

DEVELOPMENT
OF THE SEPARATE SCHOOL LEGISLATION
IN THE NORTH-WEST TERRITORIES
FROM 1867 TO 1892

by Rev. James A. Schmeiser,
B.A., S.T.L., M.Th.

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INTRODUCTION

On December 10, 1948, the General Assembly of the United Nations adopted the principles that are now known as the Universal Declaration of Human Rights. Article twenty-six of this declaration is of special importance in proclaiming not only the principle of non-discrimination but also the right to education: "Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms." "Parents have a prior right to choose the kind of education that shall be given to their children."¹

The problems, duties, and heartaches that have resulted from various positions concerning the education of children are almost innumerable. Yet the great importance of this question demands constant vigilance and effort in order that justice and rights be respected. The application of the above principles to concrete and complex situations is not easy and it is only with the effort and strivings of many years that suitable arrangements are developed.

The present study will consider in detail the historical and legal development of separate schools, both

¹ Universal Declaration of Human Rights, Article 26, paragraphs 2 and 3, quoted by Pierre Juvigny, The Fight Against Discrimination Towards Equality in Education, Paris, UNESCO, 1962, p. 11.

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Protestant and Roman Catholic, in the North-West Territories until 1892 and then in brief show its importance for the future in the province of Saskatchewan. There are many reasons for the undertaking of this study. Presently, efforts are being made to obtain tax-supported separate high schools. Larger School Units and centralized schooling have caused the abolition in fact of the rights to separate schools in some areas. The approaching county system may also influence this question. Various denominations within the Protestant section of schools are seeking to set up their own separate schools. In the midst of these events the necessity of a study that is soundly based on history has arisen with greater urgency than before.

Many studies that have been made on this subject have unfortunately excluded reference to French-speaking sources. As a result, a great deal of their work is without value as only one side of the question has been discussed. In this thesis all books and documents that are of French origin will be referred to in the English translation if there is one. Both the English and French titles will be cited in the bibliography because in some cases there have been discrepancies in the translations. As will be seen in the body of the thesis, reference is made to the legislation concerning the use of the French language as well as to that of the separate schools. The reason for this is that during

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this period the Catholic population, the minority, was for the most part of French origin and opposition against the French was also against the Catholic Church and vice versa. Therefore, anyone who is to study this question must be familiar with the French writers, who represented both the Catholic and French Canadian thought of this era.

One other important reason for undertaking this type of work is the great confusion that has resulted in the references to legal texts. Unfortunately, ordinances change from year to year and in so doing they are re-arranged and renumbered. Because of these changes, exact reference is very difficult and time-exacting if one is to check the development of various laws. This study will permit the reader to make a continuous study of the pertinent legislation and enable him, if he so wishes, to make quick reference to the legislation.

The writer is beyond any doubt a supporter of the separate school system and a sympathetic adherent to the claims of the French Canadians. In the past many claims of the supporters of separate schools and of the French Canadians were ignored because of ethnic and religious prejudice, as well as a general indifference by many. We are now able to judge the situations in a clearer light as we are not hindered by the sectarian furies that accompanied these struggles.

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This work is but the beginning of a serious and complete study on this vital question. It would be of great value that it be continued until the present day. It is with this limitation that this work on the separate schools in the North-West Territories is presented.

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2 London, Oxford University Press, 1963, 302 p.

CHAPTER I

FEDERAL LEGAL DEVELOPMENT

The North-West Territories, from 1670 to 1870, a vast territory consisting of Rupert's Land and the adjoining territory extending westward to the Rocky Mountains, belonged to the Hudson's Bay Company by virtue of a Royal Charter. In 1867, in the very act of the Constitution, section 146 stated that the Imperial Parliament could admit "Rupert's land and the Northwestern Territory" into the new Canadian confederation.¹

In 1868 the Federal Parliament passed the Rupert's Land Act:

An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of "The Governor and Company of Adventurers of England trading into Hudson's Bay", and for admitting the same into the Dominion of Canada.²

In 1869 there was the passage of an Act providing for the temporary government of Rupert's Land and the North Western Territory when they were united with Canada:

It shall be lawful for the Governor, by any Order or Orders, to be by him from time to time made, with the advice of the Privy Council, (and subject to such conditions and restrictions as to him shall seem meet) to authorize and empower such Officer as

1 "The British North America Act of 1867", in Statutes of Canada, 30-31 Vict., c. 3.

2 "Rupert's Land Act", ibid., 31-32 Vict., c. 105.

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he may from time to time appoint as Lieutenant-Governor of the North-West Territories, to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be necessary for the Peace, Order and good Government of Her Majesty's subjects and others therein; provided that all such Orders in Council, and all Laws and Ordinances so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.³

It was only on June 22, 1870, that the English Crown admitted into the Union Rupert's land and the North-West Territories, the cession of which had been obtained from the Hudson Bay Company upon the payment of 300,000 louis by Canada. Canada was not to take possession of this territory until the following July 15.

In the summer of 1869, the Hon. Mr. Wm. McDougall sent in Colonel J.S. Dennis, a surveyor, to prepare a plan for the survey of the country. Arriving in the Red River settlement, Dennis reported that there would probably be objection on the part of the half-breeds to any survey before their claims for recognition had been recognized and met by the Dominion Government. McDougall paid no heed to the warning, but, with the assent of the Privy Council, ordered the survey to proceed. Dennis was carrying out his orders when, on the 11th of October, a body of unarmed half-breeds

³ "The North-West Territories Act", in Statutes of Canada, 32 Vict., c. 3, s. 2.

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under Louis Riel, interrupted the survey and threatened violence if it were continued. Alexander Begg, a Canadian who had come to the settlement in 1867 and may be taken as impartial, said:

The opposition on the part of the half-breeds, was caused through their distrust of the intentions of the Canadians toward them, and this was brought about in great measure by the acts of a few men in the Settlement, who professing to have the cause of Canada at heart, were really more concerned in filling their own pockets. These men, as soon as the survey commenced, staked out claims of land for themselves, which they openly boasted would be theirs as soon as the Canadian Government secured possession.⁴

Thus were the seeds of distrust sown. When the transfer was arranged without the people being consulted, when the Dominion Government passed an Act for the future government of the territory without asking their wishes, the people adopted an attitude of dissatisfied watchfulness.

In September, 1869, Wm. McDougall was named Lieutenant-Governor of the Territories, with instructions to go to Fort Garry as soon as possible and to organize the government of Her Majesty in these new Canadian possessions, the cession of which was expected at any moment. The half-breeds, under the leadership of Louis Riel stopped McDougall from entering the Territories. Riel gathered twelve English

⁴ Arthur S. Morton, A History of the Canadian West to 1870-71, London, T. Nelson & Sons, Ltd., [1939], p. 867-868.

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and twelve French representatives of the population in order to study demands that should be made to Ottawa. They gathered on November 16 but only had time to agree on the first draft.

The transferring of this territory to Canada had first been fixed for December 1, 1869, but it was adjourned until an arrangement was able to be reached with its inhabitants. McDougall arrived there; however, forgetting his instructions, he took it upon himself, in a proclamation that he issued on the 2nd of December, 1869, to declare that, from the day before, the 1st of December, Rupert's Land and the North-West Territories had been admitted into the Union under the name of the North-West Territories, and that he was the authorized Lieutenant-Governor of the territory.

This statement was false. Knowing the true situation, the population of this area resisted him, took to arms and drove him away from the territory.

The English government intervened. The Canadian government, now thoroughly awakened to the seriousness of the situation in the Middle West, asked Archbishop Taché, who was attending the great Council of the Vatican in Rome, to return to the Red River, and use his influence to pacify, as they said, the country of his adoption. Though his representations had previously met with scant consideration, he patriotically put aside all personal feeling and, on

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February 9, 1870, arrived at Ottawa, where he had several interviews with the Governor-General and some of his ministers.⁵

A provisory government was immediately set up; delegates were nominated by the population of the North-West, who travelled to Ottawa to expose their grievances and to agree with the government on the conditions of entry of these territories into the Confederation.

The illustrious Archbishop of St. Boniface immediately started on his work, and, with the formal promise, given by the imperial and federal authorities, that the civil and religious rights of these territories would be respected, with the sacred promise that the confessional schools and the rights of the minority to denominational schools would be maintained and that the usage of the French language would be permitted, Archbishop Taché was able to pacify the North-West. The population laid down their arms and consented to enter into the Confederation.⁶

⁵ Rev. A.G. Morice, O.M.I., History of the Catholic Church in Western Canada, Toronto, The Musson Book Company, 1910, Vol. 2, p. 55.

⁶ La Nouvelle France: Revue des intérêts religieux du Canada français, Vol. 4, No. 5, issue of May 1905, p. 198-199; Vol. 9, No. 4, issue of April 1910, p. 162; Archbishop Taché, A Page in the History of the Schools in Manitoba During 75 Years, [n.p.], 1893, p. 7-15; Rev. A.G. Morice, O.M.I., History of the Catholic Church in Western Canada, Vol. 2, p. 1-74; Dom Benoît, Vie de Mgr Taché, Montréal, Librairie Beauchemin, 1904, Vol. 2, p. 29-83. For further development see Appendix 1.

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The cause of education has always been regarded as of major importance by the Church in the west. In this its representatives had been greatly aided by the civil government of the country. Beginning in 1818, Lord Selkirk himself indirectly contributed to confessional schools.

The Hudson Bay Company followed in the footsteps of Lord Selkirk, aiding the Catholic schools as well as those under Protestant auspices. This aid was given through grants of land, free passage of school teachers on their boats and monetary subsidies. For more than fifty years all schools of the colony were confessional.⁷

In 1875, the Bill entitled "An Act to Amend and Consolidate the Laws Respecting the North-West Territories" was introduced by the Hon. Mr. Alexander MacKenzie.⁸ This bill did not include a clause concerning education. The Hon. Mr. Edward Blake, discussing the absence of a clause on education, stated:

He [i.e. Mr. Blake] regarded it as essential under the circumstances of the country, and in view of the deliberation during the last few days that a general principle should be laid down in the Bill with respect to public instruction. He did believe that we ought not to introduce into that territory

⁷ R.P. A.-G. Morice, O.M.I., Histoire de l'Eglise Catholique dans l'Ouest Canadien, du Lac Supérieur au Pacifique (1659-1915), St-Boniface, Chez l'Auteur, 1921-1923, Vol. 3, p. 174-175.

⁸ Bill No. 93, in Canada, Bills of the House of Commons, 1875, 2nd Session, 3rd Parliament.

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the heart burnings and difficulties with which certain other portions of this Dominion and other countries had been afflicted.⁹

After a considerable amount of discussion and debate the following School clause was introduced:

When, and so soon as any system of taxation shall be adopted in any district or portion of the North-West Territories, the Lieutenant-Governor, by and with the consent of the Council or Assembly, as the case may be, shall pass all necessary ordinances in respect to education; but it shall therein be always provided, that a majority of the ratepayers of any district or portion of the North-West Territories, or any lesser portion or sub-division thereof, by whatever name the same may be known, may establish such schools therein as they may think fit, and make the necessary assessment and collection of rates therefor; and further, that the minority of the rate-payers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and that, in such latter case, the rate-payers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessment of such rates as they may impose upon themselves in respect thereof.¹⁰

When Sir Wilfred Laurier was discussing the system of Separate Schools in 1905, he stated:

In 1875 Mr. MacKenzie introduced an Act for the government of the North-West Territories, and in this Act the parliament of Canada, which, at that time, had among its members, some of the ablest men who ever sat in a Canadian parliament — Sir John MacDonal, Mr. MacKenzie, Mr. Blake, Sir Charles Tupper and a score of others — unanimously, deliberately and with their eyes open, introduced into

⁹ The Hon. Mr. Blake, in Canada, Debates of the House of Commons, [March 12] 1875, p. 658-659.

¹⁰ "An Act to Amend and Consolidate the Laws Respecting the North-West Territories", 1875, in Statutes of Canada, 38 Vict., c. 49, s. 11.

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the North-West Territories the system of separate schools. And not only that, but the parliament of Canada, four times successively — in 1880, in 1885, in 1886 and in 1898 — deliberately and with their eyes open, ratified the system of separate schools in the Territories.¹¹

Although the House of Commons voted this law without amendment and even without discussion, it met with opposition in the Senate. Sir Wilfred Laurier also quoted the opposition of Mr. George Brown:

Do not introduce separate schools into it [North-West Territories], do not introduce that burning question into it, but the moment you have introduced separate schools you have solved the question forever, it is part of the union and the minority will have its right to such schools.¹²

Nevertheless, this law was passed.

This legislation of 1875 gave to the Council of the North-West Territories the right to issue ordinances in matter of education, however, with the express condition that it would always be decreed that in any school district the majority of this district could establish there the schools that it thought fit; and in addition, the minority, whether Protestant or Catholic, could establish separate schools.

