

## The Catholic Record

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LONDON, SATURDAY, DECEMBER 11, 1916

### THE MEREDITH JUDGMENT

In view of the fact that the newspaper summaries of Mr. Justice Meredith's judgment in the Ottawa Separate school case were in some cases inadequate if not positively misleading, and that some uneasiness was felt because of the misapprehension thus caused, we deem it useful to reproduce textually the entire judgment as handed down. A careful reading of the text will show that any apprehension felt, or any adverse criticism passed, was due entirely to such misapprehension.

The document reached us too late to give it place conveniently elsewhere than in the editorial columns, and as it takes up so much space we shall reserve our comment on it until next week.

The single question involved in these actions is: Whether the legislation in question, which provides for the suspension of the powers of the Ottawa Roman Catholic School Board, and for conferring such powers upon a commission, is within the legislative power of this Province; and that question has been, in argument, further confined to the single point: Whether such legislation "prejudicially affects any right or privilege with respect to denominational schools" which "Roman Catholics" had in Upper Canada, at the time of the passing of The British North America Act, 1867.

The plaintiffs, the School Board and some Separate School supporters, bring these actions to recover control of these Separate Schools, of Ottawa, of which, under the provisions of the enactment in question, the trustees have been deprived; and they base their claims upon the one ground: That that enactment does prejudicially affect the right of the supporters of such schools; but they have given no evidence of any such prejudicial effect, and have successfully opposed the admission of any evidence, on the part of the defendants, in support of their contention, that not only is there no such prejudicial effect, but that the effect is beneficial, and was necessary.

Besides adducing no evidence of any such prejudicial effect, the plaintiffs admitted, for the purpose of these actions, the truth of the statements contained in the preamble to the enactment which they attack: some of which statements are: that the board had failed to open the schools, under its charge, at the time appointed by law, and had threatened, at different times, to close such schools, and to dismiss the qualified teachers engaged to teach therein.

In these circumstances the actions fall, at the threshold, for want of evidence of any such prejudice, without which the power of the legislature, to enact such legislation, is unrestrained.

But it is urged that the legislation in question deprived Roman Catholic Separate School supporters, of Ottawa, of (1) their elective public school franchises and (2) of their own school money; and so must necessarily, and answerably, prejudicially affect them.

The fallacies of this contention seem to me to be obvious: there is no restriction upon the power to legislate is not in favour of these plaintiffs, nor of those who elected them; but is in favour of the whole class, a class which comprises all the adherents of the Church of Rome throughout this province, of whom those in Ottawa, concerned in these actions, form but a very small part; and it may very well be that that which might not so affect the other, and, in easily imagined circumstances, it even might be for the good of an individual himself, or of a community itself, to be deprived of an elective right, for one instance, if such right were used for illegal and punishable purposes; and the ratepayers have not been deprived of their money, the trustees of it have been changed only; the money must be devoted to the same purposes whoever may be the trustees.

So that, in the absence of evidence, of any kind, of prejudicial effect, of the whole class, or even any objection to the legislation in question except by these few plaintiffs out of the hundreds of thousands of persons who comprise that class, the actions, as I have said, fail, and must be dismissed; and the successful

parties should have their costs from the unsuccessful.

But the learned and elaborated manner in which these cases were argued calls for more than a mere comment, as it were, and, therefore, I proceed to deal with the matters discussed, more fully.

The position for which the plaintiffs contend, is, as it seems to me, the result of a misconception of the purposes, as well as of the effect, of the legislation under which the trustees held office. The creation of the office of Minister of Education and the enactment of all the elaborate legislative provisions of this Province respecting education, covering over 250 pages of its statute books, were not for the mere benefit of parent or child: the paramount purpose, the dominant intention, was the public interests of the province, the making of true and efficient subjects of all its children—loyal and efficient subjects and citizens, the best assets of every state.

For such purpose Public schools, and compulsory education are essential; and so Public schools were established long ago, and have been, since, maintained; and compulsory laws are in force.

