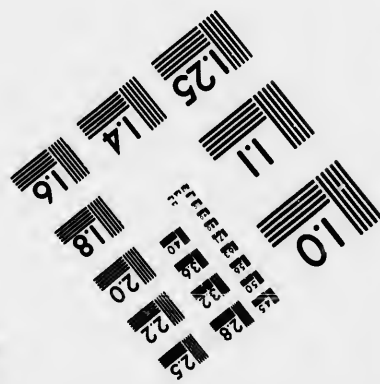
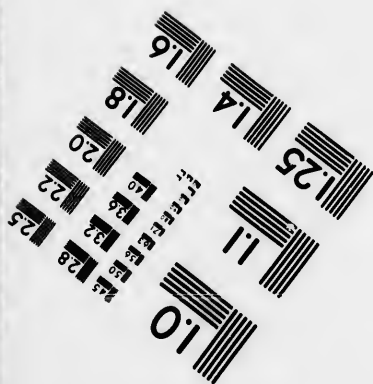
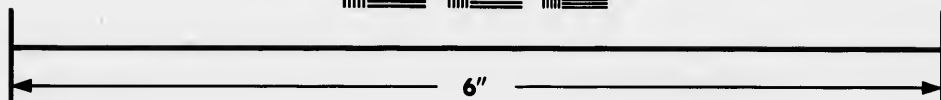
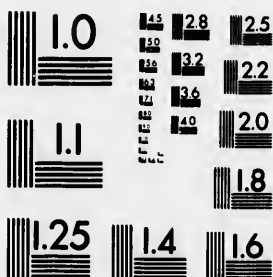


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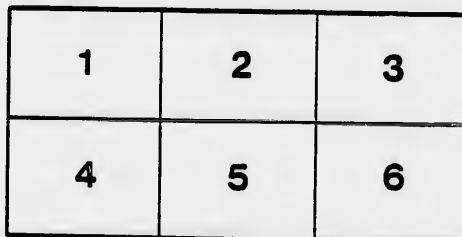
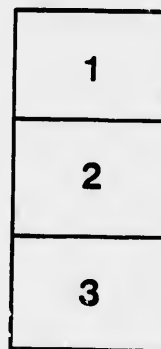
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*Mt. A. Dup.*

# REPORT

UPON CHARGES RELATING TO

## THE BATHURST SCHOOLS

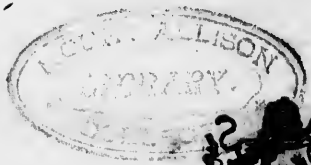
AND

OTHER SCHOOLS IN GLOUCESTER COUNTY

— BY —

THE HON. JOHN J. FRASER, JUDGE OF THE  
SUPREME COURT

SPECIAL COMMISSIONER UNDER THE GREAT SEAL OF  
THE PROVINCE OF NEW BRUNSWICK



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## REPORT ON BATHURST SCHOOLS.

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REPORT OF THE UNDERSIGNED, THE HONORABLE JOHN JAMES FRASER,  
THE COMMISSIONER APPOINTED BY HIS HONOR THE LIEUTENANT  
GOVERNOR IN COUNCIL TO INVESTIGATE CERTAIN MATTERS OF COM-  
PLAINT RESPECTING THE COMMON SCHOOLS IN THE TOWN AND  
VILLAGE OF BATHURST AND IN THE COUNTY OF GLOUCESTER :

Having received the Commission issued on the 18th day of April last, by His Honor, the Honorable Sir Samuel Leonard Tilley, C. B., K. C. M. G., LL. D., Lieutenant Governor of the Province, under the Great Seal of the Province, and by virtue of the powers and authorities vested in him under the Act of Assembly, 49th Victoria, Chapter 4, intituled "An Act to authorize the issue of Commissions under the Great Seal for certain purposes", whereby I, the undersigned John James Fraser, was appointed sole Commissioner to proceed to the Town of Bathurst in the County of Gloucester, and there to inquire into and thoroughly investigate all complaints charging any infraction of the School Law and Regulations of the Board of Education by or on the part of the teachers or trustees, or any or either of them, in School District No. 2, in the Town of Bathurst, as well as in School District No. 16, in the Parish of Bathurst, in the said County of Gloucester, or complaining of the management of the schools or any of them in the said districts or either of them, and also any and every matter of complaint touching the management of any school or schools in the said County of Gloucester which might be laid before me, and to report under my hand all evidence that I might take or receive thereupon, together with a statement of the facts which in my opinion should be established by the evidence so taken; I have the honor to report that immediately upon the receipt of the said Commission, and on the 9th day of May last, I gave public notice by publication in the provincial press of the issuing of the said Commission, and of my intention to begin inquiry as Commissioner into the matters named in the Commission at the Court House in



the Town of Bathurst on Tuesday, the 30th day of May then next, and requiring that all the matters of complaint which I was empowered to inquire into should be presented to me in writing not later than Friday, the 26th May; and in pursuance of such notice, on the 23rd May, I received a statement in writing of grounds of complaint made by the Reverend Alexander F. Thomson, of Bathurst Village, and on the same day I received a statement signed by Patrick Maloney and others, trustees and ratepayers in School District No. 8, North Teteagouche, in the Parish of Bathurst, seeking an inquiry into an alleged infraction of the School Law in that district.

Mr. Thomson subsequently applied to me by letter asking to be permitted to withdraw his written complaint, and to substitute therefor a printed statement, which printed statement signed by him was handed to me on the 25th day of May last, by Mr. Fowler, one of the counsel acting for Mr. Thomson.

