

province to confer any constitutional rights other and different from those mentioned in the British North America Act.

And to the same effect, if I desired to heap up authorities, is the opinion of a gentleman who was elevated to the Supreme Court in Canada by my right hon. friend—elevated to a court where these constitutional questions continually are presented. He was elevated no doubt for the reason that he was a student of constitutional law and a high authority on that subject. I refer again to Sir Louis Davies. That gentleman said, in 1891, in this parliament:

My opinion is now and has been for years that when that time comes you cannot withhold from the provinces so erected the right to determine for themselves the question of education in one way or the other. I would be the last to favour this parliament imposing upon the people there any system of education, either free or separate. I only claim that when a Bill is introduced to erect those Territories into provinces that Bill should contain a provision enabling the people of the different provinces so created to decide what system of education they shall have. I do not discuss that question now. I only express this view lest I might be supposed by my silence to give assent to some extreme doctrines which hon. gentlemen have propounded. In view of the remarks which have been made, I thought it necessary to disclaim that, in assenting to the passing of this Bill, I bound myself for all time on this question of education. I do not. Although we are giving powers almost equal to those conferred upon local legislatures, we are not erecting the Territories into separate provinces. When that is done I suppose it will be done by the Queen in Council under the 146th section of the British North America Act, and I simply claim the right when that time comes to determine for myself. In accordance with the view I have always held and hold now, I have no hesitation in expressing, respectfully, that the people of those new provinces should have the right to determine what system of education they shall have.

Is there anything in the terms of section 93, read in connection with section 2 of the Act of 1871, which authorizes or indeed justifies the imposing of restrictions on the legislative rights of the new provinces? Let me once more read it, omitting what is immaterial in this regard:

The parliament of Canada may establish new provinces and may make provision for the constitution and administration of any such province and for the passing of laws for the peace, order and good government of such province and for its representation in parliament.

It is urged that when you read that in connection with section 93, you are to conclude for some reason that the schools which were established in 1875, or the law which was passed in 1875 and the ordinances which were enacted in pursuance of that law, are to be imposed and must indeed constitutionally be imposed upon the new provinces. What is the basis with regard to education? The basis is that in and for each province the legislature may exclusive-

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ly make laws in relation to education, subject and according to certain provisions.

These provisions I have already adverted to; and the question arises whether or not they have any relation to the creation of provinces from territories which became part of Canada in 1870—whether or not laws which were not in force in those territories at the time when they became part of Canada are or can be imposed upon the territories under the constitution by virtue of the provisions of section 93 coupled with the Act of 1871. With all deference to the opinion of those who differ from me in this regard, I submit that such is not the result. And it is perfectly clear that in their hearts the government believe that these provisions have no such effect. Otherwise they would not have attempted to change those provisions by the Bill now before the House. If the constitution is the rock upon which the right hon. Prime Minister stands, why does he not let that rock stand and why does he not build the superstructure of his legislation upon it? Why does he seek first to undermine it as he is attempting to do?

I submit that the first subsection of section 93 which affords the key to all the subsections, is only applicable to provinces already formed, already existing as separate sovereignties. The words of the section are: 'In the province at the union'—contemplating, it seems to me, laws which had come into existence by the sovereign will of the people before they entered this confederation, and not laws imposed upon 500 people in the Northwest of Canada in 1875, at a time when their voice could not indeed be heard in this parliament because they had then no representative here. These territories do not come into the union as a province. The words of the section I have just read are not apt, nor were they intended to convey any such meaning as the right hon. Prime Minister has attempted to read into them. In making his argument in favour of withholding the lands from the province, the Prime Minister inadvertently made a very strong argument against these educational provisions; and I will tell him what it was. He said:

When the provinces which I have named came into confederation, they were already sovereignties. I use that term, because barring their dependence as colonies they were sovereignties in the sense of having the management of their affairs.

And a little further on:

But the case of these new provinces is not at all similar.

This is the right hon. gentleman's argument when he withholds from them control of their lands; but when he wishes to withhold from them control in matters of education they are to be regarded as sovereign and exactly in the same light as the four provinces that originally entered confederation. Sir, I contend that that sec-