

sent by the Protestant ratepayers and electors of said districts to the Board of Education in the month of December, 1890, as to the establishing said Conventual Schools as public schools under said Acts, and protesting against the same; and also a complaint sent by Protestant parents and ratepayers to the Board of Education at the beginning of the year 1893, with regard to the teacher placed in charge of the Grammar School in Bathurst at the beginning of that year, in consequence of which declining to act by said Board of Education, the trustees of school districts aforesaid were allowed to act illegally.

It would seem to me, that the evidence showed that the receipt of communications and representations to the Board of Education from Protestant ratepayers of Bathurst Town and Village was always acknowledged; but it must be evident to any one who considers the nature and functions of the Board of Education that the action to be taken upon such communications and representations, and when and how it should be taken, and what it should be, is a matter entirely left to the exercise of the judgment and discretion of the Board of Education, and that the Government never intended to refer their report whether they had or had not properly exercised their judgment and discretion unless their action or want of action showed an infringement of the School Law and regulations, and it is not because every communication to the Board is not acted upon in the way or at the time that the trustees think it should be acted upon that would establish that the Board of Education had been derelict in the discharge of their duties. For any short comings of the Board of Education they are, I apprehend responsible to the Legislature, and to the Legislature alone.

Grading of the Schools. (7) The seventh ground of complaint is: That the grading of the schools in the said school districts has not been conducted according to law; that the trustees of said school districts have been influenced by the clergy of the Roman Catholic church in said districts have made an effort to compel Protestants in said school districts to send their children to the said Conventual schools, and that the religious trustees of the Roman Catholic church in said districts were by the trustees placed in actual charge of certain departments of the public common schools in said school districts in the year 1891, all of which was brought about in consequence of the employment of the members of the said religious teaching orders of the Roman Catholic church by the trustees aforesaid as hereinbefore set forth.

There was no evidence whatever to warrant the statement that the clergy of the Roman Catholic church in these two districts had made an effort to compel Protestants in the districts to send their children to the school rooms in the Convent buildings. It is true that in Bathurst Village two of the Sisters of Charity, licensed teachers, were placed as teachers in the public school building, but this was done at the instance of the Protestant trustees of the board of trustees. They received but a short time, however, owing to the opposition of the parents of Protestant pupils who declined to send their children to any department in the public school taught by a Sister of Charity.

The evidence showed that in the public school buildings in the Town there were unoccupied rooms, and that this building would accommodate a larger number of pupils than were in actual attendance in the various school rooms of the building, but such evidence did not satisfy me that the public school building in the Town had, as was claimed, accommodation for all the school children of the district. It had not, in fact, in my opinion, such accommodation. It was urged that the cubic contents of the rooms under the regulations were sufficient to allow space for many pupils, but the cubic contents of the rooms, while, no doubt, one, is not the only criterion in determining how many children can be accommodated in the different rooms—that must depend upon a variety of circumstances, keeping in view proper grading, the number of departments, the number of school children in each grade, and other factors—the idea now being not to see how many children can be crowded into a school room, but how the comfort, convenience and health of both children and teacher can best be provided for. In this view, the public school building in the Town the evidence shows, did not in my opinion contain all the accommodation required for the school children of the Town.

It was made apparent by the evidence that a large number of the Roman Catholic children in attendance at the Convent school rooms both in Bathurst Town and Village rendered it difficult to have a proper and efficient grading of the schools both in the Town and Village. This was brought to the notice of Chief Superintendent Crockett, and after Dr. Inch became Chief Superintendent, under his attention the school. The objection to Miss Landry as a teacher was not because she was French, but simply as alleged that while competent to teach according to her class of license she was not such a teacher as should have been placed in charge of the school. The objection to Miss Landry was certainly objectionable on the part of the trustees, and ought not in school interests to have been done. It was claimed to be done on the score of economy, as they wanted a teacher at a small salary; but such a course would be a very serious wrong to the school children of the district. But I cannot see how it could be done to compel the children of Protestants to attend the schools in the Convent school building; for if the feeling existed, as it appears it did exist among the Protestant parents, not to send their children to the rooms in the public school building in which two of the sisters had been placed as teachers, much less would they be inclined to send their children to the school rooms in the convent building taught by sisters, simply because the latter had been engaged in the public school building who held a class of license which Protestant parents thought did not qualify her to teach their children. It seems fair to say that the trustees, after they saw the engagement of Miss Landry was so highly detrimental to the school, although the latter had been engaged for a year, at the end of one term induced her to resign.

