Act, or to be more correct perhaps I should say upon the spirit of that clause, by the highest tribunal of the empire. When the matter was argued by the counsel representing it was argued as it has been argued here during this debate that the exceptions—or rather that the subsections to clause 93—applied only to the provinces then existing, and even only to the provinces of Ontario and Quebec. It was therefore contended that the power of interference that the Catholics of Manitoba were claiming from this parliament, was inconsistent with provincial autonomy in matters of education. What was Lord Herschel's answer to that contention in his judgment? I shall read it:

'Before leaving this part of the case it may be well to notice the arguments urged by the respondent, that the construction which their lordships have put upon the 2nd and 3rd subsections of section 22 of the Manitoba Act is inconsistent with the power conferred upon the legislature of the province to exclusively make laws in relation to education. The argument is fallacious. The power conferred is not absolute, but limited. It is exercisable only 'subject and 'according to the following provisions.' The subsections which follow, therefore, whatever be their true construction, define the conditions under which alone provincial legislatures may legislate in relation to education, and indicate the limitations imposed on, and the exceptions from, their power of exclusive legislation. Their right to legislate is not indeed, properly speaking, exclusive, for in the case specified in subsection 3 the parliament of Canada is authorized to legislate on the same subject. There is, therefore, no such inconsistency as was suggested.

I am just as ready to take my legal authority on this question from Lord Herschel and Lord Carnarvon as from Mr. Haultain or the leader of the opposition.

Now, Mr. Speaker, education is not the only subject upon which federal and provincial jurisdiction come in conflict once in a while. The provinces have the exclusive right to legislate on civil matters, but every day we are passing laws here in relation to railways and in relation to banking and commerce which interfere with the provincial powers. Where are these upholders of provincial rights? A province in this fair Dominion, some three or four years ago, passed laws in relation to labour by which it endeavoured to exclude a certain class of people from their territory. The federal government disallowed that law because it was against the interest of the British government. Where were the apostles of provincial rights then? If I may say it, I was the only man to stand up in this House and proclaim that the province of British Columbia had a right to exclude Asiatic labour. Those gentlemen who seem to be so sincere when they claim that provincial rights should be the basis of our constitution, should not do as was done in the United States when state rights were invoked by men who wanted to retain on the fair flag of the United States the abominable stain of slavery. I say to these gentlemen that if they want to have peace and harmony in this country; if they desire that every citizen of Canada shall feel that Canada is his country, then let not these gentlemen come here and speak of provincial rights if their object is to make provincial rights an instrument of tyranny and injustice.

Mr. Haultain, in his letter to the Prime Minister, has admitted frankly that section 93 applied evidently to the Northwest Territories—in fact, that the moment the Northwest Territories became a province, that section applied mechanically from the day they were admitted into confederation, that is, in the month of July, 1870. Here again I find shelter for my dissent from the opinion of Mr. Haultain in the opinion of another man learned in the law—I mean Lord Watson, of the Privy Council. When the argument in the Manitoba case was proceeding before the Privy Council, Lord Watson interrupted Mr. Cozens Hardy, one of the counsels in that case, and what did he say about the very clause so frequently discussed in this House—clause 146, which authorizes the federal government to admit into the union the Northwest Territories, and to carve provinces out of them? He said:

The Imperial legislature in the Act of 1867 left niches to be filled by other provinces. As soon as those other provinces came in they were within the terms of section 93, but I quite admit, in this case, the terms upon which Manitoba came into the federation were settled by the Dominion parliament, otherwise they could not have exempted Manitoba from the provisions of section 93.

We have here the opinion of Lord Watson that the federal parliament acted within its jurisdiction when it exempted Manitoba from all the provisions of section 93, that is, when it claimed for Manitoba the rights under section 22 of the Manitoba Act as opposed to section 93 of the British North America Act which departed materially from it. Therefore we have here the dissent of Lord Watson from the opinion laid down by Mr. Haultain and the leader of the opposition that we must accept section 93 without modification as applicable to these provinces.

But, Sir, I suppose that when the Northwest Territories were admitted into confederation, the Canadian parliament meant what it said. I take also for granted that when the Imperial Order in Council was adopted, the imperial government knew what it did. Upon what terms were those Territories admitted? I will again read section 146 to show the point I want to make. That section says: