

Separate Schools within the province of Ontario, when such members have not received certificates of qualification to teach in the public schools of the province?

The case came on for hearing on 10th October, 1905, and was presented by counsel without argument.

G. F. Shepley, K.C., for the religious communities.

G. F. Henderson, Ottawa, for lay teachers.

W. D. McPherson, for the Ontario Department of Education.

The Court expressed the opinion that the question must be answered in the negative, but withheld the formal pronouncing of an opinion in order to prepare the certificate to the Lieutenant-Governor in council, and the reasons therefor, as required by the statute.

The following is extracted from the certificate of the Court, dated 12th January, 1906, and is the opinion of the Court (MOSS, C.J.O., OSLER, GARROW, MACLAREN, J.J.A.), delivered by

MOSS, C.J.O.:—A question very similar to this arose in an action inter partes, and was dealt with by MacMahon, J., and afterwards by this Court, in *Grattan v. Ottawa Separate School Trustees*, 8 O. L. R. 135, 9 O. L. R. 433, 4 O. W. R. 58, 389.

The legislation bearing on the question, including the Acts specially referred to in the stated case, was fully considered in the course of that case, and for present purposes a brief reference to some of the Acts will suffice.

The present statute law of Ontario respecting the qualification of teachers of separate schools is contained in R. S. O. 1897 ch. 294. Section 36 declares that "the teachers of a separate school under this Act shall be subject to the same examinations and receive their certificate of qualification in the same manner as public school teachers generally; but the persons qualified by law as teachers, either in the province of Ontario, or at the time of the passing of the British North America Act, 1867, in the province of Quebec, shall be considered qualified teachers for the purposes of this Act."

Under the Public Schools Act, R. S. O. 1897 ch. 292, a person must, in order to qualify as a public school teacher,