ance of the Department of Education, given in various ways, as, for example, by the granting of certificates to teachers to teach exclusively in French, and by the establishment and maintenance of French schools and French-English schools, the latter both before and after Confederation.

It is strange what ambiguity may underlie apparently simple words in a statute. We have an example in that clause of sec. 92 of the Federation Act, which we may hope is shortly to receive its quietus at the hands of the Judicial Committee, where provincial legislatures are given exclusive power to make laws in relation to "the incorporation of companies *with provincial objects.*" So, with regard to sub-sec. 1 of sec. 93, which enacts that in and for each province the legislature may exclusively make laws in relation to education, subject to this, that—"(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have *by law* in the province at the time of Union."

A right which such persons had by law at the time of Union might conceivably mean some right which they actually exercised at that time, and which was not in itself illegal. Such an interpretation would make mere surplusage of the additional words "or practice," which are added after the words "by law" in the section of the Manitoba Act which corresponds to sec. 93 of the B.N.A. Act; and the judgment of the Privy Council in *City of Winnipeg* v. *Barrett*, [1892] A.C. 445, at 452-3, seems to preclude the contention, that that is the meaning, because, dealing with the section of the Manitoba Act, they say: "It is not, perhaps, very easy to define precisely the meaning of such an expression as 'having a right or privilege by practice,' but the object of the enactment is tolerably clear. Evidently the word 'practice' is not to be considered as equivalent to 'custom having the force of law.'"

The implication, therefore, seems clearly to be that the words "right or privilege by law" in sub-sec. 1, of sec. 93 of the Federation Act, must at least mean a right by "custom having the force of law," and not merely an actual practice which was not at the time positively illegal.

It might, also, if the matter was coming up for the first time be contended that the words "have by law" in that sub-section were not meant to qualify the words "right or privilege" at all, but were intended to qualify only the words, "denominational schools;" so that it would be as though the sub-section read—"Any right or privilege with respect to such denominational schools as any class of persons have by law in the province at the Union." But the construction which the Privy Council have placed upon the clause in *City of Winnipeg* v. *Barrett*, *supra*, and in *Brophy* v. *Attorney-General of Manitoba*, [1895] A.C. 202, seems quite to preclude such a contention now.

There is, however, another contention which is not specifically dealt with in the judgments, either of Lennox, J., or of the Appellate Division, although no doubt it was duly considered by their Lordships. It is this: