

constitutional obligation upon us to do so. That is the only ground upon which I would support this or any other measure which invades provincial rights. I think that the right hon. the First Minister is practically the only member in this House who has taken that position. In his speech introducing the Bill he said :

Mr. Haultain argues that section 93 applies automatically, that this House has nothing to do but simply to admit the province and immediately it becomes subject to section 93, whereas the position we take is while the provision is embodied in section 93, it has to be introduced legislatively by this parliament into the constitution of the Northwest Territories.

We have taken the ground on more than one occasion, we again take this ground and it is the ground upon which we stand in dealing with the present case, that wherever a system of separate schools exists that system comes into force and is constitutionally entitled to the guarantees which are embodied in section 93 of the British North America Act.

I want to impress upon the House once more that we are acting strictly in accordance with the principles involved in the constitution of Canada.

I take the position that the constitution certainly makes it imperative for us to respect separate schools wherever they exist.

That is the position taken by the right hon. gentleman, and it is the only ground upon which this parliament would be justified in interfering in any way with provincial rights. But it is a position which was almost immediately abandoned by the Minister of Finance (Mr. Fielding). It was abandoned also by the Minister of the Interior (Mr. Sifton); and I do not think there is another gentleman in this House who has taken the position that there is any constitutional obligation upon us. The only way in which any constitutional obligation could be made out would be by having recourse to section 93 of the British North America Act. But surely if the minorities in those provinces were entitled to the protection only which was given by section 93, it cannot be argued that constitutionally the minority in the new provinces would be entitled to any larger or any different protection. If the provisions of this Act were to apply automatically to the new provinces, as is the contention of the hon. leader of the opposition, then the constitutional obligation would be fulfilled. There cannot certainly be any larger or any different guarantee properly given than the guarantee which was given to the original provinces. I have already read section 93 of the British North America Act and I want particularly to call attention to the first subsection to show that that subsection relates to denominational schools.

Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

Mr. CROCKET.

Now we have had the statement made in this House by the hon. Minister of Finance (Mr. Fielding) by the hon. Minister of Customs (Mr. Paterson), by the hon. ex-Minister of the Interior (Mr. Sifton), by the hon. the Solicitor General (Mr. Lemieux) and by the hon. member for Jacques Cartier (Mr. Monk) who is supporting this Bill, that these schools in the Northwest are not denominational schools. If they are not denominational schools then they would not come under the terms of subsection 1 of the British North America Act. That is the ground upon which the judgment proceeded in the New Brunswick school case. That is the ground upon which the appeal of the Roman Catholics of New Brunswick failed in the New Brunswick school case; it was because the schools in that province were not denominational schools. In an extract of the judgment given in that case by the Supreme Court of New Brunswick and which was confirmed by the Judicial Committee of the Privy Council, to be found at page 479 of Clements' 'Canadian Constitution,' we have these words :

The Parish School Act, 1858, clearly contemplated the establishment throughout the province of public common schools for the benefit of the inhabitants of the province generally; and it cannot, we think, be disputed that the governing bodies under that Act were not, in any one respect or particular, denominational. . . . The schools established under this Act were, then, public, parish or district schools, not belonging to or under the control of any particular denomination; neither had any class of persons, nor any one denomination—whether Protestant or Catholic—any rights or privileges in the government or control of the schools, that did not belong to every other class or denomination, in fact, to every other inhabitant of the parish or district; neither had any one class of persons or denomination, nor any individual, any right or privilege to have any particular religious doctrines or tenets exclusively taught or taught at all, in any such school. What is there, then, in this Act to make a school established under it a denominational school, or to give it a denominational character?

That is the ground upon which, as I have stated, the appeal of the Roman Catholic citizens of New Brunswick failed in the New Brunswick school case. The Supreme Court held that the system was not a denominational school system. If we are to accept the statements which have been made in this House by those hon. gentlemen, to whom I have already alluded, that these schools in the Northwest are not denominational schools then they would not have been entitled under the terms of the original Act to any protection. Why then should we give to these schools in the Northwest Territories a protection and a guarantee which the original British North America Act withheld from the original provinces forming the confederation? It seems to me that one or other of these views must be adopted; either they are de-