

and discuss the practical questions involved or proceed with the ordinary business of the House.

And later he said :

Now, I have not been discussing the constitutional question as my hon. friend will observe. I have been discussing entirely what I may call the practical side of the question, and I do that with the firm conviction that most of the people of this country will not bother themselves very much about this constitutional question, but they will want to get at the actual facts of this very important question.

Now, it seems to me that if they do not bother themselves about the constitutional aspect of the question the courts will. I desire to point out that parliament to-day is not, as it were, dealing with children or babies in regard to this Northwest question. It is dealing with Territories which parliament itself has been treating as provinces, to which it has been giving the power of provinces, and parliament has been dealing with them in regard to the matter of education as if they were under the British North America Act and subject to its terms. In 1880, 43 Victoria, chapter 25, was passed, which, by section 9, provided that :

The Lieutenant Governor in Council or the Lieutenant Governor, by and with the consent of the legislative assembly, as the case may be—

That is as the case may be.

—shall have such powers to make ordinances for the government of the Northwest Territories, as the Governor in Council may, from time to time, confer upon him, provided always that such powers shall not at any time be in excess of those conferred by the 92nd and 93rd sections of the British North America Act, 1867, upon the legislature of the several provinces of the Dominion.

That was re-enacted by the Northwest Territories Act, chapter 50, section 13, Revised Statutes of Canada, 1886. Further, these Territories have been treated as provinces in the Interpretation Act. It is provided by the Interpretation Act, Revised Statutes of Canada, 1896, chapter 1, section 7, that :

In every Act of the parliament of Canada, unless the context otherwise requires.

Subsection 13. The expression 'provinces' includes the Northwest Territories and the district of Keewatin.

Subsection 14. The expression 'legislature,' 'legislative council,' or 'legislative assembly,' includes the Lieutenant Governor in Council and also the legislative assembly of the Northwest Territories, and the Lieutenant Governor in Council of the district of Keewatin.

Subsection 15. The expression 'Act,' as meaning an Act of the legislature, include an ordinance of the Northwest Territories or the district of Keewatin.

I submit that these provinces have been in possession of these rights and powers to deal with education and to deal with it

subject to section 93 of the British North America Act, they are familiar with the Act, it has been applied to them already, and it ought to have some weight in the consideration of the question.

Now, I just desire to say a few words more. I desire to put on record my protest against legislation by reference such as this is. This measure embodies a form of legislation that is not now enacted in regard to any important matter. At the present time this form of legislation has almost entirely disappeared from the British House of Commons. This is legislation by legislating into an Act some other Act, or parts of another Act or parts of other Acts. The legal authorities are all very clear upon this point. Harcastle on the Construction and Effect of Statute Law is a book that is well known, a leading authority on that matter, and at page 28 of that book we find the following statement :

Legislation by reference . . . is usually the outcome, not of negligence, ignorance, or incapacity in the draughtsman, but of the foibles of parliament, and is excused on the ground that it lessens political difficulties and simplifies the process of getting Bills through committee by lessening the area for amendment. The same excuse is made for the practice of putting very long clauses elaborately divided into many subdivisions, in what are called fighting Bills.

Legislation by reference, which was increasing in 1875, and has since that date still further developed, was described by the committee as making an Act ambiguous, so obscure and so difficult that the judges themselves can hardly assign a meaning to it, and the ordinary citizen cannot understand it without legal advice.

That was in 1875. Since then the practice has been gradually discontinued and is to-day looked upon with disfavour in the British House of Commons. I think that is a good reason why the Bill should not be approved of in its present form. Now, I claim that it is unwise to stereotype and crystallize into law for ever a certain condition of affairs existing at any one time. I think that to remove the elasticity which should be about a measure of this kind and to limit for all time to come a set of principles which in future years may become a hardship to the minority or to the majority of the people of that country is a mistake, and that it would have been better to have left it subject to the power to change from time to time. Now, it cannot be changed except by legislation by the imperial House if this Act is held to be good which I very much doubt. What will the minority get by the Bill? It is said that it is going to give them something of very great value and importance. The hon. ex-Minister of the Interior spoke of it as follows :

What does that preserve? I have read these ordinances through, and all that I can find this section to preserve—and it is an important thing—let us not exaggerate or minimize, let