

Mr. FOSTER. Which would be—?

Mr. FITZPATRICK. The right of the minority in a school district to establish a separate school under section 41 and following sections.

Mr. FOSTER. Now let a layman have about a minute or two to get in his question. Do I understand the matter right if I state it this way? Under the Act of 1875, the Roman Catholics if they were a majority in a district had the right to establish a school such as they thought proper. If they were a minority they had a right to have a school as laid down in the law. Now, under section 16, No. 1, these two rights are perpetuated. But clause 16, No. 2, makes a distinction. It conserves to the minority the right they had under the Act of 1875—

Mr. FITZPATRICK. No, not all.

Mr. FOSTER. All the right they have as a minority to erect a minority school in the school district?

Mr. FITZPATRICK. With an exception. That is to say, the right of the minority to have a separate school in a district is contingent upon the exercise of the right of the majority to establish a public school. That is the only distinction.

Mr. FOSTER. That is right. Well, suppose there is that little distinction—they are not allowed, under clause 16, No. 2, to erect their minority school unless the majority have organized a school district.

Mr. R. L. BORDEN. Or the government have organized it.

Mr. FOSTER. If the majority refuse to erect a school district, it would be necessary that the government should intervene in the interest of the children of the majority in that district, and also in order not to deprive the minority of their right to organize. The other right they had under the Act of 1875, which was conserved under section 16, No. 1—the right of the majority in the district to have such school as they thought fit—is taken from them?

Mr. FITZPATRICK. Yes.

Mr. FOSTER. If there is anything in that such as taking away the privilege in the latter case or granting a privilege in the former case, it will all depend on what you say is meant by such school 'as they think fit.' The Minister of Justice holds that this has relation to the quality or kind of school; otherwise, it would have been no privilege to them in 16, No. 1; and if that is not so, it is no deprivation to them in 16, No. 2. Now, let us look at that—of course, I do not discuss the legal aspect of the question. Is it reasonable to suppose that you could have a school system if the majority of the ratepayers in any

district might establish such schools as they thought fit, including in that the power to determine the quality of its teaching, the hours and everything that goes to make up the conduct and discipline of the school? Suppose that were accepted, where would it land us? Why, the Roman Catholic majority in one case, the Protestant majority in another case, the Mormon majority in another case, the Doukhobor majority, or the Galician, or Hungarian or Polish majority, could establish such schools as they thought fit as to the quality and management of the schools. If this were so, I venture to say you could have no school system which would be worthy of the name. The majority might put in incompetent teachers. If it was a Polish majority, they might insist on teaching nothing but Polish and refusing the right to attend to an English-speaking or French-speaking boy. This is a wide power. The Mormon majority in a district could establish a school and in it teach their peculiar doctrines. If that is the meaning of it, we reason to an absurdity. It surely cannot mean that.

They may want a primary school, they may want a higher school, they may want one of different grades; such a school as 'they think fit' in that respect they can have, such a school as they think fit in respect to number and the like of that, but under this clause, always subservient to and determined by the general laws, rules and regulations which establish and perpetuate the school system. That is the point that puzzles me as a layman. If that is the interpretation, namely, that such schools 'as they think fit' refer to the matters of quality, discipline, order and everything which is taught in them, you would reduce the whole matter to an absurdity. So it seems to me the common sense principle of interpretation is not in respect of quality, but in respect of what I have spoken about in regard to the question of schools. Now does the Minister of Justice think that if the Poles were in a majority, that under the Act of 1875, and that law still has power, they could by a majority erect and establish such a school 'as they think fit,' saying that it shall be taught by a Polish teacher, who need not have a diploma, who need not have attended a normal school, who need not teach more than two hours a day, who need not do any of these things, and yet that they could avail themselves of the privileges of pay which go along with the erection and conduct of a school, and be a part of the system which is in vogue? Does he think they can do that? He does not, I do not think he can, then I think he will have to modify his interpretation of the phrase 'such a school as they think fit.' That is the practical difficulty that suggests itself to my mind. But legal interpretations are sometimes wonderful things, and I do not know whether I am right or wrong. But I think mine is the common sense opinion.