That on Tuesday, the 30th day of May last, at the Court House in Bathurst the inquiry under the said Commission was opened by the reading of the Commission.

The Reverend Mr. Thomson was represented by the Honorable Charles N. Skinner, Q. C. and George W. Fowler, Esquire, Barrister-at-law, as his counsel.

The Trustees of Schools of District No. 2, in the Town of Bathurst, and of District No. 16, in the Parish of Bathurst, were represented by Richard Lawlor and Narcisse A. Landry, Esquires, Barristers-at-law, as their counsel, and the Board of Education was represented by the Hon. A. S. White, the Solicitor General, as counsel.

After the reading of the Commission, I, with the consent of all the counsel, permitted the withdrawal by Mr. Thomson of the written complaint which I had received from him on the 23d May, and allowed him to amend his complaint left with me on the 25th day of May by striking out the last seventeen words of sub-section (E) of Complaint No. 8.

After this I proceeded to hear the testimony of all such persons as were called by the respective parties as witnesses; and as by the Commission I was required to report not only all the evidence taken, but a statement of the facts which in my opinion should be established by the evidence so taken, I thought it desirable to hear the several counsel as to what they considered had been established by the evidence taken. This

argument of counsel took place at Fredericton on the 8th, 9th, 10th and 11th days of August last, and on the 19th August last the evidence was taken before me of John Philip Boudreau, formerly a school teacher in Gloucester County, who was residing in the State of Wisconsin when the investigation was being proceeded with at Bathurst, and who had only returned to the Province on the 8th of August.

The evidence having been all taken, and Counsel having, as I have already stated, presented their several views as to what in their opinion and according to their argument had or had not been established by the evidence, it now becomes my duty to set forth a statement of the facts which in my opinion have been established by the evidence taken.

Before dealing with the subject matter, I may say that when I accepted the duty imposed upon me by the Commission, I felt that the fullest liberty of examination should be accorded to all parties, and where it might be at all doubtful whether the evidence offered could be considered strictly within the scope of the inquiry or not, that it would be much better for me to hear it, although it might afterwards turn out to be beside the question.

Acting upon this view it will be seen by reference to the evidence that the inquiry was an unlimited one, and that the complainants had the fullest possible range in conducting the examination of witnesses; indeed so full and complete were the opportunities afforded to the complainants to get witnesses, and to ask any and every question they desired, that the counsel for complainants stated openly at the investigation that every facility had been furnished them by the Solicitor General in this respect.

The evidence taken is very voluminous, and a not inconsiderable portion of it has no bearing on the subject matter of the inquiry; and had it not been for my desire to let the complainants get out all the testimony they thought necessary, I would have ruled, that very much of the evidence offered had nothing whatever to do with the matter. It may be interesting reading, and, no doubt, is so; but when one comes down to ascertain as a fact whether or not the schools in Bathurst or in Gloucester County have or have not been conducted in accordance with law and the regulations of the Board of Education, such evidence is of very little value.

In making up a report in this matter, I have thought it best to take up each ground of the complaint in the order in which it is placed in the printed statement presented by the Reverend Mr. Thomson, preserving his numbers and divisions so as to make it more easy of reference. The com-

plaint is dated the 18th day of May, A. D. 1893, and the first ground of complaint which is made is this :

(1) That the Reverend James Rogers, Roman Catholic Bishop of the Diocese of Chatham in the Province of New Brunswick, with a view to having the Common Schools in District No. 2 in the Town of Bathurst in the County of Gloucester, and in School District No. 16 in the Parish of Bathurst in said County of Gloucester, under the control of the religious teachers of the Roman Catholic church and of the said church, did enter into an agreement with and come to an understanding with certain members of the Roman Catholic church of said school districts to bring members of certain religious teaching orders of the Roman Catholic church to the said district, and to there establish conventual schools, with a view to having the children of Protestant parents taught within such conventual schools, and pursuant to such agreement and understanding the members of one or more said orders were brought to said district and one or more said conventual schools were established in said districts or in one of said districts.

As I understand this ground of complaint, it charges substantially that an agreement was entered into and an understanding had between the Right Reverend James Rogers, Roman Catholic Bishop of the Diocese of Chatham, and certain members of the Roman Catholic church residing in School District No. 2 in the Town of Bathurst and resident in School District No. 16 in the Parish of Bathurst, to bring members of certain religious teaching orders of the Roman Catholic church to said districts, and to there establish conventual schools with a view of having the children of Protestant parents taught within such conventual schools; and that pursuant to such agreement conventual schools were established in said districts, or one of them, and members of the teaching orders of the Roman Catholic church brought to said districts, and that all this was done with a view to having the common schools in the said two districts under the control of religious teachers of the Roman Catholic church.

In dealing with the schools in these two districts, for convenience sake I shall call the schools in District No. 2 as Bathurst Town Schools, and the schools in No. 16 as the Village Schools, and I do this because in this report I will have to refer to matters of complaint charged in connection with other school districts in the Parish of Bathurst; and Bathurst Town and Bathurst Village are the only two districts in the Parish of Bathurst in

which it is charged that there was this alleged agreement and understanding to establish conventual schools.

Before proceeding to refer to the evidence offered in support of this ground of complaint and to a right understanding of the question, it may be well to refer to the state of matters which had existed in Bathurst Town and Village in regard to the schools in those districts from about the year 1873 down to the month of June, 1890.

During all that period, some seventeen years and upwards, the Roman Catholic parents of children in those districts had maintained at their own expense one school in Bathurst Town and one school in Bathurst Village, at which the greater number of the Roman Catholic children of the Town and Village during all those years received their education. These two schools were known as Convent Schools, and the teachers in these schools, down to the year 1890, were sisters of the Congregation of Notre Dame, Montreal.

