

But independent of all this, the parties subsequently acted upon it and recognised it as their contract, paying to the plaintiff \$400 of the amount mentioned in the agreement; and upon the authority of *McDonald v. Clarke*, in this Court, 30 U. C. R. 307, and the principles upon which that case was decided, it is sufficiently clear from the instrument itself, the acts of the parties and the facts appearing at the trial, that the defendants are the parties covenanting with the plaintiff, and that it was the intention of both parties that the instrument should so operate.

That being so, the evidence given at the trial supports the finding of the learned Queen's Counsel who tried the cause. The contract price was \$708; \$400 was paid by defendants, leaving a balance of \$308 due to the contractor, for which the learned Judge entered a verdict.

We assume that he found that the plaintiff had fulfilled his contract. We cannot say but that there was evidence to support the verdict. If the learned Judge believed the plaintiff and his witnesses, there certainly was, for they testified in effect that the building was completed according to the specifications and plan except where varied by the defendants, and that the work was done in a workmanlike manner and of the proper materials, in fact that the plaintiff performed more work than he was required to do, and any defects were of a trifling character. On the other hand, the trustees testified, as well as some carpenters who examined the building, that the work on it was not done in a good workmanlike manner, and that the materials were not of the kind that ought to have been used, and they referred to what they considered various defects, and in their opinion \$100 ought to be deducted from the contract price.

It did appear that after the work was finished the trustees complained of defects, and they offered to settle with the plaintiff if he would consent to a deduction of \$58, (i. e., paying him \$250), the plaintiff putting in some additional abutments which were not shewn on the plan. This the plaintiff declined to do.

It is just one of those loose, defectively drawn contracts, open to all kinds of objections and disputes, and if the parties are of a litigious spirit necessarily leads to useless litigation.

If the learned Judge had reduced the amount of the claim by \$75, to \$100, I might, from reading the evidence, be better satisfied; but if the Judge who heard the witnesses was satisfied that the plaintiff substantially performed his contract, we can see no ground upon which we ought to interfere with his finding.

*Rule discharged.*

—*Queen's Bench Reports, Vol. XXXV.*

#### IV. Proceedings of Conventions and Associations.

##### 1. SCHOOL CONVENTION IN ELORA.

At a convention of Public School Teachers of the County of Wellington held at Elora last week, Hon. Mr. Crooks, Minister of Education, and Professor Goldwin Smith delivered addresses to a large assemblage of teachers and others interested in education.

Hon. Mr. Crooks was first introduced by the chairman. He said he would only offer for their consideration some of those topics which it is important that all should understand. They were all aware that an important change had recently taken place in the administration, and that the grave responsibilities of the Minister of Education had devolved upon him. The duties of the position, and thoroughly understanding the subject, were such as would oppress any one, no matter how well qualified he might be. All he would venture to affirm was, that he would put forth the greatest effort to obtain that which the people looked for at the hands of any Government, who have a duty so important to perform. The step taken upon this occasion was not so much a change as the development of the existing system. That system had been one of gradual growth. He and many others present knew how imperfect was the system of education in their early days. There had been remarkable changes since then, and the last change, he considered, was a step in the right direction. The Hon. gentleman then proceeded to justify the action of the Government in abolishing the Council of Public Instruction and assuming the management themselves. The substance of his remarks on this point has been given before, in reporting the discussions which took place in the Legislature. He concluded by referring to the fact of ignorance being a cause of crime, and the importance of education as a preventative of such, and concluded by expressing the hope that all the people would seek to make the system now introduced, one of their own, and which is to be looked to as the foundation of that success and prosperity for which they hoped.

Mr. Crooks was followed by Professor Goldwin Smith who referred to the common interest all had in education, than which

subject there was none more interesting to a free people. This was one of the best educational centres in Ontario. There were in the neighbourhood many emigrants, and the sons of emigrants, from Scotland—a country which had always taken a prominent place in education, and which had been the parent of the success achieved by her sons in all parts of the globe. The people of that country were early trained in those principles of commerce, or of life. Education in Ontario is supported by the spontaneous enthusiasm of the people. He referred to the fact that in England the old freehold yeomanry were dying out, and the land was becoming aggregated in the hands of the great landlords. The English yeomanry were dying out, but they had not perished, for they found them here, cultivating their own farms and showing a vigorous interest in education. To a free country education is the breath of life. In a free country the people have to govern, and if they are ignorant, what hope is there for the State. He had watched the system of education in the United States, and he was profoundly convinced that but for that system the country could not go on. He wished that religion could be included in education. We must, however, deal with circumstances as we find them, but he hoped the time would yet come when Christendom would be united. People are apt to think that religion can only be found in churches, but every teacher who shows forth the Christian character in his dealings with the children placed under his charge in school is a teacher of Christianity. He looked anxiously forward to the time when all dissensions could be at an end, when they would be able to teach every Christian child. Every now and then we hear of a teacher inflicting undue chastisement upon a child; but he feared he was often provoked by the doings of the child, who had not been properly trained at home. Ontario had not been unmindful of her duty, and had produced what may truly be called an excellent system of education. He was one of the Commissioners appointed by the British Parliament to prepare a system of education for England. They sent out deputies to gather information upon which to base their report. Bishop Fraser was sent to Canada, and reported most favourably upon the system in use. The course here had been much facilitated by having drawn what he believed to be the right line between Church and State. An important crisis had now been reached in the history of education in Ontario. Government had seen fit, and he acquiesced in their decision, to abolish the Council and to place the educational interests under the supervision of a Minister of the Government; and had he been allowed to choose a Minister for that position, of all our public men, he would have selected Mr. Crooks. He regretted, for some reasons, the abolishment of the Council. It was composed of men of experience, unbiassed, and who were out of politics, and it was impossible to bring such influence to bear upon them. By the change education would be brought into the political sphere, and become like any other political subject. He trusted that, if in party conflict such a thing as forbearance is known, it would be on the matter of education, lest in their struggle it became a wreck. He then referred to the question of separate schools; which he saw again looming angrily up. The system was somewhat illiberal, though he recognised the reasons for adopting it and bowed to the decision of the Government in establishing them. In his intercourse with Archbishop Lynch in the Council of Public Instruction, he had found him in favour of moderation. He concluded by expressing the hope that the people of Ontario would continue to take a deep interest in the important question of education and thus help to build up our country.

**TEACHERS' MEETING.**—At the monthly "Teachers' Meeting" held in Ottawa 4th inst., the Rev. Inspector Borthwick in the chair, a very interesting and instructive paper on the "Kindergarten System," by a lady teacher, was read, showing thorough acquaintance with the subject of "infant school training," a desideratum in our present school system. The Inspector read a paper on "Milton and Il Penseroso," which was well received. A discussion on the system of "marking" and "pupils' monthly reports" was then held, and much valuable experience brought out. Altogether it was a very pleasant and profitable gathering.—*Free Press.*

#### V. Local School Administration.

**REV. DR. RYERSON'S RETIREMENT.**—At a meeting of the Public School Board of the City of Ottawa, Mr. Barber moved the following resolution, seconded by Mr. Bronson:—"That this Board cannot allow the occasion of the retirement of the Rev. Dr. Ryerson from the position of Chief Superintendent of Education, to pass without expressing their high sense of the earnest services rendered by him in the cause of education during the past 32 years, and to express the hope that he may be long spared to enjoy his well-earned rest. The Board also desires to express their satisfa-