The motion was then carried and the House went into Committee and adopted the resolution, which was reported and concurred in; and a bill was then introduced and read a first, second and third time and passed.

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## SALARIES

**Hon. Sir JOHN A. MACDONALD** said that he would move tomorrow that the House go into Committee on the following resolutions which were intended to take care of a much abused branch of the Civil Service:—

First—that it is expedient to increase the salaries of the President of the Privy Council, the Minister of Justice, the Minister of Militia and Defence, the Postmaster-General, the Minister of Finance, the Minister of Customs, the Minister of Inland Revenue, the Secretary of State, the Secretary of State for the Provinces, the Minister of the Interior, the Minister of Agriculture, the Minister of Public Works, the Minister of Marine and Fisheries, and the Receiver-General, to the sum of seven thousand dollars per annum; such increase to commence from the first of January last.

Second—That in addition to such salary the member of the Privy Council holding the recognized position of First Minister should receive the salary of one thousand dollars per annum, to commence from the first of January last.

**Hon. Mr. MACKENZIE** asked who they were.

**Hon. Sir JOHN A. MACDONALD** did not know. Very few people knew themselves, and, therefore, he could not say who they were. (*Laughter*.)

**Hon. Mr. HOLTON:** We know who they ought to be then. (*Renewed laughter*.)

**Hon. Sir JOHN A. MACDONALD:** We had better leave that to arbitration.

The motion was then carried.

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## NEW BRUNSWICK SCHOOL QUESTION

**Hon. Mr. TILLEY** moved that the House go into Committee of Supply.

**Mr. COSTIGAN** said he had an amendment to propose to that motion. He did not think it necessary to say that it was not a vote of want of confidence, or that it was not intended to interfere in any way with the Government or their proceedings in Supply. His only object was that the question involved in the resolution he intended to submit should be discussed by the House. He felt it was a subject of great importance, and in bringing it before the last Parliament he was afraid it might give rise to some unpleasant discussion, possibly to ill feeling, but he thought those gentlemen who took part in that discussion would bear him witness that not one unkind word nor one harsh expression was made use of. He hoped the discussion on this occasion might be similarly carried on, and that no more unpleasant feeling might arise out of it than did from the discussion on the former occasion.

The hon. members now in this House who sat in it during the last motion were pretty well informed as to the circumstances connected with this question; but he thought it his duty for the benefit of gentlemen who sat in this House for the first time, and who had not heard the question discussed last Parliament to give some idea on the present occasion of the school question in New Brunswick.

Previous to the union the system of education adopted in that Province was one by which all religious denominations were free to exercise their religious liberties and inculcate their religious principles in the education of their children, and to provide teachers for their schools who would give instruction; accordingly separate denominational schools were maintained by grants of money from the Legislature. In 1858, the Government then in power introduced a Bill affecting the Common Schools, and he cited various kinds of petitions for and against, as well as in favour of other than the system proposed, which had been largely presented to the Legislature. At that time the interest felt in the subject, as expressed through these petitions, might be noted by referring to the Journals of the House. Among others was that from the Roman Catholic, and other religious portions of the population in favour of Separate Schools. He cited this to show the feeling of the country at that time in regard to the question, and the feeling that there was in favour of maintaining the rights of the different religious bodies.

Notwithstanding these petitions, the Legislature found in their wisdom not only to continue but to increase the special grants that had been given. This continued down to 1871, when a law was introduced doing away with these privileges, putting an end to denominational education, and in effect closing the schools of a large proportion of that Province and shutting out one-third of the people from the privileges of education. The principles of that law he did not think it his duty to combat or argue against. It was not necessary for him to prove that the principle which takes the right of control and management of a child out of the hands of its parents is incorrect and vicious. It was not for him to say that the unsectarian system was unsound, nor to say that anything but a sense of right and justice actuated those who brought it into force in New Brunswick.

What he did claim was the sympathy of this House towards one-third of the population, who had calmly stated that the system could not be accepted by them. They could not do so except at the sacrifice of their strong religious principles or maintenance of Separate Schools by private subscription. Not only were they forced to adopt one or other of these alternatives, the former of which they could not and the latter of which they must, but they were also forced to contribute dollar for dollar in support of the schools from which they derived no benefit.

When the minority of New Brunswick had found that there was no remedy for them at the hands of the Local Legislature, they

addressed petitions to the Governor General, praying that the Act might not come into operation. The matter was referred to the Minister of Justice who gave it as his opinion that the Local Legislature had not exceeded their constitutional powers, and he therefore could not advise His Excellency to disallow it.

Referring to the action he had himself taken in the last Parliament, he read the resolution he had submitted to the House upon the question. It was argued then that this House had no power to deal with the question; but he wished to remind the House of the action then taken, notwithstanding that argument. It was true the Minister of Justice had given his opinion that the Act was within the powers of the Local Legislature so far as the letter of the law was concerned; but it was also true that that hon. gentleman stated to the House that there were two grounds upon which he would advise the disallowance of an Act of a Local Legislature; one when it was unconstitutional, and the other when it was in opposition to the public interest of this Dominion.

Many members then took the view that although this Act was not unconstitutional, it might be against the public interest and prosperity of this country. The hon. Minister of Justice then advised that there should be no discussion upon the subject, and that the mover should withdraw his resolution. The Minister of Militia and Public Works also gave similar counsel, upon the plea that if this House took the subject into consideration, it might establish a dangerous precedent, and might lead to serious interference with the privileges of the people of the Province of Quebec. Believing that he was discharging his duty, he could not consent to withdraw that motion.

The discussion therefore went on, and from the feeling of sympathy for the Roman Catholics of New Brunswick manifested by the House, he thought, and felt certain, they were in favour of giving them justice in some way or another. He felt certain from the commencement that the House would not throw out the motion upon its merits. Afterwards amendments were brought in by the then hon. member for Quebec County (Hon. Mr. Chauveau), which he quoted, to the effect that it was not competent for the House to interfere. He also quoted the amendment moved by the then hon. member for St. John, as also that of the hon. member for Stanstead (Mr. Colby).

He was sorry that though application had been made to the Local Legislature they would not consent in the slightest degree to modify or alter it, or in any way withdraw any of the powers they had according to the Constitution. Instead of withdrawing this offensive legislation they had passed additions and amendments to the Act which aggravated the position of Roman Catholics very much. They had been told to accept the situation, and not give rise to ill feeling or sectionalism, and trust to the future for the remedy asked for. He admitted the force of that argument in ordinary circumstances, but he could not agree that these circumstances were of an ordinary character. Additional assessments had been put upon them, but though the Legislature refused to withdraw these, they had recourse to the Supreme Court of the Province, which vindicated their rights, and declared these assessments illegal. Both sides of the House had admitted last year that the New Brunswick School Bill was in opposition to the spirit of the Constitution. He had been advised by hon. members on his own side of the House to let the matter stand for this session to see if some concessions would not be granted before another year by the Local Legislature, but in agreeing to that it was only reasonable that he should at the same time ask that the additions and amendments which had been made since last year, and which made the law more objectionable than it was before, should be disallowed or retained for consideration.

The idea that this resolution, if carried, would be a dangerous precedent to the Province of Quebec, was not well founded. There was a protection to the rights of the people of Quebec more powerful than the Constitution—that is, the harmony and peace in that Province between all religious classes. The majority of that Province had already shown their peaceful and inaggressive disposition towards the minority, and the present state of the people was a sufficient surety that no great trouble could arise in the future; but it would be establishing a precedent to the effect that this House had power to exercise jurisdiction over all the institutions of this country, remedying all disorders occurring in the different Provinces and affording protection to all classes of this Dominion, that when any portion of the people, no matter what their religion, having in vain appealed to other sources for redress of wrongs, appeal to this House, it should grant them that protection which they both required and desired.

