

Mr. SPROULE. The hon. gentleman must be aware that when the same question was brought up by the late Mr. Dalton McCarthy and discussed in this House, I took part in that discussion and stood exactly where I stand to-day. I then condemned, as I do now, the principle of taking the question of education out of the control of the provinces.

Mr. BRODEUR. I do not want to continue the discussion longer with my hon. friend. I suppose, however, we can agree that his position to-day would perhaps be more consistent, if he had taken a firmer stand in 1880. I am not complaining. I am glad, however, to note that to-day he is giving to his duties a little more attention than he was then giving them. Perhaps the change of government may have something to do with the change in his position.

Mr. SPROULE. And that change may equally account for the difference between the position which my hon. friend took in 1896 and that which he takes in 1905.

Mr. BRODEUR. My hon. friend, the leader of the opposition, said the other day that the Northwest Territories became entitled in 1870 to the provisions of the British North America Act with regard to education. I am not sure that I could accede to that legal proposition, but if there be any doubt that the minority acquired certain rights in 1870, there can be no doubt that section 93 of the British North America Act was applied to the minority in the Northwest Territories by the Act which we passed in 1880. Well, since 1880 the minority have acquired some rights and privileges. They got some ordinances passed in connection with education; and I am glad to say that the legislation which was passed in 1883, and which gave to the minority in the Territories the full measure of their rights and privileges, was prepared by two of my colleagues, one of whom is the Minister of the Interior (Mr. Oliver). My hon. friend, the Minister of the Interior, was then a member of the territorial assembly and one of those who passed this legislation giving the minority the full measure of justice and the full measure of their rights. Whether the minority acquired those rights in 1870 or whether they acquired them by the legislation of 1880, there is no doubt that in 1880 separate schools were established, and there is no doubt that the minority have since been enjoying these rights in the Territories. Why then to-day, when we are constituting these Territories into provinces, should we not carry out the provisions of the law as embodied in the constitution of 1875 and in the British North America Act? My hon. friend, the leader of the opposition, says that section 93 of the Confederation Act should apply to these Territories when

they entered confederation in 1870. Well, if it does, the rights which the minority have since acquired can be protected by this government. The rights which they have acquired since their entry into confederation in 1870 can be and should be protected by this government. We certainly have the right to legislate in that sense. I suppose my hon. friend will not dispute that we have the right to pass remedial legislation. Well, if we have the right by remedial legislation to give to the minority their rights and privileges, why should we not do that when we are giving these new provinces a constitution?

Mr. SPROULE. You are acting as an appellate court before an appeal is made.

Mr. BRODEUR. No, we are simply embodying in the constitution of these new provinces what we would have the right to give them by a special Act. If we can pass remedial legislation to secure these people in their rights, why should we not do that immediately when we are constituting those provinces?

Mr. R. L. BORDEN. My hon. friend is putting words into my mouth, and I do not wish to be understood as concurring in what he says.

Mr. BRODEUR. Does my hon. friend question the accuracy of the quotation?

Mr. R. L. BORDEN. No, but the application by him of what I said.

Mr. BRODEUR. I understood the hon. gentleman to say that my quotation was not correct.

Mr. R. L. BORDEN. Not at all.

Mr. BRODEUR. I say that if my hon. friend's contention be correct, namely, that section 93 of the British North America Act applies to the Territories on the date of their acquisition by confederation in 1870, then the rights they have acquired since 1880 could be preserved under that same section 93.

Mr. R. L. BORDEN. I would not agree with that proposition, as I understand it.

Mr. BRODEUR. I want to deal for a moment or two with an argument which was made the other day by the hon. member for North Toronto (Mr. Foster).

Mr. MONK. Will my hon. friend allow me to put him a question before he leaves that part of the subject? If, as he contends, section 93 of the British North America Act applies absolutely to the new provinces, can we, under the proposed amendment before us, vary that section 93? He will remember that under the proposed amendment we eliminate subsection 1 of section 93—a very important clause—and substitute a new section. Have we power to do that?