

Let us look at what were the facts, what are the historical facts in connection with school legislation in Canada. At the time the British North America Act came into operation there were practically only two religious sects in Canada; there were practically only Catholics and Protestants at the time the Act of 1875 was put in force with reference to the Northwest Territories. There were practically only two religious denominations in the Northwest Territories, Catholics and Protestants. It was never attempted to make any provision, never sought to make any provision which would confer any right on others than these two denominations. In 1875, as I have said a moment ago, there were two religious denominations only, This afternoon in order to make their argument, the leader of the opposition (Mr. R. L. Borden) and the member for North Toronto (Mr. Foster) conjured up the case of the Galicians and Doukhobors, Mormons and Jews and other religious denominations, and other denominations. Well, I think that is introducing into the interpretation of section 11 of the Act of 1875 an element which should not be introduced at all. We must look at legislation in order to interpret it properly in the light of the facts which are contemporaneous with that legislation, not the historical facts which came into existence 35 or 40 years afterwards. If this clause were taken in court to-morrow to be interpreted, I would ask the member for North Toronto, I would ask the leader of the opposition, if any lawyer would be allowed to argue that the majority mentioned in section 11 must be interpreted in the light of the extraneous facts which have been introduced this afternoon, in the light of the fact that there are to-day Mormons, Jews, and Galicians. Surely not.

Mr. FOSTER. Does the law of 1875 exist simply for the year 1875?

Mr. BELCOURT. Not at all.

Mr. FOSTER. Or for all years and all conditions? And not for each year which the law is in force.

Mr. BELCOURT. I do not think that is a difficult question to answer.

Mr. FOSTER. It is not a difficult question to answer but any judge or court in interpreting the law of 1875 would interpret it for 1905 under different conditions. How is the interpretation going to go? Is it going to go according to the conditions of the year 1875 or to the conditions of 1905?

Mr. BELCOURT. That is exactly the point I am trying to make. I submit as a matter of sound parliamentary interpretation of law, that in the interpretation of a law by parliament and not by a court of justice—

Mr. FOSTER. I am speaking of a court of justice.

Mr. BELCOURT.

Mr. BELCOURT. A court of justice would not look at the circumstances of to-day or of 30 years ago.

Mr. FOSTER. Then my hon. friend has no argument at all.

Mr. BELCOURT. I have no argument? That is a mere affirmation. I am going to make an argument and if I cannot impress my hon. friend perhaps I can impress somebody else.

Mr. FOSTER. I will try to be impressed.

Mr. BELCOURT. So far as the judge is concerned, I quite admit that the hon. member for North Toronto who took such pains this afternoon to say he was not going to argue as a lawyer, but as a parliamentarian or common sense man, argued it from the most narrow, contracted view that any lawyer could take.

Mr. FOSTER. That shows that the law and common sense go side by side.

Mr. BELCOURT. My hon. friend is well known for his ability to whittle, whittle, whittle things down to the very finest point, and when he says that he has not the legal ability or acumen to argue as a lawyer he is doing himself great injustice. I repeat that this Act must be interpreted not in the way a judge might possibly interpret it, in a narrow, judicial way, but in a large, broad, what I would call an equitable way. Parliament to-day should look at the intention of parliament in 1875; it should look at the conditions of things at that time and I have no hesitation in saying, so far as I am concerned, that section 11 of the Act of 1875 contemplated and intended to give the Northwest Territories a dual system of education. That it contemplated the erection there on the one hand of Protestant denominational schools and on the other hand of Roman Catholic denominational schools. I submit that the words:

That a majority may establish such schools therein as they may think fit.

—give the people of the Northwest Territories where they are a minority either Catholic or Protestant the right to establish according to their own religious belief, schools of their own faith according to their own views.

Mr. R. L. BORDEN. Would my hon. friend—

Mr. BELCOURT. I was coming to that. My hon. friend was going to tell me that would be inconsistent with the first portion of the section.

Mr. R. L. BORDEN. No, I was not, I was going simply to ask whether or not the hon. gentleman concurred in the view of the hon. member for Labelle (Mr. Bourassa) that the majority mentioned in that part of the clause is a religious majority?