

clause 93 shall apply, and the difference will be what is in clause 16 now and what clause 93 would give them.

I venture also to quote the Prime Minister upon this question. In his speech in moving the second reading of the Bill he said :

Now, Sir, a word as to the changes we have made in that clause. I stated the other day that we propose to make a change and we have given notice of an amendment which we intend to move to clause 16. What is the reason of this change? It is a fair question to ask and a question to be answered. Sir, we have taken the ground on more than one occasion, we again take this ground and it is the ground upon which we stand in dealing with the present case, that wherever a system of separate schools exists that system comes into force and is constitutionally entitled to the guarantees which are embodied in section 93 of the British North America Act. Be that system much, be it little, whatever it is, it is entitled to those guarantees. That is the position we take, and when we introduce section 16, as it is in the Bill, we had no other intention than to give to the minority the rights and privileges to which they are entitled under the law which they have to-day.

And again :

So, Sir, now whenever a province comes here knocking at this door asking to be admitted into confederation, if in that province there exists a system of separate schools, the British North America Act has provided that the same guarantee we give to the minority in Quebec and Ontario shall also be given to the minority in that province.

I think that is a fair statement of the effect of the law as it stands. Now I submit, this is a legal question, not a question of a matter of policy. I repeat what I said before, that I believe this question was set at rest when confederation was formed, because in the Acts embodying confederation and carrying out its principles we find all the machinery, so to speak, and, I may safely say a method of working out all questions which might come before the parliament of Canada in the then future. It does seem to me that the foundation was laid sufficiently broad and sufficiently deep, and that the terms of confederation were sufficiently elastic in themselves to permit of an honest and fair interpretation of that Act by the parliament of Canada in such a way that it will at all times bear the fruits intended by its founders, and at all times work out, the good that it was intended to produce for the Canadian people. There is little we can differ upon in that Act. It does seem to me to be a great pity that we in Canada who agree upon so many and who differ upon so few things, should be at variance on this question, a question which has aroused so much unpleasantness, and I am sorry to say, so much bitterness in this country. I regret it exceedingly. I say it is a lamentable condition of affairs that we should be face to face with the heat of discussion in this

House and with the heat of discussion outside of this House and in the press of the country. I must say that in my opinion I think all that is unnecessary. I believe that the law as it was laid down could have been admirably worked out in such a way as to have avoided all this discussion.

Sir, I desire to revert once more to that feature of the constitution, because to my mind it is an all important question. In discussing this matter in parliament hon. members may have different opinions, the opposition may differ from the government, hon. members on the same side of the House may differ from one another. But after all, where are these questions ultimately to be settled, where do they wind up? I am safe in saying that constitutional matters of this kind, matters of great weight and moment, do not end in parliament. The courts are to that extent above parliament in their right of deciding that they may interpret the powers of parliament, they have the power of deciding whether an Act of this parliament is ultra vires or intra vires, whether this parliament can invade the provincial domain with impunity or whether it cannot. That principle has been invoked a hundred times in respect of provincial legislation, the correlative remedy has been applied, for in many cases where it has been invoked against provincial legislation which has been declared null and void. So it will be in the future with regard to this Bill. Acts of this parliament have been passed upon by the courts and they will be in the future. It seems to me to be begging the question to say that we must take a business man's view of a constitutional question, or we must take a statesman's view, because after all the view that will prevail will be the legal view. Why not view this whole question as a legal one, because that is what it will ultimately be. If I am correctly informed, the question of the validity of this Act will not rest here. If I am credibly informed—and I have very little doubt of the correctness of my information—it will pass on to the courts. It will not end here, but it may come back here in the shape of an application for remedial legislation. History may repeat itself. I hope sincerely on behalf of the minority that history will not repeat itself in the calamitous disasters that resulted from the last appeal to this parliament by a minority for remedial legislation. Now, Sir, I pass on to the view of this question, not of a legal gentleman, not of a statesman, but of a layman, the Postmaster General. What does he say upon this question?

In fact there are just two ways of looking at the British North America Act; you may look at it from the standpoint of a lawyer, or you may look at it from the standpoint of a statesman. If you look at it from the standpoint of a lawyer—and I submit that is the standpoint of the leader of the opposition