During the same period the schools conducted under the Common Schools Act in the said districts were attended by the Protestant children of the said districts and by some of the older boys of the Roman Catholic faith, the Sisters of the Congregation of Notre Dame not teaching boys.

The number of Roman Catholic children in attendance upon the Convent School in Bathurst Town in 1890, just before such school was brought under the operation of the School Law, would be about a hundred; and the number of children then enrolled as in attendance upon the common schools in Bathurst Town about one hundred and seventy.

The number of Roman Catholic children in attendance upon the Convent School in Bathurst Village in 1890, just before such school was brought under the operation of the School Law, would be about eighty; and the number of children then enrolled as in attendance upon the common schools in Bathurst Village for the term ending 30th of June, 1890, ninety-two.

From 1874 down to 1890, all the sums of money voted for school purposes at the annual meetings under the law in the Town and Village were assessed and levied upon all the ratepayers resident in, and upon the non-resident owners of real estate liable to be assessed in the districts, and the persons so assessed included both Roman Catholics and Protestants.

It will thus be seen that down to the year 1890 the trustees of schools in these two districts had available for the purpose of the schools conducted by them all the rates and taxes assessed upon these districts respectively, as

well the rates paid by ratepayers who were Roman Catholics as by ratepayers who were Protestants; and during all these years the Roman Catholics of these two districts kept up and maintained at their own expense and by voluntary subscriptions the Convent Schools in these two districts.

In June, 1890, the Sisters of the Congregation Notre Dame, Montreal, who had been teaching in the Convent Schools in the Town and Village, called upon the Roman Catholics of the two districts to pay them an additional annual allowance as teachers of the Convent Schools, stating that the sums heretofore paid them were insufficient for the purpose of maintaining their schools. Meetings of the principal Roman Catholics of the Town and Village districts were held to consider the proposition to pay the additional allowance asked by these Sisters, and although several sums were subscribed for that purpose it was eventually concluded by the Roman Catholics who met to consider the propositions that it would be better to part with the Sisters of the Congregation of Notre Dame, who declined to teach under the Common Schools Act, and secure if possible Teaching Sisters who would teach under the Common Schools Act.

To this end the Sisters of the Congregation de Notre Dame prepared to leave the province, and did so, and arrangements were made by the trustees of schools for Bathurst Town and by the trustees of Bathurst Village, by which they agreed to take the Convent School rooms in Bathurst Town, and certain rooms in the Convent School building in Bathurst Village, and occupy them for school purposes under the Common Schools Act. Several Sisters of Charity duly licensed to teach were engaged as teachers by the trustees of schools of each of these districts, and agreements were duly entered into in accordance with the Common Schools Act between the trustees and each such teacher. The trustees in the month of September, 1890, opened these school rooms as schools under the law for the reception of pupils, and gave permits to pupils to attend the same.

The effect of this, as will be readily understood, was to bring under the operation of the Common Schools Act in the schools of Bathurst Town about some one hundred children of Roman Catholic parents, and in the schools of Bathurst Village about some eighty children of Roman Catholic parents, who had hitherto been attending the Convent Schools; which were, as I have already stated, supported by the voluntary subscriptions of the Roman Catholics of Bathurst Town and Bathurst Village; and as a conse-

quence the sums to be raised by rates and taxes would be increased by the amount that would be necessary to meet this increased attendance of children. I will refer to this hereafter, when I come to deal with the question raised as to what is claimed to be the excessive cost of now running the schools in the Town and Village.

Having thus shortly stated the condition of school matters in the Town and Village in the summer of 1890, I will now proceed to deal with the first ground of complaint put forward by the Reverend Mr. Thomson :

It in effect charges Bishop Rogers with a design to have the common schools of Bathurst Town and Bathurst Village brought under the control of religious teachers of the Roman Catholic church, and of establishing conventual schools in these two districts with a view to having the children of Protestant parents taught within such conventual schools. I am not aware of any course of proceeding by which any prelate of any church can bring the common schools in any district in the province, which by law are placed under the control of the trustees of the district, (subject, of course to the law and regulations,) under the control of religious teachers of his particular church. No one could have heard the evidence of Bishop Rogers, or that of Father Barry, the priest in Bathurst Town, or of Father Varrily, the priest in Bathurst Village, and have arrived at the conclusion that the bishop or either of the two priests named for one moment entertained the idea of bringing the common schools in either the Town or Village under the control of religious teachers of the Roman Catholic church with a view of establishing conventual schools and of having the children of Protestant parents taught within such conventual schools.

Bishop Rogers and the two priests just named did not hesitate to express their opinion that they believed in religious combined with secular teaching in the schools; but finding that that could not be had under the provisions of the Common Schools Act of New Brunswick, they yielded to the law, while still entertaining their belief that religious and secular teaching should go hand in hand in daily school life.

Mr. Fowler contended that there was religious teaching in these school buildings after teaching hours, and that that was contrary to law. The use of the Convent School rooms after school hours for such a purpose, inasmuch as the buildings were only hired for school purposes during school hours, does not appear to be an infringement of the regulations within the

spirit of the minute of the Executive Council of the 6th of August, 1875, which is as follows :

'Where, by negotiations with governing bodies of schools existent at the passage of the School Act, arrangements are made by trustees under '36th Victoria, Chapter 12, Section 58, no restriction is placed upon the use 'of the buildings after the close of the school.'

