

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 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."

In the year 1870, when the "Manitoba Act" was passed, there existed no system of education established or authorized by law; but at the first session of the Provincial Legislature, in 1871, an "Act to establish a system of Education in the Province" was passed. By that Act, the Lieutenant Governor in Council was empowered to appoint not less than ten nor more than fourteen persons to be a Board of Education for the Province, of whom one half were to be Protestants and the other half Catholics, with one superintendent of Protestant and one superintendent of Catholic schools. The Board was divided into two sections, Protestant and Catholic, each section to have under its control and management the discipline of the schools of its faith, and to prescribe the books to be used in the schools under its care which had reference to religion or morals. The moneys appropriated for education by the Legislature were to be divided equally, one moiety thereof to the support of Protestant schools, and the other moiety to the support of Catholic schools.

By an Act passed in 1875, the board was increased to twenty-one, twelve Protestants and nine Roman Catholics; the moneys voted by the Legislature were to be divided between the Protestant and Catholic schools, in proportion to the number of children of school age in the schools under the care of Protestant and Catholic sections of the board respectively.

The Act of 1875 also provided that the establishment in a school district of a school of one denomination, should not prevent the establishment of a school of another denomination in the same district.

Several questions have arisen as to validity and effect of the two Statutes now under review, among those are the following:—

It being admitted that "no class of persons" (to use the expression of the "Manitoba Act") had, "by law," at the time the Province was established, "any right or privilege with respect to denominational (or any other) schools." Had "any class of persons" any such right or privilege with respect to denominational schools, "by practice," at that time? Did the existence of separate schools for Roman Catholic children, supported by Roman Catholic voluntary contributions, in which their religion might be taught and in which text-books suitable for Roman Catholic schools were used, and the non-existence of any system by which Roman Catholics, or any others, could be compelled to contribute for the support of schools, constitute a "right or privilege" for Roman Catholics "by practice," within the meaning of the Manitoba Act? The former of these, as will at once be seen, was a question of fact, and the latter a question of law based on the assumption which has since been proved to be well founded, that the existence of separate schools at the time of the "Union" was the fact on which the Catholic population of Manitoba must rely as establishing their "right or privilege" "by practice." The remaining question was whether, assuming the foregoing questions, or either of them, to require an affirmative answer, the enactments now under review, or either of them, affected any such "right or privilege"?

It became apparent at the outset that these questions required the decision of the judicial tribunals, more especially as an investigation of facts was necessary to their determination. Proceedings were instituted with a view to obtaining such a decision, in the Court of Queen's Bench, of Manitoba, several months ago, and in course of these proceedings the facts have easily been ascertained, and the two latter of the three questions above stated were presented for the judgment of that Court, with the arguments of counsel for the Roman Catholics of Manitoba on the one side, and of counsel for the Provincial Government on the other.

The Court has practically decided, with one dissentient opinion, that the Acts now under review do not "prejudicially affect any right or privilege with respect to denominational schools" which Roman Catholics had by "practice at the time of