cated by the hon. gentleman, the member for Toronto West, it is not conclusive of the wisdom of our making this attempt. But a united protest against any construction of the constitution which involves the party element would be advantageous as a record of opinion. It would be well in the future to be able to say, 'Such was our opinion in the past, and such our attitude.' It may be said that there has been a disposition to treat this as a party question from the first. I do not dispute this contention, sir; but if action has been taken contrary to the true interests of the constitution, and if the final moment for giving fatal affect to such action has not arrived, then there is still hope, and it may be hopefully argued 'it is never too late to mend.' But in my opinion nothing has, up to the present, been done or said which makes it difficult for either party to retreat from the position taken up, because the action up to this moment has been but a series of steps and procedures following the provisions of the British North America Act." In the course of his speech the hon. member read the following statement of the propositions he would recommend the House to adopt.

That the people of this province have an interest in the correct construction of the provisions contained in the British North America Act, respecting appeals from provincial legislation on the subject of education under the ninety-third section of the British North America Act.

That in the opinion of this House the jurisdiction of the Parliament of Canada arising out of appeals in respect to grievances created by provincial legislation under these clauses being a purely remedial jurisdiction, it is therefore essentially and wholly judicial in its nature, and that every step thereunder should be in harmony with the principles of judicial procedure.

That it is inconsistent with a judicial treatment of such appeals that they should be presented to, or considered by Parliament as questions of party policy.

That the jurisdiction and procedure under the ninety-third section of the British North America Act are peculiar and unexampled, and that the principle of the responsibility of the Government of the day in respect to measures introduced by them should not apply to their action as a Committee of the House laying their finding and draft of the appropriate remedy to give effect thereto before Parliament for its consideration.

That the constitution is made for the people and not the people for the constitution, and that the constitutional practice of Parliament is not intended to be so applied as to embarrass the proper action of Parliament in carrying out the special and judicial jurisdiction imposed upon it by the ninety-third section of the British North America Act.

That in the opinion of this House the jurisdiction and action of Parliament following any finding of the Governor in Council upon such appeal is none the less judicial in its nature, notwithstanding the liberty and duty which in the opinion of this House, Parliament undoubtedly has to consider questions of the practicability, political consequences, and expediency involved in appropriate remedial legislation.

That such discretion of Parliament is a judicial discretion analogous to that which is constantly exercised by Courts of Law in granting or refusing the extreme remedy of mandatory injunctions in cases where, although a grievance may be proved and a mandatory injunction admitted to be the appropriate remedy, the Courts take into consideration the question whether the enforcement of such remedy involves impracticable consequence or is inexpedient on grounds of general public policy.

That this Legislature desires to submit its earnest conviction that a precedent of evil tendency will be created, and that consequences contrary to justice, and public policy will follow to this and other provinces whose legislation is subject to the said system of appeal if such appeals heard by the Governor-General in Council, in obedience to the constitutional provisions of the British North America Act, the order made thereon and the further procedure of the Governor in Council in laying the result of the finding of fact and law before Parliament in the form of a remedial order for the judicial consideration of Parliament, be treated as a party measure or a matter of voluntary policy.

That this Legislature do, therefore, respectfully and earnestly urge upon the Parliament of Canada that the question now, therein, pending upon the appeal in respect of the legislation of the Province of Manitoba, be not treated as a party measure but that each member of the said Parliament be permitted to and do determine thereon, according to his individual judicial judgment and conscience pursuant to the true intent of the provisions of the constitution providing for such appeals.

The hon. gentleman defined the action of the Dominion Government in the matter as the necessary, ordinary, and compulsory steps under the Constitution. It was not an act of voluntary policy, but of compulsory legislation, and the words of the Dominion Government leader, as reported in the Toronto Globe, were read to emphasize the fact that even up to the present hour the Government would be ready to welcome any solution of the difficulty which would prevent the necessity of their taking action.