That a teacher obnoxious to the Protestant ratepayers in school district No. 2, (the town schools), was placed in charge

of the grammar school in the hereinbefore last mentioned school district at the beginning of the present school term; such teacher was not a grammar school teacher, and had previously been dismissed by the said board of education from the position of school inspector under said board.

(8) The eighth ground of complaint is that by the action of the trustees of the said school districts, as in the statement set out, and by the neglect of the said Board of Education, as also set forth in this statement, the efficiency of the school service in said school districts has been lessened and interfered with in the following particulars:— (a) That inferior and incompetent teachers have been employed in said districts. (b) That the Superior School No. 16, (Bathurst Village), was in such a state of neglect as to render it necessary that the trustees of the Roman Catholic church, and the Grammar School in School District No. 2, Bathurst Town, was also closed. (c) That such closing of the Superior and Grammar Schools was done in order to make it necessary as far as possible that the children of Protestants should be compelled to attend the Conventual schools of the Roman Catholic church, and if possible to establish the latter schools in said school districts. (d) That a French teacher with an inferior grade license was placed in charge of the primary department of the public school in District No. 16, at the beginning of the year 1892, and the Protestant children were compelled either to be under such inferior French teacher or attend the said Conventual schools. (e) That a teacher obnoxious to the Protestant ratepayers in said School District No. 2, (Town schools), was placed in charge of the primary department of the public school in said district at the beginning of the present school term; such teacher was not a grammar school teacher, and had previously been dismissed by the said Board of Education from the position of School Inspector under said board.

This ground of complaint with its subdivisions must have exercised to a large extent the ingenuity of Mr. Skinner and Mr. Fowler, who prepared the complaint for the Rev. Mr. Thomson, so as to incorporate into it clerical interference throughout, from the beginning to the end. The whole complaint in this matter, permeating almost every sentence of it, is an allegation that everything complained of has been done in the interests of the Roman Catholic church; that Conventual schools have been established in their interest, and that there has been a design from first to last on the part of the Roman Catholic clergy of Bathurst Town and Bathurst Village to sow the seeds of discord between the two districts as that children of Protestant parents should be compelled to attend the teaching in the school rooms of the convent buildings. The evidence does not support any such state of facts. I take it that any ordinary, fair-minded man would come to the conclusion that when the Roman Catholics of Bathurst Town and Bathurst Village, after supporting by voluntary subscriptions their own schools for seventeen years and paying during that time the assessed school rates for the support of the schools in these districts from which Roman Catholic children derived but little benefit, concurred in arrangements by which these schools should come under the law, that they might at least be credited with some honesty in the matter, and, instead of being charged with a desire to place the schools under the control of the Roman Catholic clergy, be believed to have accepted the School Law, as the witnesses stated they did—perhaps, with reluctance, but nevertheless with the desire and intention that its provisions should be carried out during school hours in the school rooms which the trustees had taken for the purposes of the two districts.

At the annual school meeting in Bathurst Town held in 1892, considerable discussion took place as to whether money should be voted to keep up the Grammar School in the Town, and feeling being high no money was voted for a Grammar School. Hardly, however, had this taken place when it was felt that a mistake had been made, and two meetings of the ratepayers were held to reconsider the matter, one on the 28th of December, 1892, and the other on the 4th of January, 1893; at the last of which meetings the ratepayers passed a resolution, the effect of which was that the same day for some reason or other, the school in the town should be continued, and the trustees be requested to provide a teacher for it with as little delay as possible.

This explains in a few words the action taken in both districts in respect to the grammar school in the town and the superior school in the village, and I should think without any argument would dispose of the ground of complaint (c), that such closing of the grammar and superior schools was done in order to make it necessary as far as possible that the children of protestants should be compelled to attend the said conventual schools of the Roman Catholic church, and, if possible, firmly establish the latter schools in said school districts No. 20 (town) and No. 16 (village).

Miss Landry's Engagement. (d) The evidence shows that the trustees did place a French female teacher, a Miss Landry, who held only a license of the third class, a license obtained by Academic candidates after four-and-a-half or five months training and under which they are supposed to teach in Acadian districts, in charge of the primary department of the public school in the village; and the Protestant children in consequence did not attend the school. The objection to Miss Landry as a teacher was not because she was French, but simply as alleged that while competent to teach according to her class of license she was not such a teacher as should have been placed in charge of the school. The objection to Miss Landry was certainly objectionable on the part of the trustees, and ought not in school interests to have been done. It was claimed to be done on the score of economy, as they wanted a teacher at a small salary; but such a course would be a very serious wrong to the school children of the district. But I cannot see how it could be done to compel the children of Protestants to attend the schools in the Convent school building; for if the feeling existed, as it appears it did exist among the Protestant parents, not to send their children to the rooms in the public school building in which two of the sisters had been placed as teachers, much less would they be inclined to send their children to the school rooms in the convent building taught by sisters, simply because the latter had been engaged in the public school building who held a class of license which Protestant parents thought did not qualify her to teach their children. It seems fair to say that the trustees, after they saw the engagement of Miss Landry was so highly detrimental to the school, although the latter had been engaged for a year, at the end of one term induced her to resign.

