

FIRST DIVISIONAL COURT.

OCTOBER 24TH, 1918.

## \*OTTAWA SEPARATE SCHOOL TRUSTEES v. QUEBEC BANK.

*Constitutional Law—Act respecting the Roman Catholic Separate Schools of the City of Ottawa, 7 Geo. V. ch. 60 (O.)—Intra Vires—British North America Act, secs. 92 (13), (14), (16), 93—Expenditures of Commissioners Carrying on Separate Schools—Account—Liability.*

Appeals by the Attorney-General for Ontario and the defendants and cross-appeal by the plaintiffs from the judgment of CLUTE, J., 41 O.L.R. 594, 13 O.W.N. 369.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, JJ.A.

McGregor Young, K.C., for the Attorney-General.

W. N. Tilley, K.C., for the Bank of Ottawa, the defendant Mackell, and other separate school supporters.

G. F. Henderson, K.C., for the Quebec Bank.

N. A. Belcourt, K.C., and J. H. Fraser, for the plaintiffs.

The judgment of the Court was read by MEREDITH, C.J.O., who said, after stating the facts, and setting out the provisions of the Act 7 Geo. V. ch. 60:—

Unless the legislation in question violates the provisions of sec. 93 of the British North America Act, it is clearly valid legislation, it being competent for the Legislature to have enacted it under the powers conferred by sec. 92 of that Act (paras. 13, 14, and 16).

In my view, the legislation does not violate the provisions of sec. 93. Assuming that legislation which diverts, from a separate school, money which by law should be applied for carrying it on, would be invalid, I am unable to see how legislation which validates expenditures properly made in carrying on a school or a number of schools by a de facto body not lawfully created can be said to affect any such right or privilege as the section deals with, still less prejudicially to affect it within the meaning of the section.

The situation as disclosed on the evidence was that the School Board was conducting the schools under its charge in contravention and defiance of the law, and had brought about such a state of things that the Legislature, in order to secure for the children of the supporters of separate schools in Ottawa the education to