

Mr. INGRAM. I would like to point out to the hon. gentleman—

Some hon. MEMBERS. Order.

Mr. INGRAM. I would like to point out to the hon. member (Mr. Brodeur) that I remember when he took hours to discuss the reasons why there should not be remedial legislation in Manitoba.

Mr. BRODEUR. Now that we do not know exactly where the hon. leader of the opposition stands with regard to his motion, we will proceed to discuss the question whether or not we have the constitutional power to pass this Bill. With regard to this question of constitutional powers, we must not forget one thing: Section 91 of the British North America Act determines what are the powers of the federal parliament; section 92 deals with the powers of the local legislatures; section 93 deals with the powers of the local legislatures in regard to education, but at the same time gives the federal parliament a certain control over that subject; section 95 places some subjects, like agriculture, under the control of both the provincial legislatures and the federal parliament. Now, it has been asserted time and again that this legislation is an infringement upon provincial rights. I say with regard to education that it is not a question of provincial rights. It is not a question whether the province will have an absolute right or not, such as it has in regard to the matters embodied in section 92; but it is purely and simply a question of minority rights. It is a question whether the minority shall enjoy the rights and privileges which are guaranteed by the constitution or rights and privileges which they may acquire under the constitution.

Now, have we the power to pass the Bill now before us? I say, without the least hesitation, that we have that power. I am not going to dwell on that question at great length. I hope my hon. friend the Minister of Justice will have occasion to take part in this debate, and he is certainly in a better position than I am to discuss that question; but I may be permitted to say a word or two upon it. What says section 4 of the Act of 1871? It says:

The parliament of Canada may, from time to time, make provision for the administration, peace, order and good government of any territory not for the time being included in any province.

The parliament of Canada has absolute power over the legislation of the Territories; there is no doubt about that. Now, what does section 2 of the same Act say? It says:

The parliament of Canada may, from time to time, establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such estab-

lishment, make provision for the constitution and administration of any such province—

The section does not stop there. It does not say, as section 146 of the British North America Act of 1867 does, that the provinces shall be admitted subject to the provisions of that Act. Section 4 of the Act of 1871 says that so long as the Territories remain territories the parliament of Canada will have absolute control over them; but under section 2 the parliament of Canada has also the right to create provinces in those Territories, to give constitutions to those provinces, and to provide for the passing of laws for the peace, order and good government of such provinces.

Mr. SPROULE. Is this one of the laws making for peace?

Mr. BRODEUR. Certainly. If there is legislation which is going to bring peace and order, and which should be dealt with by this parliament, the present is that legislation. I am glad that my hon. friend has drawn my attention to that point. Now, Mr. Speaker, in 1875 this parliament passed a law providing that Catholic and Protestant minorities in the Northwest should have the right to establish such schools as they thought fit. There was no objection to that law; why? Sir John Macdonald was then the leader of the opposition in this House, and why did he not object to the establishment of separate schools in the Northwest? Because he remembered the promise he had made in 1869 to those minorities. He remembered that he, Lord Strathcona and the imperial government and Archbishop Taché had promised that the rights of the minorities in the Northwest should never be disturbed; and, faithful to his word, he did not object to that legislation, and the rights of the minorities were preserved. In 1880 this parliament re-enacted most of the law which was passed in 1875. My hon. friend from East Grey (Mr. Sproule) was then in the House, and I see by the Debates of that day that he made a speech—not on that question; oh, no; but he made a speech on some other question which was brought up on the same day on which the Bill was under consideration. Let us see what was declared in that Bill. Section 9, which was a new section, provided:

The Lieutenant Governor in Council, or the Lieutenant Governor, by and with the advice and consent of the legislative assembly, as the case may be, shall have such powers to make ordinances for the government of the Northwest Territories as the Governor in Council may, from time to time, confer upon him; provided always, that such powers shall not at any time be in excess of those conferred by the ninety-second and ninety-third sections of the British North America Act, 1867, upon the legislatures of the several provinces of the Dominion.

When this matter was up before, I remember that the hon. leader of the opposition asked me if this was a re-enactment. I have looked into the question since, and