

came in also. Under authority given to the parliament of Canada upon addresses which have been referred to by the Minister of Justice this afternoon, unorganized territories could be brought in and become part and parcel of the Dominion of Canada. Now then what is there in the Act of 1871? Take the Act of 1867, the Act of 1871, and the Act of 1886, and they have to be constructed together as one Act; the Minister of Justice knows that.

Suppose that section 2 of the Act of 1871 had been originally in the Act of 1867—and, so far as imperial legislation is concerned, it is the same as if it were originally in the Act of 1867,—would the Minister of Justice then make the argument that he made this afternoon? Certainly not. Another statement that the hon. gentleman made this afternoon surprised me—I was not surprised before. The hon. gentleman said that there was no province in Canada to-day which had the exclusive right to legislate with respect to education. In admitting Prince Edward Island and British Columbia into the union was anything said about education? The Minister of Justice cannot say that, Mr. Speaker; nothing was said about education and therefore the educational clauses automatically were read into the constitution of Prince Edward Island. But I want to ask another question and that is this: What other power to-day can legislate with respect to education in New Brunswick outside the legislative assembly of the province of New Brunswick. Will any hon. gentleman on the other side of the House answer that question? There is no authority and if there is no authority then, Sir, under existing conditions, the legislative assembly of the province of New Brunswick has the exclusive legislative power to-day. The hon. gentleman said—and to a certain extent I agreed with him in that—that we have not gone far in nation building if we cannot to-day do what we did in 1875. We are to-day legislating for a constitution for a province, not a territory, for the people of these western provinces in which will be read a clause over which they have no control, which has been placed there without the consent of the people of the Northwest and which they can never change; which can only be changed by an Act of the imperial parliament.

I am not going to refer to Mr. George Brown because he was always opposed to separate schools and the quotation that has been brought out by the government in the argument which they have sent forth does not controvert that in the least. When George Brown made that statement he made it either as a statement of policy that would be adopted by every government in the future or he made it as a matter of law that would be read into the constitution. If he stated it as a matter

of policy that would always be followed by any government in Canada, we know, Mr. Speaker, that the policy of the government is not always uniform in this country. If he made it as a matter of law, then Mr. George Brown was not a lawyer, and the decisions of the courts since have shown that if he meant that he was in error; that is all I have to say about that quotation. But the Minister of Justice says that this is established by the free will of the people. The free will of the people? And he quotes Mr. Haultain as saying that he wishes the preservation of the status quo and yet the First Minister and his supporters in the next breath say that they will not trust the people of the west with respect to this school question. My hon. friend quoted Mr. Clement who has written an excellent work on the constitution of Canada. He quoted a letter from Mr. Clement with respect to section 93 of the British North America Act, to the effect that if a constitution is now formed for these territories and there is a system of separate schools in existence in the Northwest Territories at the time they are constituted a province, that system will automatically go into the constitution of the new province? Does the Minister of Justice as a lawyer believe that? Does the Minister of Justice as a lawyer concur in that view. If so, why does the government seek to place legislation upon the statute-book that gives an emphatic denial to any such principle? The hon. gentleman evoked the enthusiasm of his followers when he said that the policy of the Liberal party was clear before the election. Clear before the election? I want to say that so far as I am informed and so far as I can understand, if the policy propounded by the right hon. gentleman to-day had been propounded in the province of Ontario and in the west prior to the election a great many gentlemen behind the First Minister would not be here supporting the Bill that he has introduced. I may be wrong in that, Mr. Speaker, or I may be right. The general consensus of opinion, so far as I have been able to gather it, is that I am right.

I now wish to sum up the legal conclusions which I have been arguing and to put them in as concise language as I can.

1. No duty under the law or the constitution is laid upon the government to include any educational clause in the Bill.

2. The Act of 1875, was passed by this parliament for the government of unorganized territory, subject to change from year to year, during the period the country remained a territory. Under that Act the government of the territory was compelled to pass ordinances to carry out the separate school clauses.

3. The legislation of 1875, was not legislation sanctioned or agreed to by the people of the territory. It was an Act of this

Mr. STOCKTON.