

LEGAL OPINION GIVEN UPHOLDS CONTENTION OF ROMAN CATHOLICS

**Decision Presented in 1916
by Former Attorney-Gen-
eral Upholds Claim That
Unused Separate School
Grants Should Not Re-
vert to Provincial Coffers**

**READ IN LEGISLATURE
BY HON. R. H. GRANT**

Legal opinions of former Deputy Attorney-General J. R. Cartwright and A. N. Middleton, an official of the Attorney-General's Department, read to the Legislature yesterday by Hon. R. H. Grant, sustain the contentions of separate school supporters with regard to their right to the whole of their allotment in the division of special grant funds.

The document is interesting, not only for the weight it lends to the present representations of the Roman Catholics, but because of the fact that it was presented to the old Conservative Government which allowed the unabsorbed portion of the special grant total to lapse back into Consolidated Revenue Funds. Over a period of years \$100,000 or more of unabsorbed separate school grants were turned back into the Treasury, and the present-day claim of the separate school supporters is that they are entitled to the whole of this amount. Legal action to recover it is understood to be pending.

Seeks to Change Method.

The matter was introduced during second reading of Hon. R. H. Grant's measure to amend the school laws by permitting the Minister to distribute according to the needs and circumstances of the schools rather than on a pro rata basis, the unabsorbed portions of separate school grant moneys. W. F. Nickle, K.C., Kingston, asked if it were the proposal to make the new law retroactive. Receiving a negative reply, he asked if the department had ever received a legal opinion as to the legality of turning unabsorbed grants back into Consolidated revenues.

The legal opinion of J. R. Cartwright, and A. N. Middleton, dated December 15, 1916, read by the Minister, concludes as follows:

"The British North America Act,

by section 93, provides that in each Province the Legislature might exclusively make laws in relation to education, but that '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.'

Existed at Confederation.

"It would seem clear that the share of the public grant on the basis specified was a right of the separate schools existing at the passing of the British North America Act, and under the provisions of section 93, above quoted from the act, it would seem that the Legislature should not prejudicially affect such right.

"We are, therefore, of the opinion that the Roman Catholic separate schools are entitled to the whole of the allotment made to them under the first part of subsection 2 of section 6 of the Department of Education Act, and that the same should be divided among them so as not to leave any surplus to lapse into the Consolidated Revenue Fund, under subsection 5 of the same section. We may add that in expressing this opinion, we are not to be understood as saying that the grant to any school may not be withheld for cause.

"J. R. Cartwright A. N. Middleton, Toronto December 15, 1916."

After brief discussion, much briefer than had been anticipated, Hon. Mr. Grant's bill received second reading. Premier Drury announced that in committee he would move to amend the wording so as to set out that the Minister could apportion unabsorbed grants according to circumstances, instead of the needs of particular schools, which latter wording, he thought, might, in day to come, lead to political divisions of funds.

J. R. Cooke, Conservative, North Hastings, said he thought that the Government, by its measure, was simply spreading the evil, rather than curing it.