

full grown minds) she has of late years taken, and established her present right to hold. Now, retired railway makers or railway speculators, retired merchants, or retired and fortunate gold finders, are not the men to legislate for a COUNTRY THAT WOULD BE A GREAT COUNTRY, or to administer her laws; they are not the men to heal the diseases of her people, be those diseases either of the body or the mind—we want *men devoting themselves to these high purposes and callings, and devoting themselves heart and soul to them from their youth*. Men who have been brought up in habits of business, are not ordinarily capable,—such is the power of custom and habitation—of turning their powers, at a period of life when they retire from business, to new pursuits, and those pursuits arduous and onerous. And they do not wish to do so. They have laboured:—they laboured for future ease and enjoyment. Their labour is now over, and they demand the opportunity for enjoyment in peace and quiet. The country which calls for men to do her work, and serve her public interests, wants *men fresh and vigorous*, and she wants them *able and prepared*—they must be competent to set about the work she has marked out for them with spirit, and to set about it with judgment in the right way: in a word she wants men of disciplined minds and of cultivated understandings. Look at such a man as Elihu Burritt, a man, I believe, of ordinary powers and standing at the commencement of life, now a man not merely of independence but of public importance. The interests of nations not long ago found and still find their advocate, (and no mean one) in him. What made him the man he is?—What else but first, *decided character, and then mental culture* (the two branches I have treated of in Education.) True, his was a remarkable course. He is a man in a thousand or in a million, a highly *self-educated man* (not that pet ideal of the age, a *self-made man*, but as opposed to a self-made, a *self-educated man*), a man that won his way in the world, one may say, with a hammer in one hand and a book in the other, his time being divided equally between the two conflicting claims of business and of literature, or, one might almost say, of education. Yet he is an undeniable example of what I am speaking of—the certainty that *it is learning and character, not wealth, nor station, which makes a great man*.

THE CANADA EDUCATIONAL DIRECTORY AND CALENDAR FOR 1857-58—by Thomas Hodgins, B. A. Toronto—Maclear & Co., 1857.

This is a pamphlet containing 124 pages, exclusive of advertisements. It is edited by the Clerk of Statistics in the Upper Canada Educational Department, and it is good authority in every thing concerning education in that section of the Province. Every care has also been taken in relation to our section, so much so that after a minute inspection we find but very few errors and corrections worth noticing. The colleges of Lower Canada, at least the Classical Colleges are more than equivalent to the Upper Canada Grammar Schools, and the statement made in the Directory, that these schools are in many respects similar, might induce people at a distance to form an incorrect opinion of our higher educational institutions. We think that the College of Montreal one of the oldest and largest establishments in the country, the Convent of the Ursulines at Quebec, that of the Sacré-Cœur at St. Vincent de Paul and the Academy of Maria-villa, near Montreal, although they receive no aid from the Government, ought not to have been omitted. Full and interesting details are given of the Universities of both sections of the Province, the Colleges and Grammar Schools, the Common School laws, and the Literary and Scientific Institutions. There are two neat engravings and plans of school houses, and the typographical execution is faultless. An invaluable part, is the Educational Calendar, where any one can find in each day of the year what has to be done in execution of the school laws, and the opening and closing of the terms of the several Universities, Colleges and Normal Schools. The work is altogether highly creditable and useful and does great honor to the zeal and industry of the author.

Legal Decision.

Montreal, 30th December, 1856.

CORAM DAY, J., SMITH, J., BADGLEY, J.

No. 1393. *Browne v. The School Commissioners of Laprairie.*

Held that the power granted to School Commissioners to remove masters for misconduct, or incapacity, after mature deliberation, does not relieve them from liability to damages if such removal take place without sufficient cause.

This was an Action by a Schoolmaster for an amount equal to six months of his salary, under the following circumstances.

The Plaintiff was engaged by letter, on the 5th of September, 1855, the Commissioners passed a resolution, declaring that after mature deliberation upon his conduct in office, they dismissed him for negligence in the faithful performance of his duties, and ordered him to be paid two months' salary. A tender of this sum was made and refused, and the Plaintiff, after ejection from office, made a notarial tender of his services in accordance with his engagement, which was also refused. The Plaintiff, at the end of six months from the date of his engagement, brought an Action for an amount equal to his half year's salary; to which the Defendants pleaded in terms of their resolution; and evidence was taken on both sides as to the Teacher's conduct while in office.

