

legislature and people of the Northwest is surely the best possible evidence that could be furnished that those people may well be trusted to be both just and generous.

But, in considering this question, we must always bear in mind that these ordinances are merely the creature and outcome of the Act of 1875, which was an Act of the Dominion parliament, and not of any legislature of the Northwest, and that Act imposed and forced separate schools upon that region; so that these ordinances are really not independent voluntary territorial legislation. It is to be observed that the ordinances sharply define and make minute provisions for the erection and maintenance of both classes of schools, 'separate schools' and 'public schools,' and that those ordinances making that distinction and containing those definitions are now proposed to be incorporated in these Dominion Acts, thereby, it seems to me, making it impossible to contend, as has been done during this debate, that the words 'public schools' contained in the Dominion Lands Act include 'separate schools' as defined by the ordinances.

When we come to review the utterances of members of the cabinet who have given us their views during the course of this debate, we find these gentlemen singularly at variance. The right hon. the First Minister, who introduced this measure, told us that he stood on the rock of the constitution. He contended, though he made no serious attempt to prove it as a matter of law, that Canada was under a legal obligation to restrict the legislative rights of the proposed new provinces to legislate as to schools. It appears to me, Mr. Speaker, that he very properly stated what, and what alone, can be the real question which this parliament ought to decide, and that that question must be decided and decided favourably to the contention of the government before they can hope for one hour to enforce these Acts, even if they become law. The hon. Minister of Finance (Mr. Fielding) puts his support altogether upon the ground of a moral obligation. Let us see what that hon. gentleman says, as reported in 'Hansard.' He says:

My right hon. friend the First Minister has not declared that it is not within the power of this parliament to make a change. He has not declared that there is any legal or binding obligation resting on the parliament of Canada to re-enact the clauses of the Act of 1875.

Further on he says:

But what my right hon. friend does say is that if you will read the whole history of the question, you will come to the conclusion that though, as a matter of law, there may be no binding obligation—though in that sense you may not be able to produce a written contract, signed, sealed and delivered, as my hon. friend the leader of the opposition demanded a few moments ago—there may arise out of the whole history of this matter an obligation which the parliament of Canada should con-

sider, and which many men regard as a moral obligation which this House should fulfil.

Mr. SPROULE. The right hon. the First Minister went much further than to speak of it as a moral obligation, because he used the expression that the constitution provides that we must do it.

Mr. FIELDING. I do not think he said that the constitution provides that we must do it.

Further on he observes:

Therefore, I am not claiming that there is any binding legal obligation, but I do say that we are obliged to look carefully into the circumstances under which that Act was passed; and if we find that at the time it was regarded by its friends and supporters, and parliament generally, as an Act which was passed, not only for the present but the future, that creates a moral obligation which this House may well take into consideration.

These observations are contained in pages 3123 and 3124 of 'Hansard.' This amounts to saying that because the people of the Northwest did not rise in revolt when by the Act of 1875 separate schools were imposed upon them, but carried out that Act, and were generous enough to pass the ordinances of 1901 dividing the public moneys devoted to education, therefore the parliament of Canada are now under a moral obligation to treat them as abject slaves and to fasten separate schools upon them for all time. The hon. Minister of Customs defends the Bill by a hotch-potch of assumed law, and doubly assumed fact, as a basis for a policy behind which to shield the government. That hon. gentleman as reported in 'Hansard' made use of this language:

Judging from the arguments I have heard, and bringing to bear what common sense I have on the subject, and what legal knowledge as a layman I may have, it seems to me we have power to deal with this matter. In dealing with this matter, I have regard to the fact that in those Territories, of thirty years, by Act of this Dominion parliament under which people have entered that country, knowing that the existing school system had been established by an Act of this parliament, knowing that under these conditions people have gone in there and settled there under that system of education, I say it is only just, and right, and sensible, and the proper thing to do in dealing with this matter on the basis of justice of law, to say that the advantages, whatever they may be, that these people have had for thirty years, shall not, by this Dominion government, be taken away from them now.

He said further, on page 3190:

Yet these gentlemen talk about provincial rights being invaded by this Bill. Amid all the doubts and uncertainties that our constitutional lawyers in this House and outside of this House present, in reference to ascertaining what are the facts of the case, if, as I believe, from advice which I have received from men in whose legal knowledge I have confidence, we have the power under the amendment to the British North America Act of 1871 to pass this law which we have submitted for the approval of this House, and if