

roduced that Bill. I go further. Being convinced that the Minister of Justice (Mr. Fitzpatrick) had had a great deal to do with the framing of this clause 16, and recognizing in the manner in which that clause was drafted the high qualifications which we all know that hon. gentleman to possess, I thought that I recognized in it a kind of vindication of the position taken by the Liberal party in 1896 upon a similar question. To my mind it was the only thing the right hon. gentleman could do, and I shall say why. In the discussion which is taking place, I was not here one evening when my hon. friend the Minister of Justice (Mr. Fitzpatrick) took some part in it and made some remarks, which of course do not give any idea of what he will say when he speaks at length on the measure. But some hon. members have said that clause 93 of the British North America Act settles the case. I think that is pretty well the opinion expressed by my hon. friend from St. John and Iberville (Mr. Demers). The moment a territory becomes a province, they argue, it comes in with whatever system of education it enjoys at the time of the union. Others take the opposite view and say that clause 93 does not go so far. And I imagine that it was in order to dispel any doubt on that point, that the Minister of Justice drafted this clause 16 as it appears in the original Bill.

There is undoubtedly a law concerning education in the Northwest Territories to-day. They certainly have not got an educational system by tolerance. They have it by right. There is to-day in the Northwest Territories a law governing education which was enacted and granted them by the parliament of Canada in 1875. Clause 11 of that Act of 1875, and 14 of Revised Statutes of 1886, reads as follows:—

The Lieutenant Governor in Council shall pass all necessary ordinances in respect to education. But it shall therein always be provided that a majority of the ratepayers of any district or portion of the Territories or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor and also that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and in such case the ratepayers establishing such Protestant or Roman Catholic schools shall be liable only to assessment of such rates as they impose upon themselves in respect thereof.

The other subsection does not amount to a great deal, but I will read it also:

The power to pass ordinances, conferred upon the Lieutenant Governor by this section is hereby declared to have been vested in him from the seventh day of May, one thousand eight hundred and eighty.

There is the law. Now, I contend that this law has never been repealed. It could only be repealed by an Act of this parliament.

Mr. BERGERON.

It is the law which everybody throughout the world, going to the Northwest Territories, was supposed to know. Everybody was supposed to know that there were separate schools in the Northwest carried on upon the same lines as those in the province of Quebec or those in the province of Ontario. Now, I take section 16 of the Bill—

Mr. BRODEUR. Before my hon. friend (Mr. Bergeron) leaves the part of the subject he is discussing, I desire, with his permission, to ask a question. Does he contend that clause 11 gives to the minority the same rights as were given by the British North America Act to the minority in Ontario and Quebec?

Mr. BERGERON. As a matter of law?

Mr. BRODEUR. Yes.

Mr. BERGERON. I may say that it is not clause 11, but clause 14—

Mr. FITZPATRICK. It is clause 11 of the original Bill, but clause 14 of the consolidation.

Mr. BERGERON. I contend that, in relation to the question before the House, this was the law and is the law. And, while I am prepared to rely upon my own opinion in that matter, I would refer to the Bill brought down by the Prime Minister (Sir Wilfrid Laurier) in support of my position. What is clause 16 of the Bill now before us? It is in effect a re-enactment of the section of the British North America Act. It was put in the Bill as originally presented by the Prime Minister as a matter of precaution—in case any person might otherwise carry the matter to the courts and plead that we had not made it apply to those new provinces by an Act of the parliament of Canada. Now, section 16 says:

The provisions of section 93 of the British North America Act, 1867, shall apply to the said province as if at the date upon which this Act comes into force the territory comprised therein, was already a province—

That would settle the argument of my hon. friend from St. John and Iberville (Mr. L. P. Demers). And then we have added the following words, in order that there may be no question as to the use of 'province,' 'territory,' 'district' or any other word:

—the expression 'the union' in the said section being taken to mean the said date.

And subsection 2 is as follows:

2. Subject to the provisions of the said section 93, and in continuance of the principle heretofore sanctioned under the Northwest Territories Act, it is enacted that the legislature of the said province shall pass all necessary laws in respect of education, and that it shall therein always be provided (a) that a majority of the ratepayers of any district or portion of