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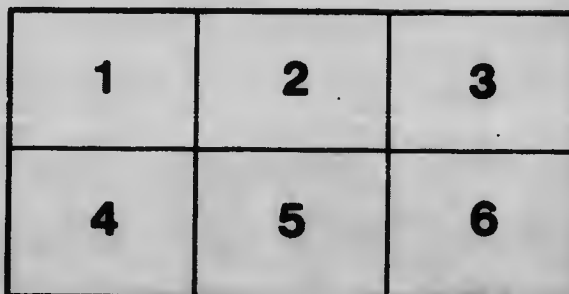
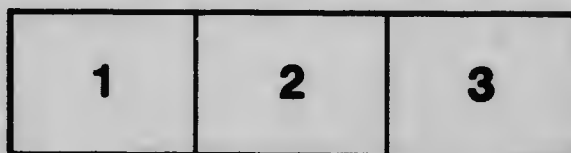
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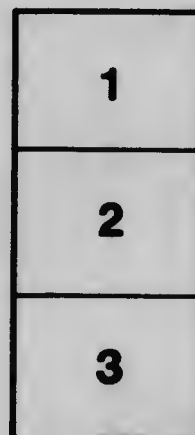
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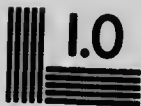
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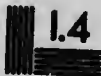
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SPEECH

DELIVERED BY

R. L. BORDEN, M.P.

AT

QUEBEC ON THE 29th AUGUST, 1907.

SPEECH

DELIVERED BY

R. L. BORDEN, M.P.

AT

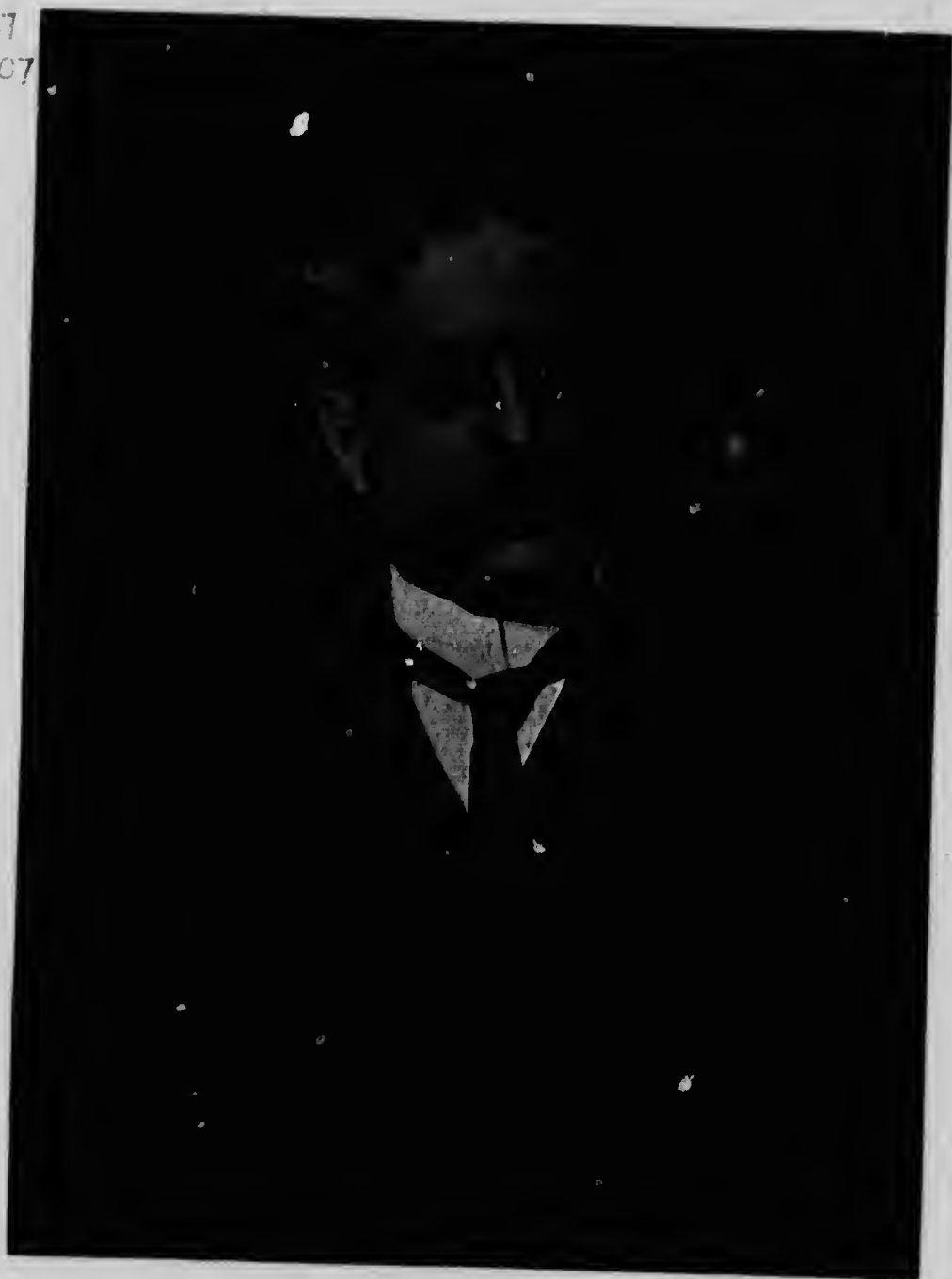
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R. A. Barden.

