

intangible constitution which has grown up by practice and usage. We have a precedent for what we are doing to-day. How were the public lands in Manitoba dealt with?—which public lands occupied, quoad the Dominion of Canada, absolutely the same position which the public lands of the Territories occupy to-day, except that in the interval we have spent enormous sums of money to develop that country, in connection with immigration, irrigation, and other matters. How did we deal with the case of Manitoba? We dealt with it absolutely in the way in which we are dealing with the Territories. Were we to do otherwise and Manitoba were to come to us, are we to say to her: We have given these lands to the new provinces of Alberta and Saskatchewan, but so far as you are concerned lands occupying the same position are not to be dealt with in the same way? Why should we distinguish between the two? But, Mr. Speaker, we have more than that. This question has not been raised here for the first time. It was the subject of much consideration by the government in power in 1884, and a report to Council was made by gentlemen, members of the government, who had been appointed to consider the whole of these questions, and chiefly the question that was then raised, as to the right of the province of Manitoba to the control, management and sale of the public lands within its limits—the same question that is now being considered. How was that question dealt with by the report of Council of May 20, 1884? I have made a few extracts from that report, which I will read:

The lands of Manitoba hold a very different position in relation to the Dominion government, from the lands of the other provinces. Shortly after the union of the old provinces, the government formed from that union purchased at a large price in cash, all the rights, titles and interests of the Hudson Bay Company in and to the territory out of which the province of Manitoba has been formed, it incurred further a very large expenditure to obtain and hold this territory in peaceable possession, and at a still further cost which is continuous and perpetual, is extinguishing Indian titles and maintaining the Indians, so that the Dominion government has a very large pecuniary interest in the soil which does not exist in respect to any other of the confederated provinces.

Is there a reason advanced in support of the position taken by the government at that time which is not applicable to the conditions existing in the Territories to-day? But that is not all. My hon. friend thought there was not much in the argument with respect to immigration; but let me point out to him what the views of the government of 1884 were on that point. The report says:

Parliament pledged its faith to the world that a large portion of those lands should be set apart for free homesteads to all coming settlers, and another portion to be held in trust for the

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education of their children. No transfer could therefore be made without exacting from the province the most ample securities that this pledged policy shall be maintained. Hence in so far as the free lands extend there would be no monetary advantage to the province whilst a transfer would most assuredly seriously embarrass all the costly immigration operations which the Dominion government is making and mainly in behalf of Manitoba and the Territories.

The great attraction which the Dominion government now offers, the impressive fact to the mind of the man contemplating emigration, is that a well known and recognized government holds unfettered in its own hands, which it offers free, and that that government has its agencies and organization for directing, receiving, transporting and placing the immigrant upon the homestead which he may select.

These are the reasons which were given then, and these are the reasons which apply under existing conditions to the lands in the Northwest Territories.

My hon. friend dealt afterwards with section 16, the school clause. I shall not go over the position I have already taken with respect to that section or the arguments which I have already advanced. Briefly, I think I may put it in this way. You have to provide by this constitutional Act for the distribution of a legislative power as between the Dominion and the province. Sections 91, 92 and 93 of the British North America Act must be made applicable, section 91 being the section which is applicable to the Dominion, section 92 the one applicable to the province, and section 93, the one applicable to both. Neither the province nor the Dominion can deal exclusively with the subject mentioned in section 93. The Dominion can deal exclusively with the subjects mentioned in section 91, and the province can deal exclusively with the subjects mentioned in section 92.

But when we come to deal with this question of education, we find by section 93 that it is a subject over which both the Dominion and the provinces exercise legislative jurisdiction. Section 93 provides for this condition of things, that if a school system has grown up in a province under which any class in that particular province has acquired a right or a privilege, then that right or privilege is guaranteed that particular class for all time to come. That is the restriction placed upon the powers of a province to deal with the subject of education. It can only deal with that subject under the restriction that all the rights and privileges therefore vested in any class in that province cannot be interfered with. There can be no doubt on that point because it has been irrevocably settled as the result of two judicial decisions. If these Territories were a province now in existence, the school system there existing would be of necessity perpetuated, and whatever rights and privileges are conferred on the minority under that school system would be guaran-