

Mr. A. JOHNSTON. Better cement your own men behind you.

Mr. STOCKTON. What did the hon. gentleman say? You must be easy, you know, with a young member. If the hon. minister says yes, there is a difference; then the hon. member for Beauharnois (Mr. Bergeron) is right, and a deception is being practised on the friends of separate schools. But if, on the contrary, he says no; then in what position are the members from the west and Ontario who support the government on the strength of the statements made by the member for Brandon and the Minister of Finance? I leave those questions for the consideration of the Liberal members of the west and the province of Ontario. I have failed to get any information from my hon. friend the Minister of Justice. He does not seem to be in a communicative mood, and therefore I will pass that by and proceed to another phase of the discussion.

I wish to say a few words with respect to the legal aspect of this question and the constitutional rights of this parliament to enact this legislation. Will the Minister of Justice deny that if the amendment is passed ordinances 29 and 30 of the Northwest Territories become the organic law of the provinces to be organized? He will not. If it is the organic law of the provinces to be organized, how can we be blamed if we do not know just exactly what the law is when these ordinances contain about 200 sections? And yet this is being forced by legislation by reference into the constitution of these new provinces in a way which I say ought not to be tolerated in any legislature in Canada. I state, as a lawyer, that no mortal man can tell with any degree of certainty what the constitution of either province will be if you legislate in the way that is proposed by the First Minister in this Bill. The Minister of Justice will not deny that I am right in that statement. Now, the First Minister, in introducing this Bill, said there was a necessity on the part of the government to import into the constitution of the new provinces the school clauses of the British North America Act. I think I am correctly stating the position taken by the First Minister when he introduced this Bill. Where does any lawyer find in the British North America Act, or in the Act of 1871, or in the Act of 1886, any foundation for any such statement as that? Why, Sir, section 93 of the British North America Act applies only to a province at the time of the union. And it was stated by some hon. gentleman yesterday—I think it was the hon. member for South Wellington (Mr. Guthrie)—not only that he was going to apply himself to the discussion of the legal question, but that he was going to answer my hon. friend the leader of the opposition with respect to that proposition. But he forgot to fulfil the promise he made. Let me say, Mr. Speaker, that I agree with the legal position taken by the leader of the

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opposition (Mr. R. L. Borden) in that respect, and I have heard no statement on the floor of this House by any lawyer who cares anything for his reputation saying anything to the contrary. But it is also said—and I shall not dwell upon this, because I wish to get through as speedily as I can—that you must put these educational clauses in the constitution of the two new provinces. Why? Because, under the Act of 1875, there are clauses relating to separate schools. And my hon. friend the Minister of Justice said this afternoon: If we could legislate with respect to schools in 1875, why cannot we do so to-day? I would like to ask my hon. friend the Minister of Justice if he thinks that is a fair argument? I would like to ask my hon. friend the Minister of Justice if he thinks that is a legal argument? He does not. For he well knows that to-day we are legislating for the constitution of a province, but in 1875 we were legislating for the government of an unorganized territory—two entirely different things. And yet the Minister of Justice sought to convince the members of this House—he did not believe it himself, I am satisfied—that that was a valid argument, and that what we could do with respect to the law of an unorganized territory in 1875 we could do with respect to the constitution of a province in 1905. The statement has only to be made to refute itself. The Act of this parliament of 1875 was only temporary, it applied to the organization of a territory for the time being. And the Minister of Justice this afternoon used the argument that the people of the Northwest Territories voluntarily voted in support of the school system of that province. Did they? Where is it? Will the Minister of Justice point it out? It cannot be done, Mr. Speaker. Why, what he referred to was this—that under the Act of 1875 they made ordinances to carry out the terms of the separate school clause imposed upon the people of the west by that Act. Was it a voluntary act on the part of the people of the west, passing these ordinances? Will the Minister of Justice say that? No; he cannot say that. It was not a voluntary act, and he knows it, because, under section 11 of the Act of 1875, it is provided that they 'shall' make ordinances to carry out the terms of the legislation. Yet this is the kind of argument that was met with thunderous applause by hon. gentlemen opposite. Now, Sir, I go further. The Act of 1875 never received the assent of the people of the west. They had no option in the matter; it was imposed upon them whether they willed it or not. I am not questioning the right of parliament to pass the Act of 1875. That Act was with respect to an unorganized territory. But I do question the right of parliament to pass the legislation now proposed. But hon. gentlemen opposite say that because the separate school system under that Act of 1875 has existed in that country for thirty