

With regard to the question of education generally you are now aware that the position taken by us was that the province should be left to deal with the subject exclusively, subject to the provisions of the British North America Act, thus putting them on the same footing in this respect as all the provinces of the Dominion except Ontario and Quebec.

To properly appreciate what this means, let us see what is the position of the other provinces of the Dominion with respect to education, and I will make bold at once to make this statement: that there is not to-day in the whole Dominion of Canada a single province which has the power to legislate exclusively with respect to education—not one province in the Dominion of Canada. The distribution of legislative power by the British North America Act, as between the provinces of the Dominion, is made in sections 91, 92 and 93 of that Act. Section 91 enumerates the power of the parliament of Canada, and enumerates the matters coming within the classes of subjects over which the exclusive legislative authority of the parliament of Canada extends. Section 92 enumerates the classes of subjects in respect to which the legislature of each province may exclusively make laws; and section 93 deals especially with legislation respecting education, and provides; what?:

In and for each province the legislature may exclusively make laws in relation to education—

Does it stop there? No, it goes on to say:

—subject and according to the following provisions.

Can there be any doubt now as to whether or not the provinces have the right to deal exclusively with education. If it was intended that the province should have exclusive legislative jurisdiction with respect to education, why not have included that subject among the classes of subjects enumerated in section 92, and assigned exclusively to the provinces; or, why not have eliminated all reference to the subject of education, which, in that case might have been included under the heading 'property and civil rights in the province' under section 92; again under 'matters of a merely local or private nature in the province.' Either of these two enumerations would include education. The answer is, that parliament intended to deal with this difficult question so as to make exceptional provisions differing according to each province; and my argument is that by section 93 of the British North America Act, 1867, the power of each province to make laws in respect to education is expressly limited: First, the right to denominational schools which any class of persons has by law in each province at the union must be preserved. That is quite clear. Second: where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established an appeal shall lie to the Governor General in Council

from any act or decision of any provincial authority affecting any right or privilege of the minority. And third: The powers, privileges and duties conferred in Upper Canada upon separate schools and school trustees of the Roman Catholics, are extended to the dissentient schools of Protestants and Roman Catholics in Quebec.

These limitations not only provide expressly exceptional provisions for different provinces, but also in effect, so far as there were denominational schools at the union, established as many different systems as there are provinces. By the Manitoba Act there are different provisions, and the limitations so far as denominational schools are concerned is expressed in even broader terms than in section 93 of the British North America Act. Nobody doubts that Ontario, that Quebec, that Nova Scotia and New Brunswick are provinces, notwithstanding this diversity in matters of education. It has never been suggested that Manitoba is not a province, although further exceptions as to education have been introduced in her case. It cannot reasonably be argued that in creating a new province the Dominion is bound to make its powers with regard to education corresponding to those of any particular one of the older provinces. And, if we are obliged to make them correspond to any particular one of the older provinces, to which shall we make them correspond? All the provinces are treated alike, mark you, Mr. Speaker, with the single exception of Quebec, with respect to which province there is an express limitation placed upon its powers in the interest of the Protestant minority.

It is a complete error to imagine that the right to separate schools in Ontario is created by the British North America Act; that right is merely preserved by that Act, and there is no exceptional provision for Ontario. The conditions applicable to Ontario are those applicable to New Brunswick, to Nova Scotia, to Prince Edward Island and to British Columbia; the difference being that at the time of confederation the Catholics of Ontario had rights and privileges with respect to their schools by law in the province, and they did not have these rights in some of the other provinces. Again I repeat: there is not in the whole Dominion of Canada to-day a single province that enjoys an exclusive right to legislate with respect to education. Then, why in the name of provincial rights can we justly be called upon to give to these new provinces a power which no other province possesses? Let me quote on this point the opinion of their Lordships of the Privy Council in the second Manitoba School Case. Here is what their Lordships say, page 279 of the Manitoba School Case, 1894, edited by the Canadian government:

Before leaving this part of the case say their Lordships, it may be well to notice the argument urged by the respondent: that the con-