

haps more in view of an utterance of the last speaker than for any other reason. The last hon. member who addressed the House (Mr. Bristol) took occasion to remark that when this Bill was originally introduced by the Prime Minister (Sir Wilfrid Laurier), he invoked moderation on the subject from all those who discussed the measure. The hon. member for Centre Toronto (Mr. Bristol) was inclined to praise the right hon. the leader of the House (Sir Wilfrid Laurier) for having asked for moderation, and having himself set an example of moderation in his speech. But a few moments later, the hon. member for Centre Toronto changed his tone in this respect and said that the eulogy pronounced by the Prime Minister on separate schools stirred up the resentment of every Protestant in this House. What then does he think of the eulogy or complimentary apostrophe that was pronounced in respect to the minority, in respect to the Roman Catholic electors of this country by his own leader, the leader of the opposition (Mr. R. L. Borden)? Now that hon. gentleman, I think, went a little out of his way in the course of his speech to eulogize the Roman Catholic minority. It was not necessary for him to do so for the purposes of his argument. However, I have no doubt that the Roman Catholic electors of the Dominion of Canada will be very much gratified by that eulogy, although it came to them in a sort of backhanded, apologetic manner, for at the same moment the opposition leader said that he could not support their claims, that he rested his case solely on the rock of the constitution, as he understood it, but he gave them not one single hint of what he would do provided this were a constitutional measure and this parliament had power to deal with this question of education in the Bills now before us.

Before entering upon an examination of the case, as one might put it, I might say that I listened with great care to the speech of the hon. member for Centre Toronto (Mr. Bristol), who has preceded me. I congratulate the hon. member on his maiden effort in this House. He certainly has succeeded a great man, who formerly represented that riding in this House, a man who had the affection of every member in this House, a man whose good judgment and whose ability were well recognized. The hon. member is the follower in Centre Toronto of a great man, and I might express the hope that at some day in the future the hon. member who has just resumed his seat may be able to fill the place formerly occupied by Mr. E. F. Clarke, now deceased.

In taking the stand I do on this measure, it becomes necessary to go into a somewhat critical analysis of the whole constitution or of the British North America Act, and the Acts which bear upon it. I do not desire, and I do not find it necessary, for my purpose, to make more than passing reference to conditions which existed prior to

confederation. There is no doubt that the British North America Act, 1867, was the outcome of a compact or agreement. It is not the outcome strictly speaking of imperial legislation or imperial will, but it is the result of agreement between representative men from Ontario, Quebec, New Brunswick and Nova Scotia, and in the Act of 1867 we find their agreement consolidated and put into legal shape by the imperial government. As I read that Act, I find in only two places reference of any kind made to any other provinces or territories. In the preamble of the Act it is true there is a slight reference to what might happen in the future. In the preamble we find this clause:

And whereas it is expedient that provision be made for the eventual admission to the union of other portions of British North America.

And in section 146 we find a direct reference to the provinces or colonies of British Columbia, Prince Edward Island and Newfoundland, and a direct reference to Rupert's Land and the Northwest Territories. Now, can it be argued for a minute that these colonies or provinces or territories, which had no part in the making of the British North America Act, were parties to the agreement or compact which it embodies? I submit the Act was framed solely and exclusively on the agreement of the delegates from the provinces which were interested as the original provinces coming into confederation. Now, I think that the statement of my hon. friend the leader of the opposition (Mr. R. L. Borden) in regard to the general purview of the British North America Act, 1867, contains a very fair analysis of what that Act was, and I think perhaps I might read that statement by the hon. leader of the opposition, found in his speech at page 3077 of 'Hansard.' He says there:

Analyse the British North America Act so far as analysis is necessary for the purpose of considering this question and what do you find? In the first place you find the establishment of a federal parliament and a federal executive; in the next place you find the establishment of provincial legislatures and provincial executives; in the next place you find the distribution of executive power between the federal executive and the provincial executive, and in the next place you find the distribution of executive power between the Dominion parliament and the provincial legislature. This analysis is not exhaustive, but it covers all that is necessary for the present purpose.

I submit that that is a very fair analysis of the Act, and I would point out that in section 91 of the Act we find the subjects which are to be entirely dealt with by this parliament. In section 92 of the Act we find enumerated all the matters which are to form the subjects of provincial legislation. Now, Mr. Speaker, marking these two sections, examining them carefully, we find that section 91 distinctly applies to

Mr. GUTHRIE.