I have, therefore, to report that in my opinion the evidence offered entirely fails to sustain the first ground put forward in Mr. Thomson's list of complaints.

(2) The second ground of complaint is that special arrangements were made by the Board of Education of the Province of New Brunswick for the examination of the said members of the said religious teaching orders on their coming as afore-said to said school districts, and on their so coming to said school districts they were examined in the Roman Catholic convent in the County of Gloucester for the purpose of being licensed as teachers under the Common Schools Act of this province, and upon such examination they were contrary to law licensed to teach in said districts under said acts.

The gist of this complaint is that the Sisters of Charity who were employed as teachers by the trustees of the Town and Village schools were contrary to law licensed to teach in said districts, inasmuch as they were examined under special arrangements involving special privileges which were refused to other teachers.

The Sisters of Charity who were examined at Bathurst in June, 1891, for license were so examined under School Regulation 30 of the Regulations of the Board of Education then in force relating to the licensing of teachers, and under the third sub-section of that regulation, "they being persons who had undergone training at a recognized Normal School of another country for the period of one school year or annual session," and the construction given to that sub-section by the Governor in Council on the 6th of August, 1875, which is thus stated in the minute of Council :

'Any person who has undergone training at a recognized training or normal school in another country, or who holds a diploma from a chartered college or university, is eligible for examination for license under Regulation '30 of the Regulations of the Board of Education. The certificate of the superior of any of the Roman Catholic teaching orders is recognized as rendering the holder eligible for such examination, and it would not be necessary for such person to attend the New Brunswick Training School.

' Where such certificates are not held, attendance upon the training school is required.

The examination was presided over by Mr. J. Henry Phair, of Fredericton, then Assistant Clerk of the Legislative Council, acting as deputy for the Chief Superintendent, as he had done on other occasions.

It is not claimed that the examination was not conducted fairly and properly in every respect, but what was urged was that while St. John and Chatham had been named as examining stations the Board of Education had by order substituted Bathurst as an examining station for Chatham, and that this was done for the special benefit of the Sisters to be examined, and was therefore an infringement of the School Act.

I cannot see any infringement of the School Act in the Board of Education making Bathurst a station for examination.

The Board of Education as early as 1873 fixed times and appointed stations for examinations. It is true that at first they named St. John and Chatham as examining stations; but they were not limited to these two places, and might have selected then or at any time subsequently any other place in the province for an examining station, and, therefore, the selection of any place as an examining station must be a matter entirely in the discretion of the Board of Education.

It appears to me that when it is claimed that the selection of Bathurst was a special privilege conferred upon the Sisters, those putting forward that contention entirely lose sight of the fact that when Bathurst was named as an examining station any examination to be held there *would be open to eligible candidates from all parts*. This entirely disposes of what is sought to be put forward in this ground of complaint, viz., that special arrangements were made by the Board of Education in favor of the Sisters. The Regulation 30, (School Regulations published in the year 1887,) fully sets forth the persons who would have been eligible candidates at any examination held in Bathurst; and from that regulation it will be seen that a numerous class besides Sisters of Charity could have availed themselves of the examination at Bathurst to secure a license. That the Sisters of Charity were the only persons who did avail themselves of the examination which was held by Mr. Phair would not, and could not by any process of reasoning, be construed into conferring upon the Sisters a privilege which would not, if it be a privilege—I think it is a right—have been a privilege also for the benefit of any candidate eligible for examination.



It was urged, however, that in the year 1892 two persons eligible for examination had applied to have an examination held at Bathurst, and that their application had not been complied with. Dr. Inch in his evidence stated that one of these persons was Miss Elizabeth F. Arseneault and the other he thought was Miss McDonuld. These ladies were written to by Dr. Inch, and informed that if an examination were held in Bathurst they could attend, but subsequently he wrote to them to say as they were the only persons applying it would be better for them to come to Fredericton; and this he did because, as he said, it would be very inconvenient to send an examiner to Bathurst, and that it would be much better for them and cheaper for all concerned that they should come to Fredericton.

Dr. Inch further adds that he was acting, perhaps, outside of the usual course in consenting to their being examined at Bathurst, but that he thought if an examination were held at Bathurst, they ought to be admitted to it.

No examination was held at Bathurst in the year 1892, and therefore neither Miss Arseneault nor Miss McDonuld was examined there.

There is nothing in the evidence to show that either Miss Arseneault or Miss McDonuld was a candidate falling within the class of persons eligible under Regulation 90 for examination at Bathurst, and this may account for Dr. Inch's statement that he, perhaps, was acting outside of the usual course in at first consenting to their being examined at Bathurst.

Assuming, however, that these two ladies were eligible for examination at Bathurst, then the only reason given by Dr. Inch for their not being examined there appears to be the very considerable expense that would have been incurred in sending a special deputy to Bathurst to examine them. This expense, in my opinion, ought not to affect the right of an eligible candidate to have examination. If it was the right of these ladies to be examined, which the evidence leaves in doubt, an injustice may have been done to them; but they have not, so far as the evidence goes, made any complaint to the Board of Education in regard to the matter, nor does it appear that it was ever brought under the notice of the Board in any way as a subject of complaint.

Mr. Fowler at the argument claimed that when licenses of the Third Class were given to the Sisters upon their first coming to Bathurst that such licenses were given for a year instead of for one term.

Under Regulation 32 of the regulations then in force, a person eligible for examination under Regulation 90, which these Sisters were, might receive a license of the Third Class for the current term on condition that such

person undergo examination at the time fixed for the same by Regulation 30. I cannot discover from the evidence very clearly whether the local licenses to the Sisters issued in 1890 were for the current term, or, as Mr. Fowler claimed, a year. I should assume, in the absence of evidence to the contrary, that the licenses granted would be in accordance with the regulations; but, be this as it may, the licenses granted upon the examination held before Mr. Phair were not open to objection, and it is under those licenses that the Sisters are now teaching.

