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Ontario Number

THIS number of our "Trade Revival and Expansion Campaign" series is devoted chiefly to matters in which the great Province of Ontario is most concerned. The position of that Province in respect of its population, resources and general importance makes it the acknowledged first among the Provinces of Canada. Its affairs therefore are of interest not only to its own people but also to citizens of the Dominion generally. This issue of The Journal of Commerce is a magazine of interesting and useful information, the study of which at home and abroad cannot fail to impress the reader with a sense of the important part that the Premier Province is playing in the business of Canada and in the service of the Empire.

The Privy Council Judgments

THE story of the citizen who declared himself in favor of the prohibition law, but "again the enforcement of it," is brought to mind by the two judgments just delivered by the Judicial Committee of the Privy Council in London in the Ontario bilingual school cases. On the main question—that of the validity of the Ontario regulation to which objection was raised by many French speaking citizens—the judgment is entirely in favor of the Ontario Government; the regulation is held to be legal and binding. But in the second judgment, which followed quickly after the other, their Lordships condemned as ultra vires the Act which the Ontario Government had deemed necessary for the enforcement of the regulation in the City of Ottawa, the place where the most friction occurred.

The decision as to the power of the Ontario Legislature to pass the law on which the regulation was founded will not be a surprise to the legal profession. While admitting that the other side of the case was arguable — what case is not arguable when a number of eminent legal gentlemen are concerned in it?—most of the legal fraternity fully expected the decision to uphold the claim of the Ontario Government. It is to be noted too that in the important debate on the subject in the House of Commons the validity of the Ontario legislation was not attacked, but an appeal was made to the Ontario authorities to endeavor to meet the views of the French minority. The judgments are necessarily lengthy, but their substance can be stated shortly.

The British North America Act, the constitution of Canada, provides that the Legislature of a Province shall have exclusive power to make laws respecting education, subject, however, to the important proviso that such laws "shall not prejudicially affect any right or privilege with respect to denominational schools which any class of persons had by law in the Province at the Union." It was argued that the trustees appointed to conduct the separate schools had the right to determine the kind of schools to be provided, including the language to be employed, that this right was protected by the proviso of the British North America Act that has been quoted, and that this right had been invaded by the Ontario regulation restricting the teaching of French. The Judicial Committee held that the rights protected by the section quoted were entirely denominational, that it was the religious faith of the separate school supporters that was protected, and that the question of language was not touched by the proviso, but left as one of the details to be dealt with as the Legislature might direct. The regulation was therefore declared valid and binding.

In the second case, touching the status of the Ottawa School Board appointed by the Ontario Government, the decision was not so much against the power of the Ontario Legislature to control the schools as against the manner in which they had attempted to exercise that power. It will be remembered that, the Ottawa Separate School Board having refused to obey the regulation, the Ontario Government caused an Act to be passed authorizing the appointment of a Commission and the transfer to it of all the powers possessed by the resisting School Board. The words used in the Ontario Act designed to effect this seem to have gone further than was necessary for the purpose. "There is no question," say their Lordships, "that the impeached section of the Act of 1915 does authorize the Minister of Education to suspend or withdraw legal rights or privileges with respect to denominational schools." It is not held that anything actually done by the Government or the new Commission under this section was an invasion of existing rights or privileges. But the fact that the legislation purported to confer powers which their Lordships regarded as unlawful was held to be a sufficient ground for declaring the Act to be ultra vires, and the Commission that had been appointed under it as having no legal standing.

In a sense each side has won a victory in London. The error which the court found in the Ontario Act can, if necessary, be corrected by an amendment under which the Commission could be again appointed. What is much more desirable, however, is that, since the main question of the validity of the bilingual regulation has been settled in a manner which admits of no appeal, both parties to the dispute shall now see the unwisdom of further strife and seek a ground upon which they can agree to give the regulation a fair trial. Both parties have professed to have the same object in view —the furnishing to the children of adequate instruction in English, coupled with a liberal recognition of the natural and legitimate wish of the French citizens to have their children taught also their mother tongue. A little effort on both sides, conceived in the right spirit, should find a basis of agreement that would be fair and just to all concerned, and restore the harmonious conditions that are so necessary to the "peace, order and good government" of the country.

Conscription in Australia

THE well meaning but not always discreet people who have been demanding that a system of compulsory military service be adopted in Canada may well learn something from what has just occurred in the sister dominion of Australia. The eloquent speeches made in England and elsewhere by Premier Hughes gave much joy to the advocates of compulsion. Not unnaturally it was assumed that on his return to the Commonwealth a compulsory system would at once be adopted. But Mr. Hughes, when he arrived home, discovered that some of his utterances abroad had not given general satisfaction among his people and that any movement designed to adopt the system of conscription would meet with strong opposition among those who had usually been his supporters. Australia has on its statute book a law authorizing compulsory service for the defence of the Commonwealth. Mr. Hughes desired to make a somewhat similar plan apply to service abroad. The measure of compulsion proposed was moderate. Single men were to be taken before married men could be called upon, and provision was made for many exemptions for special causes. Notwithout difficulty in obtaining even this measure of support, Mr. Hughes succeeded in having enacted a law authorizing the taking of a referendum on the subject, the voting to take place on October 28th. Mr. Hughes threw himself into the contest with characteristic energy. Whatever others might think or do he had no