Under these clauses a limited power to make educational laws is granted to a province, provided, amongst other things, that nothing therein contained shall prejudicially affect any right or privilege with respect to denominational schools which any of the provinces had by law or, in the case of Manitoba, by practice at the union.

Mr. Dalton McCarthy's opinion will be found at page 73 of the official report of his argument before the Judicial Committee of the Privy Council in the city of Winnipeg vs. Barrett. He was explaining to their lordships the meaning of section 93, and went on to call their attention to section 146 in these words:

By this section 146 the Dominion was to take in the province of Newfoundland, Prince Edward Island and British Columbia, and also it was assumed Rupert's Land and the Northwest Territories would be acquired, and would be ultimately divided into provinces, just as the Northwestern Territories had been divided into states. And provision was made for taking in these various provinces, and accordingly they were taken in, British Columbia first, if my memory serves right, in 1871, and then Prince Edward Island. This clause (section 93) was made applicable to British Columbia and Prince Edward Island, but in neither of these provinces were there any denominational rights, nor has it been so pretended, in respect of schools to be protected or reserved. But the scheme was to apply to the provinces as they came in the general terms of the British North America Act where there were not special circumstances which rendered some other legislation necessary.

And now, as to the contention that section 93 applies only to the four original provinces, or, as some contend, only to the two provinces of Ontario and Quebec, let me state what occurred in the province of Prince Edward Island. That province came into confederation in the year 1873. Although the delegates met at Charlottetown, although they had debated the union in Prince Edward Island, yet in 1867 that province declared that she would not join confederation, and she did not join at that date. Before 1873, there had existed in that province a system of public schools, and side by side with it had grown up a system of separate schools. There were French schools in several parishes, and in 1875 an Act was passed by the local legislature of Prince Edward Island, abolishing the separate schools system. An appeal was made to the Governor General in Council. On that appeal it was admitted by the appellants, the Roman Catholic minority, and by the respondents, the local legislature, that although Prince Edward Island had joined confederation only in 1873, clause 93 applied, and the late Hon. Rodolphe Laflamme, who was then Minister of Justice, submitted a lengthy report, in which he said that clause 93 could not be of any avail to the minority in the province of Prince Edward Island, because the system of separate schools had grown up illegally by the side of the public schools system. There was no legislation to warrant it, and therefore clause 93 could be of no avail.

But we are told by Mr. Haultain and a portion of the press that what may apply to a province does not apply to a territory. This is indeed a very fine and very subtle distinction. Mr. Haultain's objection is not serious. That it is only sophistry is quite obvious. In 1871, doubts had arisen as to the right of the federal parliament to establish provinces out of the Territories admitted in the union. The imperial parliament then passed a statute amending the British North America Act in order to remove any such doubts. What does section 2 of that Act declare? Our parliament was authorized

To make provision for the constitution and administration of the provinces carved out of those regions, and for the passing of laws for the peace, order and good government thereof.

I claim that by the clear and concise enactment I have just quoted, ample authority was given this parliament to frame a constitution for the Territories. Mr. Haultain's interpretation of the British North America Act is this one: He wishes to date the entry into confederation of the two new provinces back to July 15, 1870—because, forsooth, at that time there was no system of separate schools established by law—such as there is under the law of 1875 and under the ordinances 29, 30, 31. As section 93 of the British North America Act does not mention Territories, but provinces. Mr. Haultain concludes that it cannot benefit the new provinces. But the hon. gentleman cannot alter facts. Territories were admitted in the union in 1870. But in 1905 we admit provinces—according to section 2 of the imperial statute of 1871.

It is only this year that this Bill will be in force; it is only on the first of July next that the Northwest Territories will join the union as provinces, and therefore the legislation enacted in 1875 by this parliament granting a system of separate schools, can be retained by the present legislation. I could cite the ablest authorities on the American constitution, Cooley, Randolph Tucker, Sutherland, and others, to show that when the Territories are acquired they do not become states, and so it is with our own Territories. When they were purchased by Canada they did not become full-fledged provinces. And how did these Territories come into Canada? We are aware that there was some doubt expressed as to the validity of the Act of 1870. Some people believed that we could not carve provinces out of these Territories, and therefore Sir John Macdonald, who was Prime Minister, applied to the imperial authorities to have the legislation of 1870 confirmed by an imperial statute. It is well to refer to the memoran-