That a teacher obnoxious to the Protestant ratepayers in school district No. 2, (the town schools), was placed in charge

of the grammar school in the hereinbefore last mentioned school district at the beginning of the present school term; such teacher was not a grammar school teacher, and had previously been dismissed by the said board of education from the position of school inspector under said board. By reference to complaint No. 6, it will be observed that it was charged that the board of education had declined to take action in reference to a complaint sent by Protestant parents and ratepayers to the board of education at the beginning of the year 1893 with regard to the teacher. (i.e. the teacher just referred to,) placed in charge of the grammar school in Bathurst at the beginning of that year; and in regard to this charge it will be noted in my remarks when dealing with it that at the argument counsel on behalf of Reverend Mr. Thomson frankly admitted and conceded that the evidence showed that the board of education had in this particular acted as promptly as could have been expected of them.

Mr. E. L. O'Brien's Appointment.

The appointment of this teacher by the trustees was a most unfortunate occurrence. I think it not unreasonable to conclude from the evidence that had it not been for this appointment school matters in the town would not have assumed the unpleasant and regrettable phase which followed this appointment. The report proceeds to refer to the appointment of Edward L. O'Brien, an ex-inspector, who had been dismissed for irregular habits, as teacher of the grammar school. It had been conceded by all that the teacher to be appointed should be a Protestant, and Mr. O'Brien was not, though his father, John E. O'Brien was a Protestant. The latter was one of the trustees, and induced Michael Power, another trustee, to join in making the appointment, the other trustee, Alexander Doucett, not concurring. The appointment was established in their interest, and that there has been a design from first to last on the part of the Roman Catholic clergy of Bathurst Town and Bathurst Village to sow the seeds of discord between the two districts as that children of Protestant parents should be compelled to attend the teaching in the school rooms of the convent buildings. The evidence does not support any such state of facts. I take it that any ordinary, fair-minded man would come to the conclusion that when the Roman Catholics of Bathurst Town and Bathurst Village, after supporting by voluntary subscriptions their own schools for seventeen years and paying during that time the assessed school rates for the support of the schools in these districts from which Roman Catholic children derived but little benefit, concurred in arrangements by which these schools should come under the law, that they might at least be credited with some honesty in the matter, and, instead of being charged with a desire to place the schools under the control of the Roman Catholic clergy, be believed to have accepted the School Law, as the witnesses stated they did—perhaps, with reluctance, but nevertheless with the desire and intention that its provisions should be carried out during school hours in the school rooms which the trustees had taken for the purposes of the two districts.

It must not be considered here that the objection to Mr. O'Brien as a teacher was because he was a Roman Catholic—the evidence would not sustain any such ground of objection. On the contrary, while it is evident that the Protestant ratepayers would have preferred that a Protestant and Mr. O'Brien was not, they were engaged, as understood by the ratepayers, yet from the evidence I do not think there would have been any opposition worth the naming on the part of the Protestants if the person appointed, although a Roman Catholic had been competent and entirely removable, I trust, to use the words of Dr. Inch in one of his letters, "That all parties with mutual forbearance and in the interests of peace and harmony may unite in promoting the educational work of the town;" and I will add of the village also.

Under this head of complaint I cannot think that the evidence establishes that there has been such an excessive cost in maintaining the schools in said districts as the complaint would seek to put forward; but beyond question the school trustees had not up to the time of the investigation fully met, as I think they ought to have done, the reasonable requirements of the chief superintendent of education in regard to grading and average attendance; but as his letter virtually gave the trustees up to the end of the then current term (30th of June, 1893), to meet the requirements he demanded, it is to be hoped that by that date the trustees may have shown compliance with the terms contained in his letter to them.

(10) The tenth ground of complaint is that the said conventual schools were so established for the special benefit of the Roman Catholic church, and with a view of forwarding the interests of such church, and for the purpose of injuring the Protestant church, and to the injury of the Protestant ratepayers of said school districts, who pay a large proportion of the school rates assessed upon the said school districts.

