

Then we have a statement by the late Archbishop of St. Boniface. In one of the documents he addressed to the government on this subject he said:

The effect of the ordinance is to deprive the Catholic separate schools of that character which differentiates them from public or Protestant schools and leave them Catholic separate schools in name only, and such it is submitted is its obviously necessary effect.

Again, on page 62 of that document he says:

Nothing essential now distinguishes the Catholic schools from the Protestant schools but the designation, now ironical, of separate schools.

Therefore, all the authorities, both Catholic and Protestant, in the Northwest Territory are agreed that there is nothing to distinguish these schools from public schools except the half hour for religious instruction.

My hon. friend the leader of the opposition argued almost entirely on the constitutional question, and in his very able argument he must have convinced many that constitutionally there is some difficulty with regard to this matter. After the able arguments that have been made on the subject from that point of view, I do not think that I should trespass on the time of the House any further than to say that I cannot altogether agree with those who claim that constitutionally the government are right in not leaving this matter fall entirely under the provisions of the British North America Act. My own view is that there is a very grave question as to our constitutional right to legislate outside the Confederation Act. I have no doubt that the government are relying upon the powers expressed in the Act of 1871. In considering that Act, I think it is well we should consider the preamble. The preamble is as follows:

Whereas doubts have been entertained respecting the powers of the parliament of Canada to establish provinces and territories admitted or which may be hereafter admitted into the Dominion and to provide for the representation of such provinces in the said parliament and it is expedient to remove such doubts.

The object of this Act, therefore, was to remove any doubt as to our powers to create provinces and provide for their representation. Clause two says:

The parliament of Canada may from time to time establish new provinces in any of the territories forming for the time being part of the Dominion, but not included in any province thereof, and may at the time of such establishment make provision for the constitution and administration of any such province and for the passing of laws for the peace, order and good government of the said province and for its representation in the said parliament.

It is true that provision is there made for the constitution of such provinces. But are

we not to provide a constitution on the lines of the British North America Act? We have only to go a little further and look at the Act of 1886 and we will find it there said:

This Act and the British North America Act of 1867 and the British North America Act of 1871 shall be construed together and may be cited together as the British North America Act of 1867 to 1886.

What I contend is this. That the only power that we have as a parliament, under the Act of 1871, is to provide a constitution; not such a constitution as we may think fit to give to these provinces, but a constitution in accord with the provisions of the British North America Act. If you read into clause 2 of the Act of 1871 the other clauses of the British North America Act, that constitution has to be in accordance with the Act of 1867. Therefore, my own personal view is that section 93 would apply. However, there is a great difference of opinion on this question. We have the opinions of some very able men that the whole subject is now open to be dealt with by this parliament. My own belief is that in a matter where there is such a great difference of opinion as to whether the government have the right constitutionally to interfere in any way with the education clauses, that it would have been wiser and in every way better to have submitted these clauses to a judicial tribunal and have them interpreted before passing this Bill. We create these provinces now with these educational clauses in their constitution, and we are only going to create friction in these two new provinces. The opinion of some of the best men in Canada is that you are going beyond the constitutional powers conferred upon this parliament by the British North America Act, and we shall have, in all probability, a repetition of what has occurred in the province of Manitoba. There would have been no trouble in submitting these educational clauses to a judicial tribunal—the law provides means by which the matter could have been referred to our Supreme Court, and from the decision of that court there could have been an appeal to the Privy Council. We could then have had the constitutional question settled beyond any doubt.

Now, Sir, just before I close I would like to refer once more to the position of affairs in the Northwest Territories. Let me quote one sentence from the statement made by Premier Haultain in his letter of March 11th. He says:

Our laws and institutions are admittedly efficient and satisfactory. Under them the people of the Territories have acquired a political individuality and identity as distinct as that of the people of any province.

It is evident that Mr. Haultain stated what is absolutely correct. For the past thirty years we have had no complaint in