That would be a good precedent to establish, he thought, and calculated to make our security greater and our country one to which all portions of the people would look at their common home. There were one hundred thousand of these people in New Brunswick contributing their quota to the revenue, prepared to defend their country to the last drop of their blood, if that were necessary, and prepared to discharge their duty as citizens of this Dominion in every way, yet it appeared that for this legislation, so obnoxious to their strong religious sentiments, there was no remedy, no protection. One portion of the people had no right to coerce the other out of their religious privileges, and any attempt at so doing would be an unfortunate thing for this Dominion.

He therefore moved, seconded by Mr. Cunningham, “That doubts having arisen as to the sufficiency of section 93 of the British North American Act of 1867, to protect the rights, privileges, and advantages which the Catholic minority of New Brunswick enjoyed as to their schools under the school system in operation when the said Act came into force, the House of Commons of Canada on the 30th of May, 1872, did resolve. ‘That this House regrets that the School Act recently passed in the New Brunswick Legislature is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next session of the Legislature of New Brunswick as to remove any just grounds of discontent that now exist; and this House deems it expedient that the opinion of the law officers of the Crown in England, and if possible the opinion of the Judicial Committee of the Privy Council, should be obtained as to the right of the New Brunswick Legislature

to make such changes in the school law as deprived the Roman Catholics of the privileges they enjoyed at the time of the Union, in respect of religious education in Commons Schools, with the view of ascertaining whether the case comes within the terms of the fourth sub-section of the ninety-third clause of the British North America Act, 1867, which authorizes the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting education in the said Act', that the law officers of the Crown in England having now, in conformity with the said resolution, given their opinion, and the Judicial Committee of the Privy Council, through the Lord President of the Council, having declined to interfere unless the matter was judicially brought before them, it is the opinion of this House that the parties aggrieved should have an opportunity of bringing the matter judicially before the Privy Council, and that in the meantime it is the duty of the Government to advise His Excellency the Governor General to disallow the several Acts passed during the last session of the New Brunswick Legislature to legalise assessments made under the Common School Act of New Brunswick, and in amendment of the said Common School Act."

**Hon. Sir JOHN A. MACDONALD**, after expressing an opinion that it would have been desirable if the hon. gentleman had had this resolution printed and distributed a sufficient time to enable the members to consider its provisions, said he must express to the hon. mover of the resolution his appreciation *guantum valet* of the moderation with which he had made his motion. (*Hear, hear*.) He could not express too strongly his feeling that the hon. gentleman had distinguished himself alike by his ability in stating the case of his co-religionists, his constancy in fighting their battle, in which he (Hon. Sir John A. Macdonald) sincerely sympathized, and his good sense, notwithstanding the strong feelings he must entertain, in not deviating in the slightest degree from the strictest Parliamentary rules. In doing so he had done more to further the cause of his co-religionists than by any other course which he could have adopted. (*Hear, hear*.)

To those hon. gentlemen who had done him (Hon. Sir John A. Macdonald) the honour to pay any attention to his political career and his political opinions, he need not say that he sincerely sympathized with the feelings of the hon. gentleman, and that he believed it would have been for the best interests of New Brunswick, and for the best interests of education, had the system which prevailed in Ontario and Quebec been extended to New Brunswick. He had had great pleasure in voting for the resolution which was carried last session, on the motion of the hon. member for Stanstead, expressing a desire that some modification might be made of the law to meet the just wishes and expectations of the Roman Catholics of New Brunswick; but the question now arose as it had arisen then, not as a matter of sympathy, but as a matter of constitutional principle.

If he had much pride in the success of his opinions he might feel gratified at these continued attempts to upset the federal character of the British North American Provinces. He had been from the first in favour of a legislative union, and had believed that the best interests of the country might have been promoted by a legislative union of all the Provinces, aided by a subordinate system of municipal institutions with large powers. However, he had been overruled in that respect by large majorities in the old Parliament of Canada. The feeling had been unmistakeable, not only in Canada but also in the other Provinces, that we could have only reunion on the federal principle, and as he had thought then, as he thought still, that the union of the four Provinces was essential to the future development and progress of British North America, he yielded his own opinions and went in with the Government of which he was a member for the establishment of one great Dominion on the principle of a federal union, and he had loyally and to the best of his judgment, power and ability endeavoured to carry out that principle faithfully.

It was true that he had been charged by some hon. gentlemen with a desire to strengthen the central power, to the disadvantage of the Provincial Governments and Legislatures; that he had given any doubt resting his mind against the authority of the Local Legislatures, and to strengthen the central power, it might be so, though he had endeavoured to prevent his own predilection for a Legislature over a Federal Union from preventing it.

Still it might be that he had rather leaned in favour of centralisation, but if a resolution like this was adopted formally and solemnly by the Dominion Legislature, he must say that his original ideas had been fully carried out; that a federal union of the Provinces was at an end; that the legislative union had commenced, and the whole real power and authority of all the powers of government had been transferred from the Provincial Legislatures to the Dominion Parliament. (*Hear, hear*.)

They could not draw the line. It might be, and he did not hesitate to say, that from his own point of view it was so in this case, that the minority, the Catholic minority in New Brunswick, suffered a wrong by this legislation, but there might be wrongs not only in questions of education or religion, but in questions of finance, of civil liberty, and in questions of every possible kind. And if the ultimate power of decision as to what is right and what was wrong was to be vested in this Parliament, where was there a vestige of the use of power, of the benefit, or advantage, of all our paraphernalia of Provincial Governments and Provincial Legislatures. (*Hear, hear*.)

If they were to deal here authoritatively and to order the Governor General, the representative of the Queen, to disallow such bills as they thought the Local Legislature ought not to have passed, they would have wiped off the state as with a wet sponge, the influences and authority of the Local Governments, and Legislatures, and have centred it all in the Canadian Parliament. Was this House prepared for this? Was it prepared to assume that new responsibility and to alter in spirit and constitution? It might be that they might keep up the sham of Provincial Legislatures, but what would they be but sham, if at any time the member of the other Provinces disagreeing with the policy deliberately adopted by the Legislature of any one Province could alter that policy?

Take the Province of Quebec which was the most obvious instance he quoted, he believed we might have had a Legislative Union instead of a Federal Union if it had not been for the Province of Quebec. The other Provinces were of one race of Anglo-Saxon ancestry. To a great degree the majority in the other Provinces were Protestants and their laws were based upon the common law and institution of England. Lower Canada contained a different race and used a different language. The majority had a religion which was in the minority in the whole Dominion, and they claimed and justly claimed as a protection to them, to those institutions which they held so dear, to their old associations, to their religion, and to the education which in that Province was based on religion, that we should not have a Legislative Union; but that in all the questions relating to the tenure of their land, their property, their institutions, and so on, they should have a Legislature having the power to act as they pleased; as they thought they ought to act in consonance with the wishes of their people. The Lower Canadians drew themselves up, and said, if the constitution were not so drawn up as to give them the power to protect beyond a doubt their institutions, their religion, their language, and their laws, in which they had so great a pride, they would never consent to a union; and if they had not been agreed to, we should not now have the Dominion of Canada.

The same principle applied to all the Provinces. They had their rights, and the question was not whether this House thought a Local Legislature was right or wrong. But the whole question for this House to consider, whenever such a question as this was brought up, was that they should say at once that they had no right to interfere so long as the different Provincial Legislatures acted within the bounds of the authority which the constitution gave them. (*Hear, hear*.) There was this fixed principle, that every Provincial Legislature should feel that when it was legislating, it was legislating in the reality and not in the sham. If they did not know and feel that the measures they were arguing, discussing and amending and modifying to suit their own people, would become law it was all sham. The Federal system was gone forever and the system which he had vindicated was adopted.

