

Mr. BRODEUR. I have not the least thought that we have power to do it. But section 2 of the Act of 1871 provides not only for giving a constitution to the Northwest, but also for passing laws to preserve law and order in that portion of the country. If we have the right to pass laws to maintain peace and order within these provinces, I say we certainly have the right to vary section 93 as we have done.

Mr. MONK. Then, section 93 does not apply absolutely if we have the right to vary it?

Mr. BRODEUR. It does apply, but we have the right to change it, which is a different proposition.

Mr. R. L. BORDEN. With the hon. gentleman's (Mr. Brodeur's) permission, I would like to ask a question in order that I may understand his argument. Does he mean that the Act of 1871 is broad enough to permit us to provide, in a Bill such as that we are now discussing, that the customs or the post office, for example, should be within the legislative control of the new provinces?

Mr. BRODEUR. I do not think so; and for this simple reason—that the address presented by this parliament asking for the passing of this Act of 1871 expressly asked that the powers of the federal parliament should not be encroached upon by the legislatures.

Mr. R. L. BORDEN. Then does the hon. gentleman (Mr. Brodeur) say that we could take any subject confided to the provincial legislatures by section 92 and transfer it to the authority of this parliament, when creating the new provinces?

Mr. BRODEUR. Yes, that is my opinion. Because the rights given under section 92 are broad enough to even cover that. And we have to do it; we actually are doing it in the case of the lands. My hon. friend from Jacques Cartier (Mr. Monk) discussed that question the other day, contending that we had not the right to change the law with regard to the lands. I do not know whether the leader of the opposition (Mr. R. L. Borden) is of the same opinion. I think we have the right to dispose of the question of lands as we are doing.

Mr. MONK. Is my hon. friend (Mr. Brodeur) of opinion that we could take, for instance, exclusive jurisdiction over the subject of agriculture?

Mr. BRODEUR. I think so. Now, I must deal for a minute or two with a subject which was not brought before this House, but was discussed in an address by my hon. friend from Labelle (Mr. Bourassa) at a meeting held in Montreal some time ago, and also in a letter which he wrote to

Mr. MONK.

'La Patrie.' My hon. friend said that our Bill may protect the rights of the minority as to separate schools, but that the Catholic public schools would not fall under the constitutional enactment. The hon. gentleman (Mr. Bourassa) relies simply on subsection 1 of section 93. Confining our attention to that subsection we find that, perhaps, his argument may have some weight. But I think that in order to have a proper understanding of the subject we should not confine ourselves to that subsection, but should also consider the effect of subsections 3 and 4. In his letter to 'La Patrie,' he forgot to quote the first part of the amendment moved by the leader of the government (Sir Wilfrid Laurier), which is as follows:

Section 93 of the British North America Act, 1867, shall apply to the said provinces with the substitution for subsection 1 of said section 93 of the following subsection:

Section 93 of the British North America Act includes two different things; Subsection 1 deals with powers which the minority enjoy in regard to separate schools at the union, and subsections 3 and 4 provide for remedial legislation, and concern not only separate schools but any rights and privileges which any minority may acquire with regard to education. Now, let us see section 93. Subsection 3 provides:

Where in any province a system of separate or dissentient schools exists by law at the union or is thereafter established by the legislature of the province, an appeal shall lie to the Governor General in Council from any Act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

We see that this subsection is much broader than subsection 1. Subsection 1 simply protects the minority with regard to separate schools. But, under subsection 3 not only the rights of the minority with respect to separate schools are protected, but all the rights of the minority in relation to education. So it comes to this,—if the legislature of the Northwest, after the Bill has been passed, should try to prevent the minority in any section of the province establishing schools to give education satisfactory to them or to use the French in these schools, there would be occasion to discuss the advisability of pressing remedial legislation and exercising the power of disallowance of the Act. So, I think the argument of my hon. friend from Labelle is not a very strong one.

Mr. HENRI BOURASSA. Would the hon. gentleman (Mr. Brodeur) permit me? I did not hear the beginning of his argument in reply to the remarks I made in Montreal. But I understand that he contends that, according to subsection 3 of section 93, there would be an appeal to the Governor in Council, and therefore an opening for