

Otherwise subsection 1 has no meaning. No one in this House has endeavoured to give to subsection 1 any other meaning. It is not susceptible of any other interpretation or application. I say therefore, that when subsection 1 was framed, the fathers of confederation evidently intended by it that whatever other provinces might come into confederation, besides Ontario and Quebec, they should be similarly protected, so far as education is concerned, and the same provision applied to them or to any other portion of the British North America Act which might later on join the union. I have no hesitation in my mind regarding that conclusion. I have no doubt that the conclusion to which I have come, after considerable investigation and thought and research, is the right one. But it is quite evident that my opinion is not shared by every one. It is quite evident that it is not in accord with many of the legal opinions which down to the present have been expressed in this debate.

Mr. R. L. BORDEN. Up to a certain point it is absolutely in accord with my own.

Mr. BELCOURT. I am afraid that my hon. friend and myself differ at the crucial point. It is not surprising that this should be the case because we are dealing with a very intricate constitutional question. We are dealing with the interpretation of the spirit and letter of a constitution, made nearly 40 years ago, and now being applied to conditions and circumstances which are very complicated, and which at that time could only have been pictured in the mind's eye. It is not surprising therefore that the Confederation Act should give rise to these legal divergencies and disputes. In fact it is rather surprising that during the forty years which have elapsed since that Act was enacted, there have not arisen more difficulties and divergencies; and it speaks highly for the wisdom and ability of those who framed that Act that greater difficulties have not arisen as to its interpretation both in the letter and the spirit. In any deliberative body, such as a legislature or parliament, it is very difficult to have constitutional questions calmly considered and threshed out as they should be and any opinion definitely agreed upon. But, however divergent may be our views upon the letter of the constitution, there ought to be no doubt as to its spirit. Any one who will read and scrutinize the various provisions of the British North America Act in the light of what happened before and led up to it cannot but conclude that it was clearly the intention of the framers of the constitution that the rights of the minority, whether Protestant or Catholic, should be protected. Whether that minority lived in the province of Quebec or the province of Ontario or was to be found in any other por-

tion of British North America, the dominant idea was the same; and whether a man lived on the banks of the St. Lawrence or the Saskatchewan or the Red river, he was to enjoy the same rights and privileges as regards education and the exercise of his religion. The spirit which prompted the fathers of confederation to recognize the rights and privileges of the minority in matters of conscience surely had equal force whether that minority lived in the east, west, south or north. Therefore it is manifest that the fathers of confederation intended whatever may be said as to the effectiveness of the language used, that the same principle should apply and the same rights be respected and preserved in every portion of the Dominion. And because these differences in constitutional views have arisen to such an extent that it is difficult to get half a dozen men in this House to agree what the letter of the constitution means, it has become absolutely necessary to have section 16 enacted and made part of this Act.

I referred a moment ago to what had preceded confederation. I referred to the rights of the minority with reference to the preservation and the recognition of liberty of conscience and liberty of religious belief. I say that from the very inception of British power in British North America from the very day of the conquest when the colony of Quebec capitulated to the British—from that day on, at every stage, on every occasion when the imperial parliament and the Canadian authorities were called upon to deal with the rights and religious belief of the minority, that religious belief always received the sanction and protection of imperial and Canadian authority. By articles 2 and 6 of the capitulation of Quebec, that principle was sanctioned and recognized. By articles 27, 28, 29, 32 and 38 of the capitulation of Montreal, it was also recognized. By the treaty of Paris, clause 4, by the Quebec Act, clauses 5, 7 and 8, by the constitution of 1791 section 35, by the Union Act of 1840, clauses 42 and 46,—by all these Acts and on all these occasions religious freedom and liberty of conscience were absolutely recognized and granted to every subject, and more particularly to the Catholic minority in this country. It is not surprising therefore that when the fathers of confederation in 1863 met in the city of Quebec for the purpose of framing the conditions upon which the then provinces of Canada should come together and live together as a happy family, and upon which new provinces should be admitted in the union—it is not surprising that on that occasion what had been done on all the previous occasions to which I have referred should have been repeated, and the same rights and privileges and liberty of conscience should have received the sanction of those who were framing

Mr. BELCOURT.