

legality of marriages; whether we should recognise the right claimed to require dispensations before celebrating the marriage. With regard to jurisdiction, the Act of Confederation must be taken as we find it, and we must interpret its meaning as it clearly appears on the face of it, without regard to the views of the hon. gentleman who discussed this question when the scheme for Confederation was brought forward, or when the Act passed through the Imperial Parliament. I would like to hear the hon. mover, who desires to retain one of the provisos. I would prefer that we should vote on each particular branch of the question, and not on all together.

MR. LANGEVIN: The hon. gentleman is right in saying that we must interpret the Confederation Act, taking it as it is; but, if some disposition is not clear, or requires some explanation, it is quite within our right and the manner of, and rules for, the interpretation of Statutes, to see how the framers of the Bill viewed the subject at the time the law was passed. I agree with the hon. gentleman that the solemnisation of marriage is left entirely to the Local Legislature to deal with; but, with reference to these dispensations, I say that the question is not left to the Local Legislature, but to the Church to which the hon. gentleman and myself belong. If a marriage is to be contracted between parties of the Catholic faith, and dispensation is required, according to the rules and prescriptions of the Church, the law does not say that the dispensation will be such and such, but mentions the dispensation authorised by the Church, and the marriage then takes place. We have no right in this Parliament—with all the great powers that we own and claim and have—we have no more rights than the Confederation Act gives us; and those powers are limited on this subject; we have to declare what is the status of parties throughout the Dominion; but what the mode of celebration is to be, or what the dispensations shall be, is not within our province. After considering and weighing well that clause, I am disposed to vote for the amendment of the hon. member for Bothwell (Mr. Mills), as I have already stated.

MR. CASEY: While I agree with the hon. Minister in wishing to expunge this

clause, I do not coincide in the reason given by him. I understand him to contend that—this being a question of whether a prior dispensation is requisite to make a marriage valid—the power over these dispensations rests with the Local Legislatures entirely; and it is there I must take issue with him. I think the Constitution says it rests with the Local Legislature to say how the parties shall marry; but the question here is who shall marry? It rests with the Local House to say by whom the marriage ceremony shall be conducted and how it shall be conducted; but it rests with us in this Parliament to declare what persons shall have power to marry one another. Although I do not admit that we have no jurisdiction, I think this clause had better not be in the Bill. I think it would be as well to take this question of expunging the clause piecemeal, and make it two or three votes, as my hon. friend from Gloucester (Mr. Anglin) suggests.

SIR JOHN A. MACDONALD: But, if those hon. gentlemen who think it goes too far will not vote, I do not see how the hon. member for Bothwell (Mr. Mills) can alter his motion.

MR. MILLS: It is open for any member to move an amendment.

SIR JOHN A. MACDONALD: He might move that all after the word "valid" might be struck out.

MR. MILLS: Or stand as part of the Bill. With regard to the question of jurisdiction, I think the rule was well recognised in the Constitution of the United States, that it was necessary to look whether the power given is general or special. Now the question of property or civil rights was given to the Local Legislature. Out of that power was carved another—the subject of marriage and divorce—which, being carved out of a larger power, should be construed strictly; and then out of that is carved the power over the solemnisation of marriage. I am inclined to agree with the views expressed by the hon. the Minister of Public Works, that, after all, the power does not rest here. There is, too, this consideration, that, by the canons of the Catholic Church, marriage is a sacrament, and it is by the authority of the Church and not by Acts of Parliament that marriages celebrated by that Church are