

The Catholic Register.

"Truth is Catholic; proclaim it ever, and God will effect the rest."—BALMEZ.

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Register of the Week.

The most important event which has marked the Canadian week is the opening of the Dominion Parliament on the 20th ult. The following is the speech from the throne:—

Honorable Gentlemen of the Senate.
Gentlemen of the House of Commons:

In meeting you at the commencement of another session of parliament it affords me pleasure to congratulate you on the continued progress which the history of the past year unfolds with regard to Canada.

The increase in trade, as illustrated by the exports and imports during the period for which the official returns have been prepared has been most gratifying, and that increase has continued down to the present time, with promise that the volume of trade during the current year will exceed that of any year in the history of the Dominion.

The revenues of the country have likewise provided for all the services for which parliament has made appropriation, and the operation of the government railways has been less burdensome as regards the difference between income and expenditure than has been the case for a long term of years previously.

In Manitoba and the Northwest Territories the increase in immigration has been decidedly encouraging both as regards the number of persons who have come from other countries and as regards the number of homestead entries made by settlers of all nationalities.

Measures have been taken to carry into effect the agreements arrived at with the United States on the subjects of the boundary of Alaska, boundary line in Passamquoddy Bay, and the prevention of destructive methods of fishing and the preservation and increase of fish life. With regard to reciprocity in wrecking and towing, a correspondence has taken place which indicates that privileges are demanded for United States vessels in Canadian canals which were not anticipated, but it is not impossible that a satisfactory conclusion of the discussion may yet be reached.

During the recent friendly conference took place between delegates from my government and from the government of Newfoundland on the questions which were pending between the two countries. It is hoped and expected that the interchange of views which then took place will be productive of beneficial results and lead to an amicable adjustment of those questions.

The statutes of 1887 relative to a department of trade and commerce and to the office of solicitor-general having been brought into force, the appointments were made which were contemplated by these acts.

It is to be regretted that the government of the United States were unable to accept the suggestions made by my government on the subject of canal tolls, and that the president should have thought it necessary to impose exceptional tolls on Canadians using the Sault Ste. Marie canal, which has so long been free to the people of both countries. My government, while ready to consider in a friendly spirit any proposals which made be by the government of the United States, have caused efforts to be made to hasten the completion of the Canadian canal works which will soon afford to the commerce of the Dominion a highway within our own country.

Measures will be laid before you for the improvement of the franchise act, for the amendment of the laws relating to the civil service and the superannuation of civil servants, and in regulating the admission of evidence in causes and matters under the control of the parliament of Canada, for extending the system of voting by ballot to the Northwest Territories, and for simplifying the laws relating to lands and land transfers in the territories.

Gentlemen of the House of Commons:

The public accounts of the past year and the estimates for the ensuing year will be laid before you without delay, and I trust it will be seen that ample provision may be made for the public service without increasing taxation.

Honorable Gentlemen of the Senate:

Gentlemen of the House of Commons:

I have every confidence that all these matters will receive your best attention, and that your deliberations will keep in view

above all other considerations the welfare and stability of the country.

On Saturday, Jan. 21st, the appeal in the Manitoba School case was heard by the Governor-General in Council. The Hon. Mr. Ives occupied the chair in his capacity as President of the Privy Council. Sir John Thompson and several other members of the Government were present. Mr. J. S. Ewart, Q.C., of Winnipeg appeared for Archbishop Tache and our co-religionists of Manitoba. The following are the points which the Committee had previously recommended for any future arguments upon the schools' question:

1. Whether this appeal is such an appeal as is contemplated by sub-section 3 of section 93 of the B. N. A. Act, or by sub-section 22 of the Manitoba Act.

2. Whether the grounds set forth in the petitions are such as may be the subject of appeal under either of the sub-sections above referred to.

3. Whether the decision of the Judicial Committee of the Privy Council in any way bears on the application for redress based on the contention that the rights of the Roman Catholic minority which accrued to them after the union have been interfered with by the two statutes of 1890 before referred to.

4. Whether sub-section 3 of section 93 of the B. N. A. Applies to Manitoba.

5. Whether the Governor in council has power to grant such orders as are asked for by the petitioners, assuming the material facts to be as stated in the petition.

6. Whether the Acts of Manitoba passed before the session of 1890 conferred on the minority a "right or privilege with respect to education" within the meaning of sub-section 2 of section 22 of the Manitoba Act, or established "a system of separate or dissentient schools" within the meaning of sub-section 3 of section 93 of the B. N. A. Act, and if so, whether the two Acts of 1890 complained of affect the right or privilege of the minority in such a manner as to warrant the present appeal.

In opening his address Mr. Ewart sketched briefly the history of the school question in Canada prior to Confederation, and gave several reasons for the difference of opinion between Catholics and Protestants. The Confederation Act speaks of rights and privileges which existed at the time of the union, and those which came into existence after the union. The former cannot be prejudiced. The latter—"those enacted by the province itself—the province gave and the province can take away subject only to supervision by the Governor-General in Council, and by the Federal Parliament." Manitoba entered the union in 1870 when provision was made for any future minority by giving power to the Legislature to make laws upon educational questions subject to two limitations, that the Legislature should have no power prejudicially to affect rights which existed at the union, and secondly that there should be a right of appeal to the Governor-General in Council when any right or privilege should be affected. One of the grave questions was whether the Manitoba Act was *ultra vires* or *intra vires*. If the Act was *ultra vires* it was null and void and therefore an appeal from such an act would be laughed at. As it is not *ultra vires*, the appellants cannot appeal at all. In order to found an

appeal there must be a good Act, from one which can and does affect rights or privileges. This second sub-section is in no way connected with the preceding claim; they do not stand to one another as prohibition and remedy; the second provides for a totally different set of circumstances. This view although it gives no precedent, lays down the whole thing, is an Act of the Local Legislature with an appeal to the Federal Government for which there is as much precedent as for the very Constitution of the Dominion. But assuming that an appeal lies from some *ultra vires* Acts, does an appeal lie from this particular Act? The answer depends upon whether any right or privilege of Roman Catholics in regard to education have been affected by the Act. Two arguments are advanced against the present appeal. That the Privy Council having held the Act to be *ultra vires* there can be no appeal, and there can be none secondly because no right or privilege has been affected. Now in regard to this second objection, Roman Catholics like any body else, acquire them by statute. No appeal is given in respect of rights acquired by practice. Must such statute have been passed before the union, or is there an appeal from a statute passed after the union? "Clearly, I say, the latter, firstly because there was no statute relating to education in Manitoba prior to the union; secondly, there is nothing in the statute which limits the appeal to cases of rights acquired before the union. Thirdly according to ordinary rules of interpretation, if a statute provided that if one man destroyed another's property the Act would not merely refer to property which belonged to the second party at the time of the passing of the Act. Fourthly, there can be no doubt that under the third section of the British North America Act there may be an appeal where rights acquired after the union have been affected. It can never be pretended that Manitoba is in a worse plight than the other provinces."

After quoting a couple of authorities the learned counsel went on to state that his argument would not be complete without showing that some rights or privileges conferred by Manitoba legislation had been affected. Prior to the union Roman Catholics had established and were supporting schools for their children. Episcopalians and Presbyterians were doing the same. During the first session of the Manitoba Legislature a school act was passed providing for Protestant schools and Roman Catholic schools. The Act of 1890 professed to abolish both the Protestants' and the Roman Catholics' schools and erect public schools. In effect it abolished the Roman Catholics' schools. In over 70 districts the Roman Catholic

schools are to become Public schools. At the time of the passing of the Act of 1890 there were 80 Roman Catholic school districts. In 68 of these there was comparatively hardly a single Protestant; in eight others population enough to have both systems.

Mr. Ewart further contended that his Excellency in-Council could not decline, as he had jurisdiction in the case. The recent order in Council is undoubtedly correct in asserting that if his Excellency had jurisdiction, "the enquiry will rather be of a judicial than of a political character." The next was for Parliament to act. He then briefly reviewed history showing that Parliament had steadily adhered to the principle of Separate schools. He called to witness the various motions in Parliament in regard to the New Brunswick schools that even in a case where it had no jurisdiction it indicated by overwhelming votes its adherence to the policy of fair play to minorities.

"I humbly submit, therefore, that for this reason, also, in order that Parliament may have power to deal with the matter that the remedial order should be made."

The Provincial Secretary of Manitoba communicated to the Hon. Mr. Ives, that the Manitoba Government did not deem it necessary to be present.

The absorbing news from Rome is the series of pilgrimages in honor of the Pope's Jubilee, lasting from early in January until May when the Dutch and Venezuelan pilgrims are looked for. The Irish pilgrimage which is expected to number no less than 800 will be in Rome from the 11th to the 20th of February. It will be accompanied by three bishops, and will be presented by His Eminence Cardinal Logue. The English and Scotch pilgrims will arrive on the 17th of this month and will remain till the 28th.

A good deal of comment has appeared here and there regarding the appointment of the Archbishop of Armagh as Cardinal in place of the Archbishop of Dublin as was expected. A correspondent of the London Daily Chronicle states that the chief opposition to Mgr. Walsh came from Mgr. Persicco who was a few years ago ab-legate to Ireland. While it seems certain that Mgr. Persicco opposed the elevation of Dr. Walsh, it must not be forgotten that the latter took an active part in politics. We commend him for it. But in the appointment of Cardinal the English Government had to be regarded, indirectly at least—and no English government cares much about a churchman who is politically inclined. This was no doubt a factor in the omission of the Archbishop of Dublin from the list of Cardinals.