

legislature of the province of Manitoba. If I can prove my argument—and I shall try to do so—it is not this Government that we ought to ask for remedial action against the jurisdiction of the province of Manitoba but it is here, as it was rightly done, that we must make an appeal to the broadmindedness and the conscience of the governments involved. I am doing it for all the French-Canadian Catholics, even if some are better treated in some provinces than in others. This appeal must be made—and I make it to this whole house, to the Senators of various origins—particularly to those of French and English descent—I do it so that we will all try to make representations where they should be made, that is to the province itself in order to bring back peace and justice to our country, particularly to those new Western provinces, and especially to Manitoba, where legislation went further than elsewhere in regard to religious and cultural traditions as far as education is concerned. We have to make this appeal to those provinces; I beg you to do it, gentlemen—and you will have more influence than I—asking them to restore throughout the country the spirit of the Confederation Act, which was granted to us by the British Parliament.

On this point, I should like to refer to the Constitution of our country, to clause 93 which I shall quote in a moment. But first may I remind you that, as was said earlier, it was in 1896 that the great crisis took place. We had the British North America Act, our Constitution, since 1867. Here is what clause 93 provided:

(Text):

Section 93 of the British North America Act reads as follows:

In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:...

I emphasize the words "by law" because they are very important in the decision that was rendered.

To summarize that section, it was to the effect that although the provinces have the exclusive right in matters of education they shall not prejudicially affect by local law any rights of a minority with respect to denominational schools that such minority might have possessed by law at the time of Confederation. Having regard to that, it was

necessary to show that in Manitoba there was a previous law granting privileges to minorities existing before the Act of Confederation.

In 1896, or a few years before—and I do not remember the year—the Legislature of Manitoba, headed by Premier Greenway, passed a law referred to a moment ago by the honourable senator from Winnipeg (Hon. Mr. Wall). That law in practice nullified the educational situation existing before 1896 in relation to the French language, religion and culture.

(Translation):

They passed a Schools act which upset the whole educational situation which had prevailed prior to 1896 with respect to French-speaking Catholics of Manitoba. The special act setting up Manitoba as a province—which dates back, if I am not mistaken, to about 1870—provided that, if in the exercise of its exclusive jurisdiction in matters pertaining to education, this new province ever enacted legislation affecting any educational rights actually exercised by a minority before that province joined Confederation, although such educational rights might not have been sanctioned by law, the federal Parliament would have the authority to enact remedial measures. It is for this reason that when the Privy Council rendered its decision in 1895—in the Brophy case—stating that the school rights exercised by the French-speaking minority in Manitoba before that province entered Confederation were not granted to them by law, the Council pointed out at the same time the possibility of the Federal Parliament enacting remedial legislation. It is precisely to such a remedial act that the senator from Kennebec (Hon. Mr. Vaillancourt) referred a few moments ago.

It was then that the Prime Minister of Canada, after the Privy Council had turned down the appeal on the legality of the Manitoban act, decided to resort to a remedial bill.

It was the responsibility of Sir Mackenzie Bowell who had become Prime Minister of the Conservative Government, after the passing of Sir John Thompson, to have this remedial bill prepared. Sir Mackenzie Bowell was the national leader of the Orangemen lodges of the country. I mention this fact purposely to show his broadmindedness on this particular occasion. He immediately convened the cabinet to consider the representations that had been made regarding the remedial bill advocated by his predecessor; it was suggested by some that the bill be submitted, but this was opposed by others. It