In consequence of the religious desires, or duties, of some classes of the community, separation in schooling is permitted: the special separate school provisions were made for that great class of residents of the province, described in the legislation upon the subject as Roman Catholics.

But such separation in no wise affects the public purposes of the schools or makes the one, any more than the other, the less a Public school in the sense and for the purpose I have mentioned.

The trustees of all are, alike, public officers, having the like duties and powers, and subject to the like pains and penalties for misconduct in office, and the schools are all subject to control of provincial educational authorities; and are all alike entitled to share equally in the provincial grants of money made for Public school purposes.

This, as it seems to me, would be plain, plain in regard to the two subjects—inspection and language—which are said to be bones of contention from which this legislation has sprung, as well as, speaking generally, in all things, plain if there had been no express words upon the subject; but there are such words, and were at the time of the passing of the British North America Act, 1867; the words now in force upon the subject, contained in the Separate Schools Act, are: "The schools, and their registers, shall be subject to such inspection as may be directed by the Minister of Education, and shall be subject also to the regulations." And the word regulations means "regulations made under the Department of Education Act," the wide character of which is set out in that enactment; so that that which would have been plain without them is put beyond controversy by these plain words.

If, as it was contended, the right of parent or child should be paramount, why make any laws interfering with the liberty of either to be educated or uneducated as he or she saw fit; and why compel men and women without children to pay equally with those who have, that is to pay for the education of their neighbours' children? And if the Separate school system were to be anything more than one of the branches of the whole Public school system, why should the former be left without any council or general representative body—a vast number of schools without cohesion, head or representative body?

The Public school system of Ontario is not one of separate independent schools in all the school sections of the Province, each one of which may be "a law unto itself" or as careless as it pleases; but is one comprehensive and symmetrical system embracing everyone, from the Minister of Education to the youngest infant in the kindergarten, whether in the common or the Separate schools, and all alike are subject to the laws of the Province and all valid regulations made under them.

The narrow view that the Imperial enactment made all the provisions of the Separate Schools Act, in force at the time of the passing of the Imperial Act, unalterable, is without any kind of substantial support, as the great many changes since made, and made apparently without any kind of objection, show; important changes turning an act of 28 sections, covering less than a half dozen pages of the statute book, into one of 92 sections, covering 32 pages.

The right and privilege which the Separate Schools Act conferred when the Imperial enactment became law, and which the Separate Schools Act have ever since conferred, and still confer, was and is a right to separation. Separate Public schools of the like character, and maintained in the like manner, as the general Public schools. The machinery may be altered, the educational methods may be changed, from time to time, to keep pace with advanced educational systems. It was never meant that the Separate schools, or any other school, should be left forever in the educational wilderness of the enactments in force in 1867. Educational methods and machinery may and must change, but separation, and equal rights regarding Public schools, must remain as long as provincial public schools last, unless the federal or imperial parliament, whichever may have the power, decrees otherwise.

The modern fashion of applying the short name "Public schools" to

the general Public schools, which were in earlier days called the "common" or "union" schools, and more appropriately so called; and of applying the short name "Separate schools" to the particular Public school separated from the general ones under the Separate Schools Act, is no excuse for misunderstanding their true character of, all alike, Public schools, maintained in the public interest and for the public welfare.

The rocks upon which it was said that the Ottawa Separate schools came near to foundering are said to be: the appointment of an inspector who was not a Roman Catholic, and an overruling of the Board's desires as to the language to be used in teaching. Whether these things were necessary or unnecessary, gracious or ungracious, is a matter that does not in any way affect the legal question involved in these actions: if they were lawful, the plaintiffs' appeal should not be to those who expound the law, but to those who make it, or to those who elect the makers, in regard to any grievance they may feel that they have. That these things were not unlawful, the main purpose of Public schools, and the very words of the Separate Schools Act, which I have read seem to me to make very plain; and beside that the judgment of the highest court of this province has decreed that they were lawful.

