

to section 15. That will stand for the present?

Mr. FITZPATRICK. I have a report which will help to elucidate the point involved which I will send to my hon. friend.

On section 16—legislation respecting education.

Rt. Hon. Sir WILFRID LAURIER (Prime Minister). When I presented this Bill to the House some few weeks ago, I stated that, at the proper moment, in Committee of the Whole, I would ask leave to substitute another clause of which I gave notice. I now beg to move that amended clause as follows:

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the ordinances of the Northwest Territories, passed in the year 1901.

2. In the appropriation by the legislature or distribution by the government of the province of any moneys for the support of schools organized and carried on in accordance with said chapter 29 or any Act passed in amendment thereof, or in substitution thereof, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression 'by-law' is employed in subsection 3 of the said section 93, it shall be held to mean the law as set out in said chapters 29 and 30, and where the expression 'at the union,' is employed, in said subsection 3, it shall be held to mean the date at which this Act comes into force.

The House, perhaps, expects—at any rate it has the right to expect—that on this occasion I shall present a somewhat full statement of the reasons which have induced the government to substitute the clause which has just been read for the clause introduced in the Bill. Perhaps it would not be amiss then, if I look at the subject from a larger point of view and endeavour to give a resume of the why and wherefore of this clause in its original and in its amended form. The Conservative party has taken the position upon this question that the government are invading provincial rights. When I say that the Conservative party has taken this position, perhaps I make a mistake; perhaps I should not use so wide and general an expression, because it happens that upon this question the Conservative party has no policy. It is not too much to say that on this question the Conservative party is an assembly of contradictory opinions without any separate idea upon what to rally. When my hon. friend the leader of the opposition (Mr. R. L. Borden) spoke upon the second reading of the Bill he was careful to state—he made haste to state—that he was only speaking for himself, that the Conservative party had no policy upon this important question, and that every man in the party was at liberty to follow his own inclination and to vote as he thought best. Evidently the Conservative party had

renounced the idea of having a policy which, as a party, they could present to the House. It is true that after that, one important section of the party took the ground that I have just stated—that the government, in introducing this legislation violated the principle of provincial rights. The answer I have to offer to that assertion, the simple answer, the categorical peremptory and paramount answer, is that in matters of education there is no such thing under our constitution as absolute provincial rights.

Now, Sir, I make that statement deliberately. It is a statement which has some importance, and in making it I do not wish to be misunderstood. My contention has been and my contention is to-day, that upon this important matter of education, there is no such thing, under the constitution under which we live as absolute, independent right, but that the rights of the provinces in this matter are limited by the very letter of the constitution.

Let us turn to the book of the constitution and look at the clauses which define the powers of the central government and the powers of the local governments. Let us look first at section 91 which defines the powers of the central government. It is as follows:

It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons to make laws for the peace, order and good government of Canada in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the legislatures of the provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section it is hereby declared that (notwithstanding anything in this Act) the exclusive legislative authority of the parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say:

And then follows the enumeration. Let us now look at section 92 which defines the powers of the provinces:

In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated; that is to say:

And no exception is given. There are sixteen subjects enumerated as follows:

1. The amendment of the constitution of the province, except as regards the office of Lieutenant Governor.
2. Direct taxation within the province in order to the raising of a revenue for provincial purposes.
3. The borrowing of money on the credit of the province.
4. Provincial offices.
5. The management and sale of public lands belonging to the province.
6. Public and reformatory prisons in and for the province.
7. Hospitals, asylums, charities, and eleemosynary institutions in and for the province other than marine hospitals.
8. Municipal institutions in the province.