

provision for ever upon these Territories by an Act which we cannot repeal? If the authority to which I have referred is not sufficient let me cite one which occasionally irritates my right hon. friend when it is quoted, one which is often inconsistent with his views, but nevertheless, one which, if it does not command his respect, will at least, I am sure, attract his attention. My right hon. friend himself said in this House:

It is impossible to admit for instance that the institutions of the Northwest are permanent. On the contrary they are exceptionally temporary; they deal with a state of things which is exceptional in itself; they were devised at a time when there was no population and they must be modified from time to time as the necessities of the case require. But at this moment to say they are permanent is a thing in which I cannot agree except so far as they must be permanent in every particular, so long as we are not ready to give these people a more extended form of local authority.

Mr. Speaker, you do not observe in this opinion of my right hon. friend any especial reference to the permanence of this provision which he now seeks to impress for ever upon the people of the Northwest Territories. But, let me not forget one other authority which I should refer to, that is the authority of Sir John Thompson, whom I have already mentioned. These words were uttered in the year 1894. Mr. McCarthy, in the course of his speech on that occasion, used this language and Sir John Thompson gave the following answer:—

As I understood the First Minister in his answer to the hon. member for West Assiniboia—perhaps I was wrong, but I would like to be corrected if I was wrong—rather insisted upon the view I am putting which is that if separate schools are continued until the Northwest Territories are given provincial autonomy they will have the right of insisting upon that being continued when provincial autonomy is conferred upon them.

Sir JOHN THOMPSON. I did not say that.

Mr. MCCARTHY. Then I fail to understand the views which the First Minister holds. He seems to be on both sides of the question.

Sir JOHN THOMPSON. Not at all. If I spoke ambiguously before, I was not at all conscious of it; but I cannot be said to be ambiguous after the explanation I made to the hon. member for Assiniboia. I appealed to the House to continue the present system while the territorial system continued, and I declared that in my opinion the whole subject would be open and free to parliament as to what constitution we would give to the provinces when provinces were created.

Now, my right hon. friend took one other ground. He says that within the four corners of the British North America Act, 1867 to 1886, he has found justification for imposing upon the people of the Northwest this restriction. I take issue with him upon this ground as strongly as upon the other. Neither in the negotiations and resolutions

Mr. R. L. BORDEN.

which led up to the British North America Act, 1867, nor within the four corners of that Act, and of the Acts in amendment thereto, can any provision be found which obliges, or in my humble opinion even justifies parliament in imposing separate schools upon the new provinces. No doubt in this I may be in conflict with some hon. gentleman in this House, apparently with the Minister of Justice (Mr. Fitzpatrick) for otherwise this provision would not be brought down. If anything would cause me to hesitate in my own opinion it would be that I differ from the Minister of Justice (Mr. Fitzpatrick) whose legal ability I very highly esteem. I do not claim to be infallible, but I have given to this question a good deal of consideration and it is my duty to state the conclusion I have arrived at, and which I have just stated, that there is not any provision within the four corners of the Act which obliges or in my humble opinion even justifies parliament in imposing this restriction upon the legislative power of the proposed provinces.

Let us examine in the first place the negotiations upon which the British North America Act was passed. Do not forget that in the very outset the intention was to include in the confederation the very territories that are now being constituted into provinces. My right hon. friend (Sir Wilfrid Laurier) has referred to the Quebec resolutions. Let me also refer to them. He has referred to the 43rd article and to the 6th sub-article. I shall read that because it is important to consider it in order to judge whether, outside the strict letter of the law and within the spirit of the constitution, within the lines of the negotiations which resulted in its formation, anything is to be found which justifies the present action of the government. The 43rd article enumerates subjects within the exclusive power of the provincial legislatures and the 6th sub-article is as follows:—

Education, saving the rights and privileges which the Protestant or Catholic minority in both the Canadas may possess as to their denominational schools, at the time when the union goes into operation.

Not a word about Nova Scotia, not a word about New Brunswick, not a word about Prince Edward Island. Is there anything about the Northwest Territories in that resolution? Not one word, not one syllable.

But in construing that article do not forget to read in connection with it article 10 of the same resolution, which is this:

The Northwest Territories, British Columbia and Vancouver, shall be admitted into the union on such terms and conditions as the parliament of the federated provinces shall deem equitable, and as shall receive the assent of Her Majesty; and in the case of the provinces of British Columbia or Vancouver as shall be agreed to by the legislature of such province.