To understand well this text of the law it is necessary to know that the North-West Territories, although under the absolute jurisdiction of the federal power, was

¹¹ Quoted by Sir Wilfred Laurier, in Canada, Debates of the House of Commons, 1905, Vol. 1, col. 1452.

¹² Ibid., col. 1456.

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immediately administrated, first by a council presided over by a Lieutenant-Governor named by the Ottawa government, and subsequently by a Legislative Assembly, the limited powers of which, were exercised under the control of the federal authority.

This council or this assembly had the power of issuing ordinances having the force of law, however, when it was a question of public instruction, these ordinances, in order to have a legal value, had to decree that the majority of the taxpayers of any school district would be able to establish the schools that it thought fit, and that the minority, whether Protestant or Catholic, would equally be able to have their separate schools.

This obligation of the council or assembly towards the majority and minority was the "sine qua non" condition of the existence of all ordinances concerning education, and an ordinance which would neglect or would refuse to submit itself to such an obligation was null ipso facto, because it was ultra vires.

In order to bring this obligation into effect the following ordinance was passed:

And provided that a copy of every such ordinance made by the Lieutenant-Governor and Council shall be mailed for transmission to the Governor-General within ten days after its passing, and may be disallowed by him at any time within two years after its passing; provided also, that all such orders in Council and all ordinances so to be made as

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aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.¹³

In 1877 no change was made in the School clause. Reference was made to the languages to be used in the Council and the Courts. This was in complete harmony with past agreements and promises.

Either the English or French language may be used by any person in the debates of the said Council, and in the proceedings before the Courts, and both those languages shall be used in the records and journals of the said Council, and the ordinances of the said Council shall be printed in both those languages.¹⁴

A further determination concerning the powers of the Lieutenant-Governor in Council was made in 1886:

The Lieutenant-Governor shall have such powers to make ordinances for the government of the North-West Territories as the Governor in Council, from time to time, confers upon him; but such powers shall not, at any time, be in excess of those conferred by the ninety-second and ninety-third section of "The British North America Act, 1867,"¹⁵ upon the Legislatures of the several Provinces of Canada.

2. No such ordinance shall be so made which is inconsistent with or alters or repeals any provision of any Act of the Parliament of Canada in force in the Territories. 43 V., c. 25, s. 9; — 48-49 V., c. 51, s. 1.¹⁶

¹³ "An Act to Amend and Consolidate the Laws Respecting the North-West Territories", 1875, in Statutes of Canada, 38 Vict., c. 49, s. 7 (8).

¹⁴ Statutes of Canada, 40 Vict., c. 7, s. 11.

¹⁵ See Appendix 2 for pertinent texts of the B.N.A. Act, 1867.

¹⁶ Revised Statutes of Canada, [Vol. 1], 49 Vict., c. 50, s. 13 (1) and (2).

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The right to separate schools and to the use of both languages was affirmed.¹⁷

In 1889, after the excessive agitation and encouragement by Dalton McCarthy¹⁸, and since the Catholic group was greatly outnumbered by the majority, the legislature of the West demanded the repeal of the law of 1875 by the federal government. The appeal read as follows:

The petition of the Legislative Assembly of the North-West Territories in Session assembled, humbly sheweth:-

That whereas by Section one hundred and ten of "The North-West Territories Act" it is enacted that "Either the English or the French language may be used by any person in the debates of the Legislative Assembly of the Territories and in the proceedings before the Courts; and both these languages shall be used in the records and journals of the Assembly, and all Ordinances made under this Act shall be printed in both these languages."

And whereas this Assembly is of the opinion that the sentiment of the people of the North-West Territories is against the continuance of the section recited, on the grounds that the needs of the Territories do not demand the official recognition of a dual language in the North-West or the expenditure necessitated by the same.

And whereas this Assembly is also of the opinion that sound public policy demands the discontinuance of two official languages in the North-West;

Wherefore your petitioners humbly pray:

That your Honorable House may be pleased to pass an Act repealing said section one hundred and ten of said Act.

And as in duty bound your petitioners will ever pray.¹⁹

¹⁷ Revised Statutes of Canada, [Vol. 1], 49 Vict., c. 50, s. 14 (1) and s. 110.

¹⁸ See Appendix 3 for material on Dalton McCarthy.

¹⁹ Quoted by Dalton McCarthy, in Canada, Debates of the House of Commons, 1890, p. 51.

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This petition was read in the House of Commons by Mr. McCarthy. The appeal was refused by the House.

During the session of 1890 McCarthy again rose against the use of the French language when he introduced Bill No. 10:

Whereas it is expedient in the interest of the national comity of the Dominion that there should be community of language among the people of Canada, and that the enactment in "The North-West Territories Act" allowing the use of the French language should be expunged therefrom: Therefor Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:-

1. Section one hundred and ten of the Act of the Revised Statutes of Canada, intituled "An Act respecting the North-West Territories," is hereby repealed.²⁰

It is not difficult to understand the firm opposition that he met from the French Canadians. Amendments and amendments to the proposed amendments were suggested. It was finally an amendment by Sir John Thompson that succeeded. The pertinent part of this amendment is as follows:

That, at the same time, this House deems it expedient and proper and not inconsistent with those covenants that the Legislative Assembly of the North-West Territories should receive from the Parliament of Canada power to regulate, after the next general election of the Assembly, the proceedings of the Assembly and the manner of recording and publishing such proceedings, [...].²¹

²⁰ Bill No. 10, in Canada, Bills of the House of Commons, 1890, 4th Session, 6th Parliament.

²¹ Sir John Thompson, in Canada, Journals of the House of Commons, 1890, p. 106.

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McCarthy naturally established himself, in the Commons Chamber, as the champion of the adversaries of the minority in the West. At the session of 1891, he presented the desires of the majority of the Assembly of the Territories.

1. Sections fourteen and one hundred and ten of "The North-West Territories Act," chapter fifty of the Revised Statutes, are hereby repealed.²²

2. The Legislative Assembly for the North-West Territories may exclusively make laws in relation to education in and for the said Territories.²³

Not only did he wish to have the use of the French language abolished, but he also directly stated his opposition to the system of denominational schools. His bill did not receive support.

The spirit of McCarthy had now spread to other members. On July 6th, 1891, another bill, No. 126, was presented by the Hon. Mr. Edgar Dewdney. Although he did not state opposition to the system of denominational schools, yet his bill did not affirm as strongly the right to these

22 See Appendix 4 for sections fourteen (14) and one hundred and ten (110).

23 Bill No. 33, in Canada, Bills of the House of Commons, 1891, 1st Session, 7th Parliament.

schools as the legislation of 1886.²⁴ His bill, however, did permit the abolition of the French language as an official language in the West.²⁵

Section one hundred and ten of the Act is hereby repealed and the following substituted therefor:-

"110. Either the English or the French language may be used by any person in the debates of the Legislative Assembly of the Territories and in the proceedings before the courts; and both those languages shall be used in the records and journals of such Assembly; and all ordinances made under this Act shall be printed in both those languages; Provided, however, that after the next general election of the Legislative Assembly, such Assembly may, by ordinance or otherwise, regulate its proceedings, and the manner of recording and publishing the same; and the regulations so made shall be embodied in a proclamation which shall be forthwith made and published by the Lieutenant-Governor in conformity with the law, and thereafter shall have full force and effect."²⁶

²⁴ Section 6 (2) of Statutes of Canada, 54-55 Vict., c. 22 reads as follows:

"Section thirteen of the Act (i.e. R.S.C., c. 50, s. 13) is hereby repealed, and the following is substituted therefor:-

"[...]

"2. Nothing in this section contained gives, or shall be construed to give to the Legislative Assembly any greater powers with respect to the subjects therein mentioned than are given to Provincial Legislatures under the provisions of section ninety-two of 'The British North America Act, 1867', with respect to the similar objects therein mentioned."

Section 13 (1) that is referred to, in addition to section ninety-two also contained section ninety-three, that which protected the right to separate schools; cf. note No. 16.

²⁵ See Appendix 5 for opposition against this Bill.

²⁶ Statutes of Canada, 54-55 Vict., c. 22, s. 18.

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Such was the atmosphere in the federal House towards the end of the period being studied. Bill No. 126 had been passed, permitting the abolishment of the use of the French language in the debates of the Legislative Assembly of the Territories and in the proceedings before the courts. A bill had been proposed that would permit the Legislative Assembly for the North-West Territories to exclusively make laws in relation to education. This bill, without any doubt, would lead to their abolition.

CHAPTER II

TERRITORIAL LEGAL DEVELOPMENT

Before considering the legislative changes in the North-West Territories it would be most fruitful to consider briefly the political environment in which these changes occurred. Then a precise study will be made on the various legislative changes that had the greatest effect for Catholic and Protestant separate school supporters. This will include the development of the Board of Education, separate schools, trustees, and conduct of schools. Finally, a short synopsis of the actions that brought about these changes will be considered.

1. General Political Environment

After these territories had been taken over by Canada in 1870, they were governed from 1871 to 1875 by a council of twelve men presided over by the Lieutenant-Governor of Manitoba.¹ He exercised an autocracy limited at first by directions from the Secretary of State for the province, and, after 1873, from the Minister of the Interior. A North-West Council, formed for the most part of residents of Manitoba, was appointed by the Dominion Government to assist in

1 Statutes of Canada, 33 Vict., c. 4, s. 35.

the administration of the territories. In 1875 provision was made for a resident Lieutenant-Governor and for a Council, nominative at first, to become, as soon as the settlement of the territories warranted, partly elective.² In 1881 the first elected member representing a district was admitted to the Council,³ and with the growth of population the increasing number of elected members rendered possible the transition to a Legislative Assembly.

On the institution of the Legislative Assembly in 1888, the Lieutenant-Governor, who had himself presided over the North-West Council, gave place to a speaker chosen by the members of the Assembly from their own number. The Lieutenant-Governor chose four elected members to act as an Advisory Council on matters of finance.⁴ However, the struggle on the part of the Assembly to secure control in all financial matters developed into a struggle to make the Advisory Council responsible to the Assembly rather than to the Lieutenant-Governor. It ended in the replacement of the Advisory Council by an Executive Committee of four members chosen by the Lieutenant-Governor.⁵ A further step was

2 Statutes of Canada, 38 Vict., c. 49, s. 2.

3 Journals of the Council of the North-West Territories, 1881, p. 4.

4 Journals of the Legislative Assembly of the North-West Territories, 1888, p. 12-13.

5 Ibid., 1891-92, p. 39.

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taken when the Executive Committee was appointed on the floor of the house.⁶

This striving of the Legislative Assembly for economic independence is only an example of the spirit of independence that permeated the assembly hall. The scope of the powers vested in the Lieutenant-Governor, with the duty of establishing the government in accordance with federal provisions, operated to the security and good government of the territories. But this very power gave the Lieutenant-Governor the appearance of an autocrat, and led to the unfortunate result that men imbued with political ideas formed in the eastern provinces, where the struggle for self-government had been fought out before they were born, were thrown into a position of antagonism towards him. These men desired to be independent of federal dictates and this desire orientated all of their activities and as a result, educational safeguards that had been provided by the Federal Government, in order to insure the rights of the minorities, were regarded as restrictions on the territorial independence.

⁶ Journals of the Legislative Assembly of the North-West Territories, 1892, p. 25-26.

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2. Board of Education... Council of Public Instruction

In 1884 the first ordinances of the North-West Territories concerning education were legislated.

The Lieutenant-Governor-in-Council, sitting as an Executive Council, may appoint, to form and constitute the Board of Education for the North-West Territories, a certain number of persons, not exceeding twelve, six of whom shall be Protestants and six Roman Catholics.⁷

It shall be the duty of the Board:- [s. 3]

(1) To make from time to time such regulations as they may think fit for the general organization of the schools; [s. 3 (1)]

(2) To make regulations for the registering and reporting of daily attendance at all the schools in the North-West Territories, subject to the approval of the Lieutenant-Governor-in-Council; [s. 3 (2)]

(3) To make regulations for the calling of meetings from time to time and prescribe the notices thereof to be given to members. [s. 3 (3)]

The Board of Education shall resolve itself into two sections, the one consisting of the Protestant and the other of the Roman Catholic members thereof; and it shall be the duty of each section: [s. 5]

(1) To have under its control and management the schools of the section and to make from time to time, such regulations as may be deemed fit for their general government and discipline and the carrying out of the provisions of this Ordinance; [s. 5 (1)]

(2) To arrange for the proper examination, grading and licensing of its teachers, the recognition of certificates obtained elsewhere, and for the

⁷ Ordinances of the North-West Territories, 1884, No. 5, s. 1. The following quotations of this Ordinance will be briefly indicated in the text itself. This will be done for the following ordinances also. Thus the following quotation "[s. 3]" means section 3 and the following quotation "[s. 3 (1)]" refers to subsection 1 of section 3.