(3) The third ground of complaint is as follows:—

That the Roman Catholic priests exercising their religious offices in the said school districts have interfered with the schools of said districts in the following manner:—

(a) One of said priests, after the establishment of the said conventual schools as aforesaid, on Sunday, in the Roman Catholic church in Bathurst, gave instructions as to what children should attend the said conventual school and what children should attend the schools taught outside of the said school presided over and taught by the members of said religious teaching orders.

(b) That during the school term ending the 30th of December, 1892, another of said priests ordered the mother of one of the pupils attending one of the public schools of one of said districts to take her daughter, the said pupil, from the said public school which she was then attending, and send her to one of the said conventual schools.

(c) That one of the said priests instructed Theodore Langis, one of the teachers in the public schools of said District No. 16, to teach the pupils in the said schools the Roman Catholic catechism, which said teacher did, in pursuance of said instructions, and by the further direction of one of the trustees of the said School District No. 16, so do.

(d) That one of the said priests, previous to the establishment of said conventual schools in said District No. 16, wrote a letter to the board of trustees of said district requesting said trustees to rent the Convent buildings in said district for school purposes in the district aforesaid, and to employ the members of the said religious teaching orders as teachers therein; and in consequence thereof, the said trustees did so engage and occupy a portion of the said Convent School building for such school purposes, and did employ said members of said religious teaching orders as teachers therein.

Dealing, then, with the sub-section (a), the complaint substantially is that after the trustees of schools in Bathurst Town had entered into an agreement

to take the school rooms in the Convent building for school purposes under the Common Schools Act, and had entered into an agreement with certain of the Sisters of Charity duly licensed to teach in the common schools of New Brunswick to become teachers in the common schools in Bathurst Town, Father Barry, the Roman Catholic priest, had, on a Sunday, after the arrangements had been completed, in the Roman Catholic church in Bathurst under his charge, given instructions as to what children should attend the school in which the Sisters of Charity were to be placed as teachers, and what children should attend the other common-schools in the town.

This charge, looked at from a plain, common-sense view of announcements from time to time made from the pulpit of any denomination, cannot I think but be considered as an endeavor to misjudge the motives of the speaker, and to give to a very fair announcement, to say the least of it, a most ungenerous construction.

After it was understood and agreed that the Roman Catholics of Bathurst Town and of Bathurst Village were to come under the School Act, and arrangements had been made for that purpose, what was more natural than that the priest should from the pulpit announce to his congregation that the schools in the town were in the future to be carried on under the provisions of the Common Schools Act, and explain to them as to the attendance at the school buildings under the control of the trustees of the Roman Catholic children of his flock. The granting of permits to the children is the act of the trustees and not of the priest.

Let us on this point see what the evidence of Father Barry is. He says: 'I gave directions which they might follow or not, just as they thought proper; my directions were that the boys might attend the Convent Schools as well as the girls. The reason of my making the announcement at all was that the people generally did not know of the change, and whether they knew it or not, I thought it only proper to make the announcement on that occasion, as we were now entering upon a new phase of the matter. I mentioned the fact that the schools we had supported up to the present time out of our own private money were now to be supported by the school district, and to be conducted under the law, and that the boys would be taken; and I recollect well of mentioning, thinking it was proper to do so, that it would be an advantage to the whole school system in the town—Grammar School and Common School—that the big boys—it would be more suitable for them to go to the Grammar School; that I thought it would be wiser to send the small boys to the Convent Schools, and that the larger boys would if possible go to the Grammar Schools.'

In respect to this announcement Father Barry was asked: 'In performing that duty you were simply acting in the capacity of a pastor, and not using any unnecessary means at all to have your advice followed?'—Answer: 'Certainly; in fact I think I was requested by the trustees to make the announcement—to announce the opening of the schools.' He adds that he thinks trustee O'Brien asked him to make the announcement; but what he stated was not followed out, because some objected that as the schools were now under the law they were free to send any children they liked to it; and that, of course, that was the case, and then all boys went to it—big and little.

With this testimony I should say that the charge, that Father Barry in the exercise of his religious office in making the announcement he did was interluding in a religious point of view with the schools of the district, is entirely disproved.

In regard to sub-section (b), charging that during the school term ending 30th of December, 1892, another priest, Father Varrily, ordered the mother of one of the pupils attending one of the public schools of one of said districts to take her daughter, the said pupil, from the public school which she was then attending, and send her to one of the said conventual schools, the facts as disclosed by the evidence were that a young girl attending the common school in the Convent building in the Village was observed to be somewhat too familiar with some boatmen or fishermen at the public wharf—in fact, was guilty of levity with them—and being remonstrated with by a Sister of Charity, who was not one of the licensed teaching Sisters, became indignant and left the school held in the Convent building, and sought for and obtained a permit to enter the High School building, and did enter it. It was a question whether her name was registered as a pupil. It seems to me from the evidence that, although there was some informality, she was substantially registered by the principal as a pupil. Father Varrily believed he had a right as parish priest to talk to the girl and to her mother as to her alleged indiscretion, with the result that the girl returned to the common school in the Convent building. It seems to me that the School Law never contemplated that the parent should not have control over his child in such a matter as that, or that the clergyman should not have the right to look after the morals of the members of his flock.