SPEECH

Delivered by

R. L. BORDEN, M. P.

AT QUEBEC ON THE 29th AUGUST, 1907.

It is fitting on this my first appearance before you since the session of 1905, that I should deal with the attacks which have been made upon me, especially in this province, with respect to my attitude upon the Bills establishing the two new provinces in the West. These attacks have been largely based upon misrepresentation, which up to the present we have not had sufficient opportunity of exposing to the people of this fair province.

I come from a province in which such questions have been approached and settled in a broad and generous spirit; and in that spirit I have endeavoured to approach this question.

The Manitoba School Question had its day. A Conservative Administration, firm in its determination to adhere to the principles of the constitution, was defeated by unworthy appeals and by the promise of the present Prime Minister of Canada that if he came to power the rights of the minority in Manitoba would be maintained and upheld. Sir Wilfrid Laurier has received full credit from his political colleagues for all that he then accomplished. Mr. Sifton speaking in the House of Commons on the 24th March, 1905, respecting the attempt of the Conservative Government in 1896 to do justice to the minority and to carry out the decision of the Judicial Committee of the Privy Council, declared that "they (the Conservatives) failed in that attempt; and why did they fail? They failed because the Rt. Hon. gentleman who leads this Government stood in their way. That is the reason why they failed." Eleven years have passed since Sir Wilfrid Laurier defeated Sir Charles

Tupper upon that issue. His promises made so profusely to the people of this province still remain unperformed, and it yet remains for this Government and its leaders to give an honourable explanation of their failure to fulfil them.

Let me come to the immediate question with which I am to deal. The terms of Confederation were settled and determined after a long and exhaustive discussion and debate. The Act of Union, the British North America Act of 1867, was passed as the result of an agreement founded upon those deliberations. It constituted the four original provinces, Quebec, Ontario, New Brunswick and Nova Scotia, into the Dominion of Canada. It provided also for the admission of British Columbia, Prince Edward Island and Newfoundland as well as for the acquisition of the territory out of which the Provinces of Manitoba, Saskatchewan and Alberta have been carved. It settled certain financial and other terms and conditions between the four original provinces and the Dominion of Canada as a whole. It provided that upon the admission or establishment of any new province such terms and conditions in respect thereto should be set forth by Order in Council of the Imperial Government, or by Act of the Parliament of Canada, under the provisions of the British North America Act, 1871.

But the British North America Act did more. It divided and distributed legislative powers between the Parliament of Canada and the provincial legislatures. It allotted to the provincial legislatures powers touching matters of a local and provincial character, while certain other legislative powers of a wider and more general character were vested in the Dominion Parliament. Section 91 of the Act defined the powers of the Dominion Parliament and section 92 defined those of the provincial legislatures. The subject of education was not dealt with in either of these sections, but it was declared by section 93 that in each province the provincial legislature might exclusively make laws in relation to education, subject to the proviso that nothing in any such law should prejudicially affect any right or privilege with respect to denominational schools which any class of persons might have by law in any province at the time of the Union.

Shortly after the acquisition of our immense western territory, two acts relating thereto were passed by the Dominion Parliament; one in 1875 and the other in 1877. The Act of

1875 provided for separate schools upon the demand of the minority, whether Protestant or Catholic. The Act of 1877 provided for the establishment and use of the French language equally with the English in the territorial legislature, in the publication of the territorial laws and in the territorial courts. In 1891 the latter act was amended so as to permit the North West Assembly to regulate its proceedings as it might think fit, and the manner of recording and publishing such proceedings. But this amendment did not affect the use of the French language in the publication of the laws or in the courts.