He did not hesitate to say that it would have given him great pleasure if he could have come to the conclusion that the Act was beyond the competence of the New Brunswick Legislature. He believed they had made a great mistake, and many others agreed with him that they had better have left the law as it was. He spoke *sub judice*, because those who passed the law had a right to maintain its wisdom; but from his own point of view he believed it was a great mistake to have repealed the law and raised this question, for but little purpose. (*Hear, hear*.) But that was a question for the Local Legislature. The question of education, except under the peculiar circumstances of the establishment of separate schools in Upper and Lower Canada, was left exclusively in the control of the Local Legislatures. It was withdrawn altogether from the supervision of the general Legislature, so that the people in each of the Provinces might educate their children after their own fashion.

The British North America Act provided that the Governor General might disallow a bill coming from a Local Legislature. That prerogative he exercised as the representative of the Sovereign. Before Confederation the Governor in each Province was the direct representative of the Sovereign. But in consequence of Confederation the Lieutenant-Governors were appointed by the Governor General, who was the only immediate representative of the Sovereign.

This House by passing this resolution, would assume the power and invade the prerogative of the Executive. The British North America Act said that the Queen might at any time within two years exercise the Royal prerogative in disallowing an Act of this Parliament, and that the Governor General, as her representative, might at any time within one year exercise the Royal prerogative in the disallowance of a bill from the Local Legislatures. They must assume that this provision was inserted in the constitution for wise purposes, and it gave His Excellency a year to decide. But this resolution said that one year was too long, and that the Governor General must disallow the Act at once. What right had this House to break the constitution, and to give any such command or suggestion? It was distinctly an attempt to using a branch of the prerogative. On the two grounds, therefore, that this resolution was an unwarrantable invasion of the prerogative of the Crown, and that this Legislature ought not to interfere or dictate the exercise of that prerogative in a matter within the competence of the Local Legislature, he thought the resolution was faulty and ought not to receive the assent of this House.

Of course it would not be a vote of want of confidence in the Administration, because that was not an expression of opinion that the House had no confidence in the Government in their administration of the affairs of the Dominion. But this was an appeal to the Government to take a certain course. The Governor General had his instructions which applied as well to the Acts passed by Local Legislatures as to those passed by this Legislature, and he would ask if His Excellency, supposing this address were adopted, were to ask the advice of Her Majesty's Government at Home, what instructions he would be likely to receive? Her Majesty's Government would refuse to interfere with any bill which was within the competence of the Local Legislature.

The question would be asked whether these laws were a fair expression of the views of the Legislature of New Brunswick? There could be no doubt that whether they were right or wrong they were carried by sufficient majorities in the New Brunswick Legislature. It would also be asked if there had been an appeal to the people of that Province, and if they had expressed their dissatisfaction with the action of their representative in regard to these Acts? The answer would be in the negative, and Her Majesty's Government would naturally reply that there should be an appeal to the people before there could be any semblance of right in applying to the Sovereign to use the extreme exercise of the Royal prerogative of disallowance.

Although the hon. gentleman had no doubt under strong pressure from those whose interests he so ably advocated, made this motion, he (Hon. Sir John A. Macdonald) believed the passage of such resolutions were not in the interests of the Roman Catholics of New Brunswick. He believed they ought to get their demands— (*hear, hear*)—that they ought to get separate schools—(*hear, hear*)—and if any New Brunswick members were now in the House he would desire, in his humble way, to impress upon them his strong belief, that they would never have comfort, peace, or quiet or a complete educational system until they adopted the system which experience had shown in Quebec and Ontario had been entirely successful—that of separate schools—(*cheers*)—and he would tell the people of New Brunswick, so far as his voice would go to them, that they had the same battle to fight for years in Ontario; that steadily and for many years he had voted in favour of separate schools, and had, perhaps, got some abuse and been occasionally, if not systematically and continuously, maligned in consequence of the course which he had taken on that question; and that, although the parties were arrayed against each other in Ontario, apparently far more than they were now in New Brunswick, there had been no man in the Legislature of Ontario since the passage of the Separate Schools Act who had even proposed its repeal. (*Hear, hear.*) It had worked like a charm. (*Hear, hear.*)

They saw the schools side by side working harmoniously in honourable competition with each other, and there had been removed from the Catholic minority of Upper Canada that feeling of injustice which had rankled in their breasts until that bill was passed. They stood on equal terms with their brothers now. There was no forcing on them of a system which was abhorrent to their principles or their prejudices. There was no attempt to coerce them, and the result was that in Western Canada, there were comparatively few separate schools for the Catholics. Now they were safe, and if any attempt was made to force religious instruction on their children they had the remedy in their own hands, of establishing a separate school. So completely had the religious division and rivalry and dissension disappeared that there were no less than 600 Catholic teachers in Ontario alone teaching in the common schools. (*Hear, hear.*)

He hoped to see that system introduced in the Maritime Provinces, but only by the calm deliberation and decision of the majority in the two legislatures of Nova Scotia and New Brunswick. In Nova Scotia there was practically no difficulty, because the common school system had been worked with such liberality that no question had hitherto arisen. (*Hear, hear.*)

But the moment there was any attempt to coerce the New Brunswick majority, all hope for the Catholic minority was gone forever. That minority was a strong minority, being a third of the whole population; and if they advocated their cause with the same persistence and ability as the Catholic minority in the old Province of Canada, victory was certain in the long run. If they appealed to the justice and liberality of the Protestant majority, and endeavoured to carry their object by constitutional means, they would be certain of ultimate success; but if they attacked the institutions of their own county, if they sapped the very foundation of the Legislature of New Brunswick, then the majority, like freemen conscious of their right and of their constitutional position, would be deaf to any arguments addressed to their reason.

What had been the effect of the well meant resolution of the House last session in which, while expressing a hope that the New Brunswick Legislature would modify the law so as to relieve the Ministry, they had vindicated the rights of the Legislature by recognizing that only through it could that relief be obtained? It was not received in a kindly spirit, but was regarded as an attempt to coerce them. What then would be the feeling if they went still further and asked the Governor General to disallow measures which were within the competence of the Local Legislature? Last session the question of the competence and incompetence of the Legislature of New Brunswick in this matter was one of great doubt, and it rested only on his (Hon. Sir John A. Macdonald's) opinion. Since that time, after careful consideration, that opinion had been approved of by Her Majesty's Government, and also, he believed, by the unanimous judgment of the Court of Supreme Jurisdiction in the Province of New Brunswick. They might, therefore, assume that the law of 1871 was within the competence of the Local Legislature, and was valid in every respect. So that they stood in quite a different position from that in which they stood last year. He thought it would have been well if the latter Act had not been passed, if the decision of the Supreme Court of New Brunswick had not been interfered with, and if any small pecuniary loss which might have resulted had been borne. But they found in all the Provinces Acts passed confirmatory of previous Acts, and removing technical difficulties. The statute book of Ontario, for instance, teemed with Acts legislating by-laws of every kind. He supposed that the New Brunswick Legislature took the ground that the laws were really intended to carry out the general law of the land, and if there was any technical irregularities these laws should be confirmed.

If this House adopted this resolution it would be a great misfortune for the constitution that we now lived under. He believed it would affect the constitution of the country and the permanence of our institutions. He believed it would destroy the independence of the Provincial Legislatures. He believed that the institutions and laws of no Province would be safer hereafter. For all these considerations he hoped that this resolution would not be adopted. (*Hear, hear.*) If it were adopted, if this House undertook the great responsibility of interfering with the local laws, they must be prepared to discuss the justice or injustice of every law passed by every Provincial Legislature—(*hear, hear*)—and this Legislature, instead of being as now the general court of Parliament for the decision of great Dominion questions, would be simply a court of appeal to try whether the Provincial Legislatures were right or wrong in the conclusions that they came to. (*Hear, hear.*)

If this House was prepared to take that course and adopt that principle, then the Government of the day, while it would have much more responsibility, would also have much more power; for, besides conducting, and administering the affairs of the whole

Dominion as one great country it would also have the power, the authority, and the control of a majority over every bill, every Act, every conclusion, every institution, every right of every Province in Canada. (*Cheers*.)

