

The Lieutenant Governor, by and with the consent of the council or assembly, shall pass all necessary ordinances with respect to education; but it shall therein be always provided that a majority of the ratepayers of any district or portion of the Northwest Territories, or any lesser portion or subdivision thereof, by whatever name the same may be known, may establish such schools therein as they may think fit, and make the necessary assessment and collection of rates therefor.

That is so far as the majority are concerned. And further:

That the minority of ratepayers therein, whether Protestants or Catholics, may establish separate schools therein.

So far as the latter words are concerned, those relating to the establishment of separate schools, I do not understand my hon. friend the Minister of Justice to controvert the statement which I made, namely, that the effect of section 16, No. 2, is the same as that of section 16, No. 1, but he goes back and relies upon the language contained in the previous clause:

The majority may establish such separate schools therein as they may think fit.

These words he interprets as meaning that they may establish separate schools of such character as they may see fit. I venture to submit that they cannot have any such meaning. They do not refer to the quality of schools or the regulations under which they are carried on, because that would destroy altogether the legislative power already conferred upon the council of the Territories by the words I have just quoted: 'The Lieutenant Governor, by and with the consent of the council or assembly, may make all necessary ordinances with respect to education.' But if you take the view of the Minister of Justice, you absolutely take out of the hands of the council the legislative power with regard to the character of the schools, and you would have absolute self-government, in respect of the character, the regulation, the superintendence and the control of the schools, conferred upon the majority in each district. That, I submit, is not the meaning of the words 'may establish such schools therein as they see fit.' Those words are always subject to the controlling power of the Northwest Territories Legislature with regard to education. To give them any other meaning would absolutely take out of the power of the Lieutenant Governor, acting with the advice of the council or assembly, all further control of the schools. Surely my hon. friend does not contend that that is absolutely the meaning of the Act of 1875?

Mr. FITZPATRICK. I think that is the meaning put upon it by the ordinance of 1884.

Mr. R. L. BORDEN. The ordinance of 1884 cannot controvert, alter or amend sec-

tion 11 of the Act of 1875. It cannot affect that Act in any way. I understand now what I did not understand before. I understand what my hon. friend the Minister of Justice meant by saying that the Act of 1875 was interpreted by an earlier ordinance. Let us understand the situation. Under the Act of 1875, you might establish a dual system of schools, if you saw fit, but you were not obliged to do so. That is the distinction. There was the power but no obligation. The Act of 1875 did not mean that the majority of ratepayers of the Northwest in any particular district could make those ordinances with regard to education, the power to make which had already been conferred on the Lieutenant Governor, acting by and with the advice of the council or assembly. Yet the very reverse is the construction to which we would be driven by the argument of my hon. friend this afternoon. 'May establish such schools therein as they may think fit.' But those schools must be established subject to the controlling power of the council or assembly. Therefore it does not seem to me that this new and very ingenious point, suggested for the first time to-day by the Minister of Justice, is consistent with a reasonable interpretation of the statute. The Lieutenant Governor in Council makes ordinances regarding education, and he must give power to the majority to establish such schools as they think fit, but not schools of such character as they think fit or subject to such regulations as they think fit, or subject to such superintendence or control or inspection as they think fit, because with regard to all these matters the power has been conferred, not upon the majority in each district, but upon the Lieutenant Governor, by and with the advice of the council and assembly.

Mr. FITZPATRICK. In what respect then did the omission of the first words of the Act of 1875, section 11, abridge the rights of the minority, as stated by Sir John Thompson?

Mr. R. L. BORDEN. In this respect that, as I understand the report of Sir John Thompson, the Act of 1875 declared that the majority of ratepayers in any district or portion of the Northwest Territories might establish separate schools; but by the ordinance, which he thought to be beyond the powers of the Territories, that power was restricted to those districts which had been organized as public school districts, and he thought that in that respect there had been an attempted abridgment of the right conferred by the Act of 1875. At least that is the way I construe his language.

Mr. BERGERON. I do not want to tire my hon. friend the Minister of Justice, but I desire to ask him one or two questions. We seem to have come down to this, that