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withdrawing of the license upon sufficient cause;
[s. 5 (2)]

(3) To select all the books, maps and globes to be used in the schools under its control and to approve of the plans for the construction of school houses; Provided, however that, in the case of books having reference to religion and morale, such selection by the Catholic section of the Board shall be subject to the approval of the competent religious authorities; and [s. 5 (3)]

(4) To appoint inspectors who shall hold office during the pleasure of the section appointing them. [s. 5 (4)]

It is also worthy of note that the same committee which proposed the final draft of the Bill on Education also recommended that the Lieutenant-Governor telegraph Ottawa requesting that Section 93 of the British North America Act be put into force in the Territories as provided by Section 9 of the North-West Territories Act of 1880.⁸

This first school ordinance was inoperative, due to the fact that the Territorial Council did not have the power to tax areas not formed into electoral districts prevented the putting into effect of those clauses giving aid to schools. An electoral district was erected when an area of one thousand square miles contained one thousand adult inhabitants, exclusive of aliens and unenfranchised Indians. It can be readily observed that in the early pioneer period this population limit was excessive and it would be with great difficulty that educational facilities could be

⁸ Journals of the Council of the North-West Territories, 1884, p. 13, 91.

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provided before electoral districts were formed. This difficulty was removed when the School Ordinance was amended in 1885, permitting a school district to be carved out of any district.

The Board of Education was now composed of five members, two Roman Catholics, two Protestants, and the Lieutenant-Governor as chairman.⁹

It is now the duty of the Board as a whole:

(1) To appoint Inspectors, who shall hold office during the pleasure of the Board, and to remunerate them for their services; [s. 5 (2)]

(2) To appoint a Board or Boards of Examiners for the examination of teachers, whose qualifications shall from time to time be prescribed by the Board of Education; [s. 5 (3)]

(3) To arrange for the proper examination, grading, and licensing of teachers, and the granting of certificates; [...]; [s. 5 (5)]

(4) To determine all Appeals from the decisions of Inspectors of Schools, and to make such orders thereupon as may be required. [s. 5 (10)]

The Board of Education as resolved into two sections retained the power:

(1) To have under its control and management the schools of its section and to make from time to time such regulations as may be deemed fit for their general government, and discipline, and the carrying out of the provisions of this Ordinance; [s. 6 (1)]

(2) To cancel the certificate of a teacher upon sufficient cause; [s. 6 (2)]

(3) To select, adopt, and prescribe a uniform series of text books, to be used in the schools of the section. [s. 6 (3)]

⁹ Ordinances of the North-West Territories, 1885,
No. 3, s. 1.

Already we are able to see the shift of power from the Board of Education as separated into two sections to the Board of Education as a whole.

In the following year, 1886, we see a strange happening, that of the return of rights to the two sections as separated.¹⁰

It is the duty of the Board as a whole:

(1) To make, from time to time, such regulations as they may think fit for the general organization of schools; [s. 1 (5) 4]

(2) To make regulations for the registering and reporting of the daily attendance at all schools; [s. 1 (5) 5]

(3) To determine all appeals from the decisions of inspectors of schools, and to make such orders thereupon as may be required. [s. 1 (5) 7]

The amendments of 1886 recognized the existence of school districts that were not designated as either Protestant or Roman Catholic, and placed control of schools in such districts, in the hands of the Board of Education as a whole.¹¹

However, in addition to the powers that the Roman Catholic and the Protestant sections of the Board held in 1885, they now again had the duty:

(1) To appoint inspectors, who shall hold office during the pleasure of the section; [s. 1 (6) 4]

No. 10. 10 Ordinances of the North-West Territories, 1886,

11 Ibid., s. 1 (5) 10-14.

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(2) To appoint a board of examiners, for the examination of teachers whose qualifications shall from time to time, be prescribed by the section; [s. 1 (6) 5]

(3) To arrange for the proper examination, grading and licensing of teachers, and the granting of certificates [...]. [s. 1 (6) 6]

In 1887 the school laws were again amended and revised.¹² The principle of equal representation of Catholics and Protestants, which had until then prevailed in the constitution of the Board of Education, was abandoned. No immediate change resulted but it was the beginning of loss of control for the Catholics and Protestants over their schools.

The Lieutenant-Governor in Executive Council may appoint and constitute a Board of Education for the North-West Territories, composed of eight members, to hold office for two years and until their successors are appointed, five of whom shall be Protestants, and three shall be Roman Catholics. [s. 1]

At the first meeting of the Board, after the passing of the Ordinance, the Board shall appoint one of their number as Chairman, who may vote with the other members of the Board on all questions, and any question, on which there is an equality of votes, shall be deemed to be negative. [s. 6]

In addition to the duties of the Board as a whole which they possessed in 1886, they now had the duty:

(1) To provide for an uniform system of inspection of all Schools and the payment of Inspectors, and to make, from time to time, such regulations as may be deemed necessary with respect to the duties of Inspectors; [s. 7 (5)]

12 Ordinances of the North-West Territories, 1887,
No. 2.

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(2) To arrange for the proper examination, grading and licensing of Teachers and the granting of certificates [...]. [s. 7 (6)]

The Board of Education as resolved into the two sections also had the duty of appointing Inspectors, who were to hold office during the pleasure of the section appointing them.¹³ They had again lost the duty of examining, grading and licensing of Teachers, and the granting of certificates. However, this was now done by a general Board of Education, one half of which Board of Examiners was to be nominated by each section of the Board.¹⁴ Each section still had the power to cancel the certificate of a teacher upon sufficient cause.¹⁵

A further determination concerning the examinations of teachers stated that each section of the Board shall have the selection of text books for the examination of teachers in history and science, and it shall have the power to prescribe any additional subjects of examinations for the teachers of schools of its sections, and in all examinations on such subjects, the examiners of each subject shall respectively have exclusive jurisdiction.¹⁶

¹³ Ordinances of the North-West Territories, 1887, No. 2, s. 8 (3).

¹⁴ Ibid., s. 9.

¹⁵ Ibid., s. 8 (4).

¹⁶ Ibid., s. 10.

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In 1891, when the "reforming spirit" was again in the ascendant, the Lieutenant-Governor-in-Council became responsible for the appointment of the Inspectors and the licensing of teachers.¹⁷ This was but the prelude of a great change.

The Lieutenant-Governor-in-Council may appoint inspectors of schools in the Territories, and fix their salaries and travelling allowances, and such inspectors shall severally hold office during pleasure, and in addition to the duties imposed upon them under subsection 5 of Section 10 of the said Ordinance¹⁸, shall perform such other duties as may be imposed upon them from time to time by the Lieutenant-Governor-in-Council. [s. 5]

Section 12 of the said Ordinance¹⁹ is hereby repealed and the following substituted in lieu thereof: "There shall be a general Board of Examiners for teachers' certificates, who shall be appointed, and whose remuneration shall be fixed by the Lieutenant-Governor-in-Council." [s. 6]

In 1892 the most embracing and decisive changes were made.²⁰ This Ordinance established a Council of Public

¹⁷ Ordinances of the North-West Territories, 1891-92, No. 28.

¹⁸ The Revised Ordinances of the North-West Territories, c. 59, s. 10 (5) reads as follows: "to provide for an uniform system of inspection of all Schools, and to make, from time to time, such regulations as may be deemed necessary with respect to the duties of Inspector".

¹⁹ Ibid., s. 12 reads as follows: "There shall be a general Board of Examiners for Teachers' certificates, whose number shall be fixed by the Board of Education, and whose remuneration shall be the same as that of Members of the Board of Education, one half of which Board of Examiners shall be nominated by each section of the Board."

²⁰ These changes will be discussed fully in the following chapter. Exact references are given with the texts.

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Instruction, consisting of the members of the Executive Committee and four persons, two Protestants and two Roman Catholics, appointed by the Lieutenant-Governor in Council, the appointed members having no vote.²¹ The Council of Public Instruction replaced the old Board of Education, and was not divided into a Protestant and a Catholic section. The Council as a whole was given authority to examine, certify, classify, train, and license teachers, to select the textbooks and to inspect schools. Religious instruction in any school was prohibited until one-half hour previous to the closing of the school in the afternoon. The common provisions about the formation of separate schools by the minority of ratepayers were reproduced, but it is apparent that control over the schools had now been transferred from the denominations to the government.

It is needless to add that these ordinances were in striking contrast with the law of 1875, taking from the majority in a district the right to establish schools such as they deemed fit and destroying the distinctive character of separate schools. It was principally against these

21 The loss of vote was of extreme importance. In reality the Catholics would no longer have any real power over school legislation. The Protestant majority voted for Protestant members and these were chosen to be members of the Executive Committee. These, and these alone, constituted the legislative authority in the Council of Public Instruction.

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ordinances that the supporters of separate schools objected.²²

The principal sections of the legislation of 1892 read as follows:

There may be established, subject to the provisions of this Ordinance and to the Regulations of the Council of Public Instruction, the following classes of Schools, namely:- [s. 4]

(1) PUBLIC SCHOOLS, for pupils between five and twenty years of age, in which instruction shall be given in the elements of an English and commercial education. [s. 4 (a)]

(2) SEPARATE SCHOOLS, for pupils between five and twenty years of age, in which instruction shall be given in the elements of an English and commercial education. [s. 4 (b)]

(3) UNION SCHOOLS, for such pupils as pass the prescribed entrance examination, in which instruction may be given in the higher branches of mathematics, and the Greek, Latin, French and German languages. [s. 4 (c)]

(4) NORMAL SCHOOLS, for the training of candidates for first, second and third class teachers' certificates. [s. 4 (f)]

(5) TEACHERS INSTITUTES, for the reading of papers and the general discussion of educational topics. [s. 4 (g)]

The members of the Executive Committee, and four persons, two of whom shall be Protestants and two Roman Catholics, appointed by the Lieutenant-Governor-in-Council, shall constitute a Council of Public Instruction,²³ and one of the said Executive Committee, to be nominated by the Lieutenant-Governor-in-Council, shall be Chairman of the said Council of Public Instruction. The appointed members shall have no vote, and shall receive such remuneration as the Lieutenant-Governor-in-Council shall provide. [s. 5]

No. 22. 22 Ordinances of the North-West Territories, 1892,

23 The Council of Public Instruction has replaced the Board of Education.

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It shall be lawful for the Lieutenant-Governor-in-Council to appoint a Superintendent of Education for the territories, who shall also be Secretary of the Council of Public Instruction. [s. 6]

It shall be lawful for the Council of Public Instruction from time to time:

(1) To appoint two or more Examiners at such remuneration as shall be thought proper, and who shall constitute a Board of Examiners to examine teachers and grant certificates of qualification. [s. 7 (a)]

(2) To make and establish rules and regulations for the conduct of Schools and Institutes, and to prescribe the duties of teachers and their classification. [s. 7 (b)]

(3) To determine the subjects and percentages required for all classes and grades of certificates of teachers as well as to make and prescribe rules for the guidance of candidates for certificates of qualification as teachers. [s. 7 (c)]

(4) To select, adopt and prescribe the text-books to be used in the Public and Separate Schools in the Territories; [s. 7 (d)]

(5) To arrange for the proper training, examination, grading and licensing of teachers, and the granting of certificates [...]. [s. 7 (e)]

(6) To determine all cases of appeal, disputes and complaints, arising from decisions of Trustees or Inspectors, and to make such orders thereupon as may be required. [s. 7 (f)]

(7) To make any provisions, not inconsistent with this Ordinance, that may be necessary to meet exigencies occurring under its operations. [s. 7 (g)]

(8) To make and establish rules and regulations for the guidance of Inspectors. [s. 7 (h)]

Under the authority of the Council of Public Instruction, it shall be the duty of the Superintendent:

(1) To see that text-books, adopted by the Council of Public Instruction, are used in all the Schools of the Territories. [s. 9 (a)]

(2) To see that the established rules and regulations for the conduct of all Schools are carried out. [s. 9 (b)]

(3) To see that all Schools are managed and conducted according to Law. [s. 9 (d)]

(4) To suspend, for cause, the certificate of qualification of any teacher until the Council of

Public Instruction shall confirm or disallow his action in suspending such teacher after investigation. The cancellation or suspension of any teacher's certificate, when so confirmed by the Council of Public Instruction, shall release the School Trustees of the District, in which such teacher may be employed, from any obligation to employ him as teacher. [s. 9 (e)]

3. Separate Schools

In this section it will be seen that the principle of establishing separate schools has not been tempered with. It is in the application of this principle, discussed mainly in the other sections, that the difficulties have arisen.