**Hon. Mr. ANGLIN** supported the amendment of Mr. Costigan.

It being six o'clock **The SPEAKER** left the chair.

**Hon. Mr. ANGLIN**, in his opening remarks, referred to the temperate manner in which the conclusion on this subject was conducted last session, and he trusted the same idea would be maintained throughout this discussion. With regard to the speech of the hon. Minister of Justice, Hon. Sir John. A. Macdonald, without meaning to use the words offensively, it seemed to him to be a course of fallacy. He was of opinion that the Minister of Justice set up a bugbear for the people of the Province of Quebec, and a scarecrow to frighten the majority of the members of the House. The bugbear was that portion of his speech in which he said the proposition before the House was an attack upon the independence of the Local Legislatures, and that it was particularly an attack upon the rights and liberties which the people of Quebec valued so dearly. He believed that was an entire fallacy. There was no danger of the rights and liberties of the people of Quebec being interfered with by the Governor-General upon the advice of the Government, disallowing any act of a Local Legislature. This was one of the powers given by the Act of Confederation, and Government might exercise that power when reasons arose which might seem good to them. They were not responsible to the Local Legislature, nor to any other power but that of Parliament, and they asked the Government would exercise that power on their behalf. They did not ask for anything unconstitutional. They did not ask for any violation of the Constitution, nor did they ask the House to assume any of the rights peculiar to any of the Provinces, but simply to assume a right they were unquestionably possessed of. They did not ask that the rights of the Province of Quebec should be put in peril, nor did they seek to sap or undermine the Constitution. They came there to ask humbly and respectfully, but most earnestly, that the Government of this great Dominion should interfere on their behalf and rescue them from the position they then occupied in New Brunswick.

The Hon. Minister of Justice had intimated that if that resolution were passed it would be in some sense an infringement on the prerogative of the Crown.

He (Hon. Mr. Anglin), however, claimed it would have no such effect. They merely asked for the legitimate exercise vested by the Constitution in the Government of this Dominion. He was satisfied no danger was created in this respect.

He asked such representatives of the Province of Quebec, as were then listening to him to reflect for a moment upon what the consequences would have been, the consequences if their Legislature had confirmed a law which would have so seriously affected the education of the Protestant minority of Quebec, and after an appeal had been made they persisted in adding injustice to injustice as had been the case in New Brunswick. The Protestant minority would appeal, as they had a right to appeal. He asked how long such a resolution as that before the House would be allowed to stand, and how long such an injustice would be countenanced by that Parliament. He asserted that that it would scarcely have assembled before there would have been a resolution on the notice paper calling attention to the subject.

In reference to the resolution of sympathy passed last session, he reminded the House that he did all he could to prevent its passing, because he felt, as he warned the House, that it would be but barren. They were willing to take all the risk and injury that might result to them by passing that resolution. From long and bitter experience, they had learned to have no confidence in the sense of justice, fair play, or magnanimity of the people of New Brunswick. If they had, they would prefer to continue to suffer rather than make that appeal to Parliament. They would ask for justice, if they had any reason to believe justice would come from such supplications.

Every appeal made had been met with an aggravation of the wrong previously inflicted. When first introduced into the Legislature, the School Law had not the obnoxious 60th clause, but in consequence of petitions against the Bill he forwarded to the House, the 60th clause was added, to aggravate the wrong which the measure was calculated to inflict upon them. The expression of sympathy passed by the House had tended greatly to aggravate the existing feeling, between the Roman Catholics and the Protestants, and every attempt to lessen that feeling more distinctly marked the great line between the two parties. The Government of New Brunswick, he observed, had throughout evinced a most extraordinary spirit.

He then went on to describe the action of the Local Government in enforcing the School Act, and the opposition given by the Catholics to the assessment. He stated that the Provincial Government provided money to pay the lawyers in the law Courts in the endeavour to sustain the illegal assessment. Nearly one-third of the school districts refused to act under the law. There were 800 school districts in the Province, but about 250 refused to act under the law. In the county which he had the honour to represent they refused to order any assessment, and he was told, and he believed, that the Government sent into some few districts and paid $600 to $700 in aid of the schools, in order to show the advantages the law would afford to them, but with the view of by-and-by recovering that money out of the county assessment. The Government also secretly, he might say surreptitiously, appointed several magistrates, by which means they obtained a majority at the Sessions, and the assessment was prepared, sent to the Grand Jury, and approved, but they neglected to order the assessment to be made.

He then alluded to the legalizing of the assessment by the Legislature, to the supply of means by that Legislature for the enforcing of that law upon people who were unwilling to receive it, and remarked that they came to that House in a pitiable and deplorable case. Sympathy was lavished upon them. They, however

did not ask for sympathy, but simply for justice, and in doing so they did not imperil the Constitution or endanger the federal system under which they lived.

Under the former system the Queen had the right to disallow any of the Acts of the Local Legislature, and the system they then lived under possessed the same power. He hoped and trusted that the majority of the members of the House would not regard the passing of the resolution as injurious, when it was admitted that 100,000 people had suffered an injustice by the Bill. He did not think they had received fair play in the settlement of this question.

The correspondence laid before the House revealed a most extraordinary state of things. It appeared that on the 6th of November an order in Council was passed approving of a memorandum of the Minister of Justice, and that on the 7th, the next day, a copy of that was sent to his Lordship the Bishop of St. John, requesting him to transmit any remarks he might wish to accompany the case for submission to the law officers of the Privy Council. On the 6th, the day before, as they learned from the despatch, the case was forwarded to the Colonial Office; on the 29th November the opinion of the law officers was given—twenty-two days after the letter was sent to the Bishop of St. John. That was not fair play, nor was it what the House expected would have been done.

He next described the difficulty which was experienced in getting up the case, and held that the opinion of the law officers of the Crown was based on the point as to the power to disallow the Acts of the Local Legislature. The case he mentioned had never rested on this point. He complained that the opinion had not been presented to the House at an earlier period of the session. The matter went before the Supreme Court in the Hillary term, and had they had those documents then, they would have been in a position to have made an appeal from the Court to the Judicial Committee of the Privy Council.

He affirmed that they had not been fairly treated, and they appealed to the House for protection. Instead of having their remarks transmitted they had an expression of opinion on an *ex parte* statement, and that opinion had been reiterated on another *ex parte* statement.

It being six o'clock the House rose for recess.

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# AFTER RECESS

## SECOND AND THIRD READINGS

The following Bills were read a third time and passed:—

Consideration of amendments made by the Senate to the Bill to incorporate the Marezzo Marble Company of Canada.

**Mr. SAVARY**, second reading of Bill to incorporate a company of the name of Crédit Foncier du Bas Canada, from the Senate, as amended by the Standing Committee on Banking and Commerce.

**Mr. CARTER**, second reading of Bill to amend the Act 32 and 33 Vic., Cap. 70, to unite the Beaver and Toronto Mutual Fire Insurance Company, from the Senate, as amended by the Standing Committee on Banking and Commerce.