When Sir Wilfrid Laurier introduced the Bills for the establishment of the new provinces of Saskatchewan and Alberta it was found that those Bills contained provisions which purported to amend and depart from section 93 of the British North America Act. Notwithstanding this, the Prime Minister declared repeatedly and in the most emphatic terms that in making this departure he stood upon the rock of the constitution. His language seemed to contradict his action in the most remarkable manner because the educational clauses were distinctly designed to amend section 93 of the British North America Act. A dissension arose in his Cabinet which resulted in the resignation of Mr. Sifton and also in that of Mr. Fielding as well, although the latter was afterwards withdrawn. In consequence of this dissension the Government modified the educational clauses in a manner entirely inconsistent with the first declaration of the Prime Minister. It was strenuously argued by members of the Government and their supporters that the new clauses made provision only for national schools and not for separate schools in the ordinary sense. Very little reason was assigned for the change of attitude, but by means thereof the hostility of Mr. Sifton was avoided, the support of the Western Liberal members was secured and the Government was thus enabled to pass the measure in its amended form. Mr. Scott was virtually selected by Sir Wilfrid Laurier to be Prime Minister of Saskatchewan. In 1905 Mr. Scott was a member of the Dominion Parliament and very closely in touch with Sir Wilfrid Laurier and with Mr. Sifton as well. In a recent speech delivered at a banquet in his honour at Regina he has made public the fact that Mr. Sifton drafted the modified educational clauses which were accepted by the Government and which eventually became law. Mr. Scott laid special emphasis

upon the fact that Mr. Sifton is a determined enemy of separate schools, that he framed those clauses in a form satisfactory to himself, and that for this reason nothing need be apprehended by the people of the new provinces as to their effect.

The position taken by myself and a majority of the Conservative members was this:—

We realized that the British North America Act contained a basis of federation earnestly considered, carefully determined and not lightly to be altered. We believed further that the distribution of legislative powers between the Dominion and the various provinces could not be altered by any act of the Canadian Parliament. That distribution had been agreed upon by the representatives of the Province of Quebec and the other provinces which constituted this Dominion in the first instance, and had been embodied in an act of the Imperial Parliament. It is impossible to conceive that the Dominion Parliament has power to admit or establish new provinces to whom federal powers shall be given, or from whom provincial powers shall be abstracted. We therefore believed it the right and constitutional course to declare in the constitution of the two new provinces that such provisions of the British North America Act, not only those contained in sections 91 and 92 but those contained in section 93 as well, should be applicable so far as they could be applicable to the new provinces.

There was much debate in Parliament as to what the result would be. Lawyers on the Government side whose eminence has since been recognized—such as Mr. D. D. MacKenzie, who has since been appointed a judge of the County Court; Mr. J. H. Lamont, who has been selected by Sir Wilfrid Laurier as Attorney General for the Province of Saskatchewan—these lawyers argued that my proposal would give to the minority in the two new provinces greater powers and greater rights than those which were proposed by the Government. To this I returned the answer that if such were the result the minority would be receiving only that to which they were justly entitled under the constitution. I further declared that if it were proposed to amend the British North America Act by prohibiting separate schools in the new provinces, it would be as strongly opposed to it as I was to the proposal of the Government. Such subjects are for the provincial legislatures.

In my native province the rights of the minority have been

preserved and safeguarded without any legislative enactment. I had no reason to believe nor do I believe that the people of the new provinces would be less generous, less fair or less honourable than the people of my own province; but if strict adherence to the constitution adopted in 1867 would give to the minority greater safeguards, as was argued by the Government supporters to whom I have alluded, it was not the less our duty as loyal Canadians to follow that course, based as it would be upon the fundamental articles of our constitution framed by the wise fathers of Confederation.

I need not emphasize to you, my fellow citizens of the Province of Quebec, the importance of strictly adhering to the terms of the constitution. Your rights in the Province of Quebec—the rights which you so zealously cherish and so stoutly maintain—are dependent upon that constitution. The west is growing rapidly in population and in importance. In the future you will be constrained to rely even more strongly than in the past upon the safeguards which that constitution affords. Those who think to gain by departing from its terms to-day may lose tenfold by a further departure to-morrow. Was it wise, was it prudent for the Government to attempt to amend or alter those provisions of the Federation Act which in my opinion were designed not only for the four original provinces but for those which might subsequently become members of the Confederation—I refer to the provisions distributing legislative power between the Dominion and the several provinces.