The removal of trustees who fail or refuse to perform the duties of their office, and especially so when they do so contumaciously, is but a familiar, appropriate, and sometimes necessary legal method; and for a high court of Parliament, provincial or federal, to remove trustees filling a public office, even though elected to that office, and the more so if elected with a view to continuing to refuse or fail to perform such duties in the face of a judgment of a court of competent jurisdiction making those duties plain, could not be an infringement upon any legal right, but must be an endeavour to maintain and enforce it; and the mere fact that an appeal may be taken, or is contemplated, against such judgment, is no kind of excuse for disregarding it, unless its effect is suspended, during the appeal, by law, or by a competent court; the only legal and proper course, especially for a public officer, is to yield obedience to that judgment until it is reversed, if ever it should be; and that the plaintiffs should have done, and in doing would have remained in office.

I am quite in accord with Mr. Bell, in his contention that no case, that was cited, governs this case; and in regard to the observations attributed to Lord Justice McMillan, when sitting in our ultimate appellate tribunal, read by Mr. Young from Wheeler's Confederation Law of Canada, at page 266 to the effect that he could find nothing in the first subsection of section 93 of the Imperial enactment permitting the abolition of Separate schools in this province, it ought hardly to be necessary to point out that the word "first" is but a misprint for the word "second"; such an opinion as long as Public schools exist because it would be in the teeth of the first subsection; but it seems to me to be quite plain too that the legislature of this Province has power to abolish all Public schools, and so abolish Separate schools, for then there would be nothing to be separated from and so no right or privilege of separation; but that is out of the question; it is not the abolition of Public schools, but it is their increase, at enormous cost, that is likely to trouble future generations, as it does some who are of the present generation.

THE PRESBYTERIANS AND CHURCH UNION

The Presbyterian vote on the Union of Presbyterian, Methodist and Congregational churches is not at the present entirely concluded. But it is evident that a very large proportion, if not an actual majority of our Presbyterian friends wish to preserve their Presbyterian individuality.

Over and over again we have expressed our sympathy with those of our separated brethren who yearn for Christian unity and to this end desire to lessen the evils of division by uniting churches which, apparently, have no distinctive doctrines or practices which forbid coalition. It should go without saying, but perhaps it is worth repeating, that Catholics cannot view without sincere regret any weakening of the hold that Protestantism has on Christian truth.

The narrow, intolerant Puritan of former times, with an unquestioning faith in the Divinity of Christ and the Inspiration of the Bible, is much more Christian in Catholic estimation than the modern latitudinarian who condescendingly accepts the ethical spirit of Christ's teaching while denying His Divine Nature and Mission.

Thus while we sympathize with the Protestant desire for union in so far as it is based on the recognition of the evils of division, we feel no enthusiasm about it in so far as it arises from indifference to all positive Christian teaching. While we reprobate the excesses of the Reformers who rent the seamless robe of Christian Unity we can sympathize with their zeal in protesting against abuses that cried out for reformation, and rejoice that they preserved much positive Christian truth despite their revolt and heresy.

For the zeal, the earnestness and fidelity to conviction of Presbyterians, despite their intolerance, we have a genuine admiration. There is so much in historic associations, in all that goes to make up what is called *esprit de corps*, that we are inclined to think that the vote against Church Union amongst our Presbyterian friends represents not so much a lack of appreciation of the value of Union as the well-grounded fear that the full, vital force of Presbyterian religious zeal, instead of being merged into the resultant United Church, would be largely and irrevocably dissipated.

Of course the Catholic notes, with a certain amount of wonderment, that Protestants of all shades of belief and unbelief from the strictly and traditionally orthodox down to the latitudinarian who has been fed on second-hand German rationalism instead of traditional doctrines or the Gospel of Christ, all believe in the necessity of a Church. If they believe that Christ is the Eternal Son of God, does it never strike them, the Catholic asks himself, that He to whom the Past and the Future were ever-present must have known all these things that they are now finding out? Catholics know that Christ, the infinitely wise Son of the Eternal Father, true God and true man, knew and provided for a Church which should be to the end of time His witness and His medium of communication with man. Since a Church is necessary Christ provided a Church. Let us never forget, however, the traditional and hereditary prejudices of our separated brethren in Christ.