In 1884 provision was made for separate schools:²⁴

In accordance with the provisions of section ten of "The North-West Territories Act, 1880"²⁵, providing for the establishment of separate schools, it shall be lawful for any number of property holders resident within the limits of any public school district or within two or more adjoining school districts or some of whom are within the limits of an organized school district and others on adjacent land not included within such limits, to be erected into a Separate School District by proclamation of the Lieutenant-Governor with the same rights, powers, privileges, liabilities and method of government throughout as hereinbefore provided in the case of public school districts. [s. 25]

Such separate school district shall be erected on petition of all those desiring to have their land set aside as a separate school district. [s. 26]

No. 5. 24 Ordinances of the North-West Territories, 1884,

25 Section 10 of 1880 repeats s. 11 of 1875. Cf. note No. 7 of Chapter I.

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Any land and personal property thereon set apart as a separate school district, shall be assessable by the public school district, within whose organized limits it is situated for the purpose of paying off any debenture indebtedness that may have been incurred, during the time that such land was included as the part of such public school district, in the same manner and time and at the same rates as the remaining portion of such public school district may be assessed to pay off such indebtedness, but for no other purpose whatever. [s. 31]

Upon the election of the first board of school trustees of any separate school district they shall make a demand upon the trustees of the public school district or districts within whose limits such separate school district or any portion thereof was originally situated, for a sum of money equal to the equitable share of the ratepayers of such separate school district in any land, building or other property, whether real or personal, held by such school district, such share to be computed in proportion to the amounts from time to time paid into the funds of such public school district on account of the real and personal property included within the limits of such separate school district. [s. 32]

In 1886 a provision is given concerning those capable of being erected into a separate school district, i.e., "a number of the ratepayers, whether Protestant or Roman Catholic, the same being a minority of the ratepayers resident within the limits of an organized school district to establish a separate school district therein"²⁶. From now on the school district of the majority, whether Catholic or Protestant, was the Public School district and thus regulated by the rules pertaining to the Public School districts

²⁶ Ordinances of the North-West Territories, 1886, No. 10, s. 12.

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and not by the rules of Catholic or Protestant separate school districts.²⁷

These changes were significant at this period. The right to petition for the erection of a separate school district was limited to the minority, and this minority had to be resident within the limits of an organized school district. In many cases this was fatal to the interests of the minority. It frequently happened that the minority, residing in the limits of a public school district, was not numerous enough to form a separate district; but that end could have been attained, if they could as before, join their fellow minorities residing immediately outside of the limits.

It appears that the concessions given to the sections of the Board of Education were given to smooth over the wounds encountered in the section on Separate Schools.

The Revised Ordinances of the North-West Territories, 1888, gave several precisions:²⁸

27 It is important to note that public schools and separate schools were not the same in meaning as in the province of Ontario where public schools pertained to the governmental schools and separate schools to those of the dissidents, although in many places the dissidents were the majority. In the North-West Territories the public school district was that of the majority in this school district, not of that in the province as a whole.

28 The Revised Ordinances of the North-West Territories, 1888, c. 59.

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The persons qualified to vote for or against a petition for the erection of a Separate School District, shall be the ratepayers therein being of the same religious faith as the petitioners. [s. 40]

After the establishment of a Separate School District under the provisions of this Ordinance, such Separate School District shall possess and exercise all rights, powers, privileges and be subject to the same liabilities and method of government, as is herein provided in respect of Public School Districts; and all property within such Separate School District belonging to or held by ratepayers of the religious faith indicated in the name of such district, shall be liable only to assessments such as they impose upon themselves in respect thereof. [s. 41]

No significant change was made concerning this legislation in 1892.²⁹

Thus only the minority, whether Catholic or Protestant, was allowed to set up a separate school district. The majority was not allowed to do so and had to comply with the regulations of the Public School districts.

4. Trustees

The importance of this section on trustees lies in the fact that the rights of Catholic and Protestant parents with regard to the education of their children were delegated to trustees that they had chosen from the community. The powers of the trustees varied from year to year and as

²⁹ Ordinances of the North-West Territories, 1892,
No. 22, s. 32-36.

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rights were denied more and more to Catholics and Protestants, the trustees had fewer powers.

In 1884 the duties and powers of any board of trustees of any school district were determined:³⁰

(1) Engage a school teacher or teachers on such terms as the board may deem expedient; [s. 75 (1)]

(2) Select all the books, maps and globes to be used in the schools under their control from the list of those authorized by the Lieutenant-Governor-in-Council, provided, however, that in the case of books, no other books shall be used by the trustees of any Catholic school district than the books selected by the Catholic section of the board of education in the Province of Manitoba. [s. 75 (6)]

According to the Ordinance of 1885, in addition to the powers of 1884, the trustees were to "inspect the school, see that good order is kept and proper instruction is given and dismiss the teacher or any of the pupils for misconduct or immorality, or the teacher for incapacity"³¹.

The trustees were to "select all the books, maps and globes to be used in the schools under their control from the list of those authorized by the Board of Education"³². This did not change the situation greatly because the power of selecting text-books was invested in the Board of Education as resolved into its sections.

No. 5. 30 Ordinances of the North-West Territories, 1884,

31 Ibid., 1885, No. 3, s. 61 (4).

32 Ibid., s. 61 (6).

In 1892 the powers of the trustees were similar to those of 1885, however, they are now to "select all the books, maps and globes, to be used in the Schools, under their control, from the list of those authorized by the Council of Public Instruction"³³. The significance of this ordinance is that following this legislation, books were used that did not have the approval of the Catholic population³⁴. No longer were the Catholic and Protestant sections permitted to choose their own books.

5. Conduct of School

Already in 1884 we find ordinances pertaining to the hours during which school must be held, when religious instructions could be given, the holidays that were to be given. Later on we find direct ordinances pertaining to the language to be used.

The pertinent texts of 1884 are the following:³⁵

(1) A form of prayer, adopted by the board of trustees, may be used by the teacher at the opening of the school each day. [s. 83]

(2) No religious instruction such as bible reading, or reciting, or reading or reciting prayers or asking questions or giving answers from any

No. 22, s. 50 (8).
33 Ordinances of the North-West Territories, 1892,

34 See Appendix 6 for reasons of non-approval.

No. 5.
35 Ordinances of the North-West Territories, 1884,

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catechism, shall be permitted in any public or separate Protestant or Catholic school in the North-West Territories, from the opening of such schools at nine o'clock in the forenoon until the hour of three o'clock in the afternoon, after which time any such instruction as may be allowed under this Ordinance and permitted or desired by the trustees may be given. [s. 84]

(3) Any child attending any school whose parent or parents or guardian is or are of the religious faith different from that expressed in the name of such school district, shall have the privilege of leaving the school room at the hour of three o'clock in the afternoon, or of remaining without taking part in any religious instruction that may be given, if the parents or guardian so desire. [s. 85]

The above legislation (no. 3) has always been maintained and has only changed in accidentals.

In 1885 the restriction on religious instruction was placed on public schools alone.

No religious instruction such as bible reading, or reciting, or reading or reciting prayers or asking questions or giving answers from any catechism, shall be permitted in any public school in the North-West Territories from the opening of such school at nine o'clock in the forenoon, until the hour of three o'clock in the afternoon, after which time any such instruction, permitted or desired by the trustees of the district, may be given.³⁶

The above restriction took on a new meaning in 1886, when the school of the majority in a district was to be the public school. In effect, the Protestant or Roman Catholic majority were restricted whereas if they were the minority they would have further privileges. This legislation

³⁶ Ordinances of the North-West Territories, 1885, No. 3, s. 78.

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remained unchanged throughout the period that is being studied, up to and including 1892.

In 1887 a list of the subjects that were to be taught was given. Although no mention is made whether this is to be in French or in English, it is stated that English literature must be studied.³⁷

Schools were permitted to be opened each morning with prayer, with the consent of the trustees, who were to approve the form of the prayer to be used.³⁸

The legislation of 1892 introduced ordinances that have affected and will continue to affect the history of the west.

All Schools shall be taught in the English language, and instructions may be given in the following branches [...];³⁹

It shall be permissible for the Trustees of any School to cause a primary course to be taught in the French language.⁴⁰

Here, beyond a doubt, the absolute thrust against the French language has been made. Also, legislation permitting the saying of a prayer in the public schools at the opening of each morning was absent.

37 Ordinances of the North-West Territories, 1887, No. 2, s. 83.

38 Ibid., s. 86 (1).

39 Ibid., 1892, No. 22, s. 83.

40 Ibid., s. 83 (1).

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6. Legislative Environment

Now that we have noted the legislative changes that took place it is necessary, in order to make an intelligent analysis of these changes and the controversy following as a result of them, that we consider some of the men and events that brought these changes about.

On September 13, 1883, Mr. Frank Oliver, a member of the North-West Council for Edmonton, introduced a Bill providing for the Organization of Public and Separate School Districts in the North-West Territories.⁴¹ This bill, which gave great honour at the time to its author because of the originality of its conception, after a first and second reading, was printed and distributed to the public. This same bill, slightly modified, was again submitted on July 7, 1884, by its author, to the consideration of the Council of the North-West. The following day the Hon. Judge Charles Rouleau presented another bill on the same subject. The special committee to which these two bills were referred, made its report a few days later by presenting a third bill, which resulted from a fusion of the first two. This last bill, after having passed the ordinary formalities, soon became the ordinance known under the title of the School Ordinance of 1884.

⁴¹ Journals of the Council of the North-West Territories, 1883, p. 33.

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Unfortunately, owing to financial reasons, this ordinance remained a dead letter. This difficulty was removed by the Ordinance of 1885. Considering this ordinance the Lieutenant-Governor, the Hon. Mr. Edgar Dewdney, stated to the Council:

The School Ordinance, which occupied so much of your time during last session, has met with very general approval throughout the Territories. On the 1st January last, there were 48 Protestant and 11 Roman Catholic Schools established in the Territories, in all 59 schools. To-day there are 76 Protestant and 14 Roman Catholic, in all 90, showing an increase of 31 schools.⁴²

In 1889 the struggle against separate schools and the French language gained great momentum. On October 28, a petition of the Legislative Assembly of the North-West Territories was sent to the House of Commons asking for the repeal of Section 110 of the North-West Territories Act, which guaranteed the right to the use of the French language.⁴³ On October 30, Mr. J.F. Betts moved the second reading of a bill that proposed a reduction in the number of members on the Board of Education and the abolition of the sections of the Board.⁴⁴ This bill was defeated.

⁴² Address of the Lieutenant-Governor to the Council, in Journals of the Council of the North-West Territories, 1885, p. 7.

⁴³ Journals of the Legislative Assembly of the North-West Territories, 1889, p. 18. Also, cf. note No. 14 of Chapter I.

⁴⁴ Journals of the Legislative Assembly of the North-West Territories, 1889, p. 45-46.

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The Federal Government was considering a few amendments in the North-West Territories Act and asked the Legislative Assembly for suggestions. On motion of Mr. Robert Brett and seconded by Mr. Hugh Richardson, it was resolved that an address be sent to the Federal Government, asking for the repeal of the ordinance guaranteeing the right to separate schools.⁴⁵ This petition was agreed upon on November 6. Mr. Justice Rouleau, a staunch supporter of French Catholics and minority rights, discussed the question very freely on the floor of the Assembly and opposed this proposal.

In 1890, a most important event in the neighboring province of Manitoba, exercised great influence on the Legislative Assembly. The Provincial Legislature of Manitoba passed the Public Schools Act, abolishing the denominational school system. All public schools were to be free and non-sectarian, and no religious exercises were to be allowed, except at the option of the school trustees and according to the regulations of an Advisory Board. All ratepayers of each municipality were to be indiscriminately taxed for the support of the new schools.⁴⁶

⁴⁵ Journals of the Legislative Assembly of the North-West Territories, 1889, p. 65.

⁴⁶ Douglas A. Schmeiser, Civil Liberties in Canada, London, Oxford University Press, 1963, p. 160.

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The way had now been paved for the Legislative Assembly. The Protestant majority, greatly outnumbering the Catholic population, favoured the public school system and the use of the English language. In 1890 Mr. Richardson, seconded by Mr. Brett, moved that an address be sent to the Federal Government, asking for the repeal of the ordinance guaranteeing the right to separate schools.⁴⁷ This motion was not passed.

In the session of 1891-1892 it was moved by Mr. Frederick Haultain and seconded by Mr. Thomas Tweed that the proceedings of the Legislative Assembly be recorded and published only in English. This was opposed by the French-speaking members but they were defeated in their last stand.⁴⁸

The Bill to Amend and Consolidate as Amended the Ordinances Respecting Schools was introduced in the session of 1892.⁴⁹ There was a great amount of opposition by the French Catholics of the Assembly. This was to no avail as they were greatly outnumbered. The Assembly did not have the power to abolish separate schools as they had abolished

47 Journals of the Legislative Assembly of the North-West Territories, 1890, p. 56-57.

48 Ibid., 1891-92, p. 110-111.

49 Ibid., 1892, 2nd Session, p. 13; 3rd Session, p. 13, 15, 81-82.

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the French language, so they accepted the principle of separate schools and attacked the foundation upon which it was built.

