

*Province* an appeal shall lie to the Governor-General in Council from any Act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education."

If the effect of the 22nd section of the Canadian Act of 1870 was to repeal this sub-section of the B. N. A. Act, as far as Manitoba was concerned, then that which was meant to do good by securing the rights of the minorities has done great mischief. Under the operation of this sub-section the rights of the minorities in Manitoba would have been safe, as the denominational system was fully established by the laws of the Provincial Legislature. The judges give the history of this legislation in brief:

Manitoba having been constituted a Province of the Dominion in 1870, the Provincial Legislature lost no time in dealing with the question of education. In 1871 a law was passed which established a system of denominational education in the common schools, as they were then called. A board of education was formed, which was to be divided into two sections, Protestant and Roman Catholic. Each section was to have under its control and management the discipline of the schools of the section. Under the Manitoba Act the Province had been divided into twenty-four electoral divisions, for the purpose of electing members to serve in the Legislative Assembly. By the Act of 1871 each electoral division was constituted a school district, in the first instance. Twelve electoral divisions, "comprising mainly a Protestant population," were to be considered Protestant school districts; twelve, "comprising mainly a Roman Catholic population," were to be considered Roman Catholic school districts. Without the special sanction of the section there was not to be more than one school in any school district. The male inhabitants of each school district, assembled at an annual meeting, were to decide in what manner they should raise their contributions towards the support of the school, in addition to what was derived from public funds. It is, perhaps, not out of place to observe that one of the modes prescribed was "assessment on the property of the school district, which must have involved, in some cases at any rate, an assessment on Roman Catholics for the support of a Protestant school, and an

assessment on Protestants for the support of a Roman Catholic school. In the event of an assessment there was no provision for exception, except in the case of a father or guardian of a school child, a Protestant in a Roman Catholic School district or a Roman Catholic in a Protestant school district—who might escape by sending the child to the school of the nearest district of the other section and contributing to it an amount equal to what he would have paid if he had belonged to that district. The laws relating to education were modified from time to time, but the system of denominational education was maintained in full vigor until 1890. An Act passed in 1891, following an Act of 1875, provided among other things that the establishment of a school district of one denomination should not prevent the establishment of a school district of the other denomination in the same place, and that a Protestant and a Roman Catholic district might include the same territory in whole or in part. From the year 1876 until 1890 enactments were in force declaring that in no case should a Protestant ratepayer be obliged to pay for a Roman Catholic school or a Roman Catholic ratepayer for a Protestant school.

The Judges attach much importance to the fact that the schools to be established under the Act of 1890 will be as they say, strictly non-sectarian. Catholics would not be satisfied with schools in which no religious doctrine was taught and nothing positively offensive could be found in the class books or in the exercises or in the language or demeanor of the teacher. But the schools now to be established by law in Manitoba will be Protestant schools. They will not be less so in the eyes of Catholics because the books to be used will be selected or compiled, and the prayers to be said in the daily religious exercises will be selected or composed by a Minister of Education and an Advisory Board.

But whatever may be thought of the decision of the Judicial Committee, even though it be regarded as illogical, prejudiced, partizan and unjust, dictated by motives of policy, as the plea in behalf of public schools may indicate, instead of by a strict regard for the legal significance of words, it, so far as it goes, determines conclusively what the law is, or as some may say,