

ed by law in the Province at the Union, or if the Legislature of the Province has since the Union established such a system. The cognate provision of the Manitoba Act was much discussed in the second Manitoba School case, to which I shall have occasion again to refer.

By the fourth clause a very limited legislative jurisdiction is conferred on the Dominion Parliament. It is enabled by "remedial legislation" to give to a minority redress to which under clause 3 the Dominion Executive has found it entitled, should the province decline to legislate in accordance with its decision. This provision was also discussed in the Manitoba case. Moreover, should the Dominion Executive at any time find and declare that any Provincial Legislature has failed to carry out any provision of section 93, Parliament is enabled to legislate in order to afford relief. A very obvious application of this power would be to a case in which the Province of Quebec had not accorded, under clause 2, to the Protestant minority some right enjoyed at the time of Confederation by the Ontario Catholics in regard to their separate schools. To the honor of French Catholic Quebec there never has been any occasion to invoke Dominion interference for the protection of the rights of the Protestant minority under this provision. To what other cases or in what other circumstances clause 4 would be applicable has not yet been determined. The scheme of this sub-section requires that legislative action by the Dominion Parliament shall in every case be preceded by and based upon a judicial finding or declaration by the Governor-General in Council that circumstances exist which justify and call for the intervention of the Federal Parliament in what is primarily a subject within provincial legislative jurisdiction.

Your knowledge of the jealousy with which federal interference with state rights is regarded in your own country will enable you to understand with what circumspection our Dominion authorities must exercise the supervisory and remedial powers entrusted to them for the protection of the educational rights of religious minorities. When to the jealousy, with which federal interference with

so-called provincial rights is viewed, you add the fact that provincial action in educational matters which is the occasion of federal aid being sought invariably arouses sectarian animosity and bitterness, which spreads from the province immediately concerned to the Dominion at large, you will appreciate that a situation of grave difficulty and great delicacy is the result. Although the Dominion Executive is itself essentially a political body, it is usually composed of large-minded patriotic men and it is capable, when called upon to deal judicially with such grave and momentous questions, of rising above mere party politics and of putting aside considerations of party advantage in order to render justice to those who seek it. But when such a situation must be dealt with by a House of Commons composed of 215 members, elected from all parts of Canada, it is almost too much to expect that the political effect of action for or against the minority should be wholly ignored and that party exigencies should be entirely disregarded. And if this be so in Parliament what is likely to happen if such a question should reach the stage when it must be debated on political platforms, canvassed on the hustings and voted upon by the electorate in the heat of a Parliamentary contest? The wisdom of attempting to provide for the redress of grievances of provincial minorities in educational matters by federal legislative intervention, I may be allowed, in the light of experience, to express the gravest doubt.

But in order to appreciate the full purport of the several provisions of section 93 of the B.N.A. Act and their bearing and effect upon the relations of the civil authority in Canada to Catholic education, it is necessary to have in mind, in general outline at least, the circumstances in which Confederation was originally formed, the manner in which it was extended to embrace other provinces and the conditions with regard to Catholic education which prevailed in the several original confederating provinces at and immediately prior to the year 1867, and, in the cases of provinces subsequently taken in or created, at or immediately prior to their becoming members of the Union.