

tion, had by law with respect to schools in the Province at the Union. Let us endeavour to ascertain whether in such a case we would be justified in pronouncing the Common Schools Act 1871, *ultra vires*, and therefore void.

Except in the matter of compulsory taxation, there is no very great difference in principle, that we can discover, between the Parish School Act of 1858 and the Common Schools Act of 1871. The general government, superintendence and control of the schools, are, under both laws, vested in a Board of Education almost similarly composed, the only difference being, that to the Governor and Council and Superintendent, is added the President of the University, under the latter Act; in fact, the power to make Regulations for the organization, government and discipline of the Schools, appointment of Examiners of Teachers, and the power of granting or cancelling licenses, and of making such Regulations as may be necessary to carry into effect the Act, and generally to provide for any exigencies that may arise under its operations, are precisely the same in both;—(See sec. 4, paragraphs 3 to 10, of the Parish School Act, and sec. 6, sub-sections 4 to 8, of the Common Schools Act): and the details are to be carried out by a Superintendent, Inspectors and Trustees, alike substantially under both Acts; and the duties and powers of these officers do not in principle substantially differ. But there are, of course, differences. Those relied on are, that the Common Schools Act has no enactment similar to section 8 of the Parish School Act; that the Parish School Act had no enactment similar to section 58, sub-section 12, of the Common Schools Act; and this section, it is alleged, prohibits the granting Provincial aid to any but Schools under the Common Schools Act; and that by the 60th section of the Common Schools Act, all schools conducted under its provisions shall be non-sectarian—a provision not to be found in the Parish School Act; and it is contended, that the omission in the one case, and the express enactment in the other, prejudicially affect the rights and privileges which the Roman Catholics, as a class of persons and a denomination, had in the schools established or which might have been established under the Parish School Act; in other words, that the rights and privileges which they had under the one, the omission and the enactments referred to, prevented their claiming or obtaining under the other.

With reference to the omission: The Parish School Act no doubt declares that the Board of Education shall secure to all children whose parents do not object, the reading of the Bible, and that when read by Roman Catholic children, if required by their parents, it shall be in the Douay version, without note or comment. Here, we have expressly directed to be secured to all children, what many persons no doubt consider a great right and privilege; and Roman Catholic parents have a great right secured to them, viz., to have, if they require it, a particular version of the Bible read. As to the reason why a similar provision, securing these important rights in which Protestants and Catholics were both interested, was excluded from the Common Schools Act, it is not our business to inquire; what we have to determine is, does this omission make the Law void, if in other respects unobjectionable? We think not. If this was a right or privilege which existed at the Union, the Legislature certainly have not protected it by any express enactment. But is the right taken away? May it not still exist, provided always, it is a right which legitimately comes under sub-section 1, section 93? Because that section declares that nothing in any such Law shall prejudicially affect any such right; and in such case, reading the Common School Law by the light of this section, would it not be the duty of the Board of Education under the Common Schools Act, instead of making Regulation 21, declaring as follows:—that “It shall be the privilege of every Teacher to open and to close the daily exercises of the school by reading a portion of Scripture (out of the Common or Douay version, as he may prefer), and by offering the Lord’s Prayer—any