

March 27, 1871

He doubted very much whether the House would have voted down the motion of the hon. member for Hochelaga if they had considered it carefully beforehand. It was virtually placing this House at the feet of the Government. He had no idea that a majority in this House could have sustained a proposition which would make the representatives of the people mere automatons. But if the House would assent to it, he doubted if they had a right to do so without first appealing to the people. As the constitution did not provide such a safeguard, then some protection should be afforded to the people against these amendments in the Confederation Act. Admitting his views to be extreme, he could not understand how hon. gentlemen could stand up and vote that the Government were right in seeking for a change of some of the most important provisions of the Constitution without at least having first consulted Parliament on the subject. He hoped, while there was yet time, this House would declare that our constitution was too sacred a thing to be altered without being fully discussed by the representatives of the people.

Hon. Mr. HOLTON moved that the resolution be amended by adding the following words: "And this House is of opinion that no changes in the provisions of the British North America Act should be sought for by the Executive Government without the previous assent of the Parliament of this Dominion." He could add little to the able speech of the hon. member for Gloucester.

Hon. Sir GEORGE-É. CARTIER said that the Government could have no objection to accepting the proposed amendment of the hon. member for Châteauguay.

Mr. MILLS said, in ordinary legislation, if the House did not fairly represent public opinion, their successors after the following elections could amend anything which should be found objectionable to the people. But in this case it was different. The constitution was to be amended in such a way that this House would be unable to undo any mischief which that amendment might produce. It was therefore necessary to proceed with extreme caution. Looking at the resolutions, however, he observed that the House was asked by them to declare that they were entirely in favour of the address—an address which had never been submitted to them for their consideration. Then the measure provided that "the Lieutenant-Governor of Manitoba shall be Lieutenant-Governor of the North West Territory." Now, under this provision, if the North West should be divided into forty Provinces, the Lieutenant-Governor of Manitoba would continue to be the Lieutenant-Governor of the whole of them for all time to come. Other unalterable measures were also proposed. When the Manitoba Act was passed it was to meet the peculiar circumstances which prevailed in that Province at the time, and to enable the Government to restore peace there. It was only for this reason that it had attained the assent of a majority in this House, and it was only regarded as a temporary measure, to be replaced by a better matured Act at some subsequent time. But the Government proposed to take advantage of this assent of Parliament to a temporary measure to make it unalterable. Now, if this principle were once recognized, what safeguard had the other Provinces against having their rights

invaded in the future? He would vote against establishing such a dangerous principle.

A vote was then taken on the amendment, which was: Yeas, 137; Nays, none.

Hon. Mr. HOLTON: I flatter myself that I have a good working majority. (*Laughter.*)

Mr. BLAKE said he could not find words strong enough to express his sense of the treatment which Parliament had experienced from the Government in this matter. Had their action been taken under assumed or real pressure of some great public crisis, there could be hardly an excuse for such a course. Parliament should, at least, be summoned to deliberate on such a grave measure. What language then could be found to express the censure which Government deserved for having, while Parliament was in session, taken upon themselves the responsibility of sending this draft Act to the Imperial Government without ever having asked the assent of the House to it. He congratulated the Government on their speedy conversion with respect to this principle which they had opposed before recess and voted for after recess. He congratulated their independent followers on the manner in which they had followed the Government. He had seen the hon. gentlemen eat dirt before, but he had never seen them swallow it whole before.

But he was opposed to the Manitoba Act on its merits. It proposed to alter the fundamental principle of the constitution—representation by population, and to confer upon this Government the power to adjust the representation of Manitoba and any future Provinces of the North West, as they pleased. The Government had written themselves down as opposed to their own Acts. Having amended the motion now, he would vote against it.

Mr. MACKENZIE said the course of the Government this evening showed to what desperate shifts they were reduced to defend their blunders. Their action on this question betrayed a pitiable condition of imbecility. They might have saved themselves this humiliation if the Hon. Minister of Militia had come down and admitted honestly that he was in the wrong.

A vote was then taken on the amended motion, which was carried: Yeas, 99; Nays, 38.

