

groups and where you find a considerable number of Roman Catholic children in a school they are nearly all Roman Catholic children. It is in such case a Roman Catholic community, and by this Act they have the right to have a Roman Catholic teacher and to have Roman Catholic exercises after half-past three; so that in practice it gives them a greater advantage than it would appear to do from a casual reading of the Act. It has been fairly satisfactory although it does not give them the principle of separation as is given by the Act which is before us at the present time.

Mr. Speaker, we are face to face with the necessity of dealing with the question of giving these provinces a constitution and dealing with the question of educational legislation. I understand that my hon. friend the leader of the opposition takes the position, in which I concur, that we have a right if we so desire and the legal power to modify in detail the terms of section 93 of the British North America Act in such a way that the province as it was formed would have complete autonomy or liberty in regard to its educational legislation. If I am not correctly representing my hon. friend he will correct me.

Mr. R. L. BORDEN. That is not quite my belief. Does my hon. friend wish me to state what it is?

Mr. SIFTON. Certainly, I would be very glad.

Mr. R. L. BORDEN. My position is that if you apply to these provinces the terms of the constitution as they are to-day, they will give to these provinces the absolute right to deal with their own educational affairs.

Mr. SIFTON. I am sorry that my hon. friend said that because I had thought from the resolution which he has placed before us that his position was the position which I stated, and to my mind it would be a position that would be very much stronger. My hon. friend's amendment, I find, is as follows:

Upon the establishment of a province in the Northwest Territories of Canada as proposed by Bill (No. 69), the legislature of such province, subject to and in accordance with the provisions of the British North America Acts 1867 to 1886, is entitled to and should enjoy full powers of provincial self-government including power to exclusively make laws in relation to education.

If I understand my hon. friend aright, and I regret his position is not as I stated it, he says that by the application of the British North America Act, *ipsisssima verba*, the effect of it would be that the provinces would have unlimited power in regard to education. But, my hon. friend can only give his opinion to that effect as a lawyer. Other lawyers do not think so. Other law-

Mr. SIFTON.

yers think the direct opposite. Other lawyers think that if you put section 93 of the British North America Act into effect the time when the province came in would be regarded as the 1st of July, 1905, and that the condition of affairs which would be preserved by the British North America Act would be the condition of affairs as they exist on the 1st of July, 1905. I do not say which is correct. It is a difficult point to decide, but surely we are not, when we are about to legislate upon this subject, going to allow the provinces to settle this question by a long course of litigation, turmoil and dispute. To show how difficult it is to have a positive opinion upon such a point I have heard men who are considered to be good lawyers flout the idea, or the proposition of law which my hon. friend suggests and I have heard men who are pretty good lawyers flout the opposite idea. In a question of that kind we who are lawyers all know it is absolutely impossible to tell how it will be held when it comes to be threshed out in the courts. To my mind for this parliament, sitting here in all its sovereign responsibility to give these Territories a constitution, to deliberately go to work and, for the purpose of getting out of the responsibility of doing one thing or the other, give that constitution in such terms that they will have to have a series of lawsuits for half a dozen years to have the question settled would be the most unstatesmanlike thing that we could do.

Mr. R. L. BORDEN. I do not want my hon. friend to misunderstand me. He has in the first place only quoted part of my argument. He speaks of the provinces coming in. A large part of my argument was devoted not to the question of a province coming in but to that of a province being created which my hon. friend has not dealt with at all. But, apart from that and in answer to what he has just said my view is a very simple one. I say that we have the right and only the right to apply the constitution as it exists at present in respect of the distribution of legislative power. My hon. friend seems to think that we can go on and do something more. If my view is correct we cannot go on and do anything more, and if we enact from now until this time next year it will not alter the result, because in the end our right to legislate must be determined in the courts. That is a very simple proposition.

Mr. SIFTON. My hon. friend's statement does not alter my view in regard to his position. First of all, we would unquestionably have to change section 93 of the British North America Act before we could do it.

Mr. R. L. BORDEN. Certainly.

Mr. SIFTON. Unquestionably we would have to feel we had that right. For my part, so far as concerns the changing of