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The spirit of God breatheth where it listeth and it is not our part to judge. As Catholics we firmly believe that all things work together for good, and that eventually, according to God's own plan, there will be for all Christians unity in one fold and under one Shepherd.

THE BOGUS K. OF C. OATH

Elsewhere in this issue of the RECORD will be found an account of the Rantrev investigation of the ridiculous charges relative to the K. of C. oath. But charges against Catholics, no matter how ridiculous, find an astonishing number of serious believers amongst our separated brethren with their inherited prejudices. Father French, therefore, has rendered a conspicuous service to the cause of truth and justice.

By a singular coincidence we had just received from the West a letter inquiring about the California committee of Masons and their report after investigation of such charges. About a year ago, in answer to a Catholic periodical which never loses an opportunity to nag the Knights of Columbus for every appearance of evil that may be laid at their door, we defended the action of the California Knights.

Our correspondent, an intelligent and well informed Catholic, desired the information in order that he might refer a Masonic friend, who inquired seriously about the K. of C. bogus oath, to the report of the California Masonic Committee of Investigation. Incredible as it may seem to many, there are always some Protestants who are ready to believe anything that may be charged against Catholics.

GREAT MEN AND THEIR LIMITATIONS

Henry Ford is typical of a great many men who have achieved success and fortune in this happy hemisphere where great opportunities rush to meet the earnest seeker half way. So much a matter of course is it with us to accept great wealth as the measure of greatness, the unquestioned proof of universal genius and wisdom, that it is difficult for a multimillionaire to make himself ridiculous. This difficult feat, however, Henry Ford has accomplished perfectly. He is not the first to write himself down an ass; but Ford's astuteness is colossal, stupendous, incredible. The common or garden variety is entirely eclipsed, and even William Jennings Bryan begins to feel that he can shine only in Ford's reflected splendor.

It serves to illustrate the folly, by reductio ad absurdum, of the tendency on the part of the unthinking crowd to conclude that a great authority on any one particular subject must have something authori-

ative and final to say on any and every subject about which he may give an opinion.

That a successful automobile manufacturer should feel competent to revise the statesmanship and curb the national ambitions of the world is not much more grotesque than that a famous electrician and inventor should brush aside as unimportant the world's best thought in philosophy and religion.

Yet it is only a short while since every newspaper was reverently quoting Thomas Edison's final and authoritative views on religion, a matter on which he was neither more nor less competent to pronounce than Henry Ford is competent to adjust international relations and bring peace to a warring world.

A RARE TREAT FOR RECORD READERS

An outstanding figure in the British House of Commons, a trusted leader of the powerful group of incorruptible Irish members who won the greatest parliamentary victory of all time, T. P. O'Connor has long been one of the great powers in journalistic enterprise of London and has, perhaps, at the present time a wider circle of readers than any other journalist writing the English language.

Born in 1848 he was graduated M. A. from Queen's College, Galway, in 1867, when he immediately entered on that journalistic career in which he has achieved such distinction. In 1876 came his first great success—his "Life of Disraeli" which, bitter indictment as it is, holds an indispensable place in the literature of Lord Bacon's field. Since that time he has founded and edited The Star, The Sun, The Weekly Sun, M. A. P., T. P.'s Weekly, and P. T. O. The Encyclopedia Britannica, in the article on newspapers, thus refers to The Star: "From the first it was conspicuous for its advanced attitude in politics and also for excellent literary criticism."

Mr. O'Connor first entered Parliament as member for Galway in 1880. In 1885 he was elected for the Scotland division of Liverpool, which constituency he has ever since continuously represented. For the past thirty-three years he has been president of the United Irish League in Great Britain, an office for which he was first proposed by Parnell himself. When it is remembered that Irish immigrants or their immediate descendants number 2,000,000 of Great Britain's population it is quite plain that Mr. O'Connor has long been a great political force even apart from his commanding position in the House of Commons.

Well and widely known wherever English readers are found, Mr. O'Connor has for some years been the author of a weekly cable letter which is as interesting and accurate as might be expected from one so long and so intimately in touch with political affairs in the capital of the Empire.