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INDEPENDENCE OF THE SENATE

Mr. BLAKE moved the second reading of the Act securing the independence of the Senate. He said that he considered the present position of the Senate very undesirable. That body was called upon to perform a most important part in the Government of the country, and there was no reason that it should not be as carefully guarded against Government influence as the "Commons." The terms on which the members of the Senate held their exalted position rather

led to the conclusion that peculiar care should be taken that Government temptations should in no measure affect their usefulness. He would be the last to interfere with the constitution in the smallest matter and to avoid that difficulty he did not propose that anyone should be ineligible to be appointed to the Senate, but a Senator should not be eligible for any office of emolument. No one who cared for the usefulness of the Senate would desire that it should become the mere refuge of the worn out members of the House of Commons, and some Senators themselves would be the last to permit such a thing, although there were cases in which persons who had changed their views had received their reward in a seat in that Chamber. It was obviously wrong to say that members of the House of Commons could not do their duty to the people and be in receipt of pay, but that, when placed in the Senate, they still could receive pay and do their duty to the people. He implored the House, therefore, to consider the matter and aid him in the effort he was making to secure the independence of the Upper House. He knew that in answer to his arguments, he would be referred to the House of Lords, but he held that the House of Lords was by no means a parallel case, and he was quite sure that it was utterly impossible that the Senate could retain that hold on the public confidence that it ought to possess, unless its independence was guarded in the most jealous way possible.

Hon. Sir GEORGE-É. CARTIER said the hon. member in the latter portion of remarks had shown that he had no confidence in the principle of the measure he was advocating—he had said that he knew what arguments would be urged against him. Senators were appointed by the Crown for life, and no one could expect them to relinquish any of the privileges that the Crown might bestow on them. If any measure were originated in the House of Commons in England, providing that no Government employment should be granted to a member of the House of Lords, it would be considered an attempt against the usefulness and independence of that body. If that argument was good in England it was good here. The body might be called the House of Lords, the Senate, or the Legislative Council, but the principle was the same, and the same rule ought to be followed.

It was all very well for the House to pass a measure securing its own independence, and providing that its members should not be exposed to any corruption or undue influence, but it should not extend the measure to the other branch. This rule had been maintained in the old Province of Canada. So long as the Legislative Council was appointed by the Crown, there was no interference with it on the part of the other House, but so soon as it was subjected to the electoral system, the laws affecting the one House were applied to the other. The measure proposed that a Senator should relinquish all privileges the Crown might bestow on him, and it was surely too much to ask the concurrence of the other House to such a measure—was it right, was it prudent that any degree of antagonism should be introduced between the two Houses? Surely it was not proper that a measure affecting the privileges of the one House should originate in the other. If such a measure was passed in the Senate and referred to the Commons that might give it their consideration, but constitutional etiquette

required that they should not originate the measure. It was not necessary to discuss the principles of the measure, for he was sure the House would feel that if it were to be considered at all, it should originate with the Senate.

Mr. BODWELL supported the proposed Bill. He objected to the vicious principle which would place worn out politicians in such responsible positions as the Upper House. Inasmuch as the Senators were not responsible to the people, they should be placed beyond the possibility of having their independence undermined. They were only human and could not be supposed to be less exposed to danger from temptation than other men.

Mr. MACKENZIE said the hon. member opposite seemed to think that in all matters affecting the Senate, this House should take for its model the House of Lords of England. But the cases were not analogous. During the Confederation debate he had expressed an opinion in favour of a nominated Senate, but he confessed that the manifestations of human faults both on the part of the Government and the individual members of the Senate, had caused him to alter his opinion. He had listened carefully to the arguments of the hon. Minister of Militia, and had heard no good valid reason for rejecting this Bill excepting the one that it should have originated in the Senate. If he (Mr. Mackenzie) regarded this Bill as displaying any discourtesy to the Senate, he would not give it his support, but he did not believe that it would be so regarded by the Upper House. The two bodies were constituted with co-ordinate powers, and the Senate had a right to originate a measure affecting this House at any time they might think fit to do so.