In the present instance what Father Varrily did was what any minister of any denomination would have done in respect to what he considered was

objectionable conduct in any child of any family under his ministerial control.

It was claimed that the young girl wanted to go to the Superior School in the Village with a view to obtaining such education as would enable her to attend the Normal School, with a view to her becoming a teacher under the Common Schools Act, and that her return to the school in the Convent building prevented this.

What all this has to do with the priestly control of the common schools, I am at a loss to understand.

(c) That one of the priests instructed Theodore Langis, one of the teachers in the public schools in the Village, to teach the pupils in said schools the Roman Catholic catechism, which said teacher did in pursuance of said instruction and by the farther directions of one of the trustees of the said Village schools so do.

Father Varrily did ask the teacher, Theodore Langis, if he would after school hours teach the Roman Catholic catechism to certain of the pupils attending the schools in the Village school; and Langis, the teacher, consented to do so, and did teach the catechism accordingly.

The teaching of the catechism took place during noon-day recess; that is after the school was dismissed at noon, and before the opening of the school in the afternoon.

Father Varrily and the teacher, Theodore Langis, both thought that after the school was dismissed at noon teaching the catechism during the recess was not teaching the catechism within school hours, and was not in contravention of the School Regulations.

This brings up an important question, which may as well be considered here once for all; as the teaching of the catechism and the giving of religious instruction after the dismissal of the school at noon and before the opening of the afternoon sessions has been practised in the Town and Village schools as well as in some of the other schools in other districts in the Parish of Bathurst.

The wording of the regulation relating to the length of the daily school session has not varied very much from the making of the first set of School Regulations down to the present time.

The regulation, as published in the School Manual of the year 1887, is as follows:

Regulation 19, sub-section 6 — *Length of Daily Session*: "The hours of

'teaching shall not exceed six each day, exclusive of *at least one hour* allowed *at noon for recreation*. The Board of Trustees, however, may, if it desires, restrict the number of hours to five, and for the younger children to four. A short recess shall be allowed about the middle of the morning sitting, and the same in the afternoon session if deemed necessary. In the youngest primary departments or classes, special care should be exercised that the pupils are not confined too closely or too long in the school room.'

Regulation 20, sub-section 6, of the School Manual published in 1892, is identical word for word with sub-section 5 of Regulation 19 in the School Manual of 1887, just quoted.

Mr. Skinner and Mr. Fowler, on behalf of the complainants, contended that school hours comprised all the hours from the opening hour of the school until the end of the closing hour of the school.

The contention of Mr. Lawlor, who was counsel for the trustees, was that the hour allowed at noon for recreation was *no part* of the teaching day; that during that hour teacher and pupils alike could employ it in any way they pleased, and were not amenable to the school authorities for the manner in which they spent that hour. He said it was not contrary to law or the regulations for the teacher, after he had dismissed the scholars at the noon hour, during the hour thereafter allowed for recreation, to give, to such of the pupils as their parents desired should receive it, instruction in the catechism or any religious subject.

In support of this argument, sub-section 2 of Regulation 22, (School Manual, 1887,) and sub-section 2 of Regulation 23, (School Manual 1892,) were referred to under the head "*Duties of Teachers*" sub-section 2, '*While employed in the discharge of school duties, not to make use of any religious catechism, nor to interfere or permit interference on the part of others with the religious tenets of any pupil.*'

The prohibition in this sub-section he contended only applied to the teacher while he was employed *in the discharge of school duties*, and that during the hour allowed for recreation he was not under the law employed in the discharge of school duties, and, therefore, in teaching the catechism or giving religious instruction during that hour he was not violating the provisions of the School Act or any of the regulations of the Board of Education.

There would at first sight appear to be a good deal of force in this argument of Mr. Lawlor, and one is not at all surprised to find that teachers so

construed the regulations as to believe that during the recreation hour they were at liberty to teach the catechism and give religious instruction.

Then again, another argument arising out of this sub-section 2 was this, that it *impliedly* admitted the right of the teacher to make use of the catechism at any time *while he was not employed in the discharge of school duties*, and that during the recreation hour he was not so employed.

The first set of regulations under the Common Schools Act made by the Board of Education, under date the 15th of November, 1871, published in 1872, Regulation 19, contains substantially the same words in regard to the hours of teaching as does Regulation 19 in the Manual of 1887, and Regulation 20 in the Manual of 1892.

The intention of the regulation is that there shall be what is called the daily school session—its length shall not exceed seven hours, of which the hours of teaching shall not exceed six, and may be restricted by the board of trustees to five. There shall be an hour allowed at noon for recreation, and a short recess shall be allowed about the middle of the morning sitting, and also another short recess about the middle of the afternoon sitting. Then, when we look at the regulation which gives to the teacher the privilege of opening and closing the daily exercises of the school by reading a portion of Scripture, and by offering the Lord's Prayer or such other prayer as might be permitted by the board of trustees, it is manifest that from the hour fixed for the opening of the school each day to the hour fixed for the closing of it is the length of the daily school session, and that the teaching of the catechism or the giving of religious instruction *in the school building* within the hour allowed at noon for recreation is contrary to the spirit and intent of the School Act and to the regulations in that respect. There is, however, no evidence to show that there has been any complaint to the Board of Education that this practice had been followed in the Town and Village schools, or in any of the other schools in Gloucester in respect to which the evidence showed such a practice prevailed, nor were the Board of Education, as appeared by the evidence, asked to inquire into such practice.

I can only repeat here what I have stated above, that a teacher might honestly believe the regulations to mean that the hour allowed at noon for recreation was not an hour in which he was employed in the discharge of any school duties, and therefore, the pupils and their parents consenting, that he might within that hour lawfully give such pupils instruction in the catechism.

