

If I understand him, Mr. Christopher Robinson argues that it is doubtful whether the Premier's position in relation to section 93 would be borne out. If it is not, and if the Territories do not come under that provision, Mr. Robinson says, it would be necessary for parliament to supplement their action. Then, if parliament can supplement that action, it must be because parliament has the power—

Mr. R. L. BORDEN. The hon. gentleman (Mr. Paterson) has misapprehended it. I have read the telegram carefully.

Mr. PATERSON. Did the hon. gentleman (Mr. R. L. Borden), when the telegram was first read, understand it as I have just stated?

Mr. R. L. BORDEN. No.

Mr. PATERSON. May I ask the hon. gentleman what it means with reference to the action of parliament?

Mr. R. L. BORDEN. May I read it?

Mr. PATERSON. Yes.

Mr. R. L. BORDEN. This is Mr. Robinson's opinion:

The right of the Dominion parliament to impose restrictions upon the provinces about to be formed in dealing with the subject of education and separate schools, is, I think, not beyond question.

I said that, in my humble opinion, parliament had no such powers.

This would require more consideration than I have been able yet to give it, and must ultimately be settled by judicial decision. I am asked, however, whether parliament is constitutionally bound to impose any such restriction, or whether it exists otherwise, and I am of opinion in the negative.

Mr. GERMAN. Anybody would say that.

Mr. R. L. BORDEN. The Prime Minister (Sir Wilfrid Laurier) did not say that, but said the very opposite—and I suppose the hon. member (Mr. German) would say that the Prime Minister is somebody.

It must be borne in mind that I am concerned only with the question of legal obligation. What the parliament ought to do or should do in the exercise of any power which they may possess,—

Mr. PATERSON. That is the point I meant.

Mr. R. L. BORDEN (reading):

—is not within the province of counsel.

'Any power which they may possess.' Mr. Robinson says he is not advising as to what parliament should do if it has the power, but as to the power which parliament has.

Such a restriction, I apprehend, must exist or may be imposed, if at all, under the provisions of section 93 of the British North America Act, 1867, and on the ground of their

Mr. PATERSON.

application to the provinces now to be formed. If that section applies, it would seem to require no enactment of our parliament to give it effect,—

My hon. friend will remember that I said that what we should do is to use simple general words bringing into force in the Northwest Territories the constitution which we already possess. I understand this opinion to go further even than what I suggested yesterday.

—and if not, no such enactment, so far as I am aware, is otherwise made necessary.

I must confess I do not exactly understand these words of the telegram. But Mr. Robinson continues—and the telegram is perfectly clear in this regard:

Upon the whole, I am of the opinion that section 93 does not apply to the provinces now about to be established.

The legislation before parliament not only seeks to make it apply, but amends it in making that application, and provides an entirely new section, although in doing so it is altering imperial legislation. Mr. Robinson continues:

Its provisions would appear—

That is, the provisions of section 93 of the British North America Act—

Its provisions would appear to me to be intended for, and confined to the then provinces, and to the union formed in 1867. There is not in any part of the Northwest Territories, as a province, any right or privilege with respect to denominational schools possessed by any class of persons, created by the province, or existing at such union; and a right subsequently established by the Dominion in the part now about to be made a province does not appear to me to come within the enactment.

I had not seen or heard of this opinion when I spoke yesterday. So far as I am able to understand it, as very briefly embodied in the telegram, it seems to me altogether in accordance with the view which I expressed, except that I expressed a greater doubt than Mr. Robinson does about the power of this parliament to deal with this question.

Mr. PATERSON. Well, it is plain from what we have heard that lawyers differ. However, I still maintain my opinion, but I do so with deference, because neither am I able to make a legal argument myself, nor have I a sufficiently sharp mind to understand the contradictory legal arguments of others. Now I want to know what Sir Christopher Robinson means. If section 93 does give certain powers, should parliament exercise the power it possesses? Now then what power does parliament possess? The leader of the opposition says we have no power. Sir Christopher Robinson, as I understand, believes that under the amendment to the British North America Act of 1875, the right to make the constitution of