

has unlimited power in the matter of education. The attempt to restrict that power by the first clause in the Manitoba constitution was found, upon investigation by the Judicial Committee, to be meaningless. The clause was found to be meaningless, and the consequence is that the Manitoba legislature has absolute power to deal with the subject of education, just as if there was no limitation there at all. Mark you. I will not pretend that is not subject to our review. I am speaking of it in the first instance. The legislature of Manitoba has the power to deal with education under the terms of the Manitoba Act:

In and for the province, the said legislature may exclusively make laws in relation to education, subject and according to the following provisions.

The first provision was bound to be a meaningless provision. There were no facts and circumstances upon which it could act.

Nothing in any such law, says the first provision, shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the union.

Neither by law, if there was any law, nor by practice. Has the Privy Council determined that there is any class of persons who had any right or privilege with respect to denominational schools at the time? The consequence is you cannot draw any conclusion from that clause, so far as the province of Manitoba is concerned. But the hon. Minister of Justice (Mr. Dickey) has told us that we are to interpret this law, not according to what it says, but as to what it was intended to say. Is there any principle upon which laws are interpreted that way? Can we bind the people of Manitoba by what the Minister of Justice says was intended by that law? Intended?—why it is perfectly plain. They desired to put the people of the Red River exactly in the same position as that in which the people of the other provinces have been placed, and therefore used the words “by practice”; and exactly as that clause has no application in Nova Scotia nor in New Brunswick, nor in Prince Edward Island, where, although they had law, there was no law by which denominational schools had any rights or privileges, so it has no application in Manitoba, where they had not such school, either by law or practice. So, in this Red River country the word “practice” did not add anything, because, on investigation of the facts of the case, there was found to be neither law nor practice by which denominational schools had any privilege or advantage. If this part of the Dominion was to be placed on an equal footing with the settled parts, it was only fair to introduce the words “by practice,” as there could possibly be no law. And when we pass from that, then we find that this province was within its right, as the

courts of law determined, when it abolished the separate school law by the statute of 1890. Absolutely within its rights.

Now, if it was within its rights, if the province of Manitoba was right in abolishing separate schools, and if here we have the right to sit in review of that, I ask in what spirit should we approach it? Are you to give credit for good faith on the part of the province? Are you to assume that the province has acted wantonly or that the province and the legislature of that province has desired to do the duty that it owed to its citizens, which was to see to their education? Why, when the state assumes the education of the child, when the state takes from the parent that which belongs to the parent, and sees to the education of his child, it does so for the public good. It does so because in a democracy such as ours, it is important that the citizens should be educated, it is important that they should grow up fit to fulfil and perform the duties of citizens. And the province has the responsibility of undertaking to see that the children of the people are educated, I would like to know what evidence there is here to show that the province did not properly discharge that duty when they passed the law of 1890. Are you going to say, simply because separate schools were established in 1871, with 12,000 people—the size of a township, with twenty-four representatives, it is true, and a senate, and a Lieutenant-Governor, and all the rest of it, a township, a handful of uneducated people—are you going to say that because that was done in 1871, the enlightened people of Manitoba had no right to review the situation in 1890? Are you going to say, without evidence, without accusation, without the pretense that in what they did in that respect they did not act with the full sense of responsibility, and with the desire to carry out in the very fullest manner the duties and responsibilities that were cast upon them—are you going to say that in so acting they were unwarranted and inflicted a grievance on any section of the people? Or how are we to look at it? The hon. gentleman (Sir Charles Hibbert Tupper), whom I see leaving the chamber, and others, told us that it was the law, that the Privy Council was behind them, and that the law-abiding people of Canada were going to obey the law, no matter how the law might fall. I suppose the hon. gentleman believes that: we are bound to accept his statement that he does. But, Sir, I do pity this country that had such a legal luminary as Minister of Justice, if that is his idea of the law.

Mr. FOSTER. Don't waste your pity.

Mr. McCARTHY. It is too late to waste my pity, the hon. Minister of Finance suggests—

Mr. FOSTER. I said, don't waste it.