

April 29, 1872

The greatest hatred and excitement prevailed at this moment throughout the Province, and he appealed to the Roman Catholics of Quebec and throughout the whole Dominion not to sit down tamely and see their brethren in New Brunswick outraged, insulted, and deprived of their just rights and privileges.

**Hon. Sir JOHN A. MACDONALD** said that on the general question whether the Roman Catholics of New Brunswick should have a Separate School Bill, and whether they should have a law similar in spirit to that protecting the Roman Catholics of Ontario and the Protestants of Quebec, that House could not decide, and, as a House would have no voice or opinion. The individual members of the House might have their individual views, but the matter was one in which the House would take no action. Individually he was very much at one with the hon. gentleman who had just spoken; and during a long Parliamentary life he had shown himself consistently a friend of Separate Schools, and was right glad when the Catholic minority in his own Province secured for themselves a Separate School system.

It was known to everyone that the question of education had threatened Confederation at its very inception, and a proposition that education should be left to the General Legislature of the Dominion would have been enough to secure the repudiation of Confederation by the people of Lower Canada, and it was therefore expressly provided in the Act of Union that the question should be entirely left to the different Provinces with the provision that wherever there was a separate system in force that system should not be interfered with, and that any denomination which had secured at the time of the passing of the Act, or which might at any time thereafter, by the Act of the Local Legislatures secure any privilege, that privilege should not be affected by any Act of the Local Legislature, and that if any attempt was made by that Legislature to set aside such privilege it would be void, and the Governor General was empowered to see that this was carried out.

In the matter of the Bill now in question the sole matter which presented itself to the Government was whether according to "the British North America Act, 1867," the Legislature of New Brunswick had exceeded its powers. The hon. gentleman had complimented the Dominion Government to a certain extent on the absence from all interference in the action of the local legislatures since Confederation. As the officer primarily responsible on such subjects, he could only say that he had taken uniform care to interfere in no way whatever with any Act passed by any of the Provincial legislatures if they were within the scope of their jurisdiction.

There were only two cases in his opinion in which the Government of the Dominion was justified in advising the disallowance of a Local Act. First, if the Act was unconstitutional, and there had been an excess of jurisdiction and second, if it was injurious to the interests of the whole Dominion. In the case of measures not coming within either of those categories, the

Government would be unwarranted in interfering with local legislation.

In the present case there was not a doubt that the New Brunswick Legislature had acted within its jurisdiction, and that the Act was constitutionally legal and could not be impugned on that ground. It was a general Common School Act not applying to any denomination or alluding to, or affecting any denomination, and was an amendment of a law of the like general nature for the establishment of common or parish schools through the whole of New Brunswick. Among his colleagues he was happy to reckon men whose opinions as lawyers must be respected, and he had also Roman Catholics whose religious sincerity and whose desire to protect their religious privileges was beyond a doubt, and his colleagues had been unanimous that there were no grounds to interfere with the Act.

As to the second ground which he had mentioned, on which he considered the Dominion Government would interfere, it could not be held that the Act in any way prejudicially affected the whole Dominion, because it was a law settling a Common School system for the Province of New Brunswick alone. Whether that law was good or bad, whether it was fair or unfair, was a matter for the consideration of the representatives of the people of New Brunswick, and he was further bound to say that, in his opinion, it was not a wise discretion to agitate against the Act on the ground that it repealed an Act which authorized a Separate School system. The Catholics of New Brunswick might think that the old Act was less objectionable than that now in force, but they also objected to the old one and maintained it was not fair towards them. No separate school system was provided by that Act, and the true course for the New Brunswick Catholics was to follow the example of those in Ontario and fight the matter out in the Local Legislature.

If the legislation was bad, if it bore on them unjustly, that injustice pressed at the polls would force the Legislature to do justice. They had in his opinion a just cause, for it was for the interest of education that if a large body like the Catholics of New Brunswick desired a separate school system they should have it, but it could only be obtained by working for it. An important body like that, holding the balance of power in New Brunswick could force upon the Legislature a Separate School system. They might not do it this Session, but they could afford to wait as the Catholics of Ontario waited, and the moment a law was secured then they were protected by the provisions of the Confederation Act, and no power of the Local Legislature could ever deprive them of it. It would be a wonderful mistake in the Catholics of New Brunswick, and they would be throwing away their case if they upheld the Act lately repealed as being sufficient for their purposes, but it was a matter for them to decide, and it was not for Canada to dictate what the Legislature of New Brunswick should do.

The Government of the Dominion could not act, and they would have been guilty of a violent wrench of the Constitution if because they might hold a different opinion, they should set up their own