

Lord Justice Mellish.—There is an Act relating to Parish Schools which made every parish school in New Brunswick a non-denominational school. You say they had a system by which a majority of any denomination in a Parish could establish a school for their own denomination.

Mr. Brown.—I admit as a fact that there are some districts in which the inhabitants were mixed and the teaching was that of a mixed character.

Lord Justice Mellish.—But then a Roman Catholic majority would have the power of making a Roman Catholic School. I do not see how you could make any difference between the places where they had not a majority at the time of the passage of the Act and where they might get one hereafter.

Mr. Brown.—You have taken away from the totality of the Roman Catholic or Protestant inhabitants of the districts the power to establish schools in which their own religious tenets are taught. They cannot establish such Schools under the new Act.

Mr. M. Smith.—Nor under this Parish Act.

Mr. Brown.—If there was an immigration of Protestants into a Roman Catholic parish and a subsequent change in the religious views of the majority, that change would affect the character of the school.

Lord Justice Mellish.—The teacher is bound to give instruction in the principles of Christianity.

Mr. Brown.—Yes.

Lord Justice Mellish.—And undenominationally.

Mr. Brown.—I submit that is not so.

Lord Justice James.—Do you think it is worth while going on with that? These words are as clear as they can be. I cannot conceive that any words could more clearly convey the determination that these schools should not be denominational. That seems to be the plain meaning of those words, as plain as anything can be expressed in the English language.

Mr. Brown.—Is it possible to put that construction upon them, having regard to the way in which this Act was worked?

Lord Justice James.—I do not think we can look at that. We have a plain Act of Parliament to construe, and we have nothing to do with the mode in which it is worked.

Mr. Brown.—The Legislature in passing this Act of Union may be supposed to have had regard to the state of religious teaching at the time, and the wishes of the majority.

Lord Justice James.—They knew what the law was.

Mr. Brown.—They must be taken to have had knowledge of the state of things disclosed by the affidavit, from which it distinctly appears that in a great number of districts in this Province, Roman Catholic teachers were elected, they had the Roman Catholic Catechisms in the schools, they used Roman Catholic books of devotion, and they read the Bible also. That state of things is distinctly prohibited by the new Act, which says in terms that the schools are to be non-sectarian.

Lord Justice James.—The first Act said so.

Mr. Brown.—Of course your Lordship does not allege that there are any such terms to be found in the first Act. All that can be said is what your Lordship has called attention to in section 8, about reading the Douay version without note or comment, the object of which I have endeavored to point out. The fact is the notes to the Douay version were distinctly notes of controversial theology.

Sir Montague Smith.—Supposing there are children who do not read the Bible at all, others who read it in its entirety, and others who read it in the Douay version, how can you say that is a Denominational School?

Mr. Brown.—I do not know that that would be a Denominational School. It would be difficult to say that was so, but I am obliged of course, to put it in this way, that they were only Denominational Schools where the majority of the inhabitants of a district were Protestants or Roman Catholics or belonged to some particular sect.

Lord Justice Mellish.—Must not a Denominational School, within the meaning of the first sub-section of the 93rd section, be a school which is to be always denominational? Would a school, which may be denominational one year and belong to a particular sect, and then the next year to another sect according to the majority of the inhabitants in its favor, be a Denominational School, which any particular class have by law?

Mr. Brown.—Your Lordship has represented the case in a very strong light, undoubtedly. I cannot say they were denominational in perpetuity. I am compelled by the necessity of the facts to admit they might cease to be so; but still they would be so as long as the majority of the inhabitants of a district continue in the same faith, as they do for generations in these parts.

Lord Justice Mellish.—Is there anything more to be said upon that, because if not, there seems to be an end of it?

Mr. Brown.—I do not know whether some light is not thrown on the construction of the first article by the second article in section 93 of the Imperial Act: "All the powers, privileges and duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic subjects shall be, and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec." This second article applies to the Pro-