

able to the new province at all, because that section is varied by section 16.

Mr. R. L. BORDEN. I understand that perfectly whether we agree with it or not. But assuming that there was no doubt about the effect of section 2, assuming that there was not that doubt which the hon. gentleman now explained, would it bring into effect the Act of 1875?

Mr. FITZPATRICK. It would bring into effect section 93 of the British North America Act which would include the Act of 1875.

Mr. R. L. BORDEN. That is just it, I was taking the short line. Section 93 would have the effect of perpetuating the Act of 1875, in so far as it embodies what we call the restrictive principle. Does the hon. minister regard section 16 (which is substituted for section 2), in its amended form or in its original form as having the same effect?

Mr. FITZPATRICK. In my judgment, section 93 as amended would bring in all the rights and privileges which exists in favour of denominational schools in the Territories at the present time or at the 1st of July coming. Those rights and privileges would include all those rights which are covered by section 11 of the Act of 1875 and any subsequent legislation up to the present time, and, in my opinion,—and I must say I have given this matter most careful consideration, and it is my settled opinion—it would cover all the privileges conferred by the Act of 1875, notwithstanding the provision of any ordinances that may have been passed by virtue of that Act.

Mr. R. L. BORDEN. Exactly my own view.

Mr. FITZPATRICK. With regard to Mr. Clement's opinion, if my hon. friend will do me the pleasure of reading what I said the other day, he will find that I quoted Mr. Clement's opinion to the effect that if the present system of schools existing in the Territories were allowed to continue on until the Territories were brought into confederation as provinces, that that system then would be perpetuated for all time. That is the opinion expressed by Mr. Clement in confirmation of the opinion previously expressed by George Brown and Dalton McCarthy. I was not prepared to go that far, and I would not feel justified in endorsing that opinion. I do not refuse to discuss the amended clause, but as I attach a great deal of importance to that amendment, and I feel it my duty to explain the position as clearly as I can to the House, I do not want to discuss it before we reach it. It is a matter that involves a great deal of consideration, practically a consideration of all the Northwest school ordinances.

Mr. R. L. BORDEN. So far as I am concerned, the hon. gentleman has very courte-

Mr. FITZPATRICK.

ously answered everything I wished to ask at this moment, and therefore I am perfectly willing to allow section 2 to stand for the purpose of convenience until we come to discuss it in connection with section 16.

Mr. HAGGART. The Minister of Justice, in his argument the other day in support of the contention that the Act of 1871 gave full powers to the Dominion, quoted an opinion—I do not know whether he had the opinion or not—but he made a statement that Lord Kimberley, who introduced the Bill into the House of Lords, stated in support of his contention that the Act was not perhaps absolutely necessary, as the Dominion parliament had the power of passing an Act such as was introduced. I would like, if it is at all possible, to get the opinion of these two law lords, I think Lord Collier and Sir John Coleridge.

Mr. FITZPATRICK. What I said was that at the time what we call the Doubt Removing Act—the British North America Act Amendment, 1871—was introduced in the House of Lords by Lord Kimberley, he said, in introducing the Bill, that it was intended to confirm the Act of 1870—the Manitoba Act—in connection with the passing of which certain doubts as to their power to legislate had been expressed by the Canadian authorities; that these doubts had been considered by the law officers of the Crown, who at that time were Sir Robert Collier and Sir John Coleridge, and that the law officers of the Crown in England had expressed the opinion that there was no doubt as to the power of the Canadian parliament to pass the Act of 1870. That is what I said. Naturally, when my attention was drawn to that statement of Lord Kimberley's, I inquired in the department as to whether or not these opinions were on file, and I was told they were not here. Immediately I wrote to our agent in London to get these opinions if they were deliberately expressed opinions. I have not yet heard from him in answer to my inquiry as to whether or not the opinions are on record in the Home Office.

Mr. R. L. BORDEN. Of course, it would be important to know whether they are dealing with the general power of parliament to establish provinces or were dealing with a Bill in all its details. They might take either one of these courses.

Mr. FITZPATRICK. My own opinion, reading the remarks of Lord Kimberley, which are very briefly reported in the debates of the House of Lords, was that the opinion expressed by the law officers of the Crown was in respect to the doubts which were expressed here and which doubts, I think, were limited, as far as I can gather, to the question of representation. I do not think they went beyond that; at least I would not gather that from what Lord Kimberley said. My argument, however,