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conventual schools in said district No. 16, (the Village,) wrote a letter to the board of trustees of said district, requesting said trustees to rent the Convent building for school purposes in the district aforesaid, and to employ the members of the said religious teaching orders as teachers therein; and in consequence thereof the said trustees did so engage and occupy a portion of said Convent building for such school purposes, and did employ said members of said religious teaching orders as teachers therein.

The priest referred to is Father Varrily, and it appeared by the evidence that he made application by letter dated the 31st of July, 1890, to the board of school trustees of the Village, on behalf of three of the Sisters of Charity, who all held First Class licenses under the Public School Law of Nova Scotia, and temporary licenses of the Third Class in this province, offering their services as teachers at a salary of \$110.00 each for the school year; and he also offered the trustees the use of three class rooms (or more if needed) in the Convent for class purposes, together with all the school apparatus hitherto in use, such as desks, chairs, stoves, etc., for an annual rental of thirty dollars or ten dollars for each class room. Father Varrily also stated in the letter that if the board of trustees engaged these Sisters as teachers they would be ready to commence teaching on the first of September, and undertake to teach in conformity with the law and regulations governing public schools in this province. It was established in evidence that Father Varrily had such control over the Convent building as would empower him to rent it to the trustees. The board of trustees did rent the school rooms referred to and also hired the Sisters as teachers.

The board of school trustees is a creation of the Act, and they have powers and rights which so long as they act within the law must be respected, and cannot arbitrarily be interfered with.

I am at a loss to see what infringement of the School Act or of the regulations there was in what was done by Father Varrily or by the board of school trustees, as they were at perfect liberty to accept or reject the application of Father Varrily, and were not bound to rent the Convent school rooms or to engage the Sisters as teachers.

It does appear to me that this charge might well have been omitted from the Complaint, unless, indeed, it be that it was thought because Father Varrily was a priest he therefore ceased to have the common right which any ratepayer or resident of the district possessed of offering to rent to the trustees for school purpose school room over which he had control, and of making a



request on behalf of a teacher to the trustees for the employment of such teacher.

(4) The fourth ground of complaint is that, under and by reason of the influence of the Roman Catholic authorities in said school districts, Roman Catholic holy days, not being school holidays, have been observed in the public schools in said districts, as well as in said conventual schools.

The evidence disclosed the fact that Roman Catholic children did not attend the common schools on days which were known as Roman Catholic holy days, and the effect of this was in many cases to so deplete the schools of pupils as virtually to render proper teaching in the school quite an impossibility. In many cases the schools were closed on such days, and the teacher taught on Saturday instead. It was claimed that in the schools of the Convent school rooms in Bathurst Town and Village the Saturdays thus substituted would not be much if any in excess of the substitute days permitted by sub-section 4 of Regulation 20, (School Manual, 1892,) while on the other hand Mr. Skinner and Mr. Fowler urged that the sub-section did not warrant the substitution, and that the non-attendance of Roman Catholic pupils by reason of their not attending school on a Roman Catholic holy day did not constitute such *extraordinary circumstances* as would justify the board of trustees in reaching a judgment that the substitution was desirable or necessary within the meaning of the 4th sub-section.

I simply report the facts with one or two observations. If Roman Catholic parents do not wish their children to attend the common school in the district on a Roman Catholic holy day, and they are not obliged to send them to school on such a day, it may be the duty of the teacher to sit all the teaching day in a school room without any pupils; or, in districts where the Roman Catholics are, perhaps, nine-tenths of the people in the district, with, perhaps, but three or four pupils, as the evidence disclosed would have been the case in some districts.

The regulations may not permit a substitute day to meet such a case, and, therefore, the substitution of Saturday teaching may have been, and I think was, not in accordance with the regulations. Yet this would not afford ground for charging the Board of Education with having sanctioned in any of the schools in the Town or Village, or in any of the schools in the County of Gloucester, the practice by the teachers of substituting Saturday teaching for days lost in consequence of pupils of the Roman Catholic faith not attending the common school of the district on Roman

Catholic holy days, no complaint having been made to the Board of any such practice.

I may just add that there was not a particle of evidence to show that the Roman Catholic authorities of the Roman Catholic church in any way or manner interfered with the trustees or the teachers to cause the closing of any school on these holy days in the common schools of the districts; the closing seems to have been the act of the teachers, and for the reasons given, that Roman Catholic pupils would not attend school on such holy days.

(5) The fifth ground of complaint is that a report prepared by George W. Mersereau, Esquire, School Inspector for said district, with reference to certain of their statements of facts, and forwarded to and received at the office of the Board of Education at Fredericton, has not been laid before the Board of Education.

The facts in reference to this, as detailed by Inspector Mersereau in his evidence, were that shortly after a committee of the Board of Education had been at Bathurst, as he thought in 1892, although he could not be positive as to the date—at all events at the time the committee were in Bathurst investigating certain difficulties, the Attorney General asked him to make up what he would consider a workable scheme for the schools of the Village, but he didn't remember whether the schools of the Town were included—he remembered he was in Campbellton when he made his report or scheme, and instead of sending it to the Attorney General he sent it to the Chief Superintendent of Education, explaining the conditions under which he forwarded it.

It appears that this report or scheme was never intended for the Board of Education, but was simply for the information of the Attorney General; and, as Mr. Mersereau states, the Chief Superintendent informed him that he had received the report so intended for the Attorney General, had handed it to him, and had not seen it afterwards.

