

school. That is the provision of section 25 of the ordinance of 1884. That is the construction put upon the Act of 1875 by the legislative assembly of the Northwest Territories. Now I shall not detain the committee at any greater length upon this subject. There is the whole matter so far as I am concerned, and to those who want to listen and who want to understand it seems to me I have made myself absolutely clear. The first section 16 re-enacted or made provision rather for the perpetuation of the dual system which was provided for by the Act of 1875. That is what it did, it perpetuated section 11 of the Act of 1875. The second gives effect purely and simply to those provisions of the ordinance of 1901, which are applicable to separate schools and as I have pointed out in the opinion of Sir John Thompson, the provisions of the Ordinance of 1901 which merely reproduces the ordinances of 1887 and 1888 abridge the right of the Roman Catholics in such a way as to give to the minority in a school district the right to a separate school and makes no provision for a majority.

Mr. BERGERON. Of Catholics?

Mr. FITZPATRICK. Of Catholics.

Mr. STOCKTON. I think that the Minister of Justice has somewhat mystified the law with respect to the different qualities or characteristics of the schools existing in the Northwest when he seeks to impress upon this committee that there were under the Act of 1875 four conditions of schools in the Northwest Territories, that is a Catholic public school and a Catholic separate school, a Protestant public school and a Protestant separate school. I do not find that in the law. It is true that the majority can organize a section or can organize a school. If the majority of the ratepayers doing that were Roman Catholics that would not make it a public Roman Catholic school, or if the majority were Protestants that would not make it a Protestant public school, any more than a public school in the Northwest now would be a Presbyterian public school or a Methodist public school because the majority of the ratepayers happen to belong to that denomination. There is just one difficulty that I myself find in respect to the statement of the Minister of Justice and I have listened with some degree of interest that is that the rights have been cut down by subsequent legislation or by the ordinances accorded by the Act of 1875. I am not quite sure about that. I would certainly defer very largely to the legal opinion of my hon. friend the Minister of Justice, but does he not think that the Act of 1875 would be a part of the constitution of the Northwest Territories. That would be a question for the Minister of Justice to consider, could the ordinances of the Northwest Territories cut down or impair the

authority of the Act of 1875? If the legislature has granted power, that is if this parliament has granted power under the Act of 1875 with respect to education then it does seem to me that any attempt by ordinance to cut down that power, if that has been attempted, would be ultra vires of the power of the Northwest council, and if that is so, why then the Act of 1875 continues in all its power from the time it was passed until the present time.

Mr. FITZPATRICK. That is right, that is what I argued for about ten minutes.

Mr. STOCKTON. I understood that my hon. friend said that the ordinances of 1881 or 1884 cut down certain rights that were given under the Act of 1875. That is what I understood the Minister of Justice to say and that section 11 of the Act of 1875 had been cut in two and the part relating to public schools had been omitted and that therefore to that extent there had been a certain limitation or restriction put upon that. If you read section 11 of the Act of 1875, with all due deference I do not think that it will bear the construction that has been put upon it by the Minister of Justice. As I said it means that the majority of the ratepayers of any district or portion of the Northwest or any lesser portion or subdivision thereof, by whatever name the same may be called, may establish such schools therein as they may think fit, and make the necessary assessment and collection of rates therefor. That is a power given under the law to establish the schools and that power continues to-day. There has been no cutting down of that power on the part of this legislature or any attempt on the part of the Northwest legislature in the enactment of any ordinances; it was only granting a power to the authority of the Northwest Territories under certain conditions to legislate and make provision for the establishment of the schools; but with this limitation, that if there was a minority in that district who wanted a separate school they could have that separate school provided they complied with the law, and that when they did that their assessments should go towards the maintenance of that separate school and that therefore it would not be necessary to put that portion of section 11 of the Act of 1875 in the ordinances that were subsequently adopted. Therefore upon that point it would seem to me that there is no cutting down, no limitation, but only an authority given by this parliament to certain authorities in the Northwest Territories to establish public schools with the limitation that under certain conditions they can also establish separate schools.

That has been continued by section 41 of chapter 29 of the ordinances of the Northwest Territories so far as separate schools for the minorities are concerned, and not