

Manitoba School Case.

the same power to avail themselves of the advantages of the schools as the Protestant people. The religious exercises are non-sectarian, and are not used, except with the sanction and with the direction of the trustees, elected by all ratepayers without distinction of creed. If a Catholic refuses to take advantage of the public school, and decides voluntarily to maintain another school, he is exercising his own judgment in the same way as any person who prefers to send his children to a private school, to the support of which he contributes. Neither of such persons, however, by so doing, gains any immunity from the payment of school rates.

“As to the question of confiscation of school property, it is to be observed that the same question was the subject of argument before the Judicial Committee of the Privy Council in the case of Barrett *versus* Winnipeg, and that tribunal expressed the opinion that the Roman Catholics were somewhat better treated than the Protestant people in regard to the disposition of school property under the Act of 1890. In so far as the Act of 1894 is concerned, there is no ground for the statement attributed to the memorial, that it decrees the confiscation of school property in the districts which had not submitted their schools to the new law. The Act of 1894 has reference to the distribution of grants of money raised by taxation upon all taxable property. It deals with the public school system and in no way affects the ownership of any property of a school district which does not submit to the Public School Act, and which is therefore not a public school.

“The questions which are raised by the report now under consideration have been the subject of most voluminous discussion in the legislature of Manitoba during the past four years. All of the statements made in the memorial addressed to His Excellency the Governor General, and many others, have been repeatedly made to and considered by the legislature. That body has advisedly enacted educational legislation which gives to every citizen equal rights and equal privileges, and makes no distinction respecting nationality and religion. After a harassing legal contest the highest court in the British dominions has decided that the legislature, in enacting the law of 1890, was within its constitutional powers, and that the subject of education is one committed to the charge of the provincial legislature. Under these circumstances, the executive of the province see no reason for recommending the legislature to alter the principles of the legislation complained of. It has been made clear that there is no grievance, except it be a grievance that the legislature refuses to subsidize particular creeds out of the public funds, and the legislature can hardly be held to be responsible for the fact that their refusal to violate what seems to be a sound and just principle of government creates, in the words of the report, dissatisfaction amongst Roman Catholics, not only in Manitoba and the North-west Territories, but likewise throughout Canada.

“It is further to be observed that, inasmuch as the Public Schools Act of 1890 has been held to be within the jurisdiction of the provincial legislature, and the Act of 1894 is but the amendment of the Act of 1890, made for the purpose of more fully carrying out the plain intention and policy of the first Act, it is sufficiently clear that the Act of 1894 is within the jurisdiction of the legislature, and deals with a subject which the provincial authority has power to regulate. Disallowance of the Act of 1894, as suggested by the memorialists would be a most unjustifiable attempt to prevent the legislature from performing that duty which has been judicially declared to appertain to it, and it may be assumed that such disallowance would call forth an emphatic protest.

“The Government and Legislative Assembly would unitedly resist by every constitutional means any such attempt to interfere with their provincial autonomy.”

On the recommendation of the Honourable the Attorney General, the Committee advise: That the foregoing report of the Honourable the Attorney General be approved.

Respectfully submitted,

THOMAS GREENWAY, *Chairman.*

EXECUTIVE COUNCIL CHAMBER,
20th October, 1894.