

the Defendants until the trial. The bulk of the evidence on both sides was put in on the 25th of June last, when an adjournment was asked for and obtained by the defendants to enable them to make further searches in the records of the Education Department, and, though strenuously opposed, the Injunction was continued. The adjournment was decidedly an indulgence to the defendants, as, so far as I am aware, no intimation of the application was given until the evidence for the defence was well advanced. The object of the action, the terms and aim of the Injunction, and the conditions necessarily implied upon an adjournment, should without more have been a sufficient guarantee that the efficiency of the schools would be preserved and the *status quo* honourably maintained pending the delay; but, had I known then that Mr. Genest contemplated what he has since consummated, namely, the turning out of the whole teaching staff, there would have been no adjournment without such additional guarantees as would have rendered the present disgraceful and disastrous conditions impossible.

Every Separate School in Ottawa is closed, 7,000 or 8,000 boys and girls are without the means of obtaining an education, and the vicious and perhaps criminal habits which some of them will inevitably acquire in a life of idleness will probably never be shaken off. The teachers were discharged, if they were discharged at all, by Mr. Genest. This was done pursuant to a resolution of the Board, opposed by the plaintiffs, purporting to delegate to him the entire question of the discharge and engagement of teachers. Mr. Genest is a keen, intelligent gentleman of excellent address, and in giving evidence argued the case from his standpoint with singular ability, but I failed to glean from his statements that he has actually a single teacher immediately available of the qualified class, and he frankly disclosed that one chief object of his action was to create a condition of things which would compel the Department to consent to the employment of some twenty-three Christian Brothers who are without professional qualifications.

I am asked to continue the injunction, and the injunction will be continued until I have given judgment in the action, and it will be continued with the addition that, if the plaintiffs desire it, it will be so amended as in words to apply to the servants, agents, employees, and representatives of the Defendants, as well as to the Defendants, and, on the other hand, I reserve the right to the Defendants to apply for leave meantime to dispose of some of the debentures should an actual emergency arise.

I am asked, too, to make an interim order directing that the schools shall be opened forthwith and that the former teachers shall be restored to the positions they occupied in the schools prior to and at the end of the last half year. It is argued for the Defendants that for me to do this would be to usurp the functions and duties of the trustees. That, of course, I cannot do, however deplorable the conditions are now or however intolerable they are likely to become during the many months—probably years—that must elapse before the issues in this action are finally determined. There is no use in saying that it is easy; it is a difficult question to deal with. It was argued at great length that the remedy does not arise in the action and that the rules of procedure bar the way. Rules of procedure are for the convenience of litigants and the Court, and the advancement of justice and should not be invoked to perpetuate a wrong. If the relief asked is incidental to the action, I can grant it if it would be granted upon substantive motion. But the more important point is to draw the line correctly between the jurisdiction of the Court and the exclusive functions of the trustees. If amendments of the pleadings are necessary to meet the evidence and define the issues as they have developed and there is no answer of surprise the pleadings can be, and in this instance they may be amended.

As to the dividing line then? In matters relating to the schools under their control, the defendants are clothed with wide discretionary and quasi-judicial powers. Assembled at a properly constituted meeting of the Board, regularly conducted, dealing with matters within their jurisdiction and acting in the *bona fide* discharge of their duties and in harmony with the laws of the Province, the regulations of the department and any existing judgment or order of the Court affecting them, the conclusions