

opinion on this question. Why did not the hon. Minister of Justice (Mr. Fitzpatrick) rise in the first instance and give an opinion, more particularly in view of the fact that weeks have elapsed since the hon. leader of the opposition (Mr. R. L. Borden) spoke on this question and gave a legal opinion which stands to-day unshattered, and has not had one particle stricken from it or from any of the strong arguments that were adduced in it? We have two Bills, and it is hardly worth while going into the merits of the two owing to the fact that on the question of principle the two are almost the same. The whole question is involved in this school matter, whether or not there shall be two systems of schools in the Northwest Territories. Two grounds have been taken, and I propose shortly to speak on this question, because the ground has been well traversed. The first ground taken by the Prime Minister was, as I understood it, that in the original Act which gave power to these Territories a system of separate schools was conferred upon the people there. But, as the law that gave these people the system of schools which there prevails was a law framed by this parliament, it is an admitted fact, and it has not been contradicted, that this parliament had exactly the same right to take away as it had the right to give. The people of these Territories had, in addition to their separate school system of education, under the Acts, the right to the official use of the French language in the Territories, and yet, although that right was similarly given to them, it was taken away by this parliament. So, on the same line of argument, and on the same line of reasoning, as they had the right to remove the privilege of the official use of the French language in the Northwest Territories, they had the right to divorce these people from the system of separate schools. I do not propose to give my opinion on this question, because my opinion, as I expect the opinions of many legal gentlemen in this House, will have very little weight. I can rely upon the opinions of admittedly great constitutional lawyers; I will cite the opinion of Sir John Thompson, who, when the question arose as to doing away with French as an official language in the Northwest Territories, said:

What the constitution of the future provinces shall be, in view of the pledges which have been referred to, or in view of any other set of circumstances, will be for parliament to decide when it decides to create those provinces.

That opinion has been quoted in this House before, and no gentleman opposite has attempted to controvert the dictum of Sir John Thompson. The Hon. David Mills was the acknowledged constitutional authority of the Liberal party when in opposition, and on account of his legal attainments he afterwards was elevated to the Supreme Court bench, and Mr. Mills said:

When the people of the Territories or any portion of the Territories are sufficiently numerous to constitute a province, when, in fact, they attain their majority in regard to local matters, and when they propose to set up for themselves, this parliament has no right to exercise control over them, no right to exercise any authority; it can give good advice, but it has no right to give commands. But we are not dealing with the future. When the Territories have a sufficient population to entitle them to become a province they must decide for themselves whether they will have separate schools or not.

I quote the opinion of Sir Louis Davies, another eminent Liberal lawyer and now a judge of the Supreme Court, who said:

The vast territory west of Manitoba through which the railway was to run was practically at the time uninhabited by white men. The provisions made for its future government were temporary, tentative and entirely subject to the control and guidance and supervision of the Dominion parliament and authorities.

Most of the powers of the Territorial government were to be given in the discretion of the Governor General in Council from time to time and withdrawn when and as he thought fit.

I might quote the opinions of other jurists of repute, all laying down the principle that this parliament had no right to interfere with these new provinces in their educational legislation. We have heard the argument advanced on the other side of the House, that these provinces stand in exactly the same position under the British North America Act that the provinces of Quebec and Ontario did at the time of the union. That contention has been to some extent abandoned by the government, and I do not believe the Minister of Justice will attempt to justify it. The fact of the matter is that so far as the law on the question is concerned the government has not a ghost of a case and the House awaits with expectancy to hear what arguments the Minister of Justice will advance to buttress up the position of the government. If the position of the government is weak in its legal aspect that weakness is in the main due to the utterances of certain cabinet ministers. When they saw their weakness and when they saw that men like the member for South Perth (Mr. McIntyre) could not be convinced by the so-called legal argument, they endeavoured to arrest the stampede by dwelling on the political expediency of the case. The Minister of Finance in an impassioned address turned to his followers and told them: If you don't support this Bill the government goes out and the Tories will come into power. The Minister of Finance evidently thought that it is not a question of principle or a question of the legal rights of the minority, but that the whole question at issue was one of practical politics. I want to be fair to the Minister of Finance who did offer one argument in favour of the Bill, and were he in the House to-night I would ask him a question. He pointed to the fact