Abbott, for Plaintiff, relied on the insufficiency of the testimony for the Defendants to establish any misconduct or negligence, and on the evidence for Plaintiff as shewing a faithful performance of his duties.

Loranger, Q. C., for Defendants, cited the 4th Clause of the 21st Section of the 9th Vic., Cap. 27, providing that School Commissioners may remove Masters for neglecting faithfully to perform their duties, incapacity, &c., after a mature deliberation at a meeting called for that purpose; and contended that the terms of this Clause were clearly intended to convey to School Commissioners an unlimited power in respect of the removal of their officers, at least, to this extent; that if they were dismissed in the manner pointed out by the Statute, the fact of the cause alleged, having existed, could not afterwards be disputed, nor the circumstances inquired into, in the manner attempted by the Plaintiff. If it appeared that the Commissioners had acted in the matter after mature deliberation at a meeting called for the purpose, it must be conclusively presumed, under the evident meaning and intent of this clause of the act, that the course of conduct upon which they based their order of dismissal had really been followed, and the question of its existence could not now be tried over again.

Lancot followed for Defendants upon the evidence.

Abbott, in reply, denied that the Clause in question gave to School Commissioners any privilege over other corporations or individuals in respect of their liability to damages for the unjust or causeless dismissal of a servant. The service on the one hand, and the payment on the other, were mere matters of contract; and the Clause cited only prescribed the *modus operandi* of the Commissioners, in making or breaking this contract, leaving to each party the ordinary legal remedy on a breach of it, if infringed without sufficient cause.

Badgley, J.—The Court considered the Plaintiff had made out his case upon the evidence, and were also with him upon the point of law raised by the Defendants at the argument. The Section of the School Act cited on their behalf gave them no judicial power whatever. It was necessary that the manner of action of a corporation should be fixed by the instrument creating it, and this was all that the Statute in question did. If the Commissioners had attempted to remove the Plaintiff in any manner other than that pointed out by the Statute, it would simply be no removal at all. The Act in question was apparently done in due form, and, therefore, was an actual removal; but School Commissioners were in no respect exempted from the necessity, when called upon, of justifying their acts towards their *employés*, and if they failed in doing so, of being condemned in damages like any other employer. There must, therefore, be judgment for the Plaintiff for the amount demanded, with costs.

Abbott and Baker, Attorneys for Plaintiff.

Lancot, Attorney for Defendants.

(J. J. C. A.)

Judgment for Plaintiff.

—Lower Canada Jurist.

MONTHLY SUMMARY.

—Goold Brown, the distinguished teacher and author, died at Lynn, in the State of Massachusetts, on the 31st of March last, in the 66th year of his age. Among other works, he published the "Grammar of english grammars" of which a second edition has just been issued by S. & W. Wood, New York. It is a most valuable work and stands in the same relation to other english grammars as "Giraud-Duvivier's grammaire des grammaires" to the french.

—The report of Capt. Fortin, the government commissioner for the protection of the fisheries in the gulf St. Lawrence, is printed and will amply repay an attentive perusal. The schooner *Canadienne* (as every one knows, the *alpha* and *omega* of our navy) has been employed on its usual mission during 165 days, in the season of 1856, during which she has paid five visits to the Magdalen Islands, two to the north shore and Labrador coast, three to the *Baie des Chaleurs*, and three to the bay of Gaspé. Among other interesting statements in that report, we find that the whales are being driven out of the gulf by the absurd system of using rockets, which causes a useless destruction of the animals. Out of forty whales lately killed in that manner by the fishermen on board of two American schooners, six only were secured; the others disappeared. The commissioner recommends that a law be passed for the protection of the trade in that respect. He warns the government that unless that is done, the whales will altogether disappear from our waters, as has been the case with the sea-cows or *morse* who, a hundred years ago, used to visit the coasts of the gulf in immense flocks, and are now unknown to our fishermen. He also states that regulations for the