Mr. MILLS had always been opposed to nominating the Senate. He believed it was an anomaly in our constitution that one of the branches of the Legislation should owe its existence to the Government of the day. Under the present system, the Government, when not wishing to oppose a measure in this House, could have it defeated by their followers in the Senate. He did not believe that the Senate should be converted into a Magdelene asylum for prostituted politicians seduced by the Government of the day. (*Hear, hear.*)

Mr. BLAKE replied to the argument of the Minister of Militia that there was anything disrespectful in this Bill towards the Senate. In order that that body should have its full weight in the legislation, it was necessary that its independence should be preserved. Besides, the independence of the Senate was a matter relating to the well-being of the whole Legislature.

The motion was then put and lost.

YEAS

Messieurs

Anglin	Ault
Barthe	Béchar
Blake	Bodwell
Bourassa	Bowell
Bowman	Burpee
Carmichael	Cheval
Coupal	Currier
Delorme	Dorion
Ferris	Fortier

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Fournier	Geoffrion
Gibbs	Godin
Holton	Joly
Jones (Halifax)	Kempt
Killam	Lapum
Little	MacFarlane
Mackenzie	McConkey
McDougall (Lanark North)	McDougall (Renfrew South)
Merritt	Mills
Morison (Victoria North)	Munroe
Oliver	Pâquet
Pelletier	Pozer
Redford	Ross (Prince Edward)
Ross (Victoria)	Ross (Wellington Centre)
Rymal	Scatcherd
Snider	Stirton
Thompson (Haldimand)	Wallace
Wells	White (Halton)
White (Hastings East)	Whitehead
Young—57	

THE MANITOBA ELECTIONS

The SPEAKER announced the return of the Writs from Manitoba, declaring Donald A. Smith, Pierre Delorme and Dr. Schultz duly elected, and a tie in the other electoral district of the Province.

Mr. MACKENZIE said these Writs could not be recorded on the journals since an address had been forwarded to the Queen, praying that the Imperial Parliament be asked to legalize the Act, on which these elections had taken place, and it was quite impossible for this House to recognize these Writs.

Hon. Sir GEORGE-É. CARTIER said the Manitoba Act was quite constitutional, and the draft of the Bill forwarded to the Imperial Parliament was simply for the purpose of removing a legal doubt, nothing more. The returns should be treated just as the returns from any other elections.

Hon. Mr. HOLTON said there must be an enquiry on this subject in the present state of the law before these gentlemen were allowed to take their seat.

Hon. Mr. GRAY said the Manitoba Act having received the Queen's assent, the members elected to this House in Manitoba were elected under the law and their return was therefore quite valid.

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GALLERIES CLEARED

Hon. Mr. McDOUGALL (Lanark North) called attention to the fact that there were strangers in the gallery, and demanded that they be turned out.

The SPEAKER ordered the galleries cleared and the Sergeant-at-Arms appeared in the Reporters' Gallery and turned out the representatives of the press. The step was taken in accordance with the notification of Mr. McDougall given some time ago that he would order that the galleries be cleared of strangers on the first occasion that he saw Senator Miller in the House.

NAYS

Messieurs

Archambault	Beaty
Beaubien	Bellerose
Benoit	Bertrand
Blanchet	Cameron (Inverness)
Caron	Cartier (Sir George-É.)
Cimon	Coffin
Colby	Costigan
Crawford (Brockville)	Dufresne
Dunkin	Gaucher
Gaudet	Gendron
Gray	Hincks (Sir Francis)
Holmes	Hurdon
Jackson	Keeler
Kirkpatrick	Lacerte
Langevin	Langlois
Lawson	McDonald (Antigonish)
McDonald (Middlesex West)	Masson (Soulanges)
Masson (Terrebonne)	McDougall (Trois-Rivières)
McKeagney	Moffatt
Morris	Morrison (Niagara)
Pearson	Perry
Pinsonneault	Renaud
Robitaille	Ross (Champlain)
Ryan (Montreal West)	Scriver
Simard	Simpson
Stephenson	Sylvain
Tilley	Tourangeau
Tupper	Walsh
Webb	Willson—58