CHAPTER III

RELIGIOUS AND LEGAL OPPOSITION

The Ordinance of 1892 had now been enacted and it took some time for the people to realize its extent and power. As the minorities became to realize this more and more the cry for justice and equality was raised. They were caught between two streams. They saw the injustice that was being inflicted upon them and at the same time they knew very well what had happened in Manitoba, where the Privy Council had upheld the provincial legislation abolishing separate schools. Their cry was met in the following crisp reply of Mr. Frederick Haultain, the Chairman of the Council of Public Instruction and the Premier of the North-West Territories:

The responsibility for the general management of our schools, for the educational policy of the Territories, and for the expenditure of the school vote is above and beyond any sectarian difference. Expenditure and control are inseparable, and so long as schools continue to receive governmental grants they must be subject to governmental control.¹

The only door that was left open to the minority was their right to appeal to the Governor General in Council, asking for the disallowance of the School Ordinance of 1892.

1 "The Schools of the North-West, A Constitutional Problem", in Toronto Globe, Feb. 8, 1905, Regina Despatch, quoted by C.C. Lingard, Territorial Government in Canada, Toronto, University of Toronto Press, 1946, p. 157.

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Nineteen appeals were sent from the various leaders and champions of minority rights to the Governor General in Council.² At the same time two letters were received from Mr. Haultain, the object of which was to negate the claims of the petitioners. The Privy Council considered the claims and on February 5, 1894, the Report of the Committee of the Honourable Privy Council, approved by His Excellency the Governor General, was issued. In general, the claims of Mr. Haultain were accepted, and the vague recommendations made were of little or no value. The conclusion of the report summarized this action:

The committee of the privy council regret that the change made in the ordinances relating to education should have been such as to cause, even unwittingly, dissatisfaction and alarm on the part of the petitioners, and they advise that communication be made to the lieutenant-governor of the North-West Territories, urgently requesting that the complaints set forth by the petitioners be carefully enquired into, and the whole subject be reviewed by the executive committee and the North-West assembly, in order that redress be given by such amending ordinances or amending regulations as may be found necessary to meet any grievances or any well-founded apprehensions which may be ascertained to exist.³

What value could such a recommendation have when in the course of the report it was stated that the law and

² Included within these appeals were those of the Right Reverend Bishop Grandin (Bishop of St. Albert), of the Archbishop of St. Boniface, and of the separate school district of Prince Albert. (Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 1-11, 18.)

³ Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 27.

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regulations concerning education in the Territories did not differ materially, before and after the Ordinance of 1892, and that in consequence the disallowal would leave remaining the complaints of the petitioners?⁴ Also, the Assembly that had brought about the change was not anxious to accept any suggestions from the Federal Government concerning minority rights.

Upon the reception of this declaration of the Privy Council, Archbishop Alexandre Taché, the supreme spokesman for the French-speaking and Roman Catholic minority of the West, set about collecting documents and reports that he used in his reply to the Privy Council. He completed this work by March 7, 1894. At the beginning of his memorial,

⁴ "It would appear from the facts above set forth that the disallowance of the ordinance in question would not meet the complaints alleged in the petitions otherwise than by restoring the board of education which had control of the schools of the Territories before the ordinance of 1892 was passed; because in other respects the law and regulations concerning education in the Territories were not materially different before the ordinance of 1892 was passed from what they now are in so far as the points mentioned in the petition are concerned. Disallowance would not nullify any of the regulations complained of." (Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 26.)

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Archbishop Taché made a comparison between the rights enjoyed by Catholics until 1892 and those following 1892.⁵

MEMORIAL of Archbishop Taché, In answer to a Report of the Committee of the Honorable Privy Council of Canada.

To avoid entering into a long discussion, the case may be made clear by a simple comparison between the rights enjoyed by the Catholics of the Territories until 1892 and what is now left to them.

The Ordinance of 1888 granted to the Catholics, as such, the following rights:

1. The Lieutenant Governor in Council may appoint and constitute a board of education composed of eight members, and three shall be Roman Catholics (4). The three Catholic members had right to vote.

2. Any question on which there is an equality of votes shall be declared to be negatived (9). So that the 3 Catholics, with the

The Ordinance of 1892 gives as follows to Catholics:

1. The members of the Executive Committee and two Protestant and two Roman Catholics shall constitute a Council of Public Instruction. The appointed members shall have no vote (5).

2. No vote against hostile regulations.

⁵ Memorial of Archbishop Taché on the School Question, (In Answer to a Report of the Committee of the Honorable Privy Council of Canada), Montreal, C.O. Beauchemin & Son, 1894, p. 4-8. This memorial has also been published under the same title in Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 29-31. As there are slight variances in these two copies, the first copy will be used as it compares exactly with the French text. The citations in this text are those of Archbishop Taché referring to the Ordinance in question.

In section two of the quoted memorial there was an error that read as follows: "denied to be negatived", that now reads: "declared to be negatived".

This text is also known as the Memorandum of Archbishop Taché on the School Question.

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help of one single Protestant, could negative all hostile regulations.

It shall be the duty of the Board (3 Catholics out of 8): (Section 10)

3. To determine all appeals from the decisions of Inspectors of schools and to make such orders thereupon as may be required.

3. Nothing.

4. To provide for a uniform system of inspection for all schools and to make such regulations as may be deemed necessary with respect to the duties of the Inspectors.

4. No power.

5. To arrange for the proper examination, grading and licensing of teachers and the granting of certificates.

5. No vote nor action.

The three Catholics had right of vote.

6. To make regulations for the general government and discipline.

6. Nothing.

7. To appoint Inspectors.

7. No power.

8. To select and prescribe text books.

8. No power.

9. To cancel the certificates of a teacher, (for schools as are not designated Protestant or Roman Catholic).

9. No power.

10. The Board of Education shall resolve itself into two sections, the one consisting of the Protestant and the other of the Roman Catholic members thereof.

10. No section.

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(11) It shall be the duty of each section (Catholic as well as Protestant and exclusively):

- | | |
|--|--------------------------------------|
| 11. To have under its control and management the schools of its section. | 11. No control nor management. |
| 12. To make such regulations as may be deemed fit for their general government and discipline. | 12. No such power. |
| 13. To select and prescribe a uniform series of text books. | 13. No action thereupon. |
| 14. To appoint Inspectors who shall hold office during the pleasure of the section appointing them. | 14. No such power. |
| 15. To cancel the certificate of a teacher. | 15. No such power. |
| 16. There shall be a general board of examiners, for teachers' certificates, one half of which board of examiners shall be nominated by such section of the Board of Education. (12) | 16. No such nominations. |
| 17. Each section of the board shall have the selection of text books for the examination of teachers in history and science. (13) | 17. No power to select. |
| 18. It shall have the power to prescribe any additional subject of examination for the teachers of schools of its section (Religious Instruction, for instance). | 18. No power. |
| 19. And in all examinations on such subjects the examiners of each section shall | 19. No jurisdiction even conjointly. |

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respectively have exclusive jurisdiction.

20. All schools shall be taught and instructions given in the following branches, viz: Reading & (82). In French districts all the branches could be taught in French.

21. It shall be incumbent upon the trustees of all schools to cause a primary course of English to be taught.

22. Any school conducted in violation of the provisions of this Ordinance or of the regulations of the Board of Education or section thereof shall forfeit all right to participate in any of the grants. (83)

23. Religious Instruction was permitted in separate schools at any time during school hours though forbidden in Public schools before 3 o'clock. (84)

24. School may be opened each morning with a prayer. (85)

25. At the desire of the trustees of any school district, the Inspector, Catholic or Protestant, may examine a teacher possessing no certificate, and employed or proposed to be employed by such trustees. (89)

20. All schools shall be taught in the English language and instruction will be given in the following branches, viz: Reading &.

21. It shall be permissible for the trustees of any school to cause a primary course to be taught in the French language.

22. Any school conducted in violation of the provisions of this Ordinance or of the regulations of the Council of Public Instruction or of the SUPERINTENDENT shall be liable to forfeit all rights to participate in any of the grants. (84)

23. No religious instruction shall be permitted in any schools until one-half hour previous the closing of such schools. (85)

24. No opening prayer.

25. No such privilege.

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26. The Inspectors have to observe that no books are used in any schools but those selected from the list of books authorized by the Board of Education or section thereof.

27. The Catholic Inspector may grant provisional certificates to competent applicants recommended by the trustees of Schools.

28. Under clauses 177 and 178 union schools could be established in Catholic Institutions and have their high school branch as Catholics.

29. The Board of Education may authorize the establishment of a Normal Department, and the trustees of any such school shall thereupon establish such Normal Department, (Catholic as well as Protestant).

26. No more rights for Catholics as to selection of books.

27. Upon the recommendation of an Inspector, the superintendent may grant provisional certificates of qualification.

28. Where union schools are established the high school department of such schools shall be non-sectarian. (184) That is to say non-Catholic.

29. High School departments of union Schools being non-sectarian, the Normal Department must be such, and the Catholics, as such, have no right therein.

In summary, we may state that the Ordinance of 1892 established a Council of Public Instruction which did not give the appointed Catholic members any vote. As a result Catholics lost all legislative and nearly all directive powers over their schools. Catholics no longer had a vote in the appointment of inspectors, in the choice of their text books, nor in the cancellation of the certificate of a teacher. All schools were to be taught in English with the provision of a primary course allowed to be taught in French.

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Religious instructions were permitted only in the last half-hour of school. High schools were to be non-sectarian.

Included in the reply of Archbishop Taché to the report of the Privy Council, are letters that he received from men who were directly concerned with this question in the Territories. These letters were addressed to the Archbishop giving him their observations and judgements on this question.

The first letter that is quoted is from the Hon. Charles Rouleau, judge and jurist.⁶

After mature examination of this ordinance [i.e. 1892], I have come to the conclusion that it is ultra vires of the powers of the legislative assembly for, among others, the following reasons:

1. Because it is not provided by the said ordinance that the separate schools should be governed and controlled by the minority, but that they are in fact controlled and governed by the majority; in a word, we have no separate school system as provided

⁶ Hon. Charles-Borromée Rouleau, judge and jurist. He filled the position of Inspector of Catholic Schools, District of Ottawa, from 1861 to 1873. Called to the bar, P.Q., 1868, he was appointed District Magistrate for the District of Ottawa, July 12, 1876, and remained in that office up to his appointment as a stipendiary magistrate and a member of the Executive Council for the North-West Territories, September 28, 1883. He was appointed Judge of the Northern Alberta Judicial District, legal expert with a seat in the North-West Assembly, and member of the Board of Education in the North-West Territories.

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by the spirit of the law, chap. 50, section 14 of the Revised Statutes;⁷

2. Because the section 83 of the said ordinance no. 22 of 1892 provides that the English language be compulsory and taught in every school; what is contrary to the spirit of section 110 of c. 50 Rev. Sts. amended by section 18, ch. 22, 54-56 Vict., 1891;⁸

7 There is an error in the English text. Instead of reading "chap. 50, section 14" it reads "chap. 55, section 14".

Chapter 50, section 14 of the Revised Statutes (1886) reads as follows:

"The Lieutenant Governor in Council shall pass all necessary ordinances in respect to education; but it shall therein always be provided, that a majority of the ratepayers of any district or portion of the Territories, or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor; and also that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, — and in such case, the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof;

2. The power to pass ordinances, conferred upon the Lieutenant Governor by this section is hereby declared to have been vested in him from the seventh day of May, one thousand eight hundred and eighty."

8 Section 110 reads as follows:

"Either the English or the French language may be used by any person in the debates of the Council or Legislative Assembly of the territories and in the proceedings before the courts; and both these languages shall be used in the records and journals of the said Council or Assembly; and all ordinances made under this Act shall be printed in both those languages."

Section 83 of Ordinance No. 22 of 1892 reads as follows:

"All Schools shall be taught in the English language, and instructions may be given in the following branches viz: [...]"

(1) It shall be permissible for the Trustees of any School to cause a primary course to be taught in the French language."

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3. Because the section 32 of the said ordinance (1892) is in contradiction to section 14 of the North-West Territories Act (Ch. 50 R.S.) in that it limits the rights of the minority more than it is limited by the said section 14.⁹

But of course the principal objection of the catholics to the school ordinance is the absolute control, the choice of text books, the school inspection, etc., by the protestant majority.

The separate schools exist now in name; they do not exist in fact.

For the above reasons it seems to me that the federal government should disallow this ordinance on the shortest possible delay, and thus prevent grave injustice towards the catholic minority.¹⁰

The Archbishop included a letter from Father Charles Caron, a parish priest and an appointed member of the Council of Public Instruction, who refuted Haultain's claims

9 Section 32 reads as follows: "The minority of the ratepayers in any organized Public School District, whether Protestant or Roman Catholic, may establish a Separate School therein, and in such case, the ratepayers establishing such Protestant or Roman Catholic Separate Schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof."

At first sight it may seem difficult to see the difference between the two quoted sections. The difference lies in the fact that in Section 32 it is only in an organized Public School district that the minority is able to establish a separate school. In sparsely populated areas this will have a considerable effect because there wasn't sufficient population to support a separate school in this specified area. It was necessary that the minority from a larger area band together to form and support a separate school in order to make it economically feasible. This possibility had been excluded by the above law of 1892.

10 Letter written by Charles B. Rouleau to Archbishop Taché on May 30, 1893, in Canada, Sessional Papers; 40c, Vol. 27, No. 17, 1894, p. 41-42.