As the evidence disclosed these facts, the counsel for the complainants at the argument conceded that the information upon which they had based the charge had proved to be erroneous, and, therefore, that the charge was an unfounded one.

(6) The sixth ground of complaint is: That the Board of Education of the Province of New Brunswick has from time to time, and persistently, declined to take action on the memorials, communications and complaints

addressed to it in reference to the matters set out in the statement of complaint, and particularly a memorial sent by the Protestant ratepayers and electors of said districts to the said Board of Education in the month of December, 1890, as to the establishing said Conventual Schools as public schools under said Acts, and protesting against the same; and also a complaint sent by Protestant parents and ratepayers to the said Board of Education at the beginning of the year 1893, with regard to the teacher placed in charge of the Grammar School in Bathurst at the beginning of that year, in consequence of which declining to act by said Board of Education, the trustees of school districts aforesaid were allowed to act illegally.

As respects the charge in this complaint that the Board of Education were guilty of delay in dealing with the complaint sent to them by Protestant parents and ratepayers of the Town of Bathurst with regard to the teacher placed in charge of the Grammar School in Bathurst Town, the counsel on behalf of the complainants conceded that the Board of Education had acted as promptly as could have been expected of them in this particular. My note of Mr. Fowler's statement on the argument in regard to this is as follows: 'Mr. Skinner and myself think there is no cause of complaint against the Board of Education in respect to the appointment of O'Brien as Grammar School teacher.' This leaves open for discussion the other branch of complaint.

I have given consideration to the point taken by the Solicitor General as to whether this is a matter for report, and whether it comes within the subject of the inquiry contained in my Commission, and I have arrived at the conclusion that it is very doubtful whether I am in any way authorized to inquire into or report upon the conduct of the Board of Education as to whether they have or have not declined to take action upon memorials, communications and complaints addressed to them in reference to these Bathurst school difficulties. His contention was that they need no report as to their own action. It would seem to me, however, that the evidence showed that the receipt of communications and representations to the Board of Education from Protestant ratepayers of Bathurst Town and ~~the~~ was always acknowledged; but it must be evident to any one who considers what the functions of the Board of Education are that the action to be taken upon such communications and representations, and when and how it should be taken, and what it should be, is a matter entirely for the

exercise of the judgment and discretion of the Board of Education, and that the Government never intended to refer for report whether they had or had not properly exercised their judgment and discretion unless their action or want of action *showed an infringement of the School Law and regulations, and there is no evidence to establish that*, and it is not because every communication to the Board is not acted upon in the way or at the time that the parties think it should be acted upon that that would establish that the Board of Education had been derelict in the discharge of their duties. For any short comings by the Board of Education, they are, I apprehend, responsible to the Legislature, and to the Legislature alone.

(7) The seventh ground of complaint is: That the grading of the schools in the said school districts has not been conducted according to law; that the trustees of said school districts, aided and influenced by the clergy of the Roman Catholic church in said districts, have made an effort to compel Protestants in said school districts to send their children to the said Conventual schools, and that the religious teachers of the Roman Catholic church in said school districts were by the said trustees placed in actual charge of certain departments of the public common schools in said school districts in the year 1891, all of which was brought about in consequence of the employment of the members of the said religious teaching orders of the Roman Catholic church by the trustees aforesaid as hereinbefore set forth.

There can be no question whatever that when the trustees of schools in Bathurst Town and Bathurst Village in 1890 made the arrangements they did to take and occupy the school rooms of the Convent building in Bathurst Town and three of the school rooms in the Convent building in Bathurst Village for school purposes under the Common Schools Act, and to engage Sisters of Charity as teachers, that the increase of the pupils in Bathurst Town and in Bathurst Village, with the fact that the Convent school rooms were used in addition to the public school buildings, rendered the grading of the schools in both Town and Village somewhat difficult. There was no evidence whatever to warrant the statement that the clergy of the Roman Catholic church in these two districts had made any effort to compel Protestants in the districts to send their children to the school rooms in the Convent buildings. It is true that in Bathurst Village two of the Sisters of Charity, licensed teachers, were placed as teachers in the public school building, but this was done at the instance of the Protestant trustee of the board of trustees. They remained but a short time, however, owing to the opposition of the parents of

Protestant pupils who declined to send their children to any department in the public school taught by a Sister of Charity.

In this connection it is claimed that the grading in the schools in both Bathurst Town and Bathurst Village is not what the law and the regulations require, and that all this is caused by the trustees having engaged for school purposes the Convent school rooms in the Town and certain of the Convent school rooms in the Village, leaving unoccupied certain rooms in the public school building in the Town. It was also put forward that the public school building in the Town had a sufficient number of rooms to accommodate all the school children of the Town, and that although the public school building in the Village might not at present afford sufficient room for all the school children, an addition made to the building at a comparatively trifling cost would give quite ample accommodation. That the occupying the Convent school rooms in both Town and Village was not only costly, but detrimental to the proper and efficient carrying on of the schools under the law; as the practical effect of it, owing to the action of the trustees in both Town and Village districts, and to the tendency of the Roman Catholic parents to send their children to the school rooms in which the Sisters of Charity were teachers, was not only to overcrowd the school rooms in which the Sisters of Charity taught with children of the Roman Catholic faith, but to cause a complete separation between Protestant and Roman Catholic children to the practically the effect of drawing exclusively Roman Catholic children to the Convent school rooms, thus lessening the attendance in the school rooms in the public school buildings in the Town and Village, and by thus weakening them rendering efficient grading impossible.

A great amount of evidence was produced as to the capacity of the public school building in the Town, measurements of rooms given, and other data to