So far as Catholic weeklies of Canada and Newfoundland are concerned the CATHOLIC RECORD has secured exclusive rights in T. P. O'Connor's copyrighted weekly cable letter.

In the midst of the present world-shaking events, and during the period of mighty reconstructions when Peace is restored, T. P.'s letter, interesting and instructive at any time, will be found a source of accurate and intimate information on measures and men that the intelligent reader cannot afford to ignore.

THE RECORD IN THE TRENCHES

Very many of our readers have relatives in the fighting line, and to them we would suggest the regular mailing of the RECORD to their soldier friends. There are many weary hours of watching and waiting in the trenches, and many unoccupied hours when relieved from duty. It goes without saying that our Catholic boys cannot spend this time any more profitably than in the reading of a Catholic paper.

This thought was suggested to us by a letter recently received from "somewhere in Belgium," part of which we transcribe for our readers' edification and information. The writer is Lance Corporal H. Bonnevise, and we are sure he will pardon us for making part of his communication public.

"Please permit me to tell you how I enjoy reading the CATHOLIC RECORD in this far-away country (Belgium). It is surprising how it keeps up our spirits to read a good Catholic paper. I get it from my home in St. John,

N. B., and I pass it around to some Catholic members of our Battalion, (the 15th.) The more we read it the more we look for it to come again. We read every column of it, and we could not find anything better to pass the time."

Then follows a very glowing tribute to the RECORD's worth which modestly forces us to omit. Passing on to the subject of the war he writes:

"As for war news I can say very little, but I can say that the Canadian troops are in the best of spirits. We feel sure the victory will be ours. Every man is resolved to do 'his bit,' and with the assurance that we now have that those at home will supply us with the munitions of war, we will win. Belgium has suffered terribly. It is only those who see it as it is now who can form any idea of how much it has endured, not only in the inevitable destruction of war, but in the wholesale slaughter of the innocent. The country is ruined, and its schools and churches and convents, I have seen the ruins of many churches and convents and villages and towns, and it is heart-breaking. But we know that the Allies will build them up again."

Sometimes one happens upon those who doubt the story of German atrocities. Here in this simple soldier's simple language is confirmation of the worst features of the Bryce Report. Here, too, is an answer to those who would argue that this is not Canada's war. This struggle between paganism and Christianity is everybody's war, for it is written that he who is not with me is against me. Here, above all, is a reminder to us to send Catholic literature to our boys at the front. In the words of Corporal Bonnevise, they cannot find anything better to pass away the time."

COLUMBA.

### NOTES AND COMMENTS

THE CANADIAN CONGREGATIONALIST, writing reminiscently of past experiences of the sect in Canada, and pleading for loyalty on the part of the present generation to the beliefs and ideals of preceding generations, quotes the distinctively Catholic hymn:

"Faith of our fathers, holy faith,  
We will be true to thee till death."

If this is not playing fast and loose with English speech, what is?

A CORRESPONDENT of the Canadian Churchman reminds Anglicans who are disposed to repudiate the Protestantism of the Church of England that when in the early days of Upper Canada the Crown set apart the Clergy Reserves for the support of a "Protestant clergy," the Church of England very eagerly declared herself "Protestant," and was disposed to deny the title to any other religious body. Wesleyans, or Methodists, and other offshoots from Anglicanism were then not so much "Protestants" as "Dissenters." How convenient it is to forget these little things!

WRITING in the September Fortnightly Review, the Right Hon. W. F. Bailey, C. B., one of the Irish Land Commissioners, gives it as his opinion that the story of German atrocity in Belgium is far outdone by that of Poland. Mr. Bailey knows Poland intimately and has private sources of information in framing his indictment. He cannot be accused therefore of drawing upon his imagination, or of repeating irresponsible rumors. He writes with the gravity of a judge and the knowledge of an expert, but beneath it all with a Christian conscience seared and scarred in contemplation of this mockery of civilization. His is the story of one Christian nation invading another, defiling its sanctuaries and its women, making a mockery of its faith, hunting women and children to death, and setting in motion such an exodus of sorrow-distracted people as the world has never seen before.

