

of the church contributed by its members. During the period referred to Roman Catholics had no interest in or control over the schools of the Protestant denominations, and the members of the Protestant denominations had no interest in or control over the schools of the Roman Catholics. There were no public schools in the sense of State schools. The members of the Roman Catholic church supported the schools of their own church for the benefit of the Roman Catholic children, and were not under obligation to, and did not contribute to the support of any other schools."

All this, say their Lordships, Catholics and the members of every other religious body are still free to do notwithstanding the Manitoba Public Schools Act of 1890, and no child is compelled to attend a public school. And they ask, "What right or privilege is violated or prejudicially affected by the law," which leaves the denominations as free in these respects as they were at the Union? They themselves describe the right of which the denominations are deprived as "the right of exemption from any contribution under any circumstances," to schools other than those to which they send their children. Of this most important, most valuable right, Catholics and the members of the church of England who also prefer denominational schools are now most unjustly deprived.

It is difficult to understand why no effect is given in this case to the third sub-section of the 93rd section of the British North America Act which seems to have a very important bearing on it. The Act creating the Province of Manitoba was passed under authority of the 146th section of the B. N. A. Act which provides that.

"It shall be lawful for the Queen . . . on address from the Parliament of Canada to admit Rupert's Land and the North-west Territory or either of them into the Union on such

terms and conditions in each case as are in the addresses expressed, and as the Queen thinks fit to approve *subject to the conditions of this Act.*"—and under the authority of the Imperial Act, 32 and 33 Vic., cap. cv. which after providing for the surrender of Rupert's Land and the North-west Territories to the Queen and the transfer to the Dominion provides that from the date of such transfer, "It shall be lawful for the Parliament of Canada to make or ordain and establish within the Land and the Territory so admitted, all such Laws, institutions and ordinances and constitute such courts and offices as may be necessary for the peace, order and good government of Her Majesty's subjects and others therein."

This does not seem to repeal, by implication or otherwise, that section of the B. N. A. Act of 1867 which provided for the admission of the Northwest "into the Union;" nor could that part of the B. N. A. Act which relates to education have been deprived of its force so far as Manitoba is concerned by the 22nd section of the Canadian Act, 33 Vic., cap. 3 (The Manitoba Act) although that an Imperial Act passed in 1871 (34 and 35 Vic., cap. 28) provided that this Canadian Act "shall be and be deemed to have been valid and effectual for all purposes whatsoever," from the date at which it received the assent of the Governor-General. This B. N. A. Act of 1871 does expressly give the Parliament of Canada power to establish provinces in the new territories, but it did not affect the state of things then existing in Manitoba, further than by making the Canadian Act of 1870 valid in all respects.

The third sub-section of section 93 of the B. N. A. Act of 1867 is as follows:

"Where in any Province a system of separate or dissentient schools exists by law at the Union, or is thereafter established by the Legislature of the