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that his remarks could be interpreted as an acknowledgement for replacing the Catholic books with Protestant ones.¹¹

Rev. Father H. Leduc, O.M.I.,¹² discussed the position of the French language:

The French language is also practically abolished in the schools. By the regulation of the council of public instruction, in conformity with the ordinance of 1892, the teaching must be given in English to the children above the 2nd reader. Thus arrived at this insignificant degree of learning, all the French Canadian children must be taught exclusively in English. They permit the use of the two first Ontario bi-lingual readers to the youngest children, but even then the consent in writing of an inspector, most of the time English and anti-French, must be obtained. Such is the amount of French teaching that is permitted or tolerated. It would be more true and more simple to say at once that the French is banished from the schools.¹³

Also included is a letter from Mr. Amédée Forget, member of the Council of Public Instruction.¹⁴ He repeated

11 See Appendix 7 for a discussion of this and other statements of Mr. Haultain.

12 Father Hippolyte Leduc, O.M.I., arrived in the North-West as a missionary in 1865. He was the Vicar General of the diocese of St. Albert in Alberta and was a member of the Board of Education.

13 Letter of H. Leduc, O.M.I., Vicar General of the diocese of St. Albert, to Archbishop Taché on February 26, 1894, in Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 60.

14 Letter of A.E. Forget (Secretary to the Lieutenant-Governor) to Archbishop Taché, March 1, 1894, in Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 61-67. Mr. Forget was Lieutenant-Governor of the North-West Territories from 1898 to 1904 and Lieutenant-Governor of the Province of Saskatchewan until 1910.

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the claims of the Archbishop and judged quite harshly the sincerity of individual men who brought about this legislation.

In summing up his memorial Archbishop Taché stated:

In the North-West Territories, the letter of the law is allowed to stand; separate schools have their existence, pending their entire and complete suppression. The ordinance and those by whom it is administered have taken from the Catholic schools all that could characterize them as such, and the spirit of federal law is violated in the more open and arbitrary manner and, on false information, Ottawa has decided that there was no reason to disallow the ordinance of 1892; besides the Catholics are told that in reality and practically the ordinance takes nothing from them.¹⁵

The new laws of Manitoba and of the North-West are a plain and manifest violation of the assurances given by her majesty's authority and in her name.

The Catholic persuasion "far from receiving the respect and consideration promised to the different religions persuasions," is deprived of rights and privileges which ought to be considered natural and inalienable in a country which boasts of religious equality and of freedom of conscience.¹⁶

The Catholics in the rest of Canada noted with great alarm what was taking place in the west. The memorial of Archbishop Taché was presented on March 7 and there had been no reply from the Privy Council. The complete hierarchy of the Roman Catholic Church in Canada and in the North-West Territories decided to make a stand on this question and on

¹⁵ Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 49.

¹⁶ Ibid., p. 45.

the situation in Manitoba and on July 7, 1894, presented a petition to the Governor General of Canada. This document, reference to which has been overlooked by most historians, gave the basic stand of the Catholic Church.¹⁷ The part pertaining to the North-West Territories will be given in full.

8. The example given in Manitoba has been partly followed in the North-West Territories. There the Catholic Separate Schools have been retained — but, in virtue of the Ordinance No. 22, A.D. 1892, they are deprived of their liberty of action and of the character which distinguishes them from other schools. So that, in reality, the Catholics of the North-West are reduced, partly at least, to the hardships imposed upon their brethren of Manitoba. In both cases the result is very detrimental to the cause of Education and really has in both cases, created bad feelings, dissensions and the most deplorable results.

See Appendix C, Memorial of Archbishop Taché, March 1894.

9. The undersigned take the liberty to affirm that they deeply regret the condition of affairs above mentioned. The painful experience of the Catholics of Manitoba and of the North-West Territories is also resented by all the Catholics of the Dominion. The undersigned have no hesitation in stating that a similar feeling certainly exists among many Protestants who, though separated by faith, are united with the Catholics in a sentiment of justice, fair play and the desire of the prosperity of their common country.

The undersigned appreciate the political advantages enjoyed by Canada and have no desire for any other regime, satisfied that there is, in the institutions of the Country and in the spirit of justice

17 It may be of interest to note that in none of the books or source material referred to in the preparation of this work was reference found to this document. It is highly probable that this petition was presented in English as no reference to a French text could be found anywhere.

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and conciliation which prevails among its inhabitants, a remedy against what, just now, is the subject of their complaints. The Canadian constitution acknowledges equal rights for all citizens and for all classes of citizens. Therefore, Canadians should not be oppressed because they are Catholics.

10. The undersigned cannot shut their eyes to a fact closely connected with the history of their country, Catholic Missionaries have not waited for the facilities and material advantages, now offered by Canada, to bring thereto the light of Christian civilization. On the contrary, they were the first pioneers of the sacred cause and they sealed their missions with their blood. Without fear or hesitation they buried their existence among the most barbarous savages, whom they tamed and induced to peaceably hand over their own country to the Canadian authorities. The Catholic Missionaries accomplished that noble task on the banks of the Saskatchewan and Red Rivers, as well as on those of the St. Lawrence and the Ottawa, and they did this, when, alongside of the crosses they planted, they fondly rested their gaze on the fleur de lis flag.

Every one knows that the same Missionaries, while their eyes were yet moist with the tears they naturally shed, when they had to sever the ties, by which their whole existence had hitherto been bound up, were as faithful to British dominion as they had been to the banner of the land of their origin. It is well known that it is largely due to the fidelity of Canadian Catholic Apostles that England owes the quiet possession of the noble colony, which France had planted on the St. Lawrence and its tributaries. What then happened among the inhabitants of La Nouvelle France was possible, solely because its inhabitants were Catholics, and because England had respected their religious convictions. The knowledge of what they allude to, renders more incomprehensible to the undersigned the fact that the Catholics of Manitoba and of the North West are badly treated because they are Catholics.

11. Catholics believe in the necessity of religious instruction in schools. This conviction imposes upon them conscientious obligations and these obligations give them rights of which they cannot be deprived. They cannot be satisfied by the saying: others do not believe as you do, therefore you must change your convictions; others are satisfied and even wish that their children should be brought up

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and educated in such or such a way, therefore, you Catholics, you cannot stand aside or, if you do, do so at your own expense. Such an argument is neither fair nor just.

The undersigned, pastors of souls, are at one with their flocks, in insisting on the rights they claim, and they are fully determined to preserve them in their integrity. There is in this a question of justice, of natural equity, of prudence and of social economy, closely connected with the fundamental interests of the country.

The Catholics, being under the obligation of educating their children, according to their faith and the religious principle they profess, have in our free country, the right of establishing their Separate Schools, and that right they must be allowed to exercise, without being forced to the burden of double school taxes.

The undersigned also take the liberty to state, that the Federal Parliament has endowed the schools of Manitoba and of the North-West with a large domain, in assigning to the support of such schools the eighteenth part of all public lands. Those lands are Canadian property, and how could the Federal Parliament consent to deprive the Catholics of these countries of their legitimate share, in the profit derived from such lands, simply because this class of citizens adheres to its religious convictions and wishes to comply with conscientious obligations?

See Appendix D "A page of the history of the Schools of Manitoba" by Archbishop Taché.

12. The undersigned petitioners are fully aware that Manitoba and the North West Territories were received into Confederation, after promises, made to the first inhabitants of that vast country, in the name, and by the authority of Her Majesty. The immediate representative of Our Beloved Queen assured them, that "respect and attention would be extended to the different religious persuasions and that, on their union with Canada, all their civil and religious rights and privileges would be respected". In the estimation of Catholics, their religious rights are not respected and their religious persuasions are not treated with respect and attention, when there are difficulties thrown, by law, in the way of securing to their children an education, conducted in accordance with their religious convictions.

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13. The undersigned, while petitioning as they do, repudiate the idea of interference with political parties, or with the direction of affairs, purely political or temporal. Their sole object is to secure, for the Catholics, a protection, needed for the accomplishment of their religious obligations, and it is in that view, and in that view only, that they petition His Excellency the Governor General in Council and ask the Honourable members of the Senate and of the Commons of Canada, of whatsoever party they may be, to help in a fair settlement of the actual difficulties.

Therefore, Your petitioners humbly pray His Excellency the Governor General in Council:

1.- To disallow the Act of Manitoba 57 Vic: ch. 28 (1894) and intituled "an Act to amend the Public Schools Act".

2.- To give such directions and make such provisions for the relief of the Roman Catholics of the Province of Manitoba, as to His Excellency in Council may seem fit, with regard to the Manitoba School Laws of 1890.

3.- To communicate with the Lieutenant-Governor of the North West Territories, in order that, by amending ordinances, redress should be given to meet the grievances of which the Catholics of the North West complain on account of the Ordinance No. 22 assented to at Regina, on the 31st of December, 1892.

This document is then signed by E.A. Cardinal Taschereau, Archbishop of Quebec, and by all the other Archbishops and Bishops of the Roman Catholic Church in the Dominion of Canada.¹⁸

The importance of the matter was now fully realized in Ottawa. The question was discussed fully by the Privy Council and on July 26, 1894, a report of the Privy Council,

¹⁸ Canada, Secretary of State Correspondence, 1894, (RG6, A1, Vol. 86).

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approved by the Governor General, was sent to the governments of Manitoba and of the North-West Territories. The request of the Privy Council was as follows:

First, for the disallowance of the Manitoba School Act of 1894.

Second, to give such directions and make such provisions for the relief of the Roman Catholics of the Province of Manitoba as Your Excellency in Council may see fit, with regard to the Manitoba School laws of 1890,

Third, to communicate with the Lieutenant Governor of the North West Territories in order that, by amending Ordinances, redress should be given to meet the grievances of which the Catholics in the North West Territories complain on account of the Ordinance No. 22 of 1892.

The Committee having taken all these matters into consideration, have the honour to recommend that a copy of the memorial above referred to, and also of this report, if approved, be transmitted to the Lieutenant Governor of Manitoba, with a request that he will lay the same before his advisers and before the Legislature of that Province: and that copies of the same be also sent to the Lieutenant Governor of the North West Territories with the request that he will lay them before the Executive Committee of the Territories, and the Legislature thereof.

The Committee beg to observe to Your Excellency that the statements which are contained in this Memorial are matter of deep concern and solicitude in the interests of the Dominion at large, and that it is a matter of the utmost importance to the people of Canada that the laws which prevail in any portion of the Dominion should not be such as to occasion complaint of oppression or injustice to any class or portion of the people, but should be recognized as establishing perfect freedom and equality, especially in all matters relating to religion and religious belief and practice; and the Committee therefore humbly advise that Your Excellency may join with them in expressing the most earnest hope that the Legislatures of Manitoba and of the North West Territories respectively, may take into consideration, at the earliest possible moment the complaints which are set forth in this Petition, and which are said to create dissatisfaction among Roman Catholics, not

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only in Manitoba and the North West Territories, but likewise throughout Canada; and may take speedy measures to give redress to all the matters in relation to which any well founded complaint or grievance be ascertained.¹⁹

On August 14, 1894 a letter was sent from the Lieutenant-Governor of the North-West Territories to the Secretary of State in Ottawa acknowledging the reception of the memorial of Cardinal Taschereau and the Bishops of Canada as well as the Order of the Governor General in Council and that "in regard thereto, and in reply to inform you that same shall be laid before the Executive Committee and Legislative Assembly, of the Territories, as requested".²⁰

Thus was concluded the official exchange between the Federal government and the government of the North-West Territories. On August 30, the petitions, memorials and other documents relating to the complaints of the Roman Catholics against certain provisions of the School Ordinance and regulations were referred to the Standing School Committee. They were instructed to inquire into and report on it, and that for the purpose of such inquiry, ample opportunity was to be afforded to representatives of the complainants for appearing and stating their case before the said Committee.²¹

¹⁹ Canada, Secretary of State Correspondence, 1894 (RG6, A1, Vol. 86).

²⁰ Ibid.

²¹ Journals of the Legislative Assembly of the North-West Territories, 1894, p. 86.

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The report of the Standing Committee on Education was given on September 6. In general, the Committee was in full agreement with the existing Ordinance. Proposals were given that school might be opened with the recitation of the Lord's Prayer if so directed by the trustees; that upon reasonable objections being shown to any selection in any of the Readers then in use, that such selections were not to be prescribed. Yet at the same time, they stated that they could recommend no change in the History text book that had been rejected by the Catholics. Although amendments were suggested to this report by Catholic members, it was this report that was read.²²

What was the result of this report of the Standing School Committee, of the memorial of Cardinal Taschereau and of the Order of the Governor General in Council? As will be seen in the conclusion, the only amendment of note in 1894 was that school was permitted to be opened with the Lord's Prayer. The above documents did not change the attitude of the majority. The implications of the laws were known when they were drawn up and no one was in a hurry to have them changed on the advice of the Federal Government. Autonomy was being sought, and this was in all fields. No further

²² Journals of the Legislative Assembly of the North-West Territories, 1894, p. 120-130.