"Even Mr. Laurier," continued the hon. member, "has admitted the existence of this fact. I quote again, 'The hon. honorable gentleman who introduced the Bill in the House,'" said Mr. Laurier, "has constantly reiterated the statement that the Government are not free agents in the matter but are tools of the Constitution. Mr. Laurier does not contravert this position, but rather declares that the remedy of interference is found in the constitution, and being there must be applied by those who love the Constitution. On this point both sides are agreed. There is the universal admission that such a grievance, or claim for remedy, existed as constituted a jurisdiction of the Governor-in-Council to hear the appeal, and therefore to judge it; and it is clearly implied that the Governor-General shall, on comparing the facts, find and determine whether there has been an infringement of provincial rights. No one denies that there has been a technical infringement of a technical right, and it follows, therefore, that without option it is left for the Governor-in-Council to simply point out a specific remedy for a specific grievance. There is only one point, sir, upon which I am compelled to differ with the hon. member for Toronto west in his statement of the case, and this I take to be more in the nature of a hasty generalization on his part than an error of fact. The hon. member referred to the appeal of the Roman Catholic minority of Manitoba, the order of the Privy Council, and the Remedial order as unduly rapid in their sequence, but I wish to point out that there intervened between the appeal and its final result all the necessary routine steps of a judicial investigation. The subject was very fully and very thoroughly ventilated in the judicial procedure at Ottawa, and the barren steps were then taken of simply finding the grievance pursuant to law, and indicating to Manitoba the course to be pursued. It was the duty of the Governor-in-Council not only to hear the appeal and communicate the result to Manitoba, but to prepare the remedy. It has been stated that according to the judgment of the Privy Council it was no part of the Government's duty to frame an Act and bring it down to Parliament; but who can admit such an assumption? I think, sir, that one circumstance in connection with the procedure will be sufficient to prove the contrary. Parliament has jurisdiction, and it is only by the Parliament of Canada that an ultimate remedy can be given; others are only preliminary hearings; Parliament's action is final. And how is Parliament's action initiated? It cannot act spontaneously in this matter, but has to have the opinion of the Governor-General-in-Council authoritatively communicated to it before it can be seized of the authority to legislate on such a question. It is necessary then for the Governor-General to present practically the draft of the Act to be passed. It is not enough for the Governor-General to say 'Manitoba has legislated, but we are not satisfied with this legislation!' His duty is clearly to bring down the draft.

"We are then face to face, sir, with a new situation. The remedial process has gone through the necessary stages, and has now come before the only constituted authority which has power to grant the remedy. In the arguments which have taken place thereon, Parliament has been referred to as having political rather than judicial jurisdiction in this matter. Now I agree with Mr. Laurier in saying that Parliament need not apply this remedy mechanically. Every lawyer knows that there are an abundance of precedents where courts themselves take policy and practicability into consideration before granting injunctions or mandamus, those high forms of judicial remedy. So also Parliament may exercise a judicial policy. The jurisdiction is granted only to remedy a grievance—a remedial jurisdiction based on an appeal—a particular piece of legislation applied to a particular grievance. Some consequences must follow at once as to this procedure if it is judicial. If it is introduced with the object of doing right where wrong has been done, then it is perfectly clear that no mere implied constitutional practice, which is not in the letter of the constitution, can possibly be applicable to this particular case if it involves an inconsistency of the judicial nature of the procedure. This is the crux, the central point of the conflict from which springs the action of the Dominion Government. I trust, sir, that it is clear enough that the direct must overweigh the supposedly implied and indirect. If, therefore, it is a constitutional practice that when the advisers of the Crown, the Cabinet of the day, the leading committee of the House of Commons, bring down a measure to the House and advise its adoption, and if the practice is that in case of a refusal of Parliament to carry that measure, it then becomes necessary for that Government to resign, then what, sir, would be the effect of applying that practice to the operation of Parliament under this Act? Would not the principle involved cut at the root of the judicial method of Parliament in dealing with this appeal? At the public meeting held here a few days ago it was said that a Government which was capable of introducing a measure based on such provisions was indefensible. The Government is regarded as a culprit merely for performing its technical duty." Would members under such circumstances vote as impartial judges, or as supporters or opponents of the Government of the day?

At this point (ten minutes to six) the Speaker left the chair.

When the House re-assembled, the hon. gentleman inquired whether in fact a compulsory policy was of equal significance with a voluntary policy. The hon. gentleman did not think so, and in support of his contention quoted the words of Lord Watson. The jurisdiction was extraordinary. One might search all history and find no other precedent where the power to legislate was given to a duly constituted Legislature, and then the power of appeal was given from that legislation to another Legislature! It was unexampled. The hon. member endeavoured to find parallels in the appeals of the provincials of Sicily against the Proconsuls to the Roman Senate; in the impeachment of Warren Hastings for the misgovernment of India upon the appeal of injured subjects; in the practice of the House of Lords itself; but he was fain to confess that the similarity was more apparent than real. The action of the House of Lords on appeals was a purely judicial action

"I must call the attention of the House," observed the hon. member, "to the significant fact that this procedure of the Lords is founded on practice and necessity, and not upon any