* * *

## NEW BRUNSWICK SCHOOL LAW

**Hon. Mr. ANGLIN** resumed the debate on Mr. Costigan's motion. He showed that prior to the Act of 1871 in certain districts the Catholics were able to establish what were essentially denominational schools, which received grants of public money. To all intents and purposes they were Catholic schools, though not called so. He argued that the Confederation Act provided that for all time to come the Catholics and Protestants were entitled to all the rights and privileges which they enjoyed under the school law at the time of Confederation, and as these privileges had since been taken away from the minority, he contended it was a case in which this House might interfere under the Constitution.

He pointed out that the Act passed last session by the New Brunswick Legislature made the system much more oppressive to the Catholics. It provided that no matter if nine-tenths of the people of a district were opposed to the system they were compelled to pay taxes for its support. The Roman Catholics of New Brunswick had to contribute towards the support not only of the Common Schools, but also of the High Schools, neither of which their children had nor could have the benefit of. He entered into the details of the provisions of the Act passed last session, which he contended worked very unfairly towards the Catholic minority. Although these Acts could be passed by Local Legislature, it was clearly against the spirit of the Constitution, therefore this Government should disallow them.

The Irish and Acadian French of New Brunswick knew what it was to suffer for the sake of religion, and did not act in a spirit of sectionalism or discord. They were not an unknown body, they did not change their principles every day. They changed them never. These principles were as old as Christianity, co-existent with Christianity, in fact were the very essence of Christianity itself. They came there and asked firmly, earnestly, he might almost say imploringly, to have their rights. He did not, on the part of those he represented, mean to throw aside the principles of manhood and ask it as a favour, but he respectfully asserted their legal rights and demanded that their claim to fair play should be respected. Ontario legislation had been disallowed; he was much mistaken if Quebec Acts had not been disallowed; and he did not think the argument of the Minister of Justice was tenable. He averted, not in an offensive way, that the prejudices of the majority in New Brunswick were so deeply rooted that there was no hope of justice at the hands of the Local Legislature. If instead of relying upon the good sense of the majority of the Dominion, the good sense of the Protestant majority

and their Catholic brethren, the 100,000 Catholics of New Brunswick, were driven to take counsel with their despair, they could not be supposed to lie quietly in the gutter, and the result might be anything but favourable to this Dominion.

He did not mean to throw out any threat, but he need not say that any minority, no matter what it was, would not quietly submit to have its rights trampled upon long without resenting the injury. He hoped this House would see fit to pass this amendment, and do what was clear justice to their brethren and fellow subjects in New Brunswick. (*Cheers*.)

**Mr. MASSON** said that the Catholics of New Brunswick were quite right in taking every constitutional means that could be taken to obtain relief from the great injustice under which they were suffering. He wished to have it established whether the Federal Government would only disallow Provincial Acts that were unconstitutional, and not also Acts that were against the general welfare of the Dominion. That was a point that should be established at once. He contended that it was the intention of the Confederation Act to give the Federal Government power to disallow the Acts which were opposed to the general welfare of the country. The constitutionality of an Act was not to be submitted to the executive power, but to the judicial power.

Therefore, he argued that this question was not merely a constitutional one, but they had to consider whether this New Brunswick School Act was not opposed to the general interest of the Dominion. The Confederation Act gave the minority in each Province certain rights in reference to education, and the question now was in what cases the power of disallowance should be exercised in regard to the Provincial Acts that infringed upon these rights of the minority.

He quoted the statements of Sir John Rose and Sir George-É. Cartier, made at the time Confederation was being discussed, to the effect that it would be the duty of the Federal Government to disallow any Provincial Act that inflicted injustice upon the minority. In the course of this Confederation debate Sir George-É. Cartier had distinctly stated in answer to Sir John Rose that he would advise the disallowance of any Provincial Act that inflicted injustice upon a minority.

The case now under discussion was precisely such a case. A great injustice had been inflicted upon the minority in New Brunswick by a Provincial Act, and all that they asked was that the Federal authority should step in and prevent this injustice, as they had a perfect right to do under the Constitution. Supposing, in the Quebec Legislature the rights of the Protestant minority with regard to education should be infringed upon, would it not be the duty of the Federal Government to prevent that being done? The Constitution specially provided that they should do so. It did not confine the power of disallowance merely to unconstitutional Acts, but it expressly provided that it should be extended towards Acts that intruded upon the rights of the minority in any Province with regard to education.

**Hon. Mr. LANGEVIN** agreed with the hon. member for Victoria, New Brunswick (Mr. Costigan) in dissenting altogether from the opinion of those who, in the Local Legislature of New Brunswick, had adopted and voted for the School Law which two years ago became the law of the land. He considered that that law was unjust towards the minority in New Brunswick. He had expressed that opinion last year, and his only regret was that the Local Legislature had not remedied that evil.

On the other hand he did not think that this House was the tribunal to disallow this Act. He dissented with his hon. friend from Terrebonne (Mr. Masson) that this Parliament had the right to call upon the Government of the Dominion to disallow the law of the Local Legislature. In every case that power to disallow was limited. The constitution had determined the rights of the Federal Parliament and of the Local Legislatures. They held these powers on the same authority—the authority of England. Amongst the powers given to the Local Legislatures was the power to legislate with respect to education. The question of right to pass the law was set at rest in so far as the Dominion Parliament was concerned, by the reference which was made last year to the law officers of the Crown in England. These law officers had declared that the Local Legislature had the right to pass these laws.

The question today was not to say whether the law passed two years ago should be disallowed, but the question was, first, that the parties should have an opportunity of bringing in the matter judiciously before the Privy Council. On this point he agreed with the hon. member for Terrebonne, but the resolution went further and said that in the meantime it is the duty of the Governor General to disallow the Acts passed in the last session of the Local Legislature. There he did not agree with his hon. friend.

By adopting such a resolution the House would be taking from the Executive power which was reserved to it. The duty of advising the Governor General was the duty of the Minister of the Crown, and by adopting the resolution the House would be putting themselves in the place of those Ministers; and should it be adopted, the logical conclusion was that they, not having advised the Governor General to disallow the Acts, had failed in their duty. He did not think the majority of the House would say that the Ministers of the Crown should have advised the Governor General to disallow them before examining the motion.

If the House adopted the motion, then the Executive will have no free will. They would not be free to examine the law, to see to the constitutionality of the motion they would have to put the motion before the Governor General. This had never been the course followed, and it was not in accordance with the Constitution. The Law Officer of the Crown in Canada, the Superior Court of New Brunswick, and the Law Officers of the Crown in England had declared that the Local Legislature of New Brunswick had the right to pass this Act.

Having unlike the Hon. Minister of Justice, always been in favour of the federal system, he could not consent to give to the

federal authority the power to disallow any Act as they pleased. It might as well be said the Queen of England could disallow every Act of this Parliament. He would like to know how that would act. That power had never been exercised, and it was never intended it should be. If every Act of the Local Legislature was disallowed by this Parliament, where were the powers of the former? He called upon his friends of all Provinces, the friends of the Union, those in favour of the independence of the Provinces, and especially he called upon his friends from Lower Canada, not to adopt a principle of this kind which would put the power of the Local Legislature in the hands of the Dominion Parliament, and thus risk their own rights.

**Mr. WRIGHT (Ottawa County)** thought that the question was one of great interest not only to the Province of Quebec, but to all the Provinces in which the Roman Catholic population were placed in the same position as the Roman Catholics in New Brunswick. He contended that the question was not one of religion, but one of justice and right, and if the Catholics of New Brunswick had not got their rights, it was because the Roman Catholics in this House had been divided and had not voted unitedly upon this question. He continued at considerable length in support of the resolution.

**Mr. MERCIER** said the principle of justice should override every other consideration and should receive the support of the Protestants and Catholics alike. Let the Catholics be united and they could not fail to obtain justice. If they failed it would be for want of union amongst themselves. This resolution did not propose to reverse the decision of the House last session, but merely that legislation subsequently enacted should be disallowed.

