

At the trial, there was evidence both ways as to whether the English or French language prevailed in the section.

The defendants asserted that they had acted in good faith.

The defendants also raised the point that the Court had no jurisdiction; that, under the statutes applicable, the Minister of Education was made the sole arbiter of the issues arising in the action.

J. A. Chisholm and F. T. Costello, for the plaintiff.

J. A. Macintosh and D. Danis, for the defendants.

FALCONBRIDGE, C.J.K.B.:—At the close of the argument I am reported to have said: "I am going to reserve judgment in this case for the purpose of looking into the legal objections that have been raised, particularly into the question of jurisdiction. If I were to dispose of the case to-day, I would hold, first, that the engagement of Miss S  necal was quite illegal; she had not the necessary qualification, and what qualification she had, had not been validated by the Minister or the Department. I should hold, in the second place, without any hesitation, that the use and teaching of the French language in that section, as at present carried on, are also unauthorised; but I shall reserve the whole case for the purpose of considering the legal matters which have been raised, particularly with reference to the question of costs, with which, of course, the good faith or want of good faith of the trustees has much to do."

The above is practically a judgment on the merits. I have now examined the legal points most ingeniously presented by Mr. MacIntosh.

1. I am clearly of opinion that sec. 80 of the Separate Schools Act, 3 & 4 Geo. V. ch. 71, is not applicable to this case, and therefore does not create a domestic forum for the disposal of it.

2. I am further of the opinion that this action is properly constituted, and that there is no necessity for either the Attorney-General or the Minister of Education being made a party.

3. Having regard to the course taken by the defendants, it does not seem to be necessary to pronounce on the meaning of the word "prevail"—whether it means "gain the mastery, predominate," or whether it means only "exist or be current." Probably it is the former.

The conduct of the defendants in disregarding and defying the rulings and remonstrances of the Department and its officers can be described only as recalcitrant and recusant. If they