

of the order which they may adopt in the case. Hence, under the judgment and the Imperial order transmitting it, it was competent for the Governor-General-in-Council, after hearing the appeal, to make an order :

1. To restore the Separate schools as they existed prior to 1890 ; or
2. To restore them in modified form ; or
3. To modify the Public school system in such a way as to make it more acceptable to the Roman Catholic minority ; or
4. To declare that the circumstances were such that the public interest demanded that the legal "right or privilege" hitherto enjoyed by the minority should be now withdrawn, as is done by the Act of 1890.

That this last alternative is within the competency of His Excellency-in-Council, would appear from the fact that the tribunal to which appeal is granted is a political or legislative tribunal and not a court of law. They are called on to decide not the law in the case, but the public policy. Of course, in the determination of that policy, the rights of the minority must be considered, as must also the rights of the majority and of generations yet unborn. All legislation infringes upon certain rights of individuals for the general good. The peculiar right with which the Manitoba Act endows the minority, is not the right to hold on to Separate schools forever ; that right could have been secured by express enactment at once for all time, and to sustain that right appeal would be necessary only to the legal tribunals of the country. But their right is *to be governed in this special matter not by Provincial but by Dominion Legislative authority*. Once they have legally enjoyed Separate schools, and they did so enjoy them from 1870 to 1890, they can, indeed, be deprived of them by Provincial enactment, but they have the right of appeal to another governing body, another sovereignty by whose determination of their case they are finally bound. On their appeal it becomes the duty of the Dominion Government to decide whether Separate Schools are or are not the right policy for the Province of Manitoba. This responsibility involves unusually grave consequences and fortunately moves forward to those consequences by progressive stages. The policy of the Dominion Government having been settled, and diverging as in the present case it does from that of the Provincial Legislature, there is first an order to the Provincial Legislature to pass remedial legislation. This remedial legislation is to restore to the Roman Catholic minority three things :

(a) "The right to build, maintain, equip, manage, conduct and support Roman Catholic schools in the manner provided for by the said statutes, which were repealed by the two Acts of 1890, aforesaid."

(b) "The right to share proportionately in any grants made out of the public funds for the purpose of education."

(c) "The right of exemption of such Roman Catholics as contribute to Roman Catholic schools from all payment or contribution to the support of any other schools."

The continuance, and hence the restoration of these rights and privileges (at least for the present), is therefore the declared policy of the Dominion Government. For the right or wrong of that policy they are, of course, responsible, as His Excellency's advisers, to the people of the whole Dominion. The question is without doubt an exceedingly difficult one. On the one side, there stands the conviction of the majority of a province as to what is required by the highest good of the future. On the other hand, are the conscientious convictions of a minority, protected by a guarantee that they shall not be interfered with except by the authority of the whole Dominion. That authority has decided that such interference should not take place at present. This is the present stage of the question. The outcome may be already history before these lines reach our readers.

Three courses of events are possible :