

North-west Territories, the Lieutenant-Governor thereof shall be notified of the hearing, in order that he may be heard if he thinks fit.

4. The Court shall have power to direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the hearing upon any reference under this section, and such persons shall be entitled to be heard thereon.

5. The Court may, in its discretion, request any counsel to argue the case as to any interest which is affected and as to which counsel does not appear, and the reasonable expenses thereby occasioned may be paid by the Minister of Finance and Receiver-General out of any moneys appropriated by Parliament for expenses of litigation.

6. The opinion of the Court upon any such reference, although advising only, shall, for all purposes of appeal to Her Majesty-in-Council, be treated as a final judgment of the said Court between parties.

518. On the 31st March, 1891, Sir John Thompson, then Minister of Justice, made a report to the Governor General-in-Council upon the two Acts (Chaps. 37 and 38) passed by the Manitoba Legislature. In it he said:—

“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 other, 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 be seen at once, 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 becomes apparent at the outset that the 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 been easily 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 effect any right or privilege