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action was taken by the Catholics in the west until the year 1896 when a Remedial Bill was introduced into Parliament seeking the repeal of the Manitoba School Law of 1890. This also was of no avail.

CONCLUSION

The case for separate schools had been presented by the minority. Many injustices had been wrought and the French Catholic minority sought equality from the English-speaking and Protestant majority, having before their eyes the often quoted illusion of British "fair play". Protestants were no longer concerned with separate schools except in a few areas where they were the minority. Separate schools were but a name because in reality the Catholics had no control over their schools. Now they no longer had an authoritative voice in the Council of Public Instruction and it was this Council that decided for the most part what was to be done in the schools. Text books that were decidedly anti-Catholic were employed.¹ The inspector was a man known to be in favour of public schools and would oppose both separate schools, their teachers and their advocates. French had been abolished, with the exception of a primary course that was permitted to be taught. Usually a majority of the trustees had to be of French Canadian origin before this was carried out in practice. No religious instructions were permitted in any school until one-half hour before its closing. Catholics were not permitted to have their own high

1 H. Leduc, O.M.I., Hostility Unmasked, School Ordinance of 1892 and its Disastrous Results, Montreal, Beauchemin & Son, 1896, p. 43-48.

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schools. In addition it was found that there was a certain discrimination in the bestowing of certificates to nuns, even though they had received an above standard education in highly advanced institutes in France and in eastern Canada.

Such were the conditions in the new world where democracy, freedom and equality were to rule. The oppressed minority sought the rights that they had lost up to and including 1892 and were defeated. What more could be done?

Having considered the position of the Catholics in 1894 following the legislation of 1892, we must now consider a most important question: what was the importance of this legislation with reference to the future? Its main claim to distinction was that the subsequent changes in school law did not alter the basic pattern of the separate school system. In 1894 an amendment in the School Ordinance permitted school to be opened with the Lord's Prayer.² An important amendment in 1896 permitted a company holding property in an area where a separate school district existed to direct that a part of its property be assessed in support of the separate school. The amount of such assessment was to bear the same ratio in the total assessment of the company as the value of the stock in the company held by people of the same religious faith as the separate school supporters bore to

² Ordinances of the North-West Territories, 1894, No. 9, s. 7.

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the total value of the stock of the company.³ This legislation was permissive, but not obligatory to any company and as a result was not very efficacious in practice.⁴

Though no change in the operation of separate schools was effected thereby, it is worthy of note that in 1901 the Council of Public Instruction ceased to exist, and a Department of Education was formed to administer school law in the Territories. The Department which was headed by a member of the Executive Council, assumed all the duties performed by the Council of Public Instruction.⁵ The importance of the School Ordinance of 1901 lies in the fact that it defined the rights and privileges held by minority groups with respect to education that were made permanent when the provinces of Alberta⁶ and Saskatchewan⁷ were constituted.⁸

Thus we can see the importance of the Ordinance of 1892. It was the final groundwork for all school legislation

3 Ordinances of the North-West Territories, 1896, No. 2, s. 125.

4 See Appendix 8 for the development of this tax provision.

5 Ordinances of the North-West Territories, 1901, c. 29.

6 Statutes of Canada, 4-5 Edw. VII, c. 3.

7 Ibid., c. 42, s. 17.

8 See Appendix 9 for an important consideration of the Ordinance of 1901 and high schools.

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of the future. This was seen clearly by the Hon. Mr. Clifford Sifton when he was discussing the Saskatchewan Autonomy Act in 1905:

What followed the passage of this law?⁹ There was established in the North-West Territories a complete dual system of schools; a system under which the denomination regulated the text books, and the conduct of the schools and by which everything that appertained to the Roman Catholic Schools was directly under the control of a Roman Catholic Board of education. We had in the North-West Territories at that time, under that act, to all intents and purposes what are generally known as church schools or clerically controlled schools. That was the system that was built up under this Act of 1875. It went on for some time. It was exactly the same system — I do not know as to the efficiency, for I am not familiar with that — but in principle it was the same system we had in Manitoba up to the year 1890, when it was abolished by the Public School Act of that year. This system went on for some time in the Territories, and then the legislatures began to interfere and to curtail the privileges of the separate schools. This curtailment proceeded from time to time until the year 1892 when what was known as the dual system was entirely swept away and that system which we have in the North-West Territories, substantially as we have it as present, was established. I am not going to trouble the House with any lengthy quotations, but I desire to point out what was conceived by the people of the North-West Territories connected with these schools to be the effect of the legislation of 1892.¹⁰

What was the effect of the opposition against the legislation of 1892? Without a doubt it was due to this opposition that separate schools were not abolished as they

⁹ Reference to the School Ordinance of 1875.

¹⁰ Canada, Debates of the House of Commons, 1905, Vol. 2, col. 3100.

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were in Manitoba. The people became aware of their rights, duties and obligations; both towards their children and towards the common good. It brought the minority together, the minority which was itself becoming divided because of racial and cultural differences.

The detrimental effects were also very apparent. Many harsh and bitter words were exchanged from both sides. The most apparent complaint of the minority was the prejudice of the Superintendent of Education, who was both anti-French and anti-Catholic and was the Grandmaster of the society whose whole purpose is to conduct activities against the Catholic Church.¹¹ Much of the openness of the pioneer days was lost as a result of this battle and, more than any cultural background, tended to separate the people. The riches of the French language and culture were soon lost to the majority of the people and only with great difficulty did the French Canadians manage to keep alive the light of their heritage.

Thus do we arrive at the end of the consideration of the historical and legal development of separate schools in the North-West Territories. Although it was not within the scope of this thesis to consider the nature of Christian

11 Cf. H. Leduc, O.M.I., Hostility Unmasked, School Ordinance of 1892 and its Disastrous Results, p. 6-7, 19-20, 67-75.

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education it is imperative to at least state it briefly in order to show the reason why Catholics strive to maintain their schools. In general we may state that the purpose of Christian education is to impart a knowledge to our children that will enable them to judge situations by themselves, that will enable them to develop themselves, to become good citizens, both in the city of man and the city of God. The object to be aimed for is excellence in the fields of learning; mediocrity is not to be tolerated.

What is the purpose of Christian education as given in our separate schools? Here the reality of the inter-relationships between common natural knowledge and divinely revealed knowledge is considered. All natural knowledge is taught fully, and once again, the only standard to be sought is excellence; however, this is taught in a Christian environment. A fuller meaning is given to the complete body of learning and the purpose and necessity of these studies become more apparent. A so-called neutral environment is an absurdity as all teaching is given in a concrete situation with relationship to ways of life and activities.

This was clearly affirmed by Pope Pius XII in his allocution to the Catholic School Teachers of Bavaria, December 31, 1956.¹²

¹² Quoted in The Benedictine Monks of Solesmes, Papal Teachings, Education, translated by Aldo Rebeschini, Boston, Daughters of St. Paul, 1960, p. 535.

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The school, giving instruction day after day throughout the year, acts like a force of nature, slowly but constantly, almost imperceptibly, and therefore most profoundly. It should not be said that teachers must set aside their personal convictions while they teach. That would be asking the impossible even for teachers said to be neutral, and even more so for teachers with strong convictions. It would offend the elementary rights of man to compel parents by law to send their children to schools where the teachers are indifferent, negative or even hostile to the religious and moral convictions of the parents.

Catholics are convinced of their right and duty to provide a Christian education for their children. Difficulties have been met in the past and yet remain; nevertheless the striving for justice continues. Rights that are inherent in men may be suppressed, they never are taken away. We must always strive to bring about the perfect fulfillment of these rights.

In conclusion it is necessary to point out that in situations as complex as the present one, we must hesitate to condemn and hasten to consider the viewpoint of our neighbour. The majority of men are imbued with the spirit of justice and fair play and need only see the reasonableness of a situation before giving it their support. The passions and anxieties of an emerging people and provinces have long passed.

This study has been intended to give new light on the historical development of our school system, with special reference to separate schools. Legislation until 1892

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has been studied in particular and this legislation must serve as the foundation for a later study on this question. The importance of this study on the school question has been pointed out by many prominent writers and leaders of our day. It is for us to judge the facts, both historical and present, to see how justice and the common good may be best served.

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Abbot Weber is the Abbot Ordinary of the Abbacy of
Muenster, Saskatchewan.

APPENDIX 1

Archbishop Taché
in answer to a report
of the Committee of the Honorable Council of Canada¹

When I met the governor general in Ottawa, in 1870, he insisted, in a special manner, that I should accept his word as a sure guarantee. He was not acting simply on the advice of his responsible ministers, but he was acting as the direct representative of our beloved Queen, having received from her majesty's government a special direction to that effect.

As a proof of this special mission, his excellency, in alluding to his proclamation of December, 1869, told me: "The proclamation I drew up in accordance with the message of Lord Granville." That proclamation had not yet been promulgated in the Red River Settlement; it was given to me with the request to make it as widely known as possible; specially among the catholic population. His excellency pointed out the following passage: "By her majesty's authority I do assure you that on the union with Canada all your civil² and religious rights will be respected."

A catholic population does not enjoy full religious freedom when impeded from having schools in accordance with their own ideas or convictions. This was well known to the governor general of Canada when he promised respect and attention for our religious persuasions, when he assured the catholics that their religious rights and privileges would be respected. It would have been a mockery to add that there would be no protection for catholic schools.

¹ Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 45.

² This included the use of the French language.

APPENDIX 2

The British North America Act, 1867, Section 93

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:-

(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 Union:

(3) Where in any Province a system of separate or dissentient schools exists by law at 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.

The first sub-section made it ultra vires of a provincial legislature to pass legislation that would prejudicially affect any right or privilege with respect to denomination schools which any class of persons had established by law at the time of Confederation. It followed that offended parties could appeal to courts of law to have set aside legislation which contravened this sub-section.

No law compelled any provincial legislature to introduce a system of separate or denominational

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schools if such a system was not in operation at the time the province entered the union. If, however, subsequent to its entrance into the union a province should legislate separate or dissentient schools into existence, sub-section 1 made it beyond the power of the provincial legislature to withdraw the rights and privileges so extended. Should it attempt to do so, immediately its action became revisable by the Dominion government.

Sub-section 3 applied to any right or privilege in relation to education, whereas sub-section 1 applied to denominational schools only. Instead of an appeal to the courts as under sub-section 1 which referred to rights already legally defined, the appeal under sub-section 3 lay to the Governor-General in Council. It would appear that those responsible for the wording of this sub-section of section 93 felt that a governing body would be in a better position to pass judgement as to whether an act or decision of a provincial body affected the right of a religious minority in relation to education, than a judicial body. The word "prejudicially" is not used in this section; this seems to bear out the view that something wider than a mere question of legality was intended. The protection afforded under this sub-section was also extended to provinces where rights or privileges in regard to education were already enjoyed by religious minorities at the time of the union.

Sub-section 4 of section 93 defines the conditions under which the parliament of Canada may legislate concerning education. There appear to be two conditions under which such legislation is possible.

1) If the Governor General in Council should feel that a provincial legislature has failed to pass such laws as are necessary for the execution of section 93 the Parliament of Canada may pass such laws, but only in so far as the circumstances warrant.

2) If a provincial legislature fails to pass laws to make effective a decision of the Governor-General in Council arising from an appeal under sub-section 3, the Parliament of Canada may pass such laws as are necessary for the due execution of the decision of the Governor General in Council.¹

¹ G.J. Langley, Saskatchewan's Separate School System, Unpublished Doctoral Thesis, Columbia University, 1951, p. 34-36.

APPENDIX 3

Dalton McCarthy

Was born in Ireland, Oct. 10, 1836. Came to Canada 1847. Called to the bar, 1858, he entered on the practice of the profession with his father. He was first returned to Parliament, Dec. 14, 1876.

He broke with the party (Conservatives) in 1889, in consequence of the position taken by the Cabinet on the Mercier Jesuits's Estates Act — a position to which the almost entire Protestant sentiment of the country was opposed. From this time he assumed an independent attitude in politics. He was placed at the head of the "Equal Rights" movement, and in that character fought with courage and resolution for the rights of the people whose cause he espoused.¹

A political man, whose name is not yet forgotten, Dalton McCarthy continued his campaign of hatred and of national disunion. Rebuffed by Ontario in the firm resistance of Mowat, he brought the war to the West and seeded the germs of discord in these new regions where the politicians in search of unhealthy popularity, were more numerous than the men of the State, concerned that justice might triumph and to preserve the integrity of the nation.

It is known what success crowned the efforts of McCarthy in Manitoba (i.e. the abolition of separate schools). In the North-West, his disciples found themselves constricted by the fetters that the federal parliament had imposed upon them in 1875 and 1877. In the session of 1889, the Legislative Assembly of the Territories voted two addresses to the federal parliament demanding the repeal of the articles of the Territories which safeguarded the existence of separated schools and the usage of the

¹ Henry James Morgan, The Canadian Men and Women of the Time (A Hand-Book of Canadian Biography), Toronto, Wm. Briggs, 1898, p. 719-721.

