of the Empire might at any time be jeopardized by antagonistic legislation on the part of the colony.

On the third point it is urged that to deprive the Imperial Parliament of its acknowledged right to govern the Empire express words are required (o), and within the four corners of the B.N.A. Act nothing can be discovered to afford the slightest ground for the conclusion that the Imperial Parliament has in any way curtailed its powers in that regard. "There is nothing indicating any intention of the Imperial Parliament to abdicate its powers of

(m) Munro "The Constn. of Canada" (1889), p. 266.

(n) Leg. Power in Canada, p. 208, Prop. 12.

(o) *Cushing v. Dupuy*, 1 Cart. 260.