I have already stated that in my opinion no conventual schools, in the sense that the tenets of the Roman Catholic church were to be taught therein, were established or sought to be established in Bathurst Town or Bathurst Village; and all that was done in regard to the taking over of the Convent school buildings in Bathurst Town and Bathurst Village and the engaging of duly licensed Sisters of Charity to teach in the Town and Village, was done for the purpose of forwarding the interests of that church or of injuring the Protestant church or of the Protestant ratepayers of said school districts, as is alleged in this ground of complaint.

Altering the School Manual. (11) The eleventh ground of complaint is that regulation No. 10 of the school manual issued under and by authority of the board of education in the year 1892 was when passing through the press illegally and improperly changed and altered, because the said trustees of said school district objected to comply with the terms of said regulation as originally passed by said board of education, and the reason of their so objecting was that the alteration and change would the better enable such trustees to cut down the rights of Protestants in said school districts.

There is no evidence to sustain any such charge as is put forward in this ground of complaint; that regulation 10 of the school manual of 1892 was when passing through the press illegally changed and altered.

I may here say that when I was a member of the Board of Education and a new School Manual was to be prepared, exactly the same view was adopted as in the present case—a committee was appointed to supervise the publication, with power to make alterations and suggestions, and then when completed such committee presented the printed manual with the alterations and suggestions made by them, which was then adopted in so far as such alterations met the approval of the Board of Education. This disposes of this ground of complaint, besides I may add that the qualification appended to the original draft was in my opinion one that was absolutely necessary

to the efficient carrying out of the spirit of the regulation, because in every case it might not be in the interest of the education of the children of the district to have such a hard and last regulation as was at first drafted. As it now stands, where there are special circumstances, of which the Board of Education must be the judge, these are to be considered in any order that the Board may make under the regulation.

Employment of Protestant Teachers. (12) The twelfth ground of complaint is that in the County of Gloucester, and in other school districts in said county, the said trustees of said hereinbefore last mentioned districts have refused to employ Protestant teachers on account of their religious faith, and because such teachers would not from conscientious scruples agree to teach the Roman Catholic catechism to the pupils of said schools.

Very little evidence was offered in support of this ground of complaint. I cannot find anywhere in the evidence, (it may be there and may have escaped my notice,) that the trustees of any district refused to employ Protestant teachers because such teachers would not from conscientious scruples agree to teach the Roman Catholic catechism to the pupils of said schools.

Assuming all that is stated in this complaint to be true, how can it affect the Board of Education or the provisions of the school law, I am at a loss to understand. It was never, so far as the evidence shows, brought under the notice of the Board of Education; and if it had been, as the trustees can engage such teachers as they think fit, complying in every respect with the law—it may not be proper for Roman Catholic trustees to say to a teacher: We will not employ you, because you are a Protestant; or for Protestant trustees to say to a Roman Catholic teacher: We will not employ you, because you are a Roman Catholic; but how can the Board of Education interfere, and must not the remedy in all these cases be left to the discretion, good judgment and fair dealing of those in whom the law has placed the power of engaging teachers; namely, the school trustees of each district.

As a practical abstract question, we know that probably every trustee in every school district if he were a Protestant would desire to have a Protestant school teacher; and if a trustee were a Roman Catholic, he would desire to have a Roman Catholic teacher; but after all the law has placed the engagement of teachers in the hands virtually of the ratepayers themselves, and the trustees elect the trustees, and the trustees select the teachers.

It does not seem to me that this ground of complaint need further be considered.

A Question of Expediency. (13) The thirteenth ground of complaint is: That arrangements have been entered into between the Board of Education and the trustees of School Districts Number 15 and 16 in said County of Gloucester, under which teachers have been employed with the understanding that they will impart religious instruction in the tenets of the Roman Catholic church to the pupils in the schools of said school districts after the regular school hours, and before the said pupils have departed to their several homes; thereby infringing upon the rights of the non-sectarian character of the schools in the said County of Gloucester.

This complaint, divested of the glamour contained in it about giving religious instruction in the tenets of the Roman Catholic church, which so largely permeates all the complaints, is a very simple one; viz: that Dr. Inch, for what he believed to be satisfactory reasons, and as he understood with the consent of all concerned, sanctioned a temporary arrangement by which certain pupils of District No. 15 might attend school hours in District No. 16, and when in District No. 16, they would be under the control of the trustees of District No. 15 had never assented to such arrangement without his consent, and said the arrangement must terminate; but subsequently, thinking the educational interests of District No. 15 required an extension of the arrangement, he extended it for one term.

It seems to me the case was one which the Board had power to deal with, and which came within the purview of sub-section 5 of Section 5 of the Common Schools Act, Chapter 65 Consolidated Statutes. The Board of Education shall have power to "make such regulations as may be necessary to carry into effect the chapter, and generally to provide for any exigencies that may arise under its operation."