THE STORY of Poland is, in Mr. Bailey's words, "far more terrible" than that of Belgium, and, from the nature of things, will never be revealed to the world in its entirety. Little by little it will, no doubt, find its way into the West, but there is no Lord Bryce's Commission to investigate it judicially or to uncover and classify its horrifying details. It will remain as it is—a great, black stain upon the face of history, and an appalling nightmare for centuries to the brave, patient, long-suffering people of Poland. Is it any wonder that having passed immediately through the fire and drunk to the very dregs the cup of German terror-

ism they should now regard the Kaiser as the representative of Satan, if not Satan himself incarnate!

MR. BAILEY tells the story of the seeking and desecration of the Shrine of Czestochowa—the Holy Place of Poland—and of the sacrilegious substitution of the Kaiser's portrait for the famous Madonna and Child known as the "Heart of the Heart of Poland." This first became known to the world through the sale on the streets of Berlin of a cheap postcard bearing the inscription "The famous picture of the Virgin and Child captured from Czestochowa by our gallant army" and bearing at the top of the card a portrait of the Kaiser, surmounted by the Imperial Crown of Germany. But it did not tell that when this precious relic was wrenched from its place over the high altar, to the dazed horror of every Pole, a vulgar portrait of His Imperial Majesty in uniform was substituted, lighted candles placed before it, and the wretched people forced at the points of German bayonets to prostrate themselves before it as if in mockery of the Sacred Persons whose sanctity was thus so foully blasphemed. But the end is not yet. History for once will have failed to repeat itself if the rising of the Sun for Poland does not mark its setting for the Teuton oppressor.

AN effusion which has come under our notice is that on the "Italians in Europe and Canada." In the current Presbyterian. It is there designated as the "Y. P. S. Topic for November 28" and it deals with the prospect which Italian immigration affords for proselytism. In a brief summary of the past it recalls the great history of that nation, the sterling character of its people, their hardihood, thrift and progressiveness. It is, it says, "a matter of the greatest gratification to British people everywhere that in the present war, Italy is standing with the Allies on the side of justice and liberty,"—which, if it means anything, means that the Italian people have no less zeal for the higher ideals of civilization than the British, or French, or any other nation.

PAINS are taken also to impress upon the "Y. P. S." that hand-in-hand with these virtues the people of Italy are almost to a man Catholics, the proportion to the whole population being 97 per cent. Such Protestantism as exists in Italy is practically confined to the sect of the Waldenses, and that to a single section in the North. Catholic as they are, therefore, and have been for so many centuries, their poets, painters, and architects will, notwithstanding that handicap, "make Italy famous to the end of time." This splendid inheritance is, even if not realized by themselves, brought to this country, and the thrift which characterized them at home is no less their characteristic here. They get on, acquire some means, and purchase homes of their own. They could scarcely do this if they had not the inherent qualities as Italians not less than as Canadian citizens.

WHAT is the upshot of all this? It is that "being loosely attached to the Church of Rome, they form a most hopeful field for missionary endeavor." "We should be eager," it is added, "to share with them our most priceless (sic) possession—the gospel,"—in other words, again, they must be "Canadianized." That is a very laudable and generous aspiration surely! Of course the Italians have never heard the "gospel" and all the rich fruits of Christian civilization in Italy—their poets, artists, architects; their saints and sages, their thrifty, moral, faithful people—are the product of something else. So to Presbyterianism, steeped to the eyes in German theology—that is German scepticism and iconoclasm—it is left to unfold to these incoming heirs of the Christian ages, the "gospel"—that is, once more, to "Canadianize" them.

PAPAL INFALLIBILITY

The Pope is not infallible when he expresses only his own ideas; but he is infallible when, as head of the Church, he defines truths contained in the depositary of revelation, the Scriptures and tradition. The Pope is not infallible when he judges purely personal questions; but he is so when he judges doctrinal questions affecting faith or morals—that is to say, revealed truth or revealed law, the Pope being infallible only when he rests on the testimony of God or revelation.—Truth.