He argued that what the Catholics of New Brunswick enjoyed at the time of Confederation was virtually a denominational system of schools, and that it was a violation of the spirit and letter of the Constitution to deprive them of the privileges they enjoyed. He appealed to the House to not disregard the appeal for justice coming from 100,000 of the people of New Brunswick.

He expressed his surprise at the course taken by the Minister of Public Works (Hon. Mr. Langevin) and said that the hon. gentleman was using his influence to prevent this Parliament from doing justice to his 100,000 co-religionists in New Brunswick. At the time of Confederation there was some doubt in the minds of some representatives of the Lower Provinces as to the interpretation of this clause of the Union Act, and it was then explained by Sir George Cartier, and others, that it would protect the rights of the Catholics from oppressive legislation on the part of the Protestant majority. He also quoted the opinion of Lord Carnarvon on the same clause, which was to the effect that the Confederation Act provided for the protection of the rights of the Protestant minority in Quebec and those of the Catholic minority in the Maritime Provinces.

**Hon. Mr. CAUCHON** said this was a most important question, not only politically but socially. If they decided this question against this resolution, they might be certain that the cry would come from end to end of the land—which was now roused to this question—which would not cease till the request made for justice had been granted. He had himself always held the opinion that this legislation on the part of the New Brunswick Legislature could not constitutionally be interfered with by this House. In the resolution adopted last year by this House, it was admitted that the Roman Catholics of New Brunswick had the same rights, privileges, and advantages of which they had been deprived. This Government had obtained merely an *ex parte* opinion of the law officers of the Crown of England, which it was true was against the claims made, but had the Government gone to the Privy Council?

They had been informed that they could obtain no opinion from that body unless some claim were presented for their arbitration. It was then the duty of the Government to submit that case, and they ought to do so still. Was it to be said, because there was some extraordinary clause in the Constitution, that an injustice of this kind was to be perpetrated? Surely not. Hon. Mr. Howe had said when he came to this House, and he (Hon. Mr. Cauchon) had heard him say it himself, that that Constitution was unjust to the Lower Provinces, and in consequence we had plenty of claims for better terms. (*Hear, hear.*)

If we argued that the disallowance of this extraordinary legislation was an infringement of the economy of the Provinces, where was the power of the veto? If the Crown ever had a just cause to exercise that veto, this was the occasion. Advice addressed by this House to the Crown was no invasion of its rights and prerogative. He instanced several cases in the history of England. If they wanted to have justice done to the people of New Brunswick this occasion should be taken to offer advice to the Crown. If this was not done it would not tend to the peace, prosperity, and success of Confederation.

**Hon. Mr. CAMERON (Cardwell)** said the question before the House tonight was not a question of the rights of the Catholics of New Brunswick at all, because the school law of 1871, which was complained of, was not under the consideration of the House. That law was the law of the land and could not now be vetoed, because the time for vetoing it had passed.

**Hon. Mr. CAUCHON** observed that the Judges of New Brunswick had decided that the School Act was constitutional; the question was, was that decision to be submitted to the Privy Council.

**Hon. Mr. CAMERON (Cardwell)** said that was not the question at all. The question was whether this House should instruct the Ministers to advise His Excellency to vote Acts passed last session legalizing certain assessments, which Acts were undoubtedly within the jurisdiction of the Legislature. Let them look at an Act of the Legislature of Ontario with respect to assessments, which, if this Government had attempted to interfere with, would have put the majority of the people of Ontario in quite as great a state of excitement as the minority in New Brunswick could be on account of the school law. The Legislature of Ontario

had taken away the rights to certain lands from the persons who had gave unto those lands and improved them in favour of persons who had paid the taxes upon them. Thus certain rights has been taken away, and if the Government had voted that Act they would have raised a cry from one end of the Province of Ontario to the other.

There was no question upon which men individually or collectively felt so keenly as upon a religious question. Into this question, however, the religious element ought not to enter at all, because, although it was at the basis of the New Brunswick school law, it was not at the basis of the law which the Government were called upon to advise the Governor General to veto. This vetoing power of the Government stood in much the same relation towards the acts of the Local Legislature as the vetoing power of the Crown stood toward our legislature. There were two positions in which the Government were placed in advising the Crown in respect to the exercising of the vetoing power. The one must be as to the constitutional right of the Provincial Legislatures to legislate in which they stood as judicial and responsible advisers to him, and the second was as respected the policy of the Government towards the legislation of the various Provinces.

A reason why they could not ask the Crown to interfere in this matter was because judicial power had not been exhausted in respect to the main question, and until that was exhausted he would not like to ask the Crown to interfere with a subsidiary question. The Roman Catholics maintained that the law was unconstitutional; that it was an interference with the rights which they had under the constitution, and that if they could get it before the Judicial Committee of the Privy Council they could get a decision in their favour.

Why, then, did they not appeal and bring the matter before the Privy Council. Would anyone tell him that the Roman Catholic minority of New Brunswick were not sufficiently strong, that they had not sufficient ability, that they had not sufficient means to do so. They had power, the means, and the will to bring the matter forward, and, therefore, if it had not been done it was not for any of these reasons. Was there anything to prevent them bringing the matter before the Judicial Committee of the Privy Council? There was nothing. There was a statute providing that whenever Her Majesty asked the opinion of the Judicial Committee on any point they were bound to test it, and thereby the decision of the Privy council might be obtained upon the main Act which they alleged to be unconstitutional.

As for the laws which the Governor General was now asked to disallow, he might as well be asked to disallow any Act of the Legislature sanctioning a municipal by-law granting money to a railway company. If such a principle were introduced appeals would constantly be made. He reminded the House, in conclusion, that there was a majority as well as a minority in New Brunswick, who might be exasperated if they found that their legislation was unnecessarily disallowed.

**Hon. Mr. DORION (Napierville)** said the hon. member for Cardwell (Hon. Mr. Cameron) had attempted to dwarf the question by referring to it as if it were an assessment for the construction of a road or a bridge, not considering it was one of those question that, at the time of Confederation, were considered of vital importance to the whole Dominion and was guarded by the 93rd clause of the British North America Act, which it had been contended covered the minorities of the several Provinces whether the Maritime Provinces or Upper or Lower Canada. It was not asked to disallow the School Bill of 1871, it was merely asked to disallow the Acts about assessments under that School Act.

Last session it was admitted by the unanimous vote of the House that great injustice was done to the minority of New Brunswick by this Act. By the unanimous vote of the House a hope was expressed that the Legislature of New Brunswick would change that Act, but instead of doing so they passed an Act which was retroactive, and by which the Legislature enacted the assessment clauses which had been annulled by the Courts of Justice. By a resolution passed last year it was decided that the opinion of the law officers of the Crown, and of the Judicial Committee of the Privy Council should be obtained.

On the 8th of November it was decided that the report of the Minister of Justice should be communicated to Bishop Liveney and the Local Government of New Brunswick the next day, but that very day a copy was sent to England. On the 8th of November Bishop Liveney acknowledge the receipt of the documents and asked to be told when the case would be submitted to the Judicial Committee of the Privy Council, because he wanted to know the time, in order to employ counsel in his behalf. That communication was never acknowledged by the Dominion Government. Bishop Liveney was not told that the documents had been sent to England to obtain the opinion of the law officer of the Crown.

Some time afterwards he sent his memo, which reached Ottawa on the 18th of January, and it was sent to England. The opinion of the law officers of the Crown was obtained on an *ex parte* case, and it was obtained a second time upon a memorandum from the Local Government of New Brunswick. He was not informed that the opinion of the law officers of the Crown had been obtained, nor was he informed that the opinion of the Judicial Committee of the Privy Council had been asked, and that they and declined to interfere, saying they could not interfere unless the matter was taken before the Committee as an appeal from a Provincial Court.

