

be the duty of this parliament under those conditions? Here is one parliament completely clothed with an authority to legislate in regard to this subject. On the other hand, this parliament, which is attempting to deal with this matter, has at most only a doubtful right, and it has no obligation at all. It appears to me that the wise, just and fair course would be for this parliament not to interfere, but to leave it to that other legislature which has complete jurisdiction in the matter. Why is this parliament to assume a doubtful right and to impose unnecessary obligations upon itself simply for the purpose of depriving the legislatures of their undoubted right and their obligation? I must say that I have implicit confidence in the people of these two new provinces, I have perfect confidence that they will, when the time comes elect to their local legislatures men of integrity, men of wisdom, who, when the time arrives for legislation upon this subject, will be wanting neither in courage nor in toleration to pass such legislation and enact such measures as will ensure to the whole people of those two new provinces equal rights of civil and religious liberty. Another point to which I desire to call the attention of the House is the right of appeal that is provided by the British North America Act and which is retained by this parliament. A consideration of that right of appeal will lead to the conclusion that initiative legislation in regard to educational matters was intended to begin, and should begin with the local legislatures. The constitution provides that there should be a right of appeal for the minority. What does that right of appeal mean? Is it limited in any way? It is not limited, because it assumes that there shall be that right of appeal where there is legislation against any right or privilege of the minority. Here we have legislation affecting a right or privilege of a minority. The right of appeal could never be intended to mean an appeal from this parliament back to this parliament again. As I understand the right of appeal, and as I think every hon. gentleman in this House will understand it, it means the right to take any matter in controversy from an inferior to a superior tribunal.

Now, we are enacting legislation here in these Bills affecting a right or privilege and the constitution says there shall be an appeal in regard to that right or privilege. How are the minority in the Northwest Territories going to employ the right of appeal? Is there any right of appeal after we pass this legislation? There is not, because when the minority of these two provinces apply to the legislature to remedy what has been passed here and to set right what has been made wrong against their rights and privileges, they find that the local legislature has no power to deal with the question. Then they turn to this parliament. Is there a right to appeal here? This

parliament have initiated this legislation, can they come here with any hope of having that legislation disturbed? I think they will be coming here upon a fool's errand, so to speak, and therefore that being the case I conclude that by this legislation the greatest safeguard we have secured by the British North America Act, namely, the right to appeal against legislation concerning a right or privilege in regard to education, is entirely taken away from the minority of these provinces. For that reason I again say that an injustice will be done to the minority if this legislation is passed. In regard to that matter it has been argued here that under the ordinances of the Northwest Territories the people there have acquired certain rights which have been referred to here by hon. gentlemen discussing the question as vested rights. I want to look at that for a few moments. Just at the outset I would ask any hon. gentleman who entertains the idea that unless these Bills are passed in the form in which they are presented to the House these vested rights are going to be swept away to strike out of this Bill every word and every clause relating to education, then read the Bill and see if there is one word or sentence that prohibits the establishment of separate schools in these two provinces. He will look in vain for such. There is not a single enactment, or word, or phrase that would prohibit the establishment of separate schools. It is not so in regard to the majority. These Acts are prohibitive as far as they concern the majority these Acts say to the majority of the people in those new provinces: Thou shalt not, to use a scriptural phrase, but you shall establish a certain system of schools in spite of yourselves, no matter what your wishes or desires may be in the matter. It appears to me that it is no more necessary to have this provision in these Bills to protect the rights of the minority in these new provinces than it is to have a clause in these Bills protecting the rights of the majority and I cannot see, in view of what I have already said as to my view of the constitution in regard to that matter, that there is any necessity for it one way or the other.

Now, let me go a step farther in regard to that. What are these rights? Is the maintenance of separate schools in these provinces a right that has been acquired or is it a right that is to be acquired permanently? It is an acknowledged principle of law that I think no lawyer will contradict or dispute that a right cannot be acquired against a superior right so long as there is notice and there has been no abrogation of that superior right. Now, in this particular case under discussion, we have both the notice, we have the superior rights and we have no abrogation of those rights. What are those superior rights? First the right to erect or to create portions of the North-

Mr. PORTER.