

Sir WILLIAM MULOCK. Yes; it is sometimes necessary to go outside the record, but I would ask the House to allow me to return to the real issue. The hon. gentleman from North Toronto (Mr. Foster) spoke of the Quebec compact, which is to be found in the British North America Act, and declared that that compact, crystallized into the Confederation Act, did no more than secure separate schools to the minorities in the provinces of Quebec and Ontario. He denied that any other part of this Dominion was entitled to separate schools under that Act. Let me remind him that he gave the contrary view to this House nine years ago. Then he was arguing in favour of the constitution. Then everything outside the constitutional argument was, in his judgment, out of order. When the hon. member for East Grey (Mr. Sproule) ventured to interject something that did not appear to have any strict bearing on the constitution, he was immediately rebuked by his colleague from North Toronto. He was immediately told by him that the subject was one solely of the true construction of the constitution. To-day he tells us that under the British North America Act, and the compact out of which it grew, no province, except the provinces of Quebec and Ontario, is entitled to the benefit of the 93rd section of that Act. Speaking on the 13th March, 1896, in this House, as reported in 'Hansard,' page 3476, he made use of the following language:

The first question then for me to solve when I approach the consideration of this subject is this: Is there any compact or agreement arrived at in this country and embodied in the constitution under which we live which has first to be considered before we can give our decision upon this question? The answer is plain and definite. There is a compact in the constitution of the confederation; there is a second compact in the constitution of Manitoba, ratified by the British parliament, and under which she became a part of the Dominion.

Then he proceeded to say, in answer to an interruption by the late Mr. Wallace:

If the hon. gentleman will allow me to proceed I will answer that question in due course, and I will answer it thoroughly. Arising out of long years of sectarian and religious strife under united Canada, opinions and convictions in reference to this matter became gradually modified, and when the representatives of the four provinces came together at Quebec to take up, discuss and settle articles of confederation, these convictions rapidly and definitely resolved themselves into the determination that it should be laid down in the constitution of the country that whatever rights and privileges religious minorities had in the provinces at the time of confederation should maintain their status quo and shall not be changed. And so the first paragraph of the educational clauses of the confederation resolutions gave by general consent to the provinces the power to deal with respect to education:

Saving the rights and privileges which Catholic or Protestant minorities in both Canadas

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may possess as to their denominational schools at the time when the union goes into operation.

The only change which took place in that clause was this, that instead of its being confined to both Canadas, it was broadened to include the provinces which entered confederation.

Some hon. MEMBERS. Hear, hear.

Mr. FOSTER. It does not matter very much; but if the hon. gentleman will pardon an interruption, I would remind him that what he has just read is exactly what I stated to-day.

Sir WILLIAM MULOCK. In that case, I think that on a perusal of his remarks the hon. gentleman will find that he did not give expression to the ideas which were in his mind. If he repeats and affirms what he said in 1896, we start from that ground instead of the new ground which, I think, he was taking to-day.

Sir WILFRID LAURIER. Hear, hear.

Sir WILLIAM MULOCK. However, what is the issue now? Once to-day the hon. gentleman said it was a question of provincial rights. His leader moved an amendment, and in supporting that amendment said that the question was not, with him, one of separate schools, but of provincial rights, and he proposed to take his stand on that ground. And it is argued by some gentlemen that the proposed legislation would be a violation of provincial rights. But there can be no violation of a right until that right is created. First you must show that the province has a right, and then that the right which it possesses, is being violated. The first question in my judgment, therefore, is: What are the rights of a province when it is created? There we immediately enter upon debatable ground, because there are two conflicting views as to how a province may derive its constitutional power and rights. If I understand my hon. friend the leader of the opposition, his contention is that the moment a territory acquires provincial status, that moment it automatically becomes possessed of certain rights under the British North America Act, that it inherits these rights that moment without more being done, without any act on the part of the Dominion parliament or the Dominion government, and without any imperial legislation—the moment you give the provincial status to a territory, that moment, according to the leader of the opposition, it acquires its provincial charter, and its rights are there set forth or may be found. He takes the literal interpretation and makes that the rock of the constitution. He would have us believe that the rock of the constitution is the letter and not the spirit of the British North America Act. Here we see the lawyer—he looks to what is nominated in the bond. I care not, he