

conditions have passed away, the population is comparatively dense—in others, it is sparse and scattered. The Catholics of Canada number about 41 per cent. of the whole people. They, too, are spread throughout all its nine provinces. In only one province—Quebec—are they the majority. There their strength is overwhelming. In the other eight provinces Catholics are the minority. Like you we have racial and religious difficulties. Our population has been drawn from many sources and we are confronted, especially in the West, by a problem of assimilation not unlike your own. In Eastern Canada conditions are not dissimilar to those which obtain in older countries; in the newer portions of the West the struggle of life is more strenuous. The pioneer finds little time to devote to primary, and none to give to higher, or even to secondary education. You will therefore readily appreciate that the subject of Catholic education in Canada embraces a wide field—a field which it would be difficult, if not impossible, to cover to-night. Perhaps for this reason—perhaps because those responsible for this evening's programme thought that as a lawyer I would be more at home in that branch of the subject—I have been asked to speak to you not upon Catholic education in Canada generally and at large, but upon Catholic education in Canada in its relation to the civil authority.

Let me premise by explaining that as a member of a Court, which in the past has been, and in the future may be, called upon to deal with questions affecting the constitutional rights of minorities in educational matters, I must ask you to excuse me if I refrain from discussing problems which may present themselves for future adjudication and also from expressing any opinion upon the attitude and the conduct of political parties in recent years upon certain phases of these questions. I shall confine my remarks to a resume of the development of the conditions in regard to Catholic education which now obtain in each of the provinces, of the course which our legislation has taken and of the difficulties which our Catholic people have encountered, merely glancing at the

legal and political struggles through which they have passed. I fear I must to some extent enter into details which may not be of transient interest; I shall endeavor to do so at greater length than is necessary to present my subject clearly and intelligibly. My object shall be to make plain to you what has been in the past, and what is to-day, the attitude of the civil authority in each of the provinces of the Dominion of Canada towards Catholic education.

Under the constitution of the United States the legislative powers of the Federal Congress are defined. The residuum of legislative jurisdiction remains vested in the State Legislatures. In this residuum is included the control of education, which is therefore with you purely a domestic matter in each State of the Union. In Canada under the Imperial British North America Act of 1867 defined subjects of legislation are assigned, some to the Federal Parliament and others to the Provincial Legislatures, but the residuum of legislative jurisdiction is conferred upon the Dominion Parliament. Where, as sometimes happens, the subjects of Dominion and Provincial legislative authority overlap, a Provincial Legislature may pass valid legislation if it finds the field unoccupied. But here the federal jurisdiction is paramount and a statute of the Dominion Parliament, whenever enacted, prevails over and supercedes provincial legislation "in parliamentaria." This distribution of legislative powers effected by sections 91 and 92 of the British North America Act was intended to be exhaustive, except upon one subject—that of education—which was deemed so important and so delicate that it was separately and specially dealt with in the 93rd section. This section reads as follows:

"93 In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:

"(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union.