
Correspondence.

MANITOBA SCHOOL CASE.

To the Editor of THE CANADA LAW JOURNAL:

From a paragraph in yesterday's *Citizen*, a paper generally well informed and ably conducted, I infer that the Catholic minority of Manitoba, in view of the decision of the Judicial Committee of the Privy Council that they had at the time of the union no right or privilege which was prejudicially affected by the Provincial School Act of 1890, have made a fresh appeal to the Governor-General in Council, founded on the 93rd section of the B.N.A. Act, to which I referred in my letter of the 14th of September last, printed in THE LAW JOURNAL of the 1st of October, and which section contains (among others), in addition to those repeated in the Dominion Act constituting the Province of Manitoba, and dealt with in the judgment of the Judicial Committee, the following provisions:

"(3) Where in any Province a system of separate or dissentient schools exists at the time of the union, *or is thereafter established by the Legislature of the Province*, an appeal shall lie to the Governor-General in Council from any Act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education ; "

"(4) In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor-General in Council under this section."

These provisions differ from those cited by their Lordships from the Act constituting the Province, inasmuch as they do *not* contain the words "or practice" after the words "by law," and *do* contain the words "*or is thereafter established by the Legislature of the Province*" after the word "union" in paragraph (3).

And as neither such insertion or omission in the Act constituting the Province can alter or impair the effect of the B.N.A. Act, then if, as the petitioners assert, the Provincial School Act of Manitoba passed in 1871 conferred on Catholics any right or privilege with respect to separate schools which is injuriously affected by the Provincial School Act of 1890, or any other, they would seem to be entitled to the benefit of the appeal given by the said paragraph (3), and of the provisions for enforcing the same in paragraph (4), subject always to the conditions mentioned in section 93, and the decision of the Governor-General in Council under it, to which the decision of the Judicial Committee does not relate, and which it cannot affect.

OTTAWA, Nov. 8, 1892.

W.