

real or personal property or income. No class or creed had under the Act any peculiar right, either in the General Government of the whole Province, or in any Parish or School. Now when all this machinery for working the Act relating to parish schools had been made, is it not a striking proof of the determination of the Legislature to avoid the very thing which it is contended the Act authorises by restricting the power of the Board of Education to make rules and regulations in this respect, and expressly excluding from the School Libraries Works hostile to the Christian religion or Works of Controversial Theology, while it left the inhabitants free to elect their local agents, who shall employ their Teachers and look after the Schools. To secure to every man, and the child of every man, a just equality with regard to his religious faith, it enacted in effect that the great leading principles of Christianity should be inculcated in the Schools, but there should not be in the library a book upon Controversial Theology, or in other words, with denominational teaching.

Their Lordships agree entirely with that view, and with that mode of expressing the law by Mr. Justice Fisher.

It has been contended on the part of the appellant that *de facto* they became Denominational Schools in this way — that is to say, that whereas the whole machinery was left local that the ratepayers had the power of appointing the master, and the ratepayers had the power of appointing the trustees of the school, but where the whole inhabitants of a district or the great majority of a district belonged to the Roman Catholic faith, or belonged to a Protestant sect, then they could so work the school practically as to give it a denominational character or a denominational line — that is to say, if all the children were Roman Catholics, Roman Catholic teaching would be found in that school; but that that might be the accidental result of the mode of working the Act under the old system, is not to give a legal right to that denomination, which was the right alone which was intended to be protected by the Federation Act of the Dominion of Canada. It is an accident which might have happened to-day, and might have been reversed to-morrow, by a change of the inhabitants of the district or a change in their views, and that is not a thing to which it is possible to give the colour of a legal right.

Their Lordships are therefore of opinion that there is nothing in the ground taken by the appellant, or anything unconstitutional in the Act of New Brunswick; and therefore their Lordships will recommend to Her Majesty that the appeal be dismissed and dismissed with costs.

[From the short hand notes of Messrs. Walsh & Son, 3 Little George Street, Westminster.]