

legislate either in or out of that circle, and no body has power to make that circle larger or smaller than was prescribed by the Act of '67. The restrictions that are made to this section 93 I do not think take away from the exclusiveness, but rather limit distance. There is another principle in section 93 which I would put before that giving privileges to minorities, and that is that the initial right of legislation on matters of legislation lies with the provinces, that the Dominion parliament never under any circumstances legislates with regard to educational matters in the provinces until the provincial legislature has gone beyond its powers and then only does the Dominion interfere in order to provide a remedy.

The principle of the preservation to minorities of their rights also exists, but I think in a subordinate degree to these others. If I were to ask myself what particular training or what colouring to my mind, or what influence caused me to place such an interpretation upon section 93, I think that on careful examination I would very likely find that the campaign of 1896 with the various cries used in that campaign of, I shall not say 'Hands off Manitoba,' but certainly 'Let the provinces attend to their own educational affairs, would have a large bearing on it. I may be right or I may be wrong, but with all due deference to many gentlemen whose opinions I would value and perhaps defer to in many other cases, I am inclined to think that in my present attitude I am nearer to the position of the Liberal party who swept the county in 1896 on 'provincial rights' than they are at the present moment. I realize of course how very subtle is the dividing line that will at a certain point separate minds that have been examining various arguments and that have been up to that time in agreement. If you take section 93 which gives exclusive rights of legislation in regard to education to provinces and at the same time makes an exception in favour of minorities, it is easy to ask what is the dominant idea. Reading it with the whole case in view and remembering the struggles that led up to confederation, one mind is struck with the thought that the preservation to minorities of any privileges they enjoyed was the most prominent feature, the principle to be most conserved and safeguarded even to the extent of providing for remedial legislation if infringed upon. To another mind the setting apart to provinces of the exclusive right to make laws on education is the prominent one—and that mind is impressed with the thought that exclusiveness is the real essence—the exceptions being only limitations to the distance to which such exclusive legislation may go. According as you give pre-eminence to one or other of these views, will not your whole course of thought leading up to your final decision on the present

Mr. McINTYRE.

question be settled? I can readily see how others may take the other view. I have followed the arguments advanced with as much care as I can and with all the ability that has been given me, and my course appears to be clear. I think that the proper course in a case of this kind would have been when it was known beforehand that these questions would be debated as we had fought them out on previous occasions, to have ascertained exactly what the constitution was in the case and to have adhered to it, and then we would not have had a Bill brought in that would cause almost a mutiny in a party, that would make it necessary to have reconsideration and a change. A decision on an appeal to the Privy Council would have obviated all or a great portion of the opposition that has arisen. Our constitution being a written one can be interpreted and it has not the elasticity of an unwritten constitution. The only elasticity that I think our constitution has is found in such amendments as may be made by a vote of the people on certain actions of the government and it has been claimed that the remedial portion of our Act of 1867 has been abrogated by the elections following 1896 which may be true. There are other questions in regard to which we may well consider. If these new provinces are not satisfied with the legislation we give will they obey? If they do not obey what will follow? The west is impatient of restraint; it is unwise, I think, to try to bind them too closely. It may be that they will accept, I hope they will. It may be these Bills will work out well, I hope they will, but I have a fear that possibly we are not at the end of the trouble, but only at the beginning. It has been urged over and over again by members of the opposition in this House that it would be well even yet for the government to take the step of appealing to the Privy Council before they put this Bill in force. I notice in the 'Sunday World' which is not a very good authority to quote to the government, a statement that there were rumours in the corridors that such a course would be taken, that the government would yet before putting the Act in force submit certain questions to the Privy Council in regard to these educational clauses. I may say that while my vote is of no importance to the government on the present occasion, if such a step was taken it would enable me with very great pleasure to vote for the government on both of these Bills. As I said the vote of a single member in such a case is not of very much value and importance to them, and it of itself would not be sufficient reason for the government taking such action but it might easily happen that such a course would be of value to them in the future, throughout the country at large and it might happen that numbers of the Conservatives who now feel somewhat disinclined on the constitutional