This may be said to be an exigency which the law contemplated the Board should provide for, and the time limit of the arrangement having expired, no good can now be accomplished by further discussions of the question.

I may add that in what was done there did not appear to be any attempt to infringe upon or destroy the non-sectarian character of the schools in Districts No. 15 and 16 in Gloucester County.

Teaching the Catholic Catechism. (14) The fourteenth ground of complaint is that certain of the schools in the County of Gloucester the Roman Catholic catechism has been taught within school hours—that Roman Catholic pupils have been used within such hours in said schools—that Protestant children have been in the habit of kneeling in said schools within said school hours and crossing themselves along with the Roman Catholic pupils—that in one or more instances Protestant children have been forced by their teachers in said schools to so kneel and cross themselves—that in one instance a Protestant pupil in one of said schools was ordered by the teacher of such school to leave the same, because he would not kneel in said school hours with the Roman Catholic pupils, and the said Protestant pupil did leave the said school under and by reason of such order.

Another ground of complaint under this head is that Roman Catholic prayers have been used within such hours in said schools. The regulation as to the reading a portion of scripture and as to the prayers in schools is as follows:—

"Regulation 22—School Manual 1892—Teaching of Teachers with respect to opening and closing of Schools. It shall be the privilege of every teacher to open and close the daily exercises of the school by reading a portion of the Scriptures (out of the common or Douay version, as he may prefer), and by offering the Lord's Prayer, any other prayer may be used by permission of the Board of Trustees. It is no teacher shall compel any pupil to read or recite any prayer, or to wear the wish of his parent or guardian, expressed in writing to the Board of Trustees."

As will be seen, the regulation does not direct or command the teacher to open and close his school by reading a portion of scripture and by offering prayers; it simply states that it shall be his privilege to do so. The evidence before me showed a very varied practice among teachers in the carrying out of the privilege given them by this regulation. Some teachers opened their school by reading scripture and offering prayer, and then before dismissal at the noon recess again offering prayer, and then at the opening of the afternoon session again offering prayer, and when the school closed by scripture reading and prayer, construing the regulation to mean that the forenoon session should be opened and closed with prayer. Other teachers said prayers at the opening of the forenoon and afternoon sessions only, and one teacher had prayers at the opening of the forenoon and afternoon sessions and at the close of the school.

The regulation seems to be plain enough, and, when the teacher desires to exercise his privilege of reading scripture and offering prayer, contemplates that such scripture reading and prayer should take place only twice in any daily session of the school, namely, at the opening of the school, and at the close of the daily exercises, and does not contemplate the saying of prayers just before and immediately after the noon recess or the hour allowed for recreation.

The saying of prayers, therefore, just before and just after the noon recess would be contrary to the regulation.

Another objection is that the prayers which were used by the teachers were those which were called and known by the names of "The Angel Mary" and "The Angelus." The Lord's prayer was also used.

The saying of these prayers, where they were used by permission of the trustees, cannot be said to be in violation of the wording of Regulation 22, and in all cases but one I think it was shown by the evidence that the teachers who used them did so with the permission of the trustees, and in that one case the teacher did not directly apply to the trustees for permission, because he said he was aware of the fact that former teachers in the same district had used such prayers, and the trustees knew he was using them. It is not for me to say that the Board of Education did not contemplate that the permission granted to the trustees to use any other prayer would be construed by the trustees in such a manner as to permit what are strictly Roman Catholic prayers to be said by the teacher at the opening and closing of the daily school session. All I can say is that the doing is not in my opinion contrary to the words contained in the regulation.

The regulation was originally made on the 15th of November, 1871. (Regulation 21, School Manual 1872;) and is the same as the present Regulation 22, School Manual 1892.

Did Protestant Children Kneel? Another ground of complaint under this head is that Protestant children have been in the habit of kneeling in said schools within said school hours and crossing themselves along with the Roman Catholic children.

I am not aware that the kneeling by the children in the school during the saying of prayers by the teacher is objectionable, and will not so far insult the intelligence of the complainant or the counsel as to suppose that that is the gist of this ground of complaint; that is, that Protestant children were in the habit of crossing themselves along with the Roman Catholic pupils. It was manifest from the evidence that the Protestant parents in these districts knew that the children knelt in school during prayer time, and that the Roman Catholic children crossed themselves; and it was quite open to them if they did not desire their children to be present at the reading of the scripture or the saying of prayers that they could under the provisions of regulation 22 have expressed their wish in writing to the board of trustees that they did not desire their children to

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