APPENDIX 3

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French language. When Parliament refused to acknowledge as right these unjust demands, the Assembly returned again to its task in 1890.²

² (Translated from the French) Henri Bourassa, Les écoles du Nord-Ouest, Montréal, Nationaliste, 1905, p. 13.

APPENDIX 4

The North-West Territories Act, 1886

Section 14:

The Lieutenant Governor in Council shall pass all necessary ordinances in respect to education; but it shall therein always be provided, that a majority of the ratepayers of any district or portion thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor; and also that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, — and in such case, the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof: [...].

Section 110:

Either the English or the French language may be used by any person in the debates of the Council or Legislative Assembly of the territories and in the proceedings before the courts; and both those languages shall be used in the records and journals of the said Council or Assembly; and all ordinances made under this Act shall be printed in both those languages. 43 V., c. 25, s. 81.

APPENDIX 5

Opposition to Bill No. 126
by Lieut. Col. Guillaume Amyot¹

When the question came up to incorporate Manitoba and the North-West in the Dominion some great troubles arose. Troops were sent there and then, on the invitation of the Ottawa Government, delegates were sent there. The Government of England took great care that the incorporation of that province in the Dominion would not be effected without the consent of the parties interested. The delegates came to Ottawa with a Bill of Rights. I hope that the hon. gentlemen who place themselves under the flag of equal rights will not desire to see any rights infringed, and they will see that the North-West would not have joined the Dominion if the claim made by the North-West generally, and not only by Manitoba, had not been accepted. Those delegates who were specially appointed, in conformity with the invitation of the Government of this country, came to Ottawa and presented their Bill of Rights. The seventh clause of that Bill of Rights says:

"That the separate schools be preserved and the money for those schools be divided between the different religious denominations and their respective populations, according to the system followed in the Province of Quebec."

Section 16 says:

"That the French and English languages be common in the Legislature and in the courts, and that all the public documents as well as the Acts of the Legislature be published in both languages."

And in a report elaborately prepared by His Grace Mgr. Taché, dated the 27th December, all the facts that occurred then are related and it says on page 7:

"The question of separate schools as asked for in Article 7 of said Bill of Rights was taken under consideration. The delegates were assured that not only would they have the benefit of the clauses of

¹ In Canada, Debates of the House of Commons, Vol. 11, 54-55 Vict., p. 3915.

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the British North America Act, but that they might assure their people that in the Red River district the separate schools were guaranteed to them, and the usage of the French language as an official language was also granted as it had been in Article 16 of said Bill of Rights."

APPENDIX 6

The reasons for non-approval
were given by Father Leduc

On the 4th September, 1894, the catholic representatives were for the last time invited to come before the School Committee, to lay before them their reasons for declining the Readers and Histories prescribed by the Council of Public Instruction for Public and Separate Schools alike.

The Reverend Father Sinnett, parish priest, Mr. R. Rimmer, lawyer, Mr. John McCarthy, merchant, all of Regina, and Mr. E. Bourgeois, B.A., teacher at Duck Lake, gave us their devoted aid, and came themselves to prove the truth of our assertions.

Fr. Sinnett:

"I object to the History of Buckley and Robertson in toto, not that the entire book is to be considered wrong, but the general tone is decidedly anti-catholic giving a wrong impression of the Church, the Pope, Priests, Monks and that the monasteries were hot-beds of corruption. On the other hand all those opposed to the Catholic Church and her doctrines are held up as models of regularity, holy men, whose only motive was the cause of God and the purification of morals."¹

Rimmer:

"This History is objectionable because (1) It is deliberately unfriendly to the Catholic Church (2) It presents disputed matters of History in the light most unfavorable to the Catholic Church (3) It deals but very incompletely with historical points of vital interest to Catholics (4) It places before our children a view of the History of England entirely out of accord with the religious and intellectual belief of their parents."²

1 H. Leduc, O.M.I., Hostility Unmasked, School Ordinance of 1892 of the North-West Territories and its Disastrous Results, Montreal, C.O. Beauchemin & Son, 1896, p. 42. Examples are given from p. 43-44.

2 Ibid., p. 44. Examples are given from p. 44-46.

APPENDIX 7

Statements of Mr. Haultain

Mr. Haultain, in his first letter to the Governor General, on January 4, 1894, stated very simply:

The only change of text books for these schools since 1888 was made at the last general meeting of the Council of Public Instruction held in June 1893. At that meeting and with the approval of the Reverend Father Caron, a Roman Catholic member of the Council, a uniform series of text books for all Schools was prescribed, with one exception.

At the Reverend Father Caron's request, Roman Catholic Schools were allowed to use as optional text books the Roman Catholic Readers in the primary classes.¹

In his letter of January 12, he stated that in striking from the list of books for Roman Catholic Schools the Metropolitan series of readers, he was but following the example of the Roman Catholic Committee of the Council of Public Instruction of the Province of Quebec.² He conveniently neglected to mention that in Quebec these books were replaced by other Catholic readers.

Fr. Caron, refuting the claims of Haultain stated:

During the same month, Mr. A.E. Forget, my colleague in the Council of Public Instruction, Mr. A. Prince, M.L.A. for St. Albert, Mr. C.E. Boucher, M.L.A. for Batoche, and myself had an official interview with the members of the executive council;

1 Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 14.

2 Ibid., p. 16-17.

I availed myself of the circumstances to explain once more the idea I had expressed before the members of the Council of Public Instruction, concerning some books used in Catholic schools; refusing thereby to accept any responsibility in that part of the new regulations and asking, as well as the other members of the deputation, that council should restore to the Catholics their right to use Catholic books in their schools.

Should not the members of the executive committee have understood the meaning of my words, at the assembly of the Council of Public Instruction, they have not been able to misunderstand my protest on the day of the above interview.

Nevertheless, notwithstanding such protest, Mr. Haultain affirms, in a public document, that I have given my assent to such tyrannical regulations.³

Many instances similar to these helped to further strain the relationship between the ruling body and the Roman Catholic minority.⁴

³ Letter of Fr. Caron to Archbishop Taché on Feb. 25, 1894, in Canada, Sessional Papers, 40c, Vol. 27, No. 17, 1894, p. 59.

⁴ Cf. H. Leduc, O.M.I., Hostility Unmasked, School Ordinance of 1892 of the North-West Territories and its Disastrous Results, Montreal, C.O. Beauchemin & Son, 1896, p. 3-4, 6-7, 19-20, 29-31.

APPENDIX 8

Tax provision

It is of some interest to see how this tax provision has developed. The Ordinance of 1901 repeated the clause of 1896.¹ When Saskatchewan was formed, it was again provided that a company could require that part of its property be assessed for separate school purposes, but again there was no provision governing the situation where the company failed to give notice.² As a result the separate schools lost out because many times those in charge of the company were not partial to separate schools. The above ordinance was amended in 1913, providing that if any company failed to give a notice, its taxes would be divided in the same proportion as non-corporate property assessed for public school purposes bore to non-corporate property assessed for separate school purposes.³

1 Ordinances of the North-West Territories, 1901, c. 30, s. 93.

2 Statutes of Canada, 4-5 Edw. VII, c. 42, s. 17.

3 Statutes of Saskatchewan, 1912-1913, c. 36, s. 3.

APPENDIX 9

The Ordinance of 1901 and high schools

Although this work is not primarily concerned with the legislation of 1901 and following, it is of importance to at least note the development of the ordinances on high schools, especially since this is presently being considered very seriously in the province of Saskatchewan.

In 1888, according to clause 177 and 178, Union Schools could be established in Catholic and Protestant institutions and have their high school branch as such.¹

Because of the legislation of 1892, this power was lost: "Provided that, where Union Schools are established, the High School Department of such Schools shall be non-sectarian."²

However, in 1893, this section was repealed.³

The School Ordinance of 1901 contained little reference to secondary or high school education. In general, the references to separate schools were as follows:

1 The Revised Ordinances of the North-West Territories, 1889, c. 59, s. 177 and 178.

2 Ordinances of the North-West Territories, 1892, No. 22, s. 184 (d).

3 Ibid., 1893, No. 23, s. 26.

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The minority of the ratepayers in any district whether Protestant or Roman Catholic may establish a separate school therein; and in such case the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof.⁴

After the establishment of a separate school district under the provisions of this ordinance such separate school districts and the board thereof shall possess and exercise all rights, powers and privileges and be subject to the same liabilities and method of government as is herein provided in respect of public school districts.⁵

Any person who is legally assessed or assessable for public school shall not be liable to assessment for any separate school established therein.⁶

The only direct reference to high school education was the following:

No fees shall be charged by the board of any district on account of the attendance at its school of any child whose parent or lawful guardian is a ratepayer of the district;

Provided that if the board of any district maintains one or more departments in its school exclusively for pupils above Standard V as it may be defined from time to time by the regulations of the department it may charge the parent or lawful guardian of any pupil in attendance at any such department a fee [...].⁷

Standards 1-5 were the equivalent to the present Grades 1-8; Standards 6-8 were the equivalent of the present high school

4 Ordinances of the North-West Territories, 1901, c. 29, s. 41.

5 Ibid., s. 45 (1).

6 Ibid., s. 45 (2).

7 Ibid., s. 131.

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grades. Section 131 certainly suggested that any board, which necessarily included any separate school board, could provide secondary as well as elementary education.⁸

It was this ordinance that was solidified in the Saskatchewan Act of 1905, carrying into power that which resulted because of the ordinance of 1901.⁹ It has been shown by Abbot Weber, O.S.B., that secondary instruction had been given in separate schools in 1903.¹⁰ This was in accordance with their rights and the existing law. In 1907 the Secondary Education Act was passed, making no provision for the establishment of a separate high school district, nor provision for tax exemptions if a separate high school is in fact established.¹¹ Under the 1907 Act, which is still in force today, separate high schools do not receive legislative grants and must be privately supported by persons who are also taxed for the support of the public high schools. It is difficult to see how this legislation does not prejudicially affect any right or privilege with respect to separate schools which the minority had under the 1901 legislation.

8 Douglas A. Schmeiser, Civil Liberties in Canada, London, Oxford University Press, 1963, p. 173.

9 Statutes of Canada, 4-5 Edw. VII, c. 42, s. 17.

10 Jerome F. Weber, O.S.B., Report on Separate Schools, p. 9. This unpublished report was prepared in 1951 by the present Abbot of the Diocese of Muenster, Saskatchewan.

11 Statutes of Saskatchewan, 1907, c. 25.

ABSTRACT OF

Development of the Separate School Legislation
in the North-West Territories from 1867 to 1892

by Rev. James A. Schmeiser,
B.A., S.T.L., M.Th.

This thesis considers in detail the historical and legal development of separate schools, both Protestant and Roman Catholic, in the North-West Territories from 1867 to 1892 and then in brief shows its importance for the future in the province of Saskatchewan.

This basic study was necessitated because of the many present problems arising concerning our separate schools. It is now necessary to go back to the institution of our separate schools and to see how we have lived up to the principles and promises of our constitutional forefathers. Former studies have proven to be insufficient because of the lack of reference to French-speaking sources. This study embraces both English and French sources and tries to give an objective presentation of the facts.

Chapter one discusses the conditions of entry and the entry of the North-West Territories into the Canadian confederation and following this, the development of federal laws, gradually enabling this area to become more independent. Although the rights to separate schools and to use the French language had been affirmed as an inviolable right of the people of the North-West Territories, we see that in

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1891 legislation was passed permitting the abolishment of the use of the French language as an official language of the West and a bill had been proposed that would permit the Legislative Assembly for the North-West Territories to exclusively make laws in relation to education.

Following this development, the thesis discusses the situation in the North-West Territories. The political environment of the period from 1875 to 1892 is first discussed, showing that the political spirit of independence of an emerging people favoured the casting-off of federal dictates that tried to insure the rights of the minorities. A precise study is then made on the important legislative changes; this includes the development of the legislation concerning the Board of Education, separate schools, trustees, and conduct of schools. A gradual decline of the rights of the people over separate schools is shown, culminating in the extreme legislation of 1892 where, according to many prominent writers of the period, separate schools existed no longer in fact, but in name only. Finally, a short synopsis of the legislative activities that brought about this legislation is given.

Chapter three discusses the futile opposition of the minority against this prejudicial legislation and the replies from the government to this opposition. The main documents are those of Archbishop Taché, Mr. Frederick Haultain,

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the Privy Council of Canada, and an almost unknown but most important document of the Canadian Catholic Hierarchy asking for a settlement of the difficulties presented by the legislation of 1892 on separate schools. The minor results of this opposition are then presented.

The conclusion summarizes the main points of the opposition of the Catholics against the legislation of 1892 and discusses briefly their importance for the future. A special consideration of high school legislation is found in the Appendix. The reason for separate schools is also briefly stated.