

in Quebec and in Ontario, and I quoted the language of the legislators of that day and the intention they had in passing the statute. I say we must interpret the word 'majority' in the second paragraph of that Act in the same way as the word 'minority' in the third paragraph; that is, it means that if the majority were Catholics it could establish Catholic schools, and if the majority were Protestant it could establish Protestant schools; but if the minority were of a different creed they could separate from the majority and establish such schools as they saw fit. Now, to that the hon. gentleman makes an objection that would leave no schools to any other class of people than the Roman Catholics and the Protestants. I never contended that, and I think it would be a senseless contention.

The law left to the authorities of the Northwest Territories the power to deal with education, to pass ordinances in respect to education, and under that power, they may establish a system of public schools. They may establish a system of non-sectarian public schools to-day, one to which Protestants or Catholics or any other class of people can send their children, and as a matter of fact that is what was done under the law of 1875 before the ordinance of 1892 was passed. But I say that in so far as separate schools are concerned it meant nothing but Protestant schools on the one side and Catholic schools on the other. The hon. member has tried to throw ridicule on that opinion of mine which I expressed the other day and he cited the opinion of the Supreme Court of New Brunswick in the famous case of Renaud to the contrary. In my simple, layman way of reading a document I have read that judgment and what I found I thought was this, that the Supreme Court of New Brunswick decided first that under the Parish School Law or under the Common School Law, Catholics enjoyed no rights which they could claim as rights under section 93 of the British North America Act, that whatever religious exercises were carried on in public schools were not those provided for under clause 93 of the British North America Act. They decided secondly that denominational schools, as provided for under subsection 1 of section 93 meant the schools of any denomination, any Protestant denomination, or the Roman Catholic but in so far as separate schools are concerned and as provided for by subsections 2, 3 and 4, they meant Catholic schools on one side and Protestant schools on the other. I quote from the judgment:

It is contended, in this case, that the words 'denominational schools' were not used by the legislature, and should not be construed by us in their ordinary grammatical sense and meaning, but should have a much broader interpretation. While freely admitting that, though the general rule is that every word must be understood according to its legal meaning, in con-

structing an ordinary as opposed to a penal enactment, where the context shows that the legislature had used it in a popular or more enlarged sense, courts will so construe the language used; we are at a loss to discover anything in the British North America Act, 1867, indicating a legislative intention of using the words otherwise than in their ordinary meaning. It is clear enough that the reference in subsection 2, to separate and dissentient schools in Ontario and Quebec, is especially to schools of Protestants and Catholics, and it is, perhaps, equally clear that subsection 3 applies only to schools of a like character existing in any of the four provinces.

But, it was more clearly established in the judgment in the Manitoba school question. Dealing with that very question which was raised by the hon. leader of the opposition, Mr. Blake said:

You may have some difficulty in treating the Protestant school as separate, because you may say: 'what sect does it belong to? But when you find a school as to which authority is given to conduct it under the control of religious teaching, which applies exclusively to one religious body, that for which I appear, can you call it other than a separate school for the denomination? It is a school having religious teaching, the religious teaching of a single denomination, the Roman Catholic denomination, authorized, erected and created by the state in order that such teaching may take place. . . . In the very nature of things the school of the minority is a denominational school. The minority has a right to establish out of the whole or part of the area the school which is to be the school of the minority, conducted according to its views of Roman Catholic education.

The LORD CHANCELLOR. The word 'separate' applied before the Act only to schools in Ontario?

Mr. BLAKE. Yes.

The LORD CHANCELLOR. The separate schools were a system of Roman Catholic schools as distinguished from the general non-denominational system of the whole province?

Mr. BLAKE. Precisely. The separate school was the technical term applied to the Roman Catholic schools of the province and was grafted upon a non-denominational school system.

The LORD CHANCELLOR. Subsection 3 deals with separate schools existing at the time of the union. That of course refers to the separate schools in Ontario and the dissentient schools in Quebec. When it speaks of 'or as thereafter established by the legislature of the province,' that is something new, and in order to ascertain what comes within 'separate or dissentient' you must look at what the nature of 'separate and dissentient' was at the time of the passing of the Act.

Applying the words of Lord Herschell to the law of 1875, what comes within the word 'separate' under the Act of 1875, if not a full system of separate schools as they exist in Ontario and Quebec when it was clearly stated by the legislators of those days that what they meant to do in the Northwest Territories was to establish the same system as that which was in existence in Ontario and Quebec? In the judgment that was delivered by Lord Herschell, he said: