

In order to attain to a clear understanding of the question raised, it will be as well to consider :—

1. What are the rights and privileges secured to the Protestant minority by the Confederation Act (The British North American Act, 1867)?

2. In what respects have these rights and privileges been infringed upon or set aside?

The following extract from the Confederation Act gives in full the clauses referring to education :—

“Sec. 93. In and for each Province, the Legislature may exclusively make laws in relation to education, subject and according to the following provisions :—

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools, which any class of persons have, by law, in the Province at the Union.

2. All the powers, privileges and duties of the Union, by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects, shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.

3. 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 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.

4. In case any such Provincial law, as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial Authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor-General in Council under this section.”

It is clear from these provisions that the differences known to exist in the several Provinces on the subject of education were recognized, and that while granting power to each Province to make its own laws in relation to education, the rights of Minorities were to be respected and maintained.

Clause 1 guards denominational schools established in the Province at the Union.

Clause 2 provides that the powers, privileges and duties conferred and imposed at the Union in Upper Canada on Roman Catholics, shall be and are extended to dissentient schools, Roman Catholic or Protestant, in Quebec.

Clauses 3 and 4 give the right of appeal to the Governor-General,