Upon what was the attempt based? In the first place upon the assertion that the Act of 1875 contained a compact between Canada and the people of the then territories by which the provisions and restrictions imposed by that Act should continue for all time to come, and even after the establishment of new provinces in these very territories. If that were so, then, as the Minister of Justice of that day admitted, there was good ground for argument that the rights would continue under the terms of my amendment. But if the Act of 1875 constituted a compact with respect to education, why did not the Act of 1877 constitute an equally valid compact with respect to the use of the French language? Yet when Mr. Monk and Mr. Bergeron pressed this argument upon the Prime Minister their motion was rejected, their plea was disregarded, and the alleged compact was absolutely ignored.

In my view the British North America Act, 1867, contained in itself a complete disposition of legislative powers as between the Parliament of Canada and the original or subsequent provinces. This distribution could not be altered or affected by the Parliament of Canada upon the establishment of new provinces, and it was not only our right but our duty to apply to the new provinces the exact provisions of the Confederation Act without attempting to restrict or amend them in any way.

The Prime Minister in so many words admitted this view. He said (Hansard, page 8277): "My contention is that we must not go beyond section 93." Mr. Brodeur, the present Minister of Marine and Fisheries (Hansard, 5219), declared that the compact upon which he relied contained nothing which was not embodied in the British North America Act. But both these gentlemen, and their supporters as well, chiefly argued that it was necessary to make amendments to the British North America Act in order that there might not be litigation. A more absurd declaration could not well be imagined. An unauthorized or invalid amendment would necessarily provoke litigation. Besides, under a constitution such as that of Canada, in which the legislative powers are distributed between the Dominion Parliament and the provincial legislatures, it is impossible to prevent litigation as to the constitutionality of legislative enactments; and indeed it is impossible to foretell what the ultimate decision of the highest court will be on certain difficult questions.

Their followers, Mr. Scott and Mr. Lamont, used the same argument, and declared that my proposal would invite litigation. Whether that would have been the case I do not know; but I am aware that Mr. Scott, now Prime Minister of Saskatchewan, and Mr. Lamont, now Attorney General of the same province, have recently approved and passed a resolution of the Legislature of Saskatchewan providing for an attack on these very same educational clauses upon the ground that the Parliament of Canada had not power to enact them. It should not be forgotten that those gentlemen owe their present position to Sir Wilfrid Laurier. This is simply a repetition of the action of the Liberal party with respect to the Manitoba school question. When that question was before the people they promised what they never intended and what they have absolutely failed to perform. In respect to Alberta and Saskatchewan they declared that they would amend the British North America Act (which they had no

power to amend) in order that litigation might be prevented — in order that no question might arise as to the rights of the minority. Before these words were cold upon the lips of Sir Wilfrid Laurier and of his friends and followers, Mr. Scott and Mr. Lamont, the latter gentlemen, by a solemn legislative resolution, declared their intention of promoting litigation to nullify the very educational clauses which they themselves had brought into force.

I have honestly endeavoured to place before you my attitude on this great question. It is the attitude of the Conservative party not only in 1905 but in 1896 and in 1872. In 1896 the Conservative Government staked everything upon its adherence to the constitution, and to the remedies which in its opinion were afforded under the constitution to the minority of Manitoba. In 1872 Sir John A. Macdonald and Sir George Cartier declined to interfere by disallowance of the New Brunswick School Act, because under the terms of the constitution the right to legislate in respect of such matters was committed to the provinces. The language of Sir John A. Macdonald on that occasion is worthy of note. He said:—

“ 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.”

He then laid down the principles upon which the Dominion Government should interfere—where there had been an excess of jurisdiction and where the action of the provincial legislature might be injurious to the interests of the whole Dominion. And after pointing out to the Catholics of New Brunswick that their true remedy was by the work which they could accomplish and the influence which they could exercise at the polls, he continued as follows:—

“ The Government of the Dominion could not act, as 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 judgment against the solemn decision of a province in a matter entirely within the control of that province. The constitution which had hitherto worked so easily and so well could not survive the wrench that would be given if the Dominion Government assumed to dictate the policy or question the action of the legislatures of the different pro-

"vinces on subjects reserved by the British North America Act
"to those legislatures."

I do not pose as a prophet, but it is my solemn and sincere conviction that the day is not far distant when the people of the Province of Quebec will realize and understand that the policy of strict adherence to the constitution which safeguards their rights was and is infinitely more in their interest than the insincere and vacillating course pursued by the present Administration not only on this but on the Manitoba School Question as well.



