

It must be borne in mind that I am concerned only with the question of legal obligation. What the parliament ought to do or should do in the exercise of any power which they possess, is not within the province of counsel.

He does not pretend to give advice on that point.

Such a restriction, I apprehend, must exist or may be imposed, if at all, under the provisions of section 93 of the British North America Act, 1867, and on the ground of their application to the provinces now to be formed. If that section applies—

He seems to be in doubt.

If that section applies, it would seem to require no enactment of our parliament to give it effect—

Now is that not the contention of the leader of the opposition? If that power exists it does not require any enactment to give it effect.

—and if not, no such enactment, so far as I am aware, is otherwise made necessary. Upon the whole I am of opinion that section 93 does appear to me to be intended for, and confined to, the then province, and to the union formed in 1867.

Then if it does not apply, the responsibility rests with the right hon. gentleman and his friends forcing an educational system on the people out there that they think should not be forced upon them. If its provisions are confined to the then provinces and to the union formed in 1867, the authority given them in the Act of 1875, and under which by their ordinances they have established separate schools, could not apply at all, because that was not the date of the union. The date of the union was antecedent, in 1867, according to Mr. Robinson's judgment; therefore there was no power in the land to give separate schools, and they had no separate schools then.

There is not in any part of the Northwest Territories as a province any right or privilege with respect to denominational schools possessed by any class of persons, created by the province, or existing at such union; and a right subsequently established by the Dominion in the part now about to be made a province, does not appear to me to come within the enactment.

Is that straight enough? 'It does not come within the enactment. But the whole argument of the First Minister was: I am doing something because I am compelled to do it, if he had said: I am doing it because there is some kind of moral obligation resting upon me,—he might have been justified by his conscience. But he says: I am doing it because constitutionally I must do it, there is no other alternative, it is forced upon me to act along that line, and therefore I am justified in acting as I have done.

Mr. FITZPATRICK. Before my hon. friend passes away from that point, will

he be good enough to lay on the table the questions that he put to Mr. Robinson along with the answer? Because we have had a running comment on the answer.

Mr. SPROULE. I have just read the answer. I may say that I had already foreseen this very reasonable request. I had the questions drawn out and submitted to Mr. Robinson, and I have been urging for a reply, and it was only to-day at two o'clock that I was able to get it. I have only the telegram that was sent to me without the question. Unfortunately I did not keep a copy of them, otherwise I would be able to hand them to the hon. gentleman. As soon as they are available, I will present them to the minister.

Mr. R. L. BORDEN. I would suggest that the hon. gentleman read the telegram through without comment.

Mr. SPROULE (reading):

The right of the Dominion parliament to impose restrictions upon the provinces about to be formed in dealing with the subject of education and separate schools, is, I think, not beyond question. This would require more consideration than I have been able to give to it, and must ultimately be settled by judicial decision. I am asked, however, whether parliament is constitutionally bound to impose any such restriction, or whether it exists otherwise, and I am of opinion in the negative. It must be borne in mind that I am concerned only with the question of legal obligation. What the parliament ought to do or should do in the exercise of any power which they may possess, is not within the province of counsel.

Such a restriction, I apprehend, must exist or may be imposed, if at all, under the provisions of section 93 of the British North America Act, 1867, and on the ground of their application to the provinces now to be formed. If that section applies, it would seem to require no enactment of our parliament to give it effect, and if not, no such enactment, so far as I am aware, is otherwise made necessary. Upon the whole I am of opinion that section 93 does not apply to the provinces now about to be established. Its provisions would appear to me to be intended for, and confined to, the then province, and to the union formed in 1867. There is not in any part of the Northwest Territories as a province any right or privilege with respect to denominational schools possessed by any class of persons, created by the province, or existing at such union; and a right subsequently established by the Dominion in the part now about to be made a province, does not appear to me to come within the enactment.

I may say that it is signed 'W. D. Macpherson' who is acting for Mr. Christopher Robinson.

Mr. FIELDING. Is that the opinion of Mr. Robinson or Mr. Macpherson?

Mr. SPROULE. It is the opinion of Mr. Robinson, communicated by Mr. Macpherson.