

management of discipline in school. To make rules for examination, grading and licensing of teachers and for withdrawal of licenses on sufficient cause. It shall prescribe books as have reference to religion and morals. Section 13 of the Act divides money appropriated by legislature between Catholics and Protestants. The said statute is amended from time to time, but the system prevailed until 1890. The only substantial amendment was in 1875, when the board was increased to 21, 12 Protestants and 9 Catholics, and the moneys voted were to be divided in proportion to the number of children of school age in the respective Protestant and Catholic districts. The denominational distinction between the Catholics and Protestants, and the independent working of the two sections became more and more pronounced under the different statutes afterwards passed. Section 27 of the Act of 1875, c. 27, allows the establishment of schools of one denomination in the school districts of another denomination. The same principle is carried out and somewhat extended by sections 39, 40 and 41 of the Act of 1876, c. 1. In 1877, by c. 12, s. 10, it was enacted that in "no case a Protestant ratepayer shall be obliged to pay for the Catholic school, and a Catholic taxpayer for the Protestant school. It is manifest from all this that until the Act of 1890, the school system created by the legislature of Manitoba under the provisions of the constitutional Act, was entirely based and carried on on denominational principles as divided between Protestant and Catholic schools. In 1890 Manitoba passed certain Acts, viz.:— chapters 37 and 38 of 53 Vic., entitled respectively "An Act respecting the Department of Education," and "An Act respecting Public Schools," which affected very injuriously certain rights and privileges of the Roman Catholic minority in that province in relation to education acquired by them under various prior statutes of Manitoba, as well as rights and privileges possessed by them before the creation of Manitoba as one of the provinces of Canada. The first of these Acts, c. 37, abolished the Board of Education and the office of Superintendent of Education and creates a Department of Education, which is to consist of the executive council or a committee thereof, and also an advisory board composed of seven members, four appointed by Department of Education, two by teachers of province, and one by the university council.

Among the duties of advisory board is power to examine and authorize text books, &c., to determine qualifications of teachers, to appoint examiners, to prescribe the form of religious exercises to be used in schools.

The Public Schools Act, c. 38, repeals all former statutes relating to education. It also enacts as follows:—

By sections 3 all matters concerning school district appointments, agreements, contracts, assessments and rate bills are made subject to provisions of this Act.

Section 4 continues in office school trustees holding office when Act comes in force.

By section 5 all public schools are free, and in rural municipalities children between the ages of 5 and 16, and in cities, towns and villages between the ages of 6 and 16 shall have right to attend school.

By section 6 it is enacted that religious exercises shall be conducted according to regulations of advisory board, religious exercises just before closing hour. Children may be exempted from attending such exercises.

Section 7, religious exercises in public schools are entirely at the option of the school trustees for the different districts.

Section 8, the public schools shall be entirely non-sectarian, and no religious exercises shall be allowed therein, except as above provided.

This Act provides for the formation, alteration and union in rural and urban municipalities, election of school trustees, and for levying a rate on taxable property for school purposes.

Subsection 3 of section 108 is as follows:—

Any school not conducted according to all the provisions of this or any other Act in force for the time being, all the regulations of the Department of Education, or the advisory board, shall not be deemed a public school within the meaning of the law, and shall not participate in the legislative grant.

By section 143 teachers are prohibited from using unauthorized text books.

By section 179, in cases where before the coming into force of this Act, Catholic school districts have been established as in the next preceding section mentioned (that is, covering the same territory as any Protestant district), such Catholic school district shall, upon the coming into force of this Act, cease to exist and all the assets of such Catholic school districts shall belong to, and all the liability be paid by the public school district.

Under the provision of the British North America Act and the Manitoba Act, the Roman Catholic minority of Manitoba appealed to the Governor General in Council. In November, 1890, proceedings were taken to test the validity of the provincial statutes.

The form which the proceedings assumed was an application by Dr. Barrett (a Catholic ratepayer) to quash a by-law of the city of Winnipeg passed under the authority of the statutes. This application was on the 24th of November, 1890, dismissed by Mr. Justice Killam. An appeal was taken to the full court, and on the 2nd February, 1891, was dismissed, the Chief Justice and Mr. Justice Bain holding that the legislation was valid. Judge Dubuc, however, dissented.

A further appeal was taken to the Supreme Court of Canada, and on October 28th, 1891, the court (comprising five judges) unanimously held the Acts to be ultra vires.

A further appeal was taken to the Privy Council on 30th July, 1892, and judgment was given, reversing the decision of the Supreme Court and holding that the legislation was valid. A petition from the members of the Roman Catholic Church in Manitoba, dated in August, 1890, was presented to the Dominion Government, asking:

That it may be declared that such provincial law does prejudicially affect the rights and privileges with regard to denominational schools which Roman Catholics had by law or practice in the province at the time of the union.

This petition, as is well known, was dealt with by the Order in Council of 4th April, 1891, which stated that:

An appeal had been asserted, and the case is now before the Supreme Court of Canada, where it will in all probability be heard in the course of next month. If the appeal should be successful, these Acts will be annulled by judicial decision, and the Roman Catholic minority of Manitoba will receive protection and redress.

That is in the terms of the Order in Council itself. Again, there was a petition from the Roman Catholic Church in Manitoba, dated 27th September, 1892, received by the Gov-