

That is the ordinance of 1887 which is reproduced in the ordinance of 1888, almost in words. There is a slight difference with respect to another section which I have not read, and which is not important for my present purpose. Now there is a departure from the principle settled by the Act of 1875 which created a dual system. This Act provides that it is only the minority of the ratepayers in a school district that have the right to establish a separate school.

Mr. R. L. BORDEN. That was not a question of the character of the schools; was it?

Mr. FITZPATRICK. Of course it was a question of the character of the schools.

Mr. HAGGART. Would the Minister of Justice, so as to make me clear about it, say what is the difference between a Catholic public school and a Catholic separate school?

Mr. FITZPATRICK. The difference consists in this: That a Catholic public school is a school of the majority in a district where the Catholics are in the majority, and a Catholic separate school is a school of the minority in a district where the Catholics are in the minority. There is no difference between them; they are both separate schools except that in one case it is the school of the majority and in the other case it is the school of the minority. In reality there is no distinction under the Northwest system, as I understand it, between Protestant and Catholic schools; the distinction is between the schools of the majority and the schools of the minority.

Mr. STOCKTON. Would it not be a public school in both cases; there would be no Catholic or Protestant about it?

Mr. FITZPATRICK. When the ordinances of 1888 were submitted to the Minister of Justice for revision as it is usual, he examined this particular section to ascertain how far it was intra vires of the Northwest assembly. Here is what Sir John Thompson said:

The undersigned has, however, to call attention to another particular, in respect of which he finds that the ordinance does not strictly conform to the requirements of the Act under which it was framed.

Section 14 of the Northwest Territories Act (chap. 50, R.S.C.) provides, that ordinances in respect of education may be made in the Territories, but stipulates that in such ordinances it shall 'always be provided that a majority of the ratepayers of any district or portion of the Territories, 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 a minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein.'

The ordinance respecting schools does not contain the provisions that the statute requires it to contain, but merely contains the provision that the minority may establish a separate school in an organized public school district, thus placing the minority at the mercy of the majority, and only giving the minority the right to establish a separate school, if the majority think proper to organize a public school. It is necessary to point out that the provisions of the Northwest Territories Act, before cited, cannot be abridged by the ordinance, and must be considered as still in force, notwithstanding the restrictive terms of the ordinance. In so far as it is attempted by the ordinance to declare the meaning of the Northwest Territories Act, the ordinance fails of that purpose, and is objectionable as being an interpretation by an inferior legislative body of the Acts of its superior.

The undersigned only refrains from recommending the disallowance of this ordinance in consequence of its being merely a re-enactment of an earlier ordinance which disallowance would not affect, and which was allowed to go into operation, probably because attention was not called to this provision. The undersigned has the honour to recommend that the ordinance bringing these revised ordinances into effect, be allowed to go into operation.

So that you have it on the authority of Sir John Thompson, that the ordinance of 1888, of which he was speaking at the time, was an abridgement of the rights conferred upon the Roman Catholic minority of the Northwest Territories by the Act of 1875.

Mr. R. L. BORDEN. Purporting to abridge it.

Mr. FITZPATRICK. No, he said it effectively abridged it.

Mr. R. L. BORDEN. I think not.

Mr. FITZPATRICK. It goes further than that; it not only purports to abridge it but it actually omits from the ordinance the words which govern with respect to the majority in any school district when that majority happens to be Roman Catholic. The words are used in the ordinance of 1884, but they are omitted in the ordinances of 1887 and 1888 and they have been omitted in every ordinance which has been passed since that time.

Mr. BERGERON. But still the law of 1875 was always in force.

Mr. FITZPATRICK. Of course that follows, the Act of 1875 remains in force and is in force to-day in the Territories. But as a matter of fact, the Roman Catholic minority, notwithstanding that by the ordinances their powers are abridged, have been in enjoyment of all their rights which they had under the Act of 1875, and where they are in a majority in a school district they control the school, they control the trustees, and trustees control the teachers, and to-day in the Northwest the organization of the schools, whether they be public