

could not have been the right which it was intended to reserve to catholics or other classes of persons by the use of the word "practice," since such right was undoubtedly one enjoyed by every person or class of persons by law, and took a similar view to that taken by Patterson, J.

Taschereau, J., gave judgment in the same sense, holding that the contention of the appellants gave no effect to the word "practice" inserted in the section.

In the second case a similar application was made by the respondent Logan, and allowed in consequence of the supreme court's decision in Barrett's case.

Sir H. Davey, Q.C., McCarthy, Q.C., and Campbell, Q.C. (both of the Canadian bar), for the appellant, contended that the view taken by Killam, J., Taylor, C.J., and Bain, J., was correct.

The act of 1890 did not affect any right or privilege with respect to denominational schools which the respondent or any class of persons had by law or practice in the province prior to the union.

It established one system of public schools throughout the province, and abolished all the laws regarding public schools which had theretofore been passed and were then existing.

Sections 21 and 22, sub-sections 1, 2 and 3, of the Manitoba Act, 1870, were referred to, and the various affidavits which had been made in the case, and it was contended that the act of 1890 was not *ultra vires*. It enacted that all public schools in the province are to be free schools (section 5); that all religious exercises therein shall be conducted according to the regulation of the advisory board which is provided by section 6; but in case the guardian or parent of any pupil notifies the teacher that he does not wish such pupil to attend such religious exercises, then the pupil need not attend. All public schools are non-sectarian, and no religious exercises are allowed, except as provided by the act, which, moreover, is not compulsory.

With regard to the state of things, "law or practice" in Manitoba prior to the union, the law then in force was the law of England, as it existed at the date of the Hudson's Bay Company's charter, viz., the 2nd of May, 1670, in so far as applicable. Accordingly, the respondent had not, nor had the Roman catholics of the province, any right or privilege by law in relation to the Roman catholic denominational schools.

The only right and privilege on this subject which they possessed was, as shown by the affidavits, the privilege to establish and maintain private schools which were supported by fees paid by the parents or guardians of the children who attended them, supplemented, it may be, by those who belonged to the Roman catholic church.

The act of 1890 does not interfere with or prejudicially affect this right, for the respondent and Roman catholics are still entitled to establish and maintain denominational schools as before the union. Consequently it has not been shown that the act interferes with any rights and privileges which were locally enjoyed within the city.

Reference was made to *ex parte* Renaud (1); Fearon vs. Mitchell (1). In the other appeal, the respondent Logan represented members of the church of England, whose rights and privileges were similar to those of Barrett and his co-religionists.

Sir Richard Webster, A.G., Blake, Q.C., and Ewart, Q.C. (both of the Canadian bar), and Gore, for the respondent Barrett:—

The act of 1890 prejudicially affects the rights and privileges of Roman catholics in the province, as they existed by law or practice at the date of the union, with respect to denominational schools.

By its operation they are deprived of the system of Roman catholic denominational schools as they existed before the union.

The public schools constituted by the act are, or may be, protestant denominational schools, and catholic ratepayers are compelled to contribute thereto.

They cannot conscientiously permit their children to attend the schools established by the act, and, having regard to the compulsory rate levied upon them in support thereof, material impediments are cast in the way both of subscribing and of obtain-