Under the circumstances he (Hon. Mr. Dorion) thought the demand made that day was a reasonable one, and, under these circumstances, as they had not had an opportunity of taking the matter before the Privy Council, they asked that the assessment should not be enforced, which would not go to support their schools, but which would go to support the Protestant schools. They wanted the assessment delayed till it had been ascertained whether the Act of 1871, under which the assessment was levied, was constitutional or not. The opinion of the law officers of the Crown

was a one-sided one. Their view of the case was never heard until the matter was set before the Privy Council. They desired the assessment to be left in abeyance. It was the most moderate demand that could be made.

The hon. gentleman quoted authorities to show that the Act of Confederation contemplated the protection of the minorities in each of the Provinces. He alluded to the speeches of Hon. Mr. Locke previous to Confederation, in one of which he stated that no real injustice could take place without its being remedied by the Federal Parliament. It was clear enough that it was intended. Upon these questions, if a case of injustice arose, it was for the Federal Parliament to come to the aid and assistance of the minority. The dangers of upsetting the Local Government had been referred to, and it was said that this Parliament would be legislating for the Local Parliament.

He (Hon. Mr. Dorion) maintained that the Federal Government was to prevent the Local Government from doing an injustice to the minority. They could not pass an Act directing the Local Government to do something they did not want to do, but they could tell them they should not pass a law which would change the relation of majorities and minorities from that at the time of the Union. The Federal Government had to guard against the interference of the Local Legislation with the minority. After referring to the speeches of two other gentlemen before Confederation, he said there was no doubt the right to vote Bills passed by the Local Government was vested in the Governor General in the same way that the right of voting measures was invested in the Queen.

In support of this statement, he read from the 5th and 6th section of the British North America Act and the 9th section. He also quoted from the speeches of Lord Derby and Sir Robert Peel, to prove that the power to veto Bills was possessed by the Governor General, and he thought that the doctrine which had been raised that they had only a right to veto Bills that were unconstitutional fell to the ground.

The hon. gentleman concluded by saying that no demand could be more reasonable than that asked for by the motion. They asked that the matter should remain in abeyance until it was decided. On the one hand it was a mere delay of assessment, whilst on the other hand it was the authorizing of the payment of an assessment of a most objectionable character to the Catholic communities. It had been admitted that an injustice had been done, and it was merely the delay for a year of the assessment until the decision of the Judicial Committee of the Privy Council was obtained. On these grounds he would vote for the motion.

**Hon. Mr. SMITH (Westmorland)** protested in the name of the New Brunswick people against this attempt to deprive them of the rights granted to them under the Constitution. If the laws passed by the Local Legislature within their jurisdiction were to be supervised by the general Parliament, then the legislative power of New Brunswick would be destroyed and the Constitution a mockery. He argued that under the Constitution the New Brunswick Legislature had not exceeded the authority conferred on it by the Confederation Act. He had the decision of the Minister of Justice, the highest court in the land, and the Crown law officers of England, that the Legislature of New Brunswick had acted constitutionally, and this Parliament had no right to interfere. He thought there was nothing offensive in what had been said by the hon. gentleman who introduced the motion, but he could not say the same of the hon. member for Gloucester (Hon. Mr. Anglin). Surely a majority of the Province had a right to speak, had a right to legislate; and they had to remember, as had been well remarked by the hon. member for Cardwell (Hon. Mr. Cameron) that the majority as well as the minority had rights, and that these rights must be respected. The people of New Brunswick were jealous of their rights; and while it was just that the Catholic rights should be respected it was equally just that Protestants should also have protection.

He considered the speech of the hon. Minister of Justice, quite unanswerable. When the representatives of the people in Parliament controlled the veto of the Crown that veto ceased to be an Imperial right altogether. This was a power which the Crown possessed altogether independent of the people, an inherent right, and one which could be exercised only at the will of the Crown. He thought that to carry this motion would be to create a bitterness of feeling in that Province, which would not soon be eradicated and which the people would not fail to resent.

**Mr. BERGIN** said he sympathised heartily with his co-religionists in New Brunswick, and he deprecated the endeavour on the part of the Ministry to cast around this question a cloud of constitutional difficulties. He thought the representatives of New Brunswick held a sort of parliamentary bludgeon over the head of the Ministry, and they in turn held one over the heads of the Lower Canada representatives who had so nobly fought the battle of the minority in Ontario. He was especially astonished at the conduct of the Hon. Minister of Public Works (Hon. Mr. Langevin), who seemed to be in a position of a man whose sense of justice was struggling strongly with his love for office. He quoted at considerable length from speeches of the Minister of Justice (Hon. Sir John A. Macdonald) at the time of Confederation, to the effect that the majority in the Local Legislature of Lower Canada would not do injustice to a Protestant minority. How could that gentleman argue against giving the same privileges to the people of New Brunswick, who were clearly suffering from injustice at the hands of a Protestant majority?

He pointed out the benefits arising from Separate Schools in Ontario, and the good feeling that was consequent thereon. He was willing to give the Minister of Justice credit for what he had done in favour of separate schools in Ontario, but he noticed particularly that what he then denounced as a great wrong he now cautiously styled a great mistake on the part of the New Brunswick Legislature. He would not deal with the constitutional question, as that had been effectually disposed of by gentlemen on both sides of the House. Knowing, as the Government did, that this question would again come up this session, they ought to have taken such

steps as could have put this question beyond discussion upon the floor of this House, at once and forever. It did no good, it could not fail to do a great deal of mischief. (*Cheers*.)

**Hon. Sir FRANCIS HINCKS** had always been a cordial supporter of the rights of the Catholics. It could not therefore, be wondered at that he viewed with regret the action of the New Brunswick Legislature, but at the same time he could not support this motion which would interfere with the prerogative of the Local Legislature. He was sorry this question had come up, but he could not vote for interference with the acts of the Local Legislature.

**Mr. PALMER** believed that every Protestant who passed a law injurious to the rights of the Roman Catholics was an enemy to the Protestant religion and *vice versa.* He went on to say that this House was not a tribunal to disallow an Act, and if the School Act of New Brunswick was declared unconstitutional, then that Legislature could never pass a Separate School Act.

**Mr. CASGRAIN** maintained that by the treaty of 1763, the French Canadians had their religious rights assured to them. For the same reason the Roman Catholics of New Brunswick should have their rights maintained to them. For this reason he would support the motion.

**Mr. JETTÉ** (in French) maintained that the Minister of Justice had put the question unfairly before the House. The motion of the hon. member for Victoria was not intended to re-open the whole question, but simply to take steps to obtain the opinion of the English Privy Council on the terms of the resolution of last session and in the meantime to suspend the operation of the Act. When that opinion was obtained, if it were adverse to the Roman Catholics of New Brunswick, the question would be exactly in the same position as at present. He spoke at considerable length of the injustice to which the minority of New Brunswick were subjected and asked that they might not be deprived of what the hon. member had boasted of according, that is, fair play. (*Cheers*.)

**Hon. Mr. MACKENZIE** said he had listened attentively to the arguments on both sides, and he found that while it was admitted almost on all hands that the introduction of any matter affecting the powers and duties of the Local Legislature should, if possible, be avoided, it was at the same time admitted that this was a subject upon which they might be called upon to take action.

It was clear from the Confederation Act that this Parliament might be called upon to interfere in case the rights and privileges of Roman Catholics in Ontario, with regard to education, were infringed upon, and not merely to express a hostile opinion but to even legislate for that Province. He read the clause of the Act referring to this point, and showed that that right was clearly established. Unfortunately we could not avoid this subject. It came before them whether they would or not, while nothing could be more painful than to have to interfere in local affairs of any Province. Still the Constitution not only placed it within their power, but made it their duty to do so, and the only question for them to consider was whether the legislation of New Brunswick upon this subject had infringed upon the Constitution.

