

He has referred to some of the judgments of the Court in the *Attorney-General v. Mackintosh*, 36 N. S. R. 177, in support of this view, and I think it sufficient to point to the authorities cited in my own decision in that case to uphold the judgment here. The Attorney-General here has intervened for the protection of the ratepayers of the section where mischief or injury has been done or intended to be done. Vide *James, L.J., in Attorney-General v. Great Eastern Railway Co.*, 11 Ch. D. 484.

But there is yet another substantial ground on which the Attorney-General properly became a party—that is to say, the fact that being for the use and benefit of the school section it was a charitable trust, and for the protection of such trusts he is always a proper party. That it came rightly under this designation is beyond question and all gifts for the promotion of education are charitable in a legal sense and are highly favoured. Vide, 5 Am. & Eng. Ency. 929, and the authorities there given. On the right and duty of the Attorney-General to be a party in cases of charitable gifts I refer to the learned and full judgment of Gray, J., in *Jackson v. Phillips*, at p. 539, 14 Allan Mass. Reps., also *Lewin on Trustees*, p. 1139, and authorities cited.

It was argued that the trustees had no power to accept a gift of property unless given for the use or support of common or high schools. This property certainly was obtained, subscribed for and intended for the use of the school section, and seems to come within the meaning of sec. 55, ch. 52, sub-sec. (a) of the Education Act, and it became the duty of the trustees under that section to take possession of it, and hold it as school property; and they were guilty of a breach of trust in abandoning proceedings for its retention.

For these reasons, I am of opinion that, this appeal should be dismissed with costs.