

9. Licenses

10. Local works and undertakings other than those extending beyond the limits of the province or are declared by the parliament of Canada to be for the general advantage of Canada.

11. The incorporation of companies with provincial objects.

12. Solemnization of marriage in the province.

13. Property and civil rights in the province.

14. The administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts.

15. The imposition of punishment by fine, penalty or imprisonment, and generally, all matters of a merely local or private nature in the province.

Not a word here about education. Now, let us look at the following section, section 93, that deals exclusively with education, and see what are the powers of the provinces with regard to education.

In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions:

Here, therefore, are qualifications to the exclusive power of the legislature to make laws. They are thus defined:

Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

2. All the powers, privileges and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects, shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.

3. Where in any province a system of separate or dissentient schools exists by law at the union or is thereafter established by the legislature of the province, an appeal shall lie to the Governor General in Council from any act or decision of any provincial authority affecting any rights or privileges of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

4. In case any such provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

Here are the qualifications: If a province is admitted with a system of denominational or separate schools, the provisions of section 93 at once apply, the powers of the province are at once limited. If it comes in without any separate schools, then the provisions of section 93 do not apply. But if that province, in the exercise of its legiti-

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mate authority, adopts separate schools, forthwith section 93 applies, and the powers of that province become limited. The legislature has power to pass a law establishing separate schools, but it has no power to abolish them, and that power becomes at once subject to the provisions of this Bill. I say, therefore, that there is no such a thing under our constitution, in matters of education, as absolute provincial rights. Speaking upon this subject on the second reading of the Bill my hon. friend (Mr. R. L. Borden) quoted some remarks of mine in which I deprecated the interference of the Dominion with provincial legislation. If my hon. friend will do me the honour to study the opinions I have expressed on this subject since I have been in parliament, he could have quoted much more in the same line, and expressing the same views. More than once upon the floor of this House I have compared, upon this subject and other subjects, our constitution with the constitution of the United States; and whilst in general terms I have always maintained that in many respects our constitution is superior to the American constitution, my opinion has never varied that upon this subject, namely, the respective powers of the federal and state governments, the American constitution is far superior to our own. Under the American system the powers of each government, both the federal and the state, are clearly defined, so that there can be no overlapping by one over the other, and no supervision of the one over the other, except the judicial authority which keeps each one in check. Unfortunately such has not been our system; unfortunately, I say, the fathers of confederation, for good and sufficient reasons, I am sure, reasons which I understand and appreciate, came to a different conclusion, and did not make an absolute separation between the local powers and the powers of the central government, but in a number of cases allowed them to overlap each other, though in all cases they made the powers of the legislature subject to the power of the central government; and in some cases, as in this one, they made special provision that the powers of the legislature, under certain circumstances, were subject to supervision by the central government. The fathers of confederation, I say, for good and sufficient reasons, came to that conclusion. Now, it has been stated, and I believe it is true, that it would not have been possible at that time to accomplish the project of confederation unless this provision had been inserted in the constitution. But my hon. friend on the occasion I have referred to, expressed the idea that the restrictions which are contained in the British North America Act and which curtail the powers of the legislature in matters of education, must be and are confined by the letter of the constitution to Quebec and Ontario alone. In order that I may do my hon. friend no injustice, and