That was the whole case; and to see whether they had done so or not, they might refer in the first place to the Act itself. Last session some of the ablest lawyers in the House were divided in opinion on this point. It seemed to be a very nice question, and that arose from the fact that prior to Confederation the Roman Catholics in New Brunswick had certainly the privilege, if not the right, of conducting their schools upon a denominational basis, which was swept away by subsequent legislation of the Province. Then the question came before this House last year, and they unanimously passed a resolution which virtually affirmed that practically the Roman Catholics had certain privileges which were taken away from them by the School Act of 1871.

That point, however, had not been finally decided. The Supreme Court of New Brunswick, as well as the law officers of the Crown, had decided that the Act was constitutional. He admitted the difficulty and danger of interfering with the Local Legislatures and their rights, but he was bound to say he had not found the hon. gentleman opposite, the Minister of Justice, at all so sensitive on this point, or the assumption of Provincial rights by this Parliament in other cases. It has been one continuous struggle to maintain the rights of the Local Legislatures in respect to civil rights and rights of property. There had been various acts of the Local Legislature of Ontario disallowed, about some of which that Legislature entertained very strong feelings and opinion, and we had only lately heard the hon. gentleman opposite declare his opinion that one Act of the Ontario Legislature he believed to be unconstitutional, although he sanctioned its being placed upon the statute book; but even though these Acts had been disallowed, and although there was a strong opinion in the Province on the subject, we had not heard any particular complaints or any sign of disturbance or rebellion.

He apprehended that no serious difficulty would occur, even if the central Government were obliged sometimes to disallow Bills of the Local Governments for reasons that affect the whole of the Dominion. It might do for the sake of effect in a speech to say that this is a question which affects no one by the people of New Brunswick. We had heard gentlemen on both sides of the House tonight declaring that they were bound by their religious feelings and proclivities to take the part of their co-religionists in New Brunswick, and therefore those religious questions should, if possible, be avoided.

While he expressed his strong desire to avoid any interference with the local legislation, and while he said frankly that if the Privy Council decided that the School Act was constitutional, he thought that until that decision was given it was very unwise on the part of the New Brunswick Legislature to push matters to extremes by making regulations under the School Act needlessly offensive. It was a great pity that the privileges which the Roman Catholics enjoyed at the time of Confederation had not been continued. He

regretted that the same course had not been pursued as in Nova Scotia, where the law he understood was similar; but, the question having come before this House, they were obliged to decide according to their conscientious convictions of what ought to be done under the circumstances, and, after having listened to the arguments on both sides, he felt himself obliged to support the resolution pending the decision of the Privy Council.

**Mr. COLBY** believed the Legislature of the Province of New Brunswick was deserving of disapprobation, as interfering with the rights of the Catholics; but while there was a constitutional point still to be solved by the Judicial Committee of the English Privy council, he was disposed to leave it there. This House had not the power to suspend this law as had been urged by hon. gentlemen.

**Mr. CARTER** maintained that this House had no right to dictate to the Crown as to what course it should adopt. The House had already affirmed the principle that the Local Legislature was the only authority which had a right to deal with this question.

**Mr BURPEE (St. John City and County)** said that if the law was allowed to take its course in New Brunswick, in a few years it would operate as well as it operated in Nova Scotia. This resolution would put great difficulties in the way of education.

**Mr. McADAM** said the House would be interfering with the rights of the Local Legislature if it passed this resolution.

**Hon. Mr. TILLEY** could affirm that, as a member of the Local Legislature, the policy had been to grant special funds for denominational schools, and had he remained in that Legislature he would have gone in favour of the continuance of it, but the Local Legislature had maintained its constitutional right to decide otherwise. If the resolution before the House passed it would be a violation of the constitution and would tend to postpone for ten or fifteen years the settlement of the question.

**Hon. Mr. MITCHELL** would vote against the motion as calculated to violate the constitution. At the same time he would be willing to do anything to secure to the Catholic minority their rights. He was of opinion that this question ought to have been brought up at the polls.

**Mr. DOMVILLE** would vote against any motion calculated to interfere with the constitution of the country.

The House then at a quarter to two, divided on **Mr. COSTIGAN's** motion which was carried on the following division:—

YEAS

Messrs

| | |
|---|---|
| Almon | Anglin |
| Archibald | Baby |
| Bain | Beaubien |
| Béchard | Bellerose |
| Benoit | Bergin |
| Blanchet | Bodwell |
| Bourassa | Brooks |
| Brouse | Buell |
| Caron | Casey |
| Casgrain | Cauchon |
| Cockburn (Muskoka) | Costigan |
| Cunningham | Currier |
| Cutler | Delorme |
| De Saint-Georges | Dorion (Drummond—Arthabaska) |
| Dorion (Napierville) | Dugas |
| Duguay | Edgar |
| Fiset | Fleming |
| Fournier | Galbraith |
| Gaudet | Geoffrion |
| Gendron | Gibson |
| Gillies | Grant |
| Harvey | Harwood |
| Higinbotham | Holton |
| Horton | Huntington |
| Jetté | Joly |
| Lacerte | Laflamme |
| Landerkin | Langlois |
| Lantier | Lewis |
| Macdonald (Glengarry) | McDonald (Antigonish) |
| McDonald (Cape Breton) | Mackenzie |
| Mailloux | Masson |
| McDougall | Mercier |
| Metcalfe | Mills |
| Oliver | O'Reilly |
| Pâquet | Paterson |
| Pelletier | Pinsonneault |
| Pozer | Prévost |
| Richard (Mégantic) | Robillard |
| Ross (Champlain) | Ross (Middlesex West) |
| Ross (Prince Edward) | Ross (Wellington Centre) |
| Ryan | Rymal |
| Scatcherd | Shibley |
| Smith (Peel) | Snider |
| Taschereau | Thompson (Haldimand) |
| Tobin | Tourangeau |
| Tremblay | Trow |
| Webb | White (Halton) |
| Wilkes | Wood |
| Wright (Ottawa County) | Young (Montreal West).–95 |

NAYS

Messrs.

| | |
|---|---|
| Archambault | Baker |
| Beaty | Bowell |
| Brown | Burpee (St. John) |
| Burpee (Sunbury) | Cameron (Cardwell) |
| Campbell | Carling |
| Carter | Chipman |
| Chisholm | Cluxton |
| Coffin | Colby |
| Crawford | Daly |
| De Cosmos | Dewdney |
| Domville | Doull |
| Ferris | Forbes |
| Fortin | Gibbs (Ontario North) |
| Gibbs (Ontario South) | Glass |
| Grover | Hincks (Sir Francis) |
| Keeler | Kirkpatrick |
| Langevin | Little |
| Macdonald (Sir John A.) | Mackay |
| McAdam | Merritt |

| | |
|---|---|
| Mitchell | Moffatt |
| Morrison | Nathan |
| Nelson | Pickard |
| Pope | Ray |
| Robinson | Robitaille |
| Rochester | Ross (Victoria) |
| Scriver | Smith (Selkirk) |
| Smith (Westmorland) | Staples |
| Stephenson | Stirton |
| Thompson (Cariboo) | Tilley |
| Tupper | Wallace (Albert) |
| Wallace (Norfolk South) | White (Hasting East) |
| Witton—Total–63 | |

(*Opposition cheers.*)

The House then went into Committee of Supply and passed the following item:—

Increased mail service between Prince Edward Island, Pictou and Hawkesbury—$600.

Steam communication from Sarnia to Lake Superior—$6,250.

The House adjourned at 2.10 a.m.