

*Manitoba School Case.*—The Manitoba School Case went twice to the Privy Council (a). Upon both occasions, the first question to be determined was whether any rights of Roman Catholics had been prejudicially affected by the Manitoba statute. On the first occasion, their Lordships held that those rights had not been affected; and therefore that the statute was *intra vires*. On the second occasion, their Lordships held that the rights had been affected; and, therefore, that an appeal lay from the provincial statute to the Dominion parliament. As that statement is rather difficult to believe, let me quote from the judgments. In the first case, their Lordships said:

"Such being the main provisions of the Public Schools Act, 1890, their lordships have to determine whether that Act prejudicially affects any right or privilege with respect to denominational schools which any class of persons had by law or practice in the province at the union."

After referring to the different provisions of the statute, their Lordships proceeded:

"But what right or privilege is violated or prejudicially affected by the law? It is not the law that is in fault; it is owing to religious convictions, which everybody must respect, and to the teaching of their church, that Roman Catholics and the members of the Church of England find themselves unable to partake of advantages which the law offers to all alike. Their Lordships are sensible of the weight which must attach to the unanimous decision of the Supreme Court. They have anxiously considered the able and elaborate judgments by which that decision has been supported. But they are unable to agree with the opinion which the learned judges of the Supreme Court have expressed as to the rights and privileges of Roman Catholics in Manitoba at the time of the union."

In the course of the second judgment, their Lordships said:

"The sole question to be determined is whether a right or privilege which the Roman Catholic minority previously enjoyed has been affected by the legislation of 1890."

After making a comparison of the positions before and after the passage of the statute, their Lordships added:

"In view of this comparison it does not seem possible to say that the rights and privileges of the Roman Catholic minority in relation to education which existed prior to 1890 have not been affected."

Passing on to indicate what ought to be done in order to restore the rights of the Roman Catholics, their Lordships said:

"All legitimate ground of complaint would be removed if that system were supplemented by provisions which would remove the grievance upon which the appeal is founded, and were modified so far as might be necessary to give effect to these provisions."

(a) 1892, A.C. 445; 1895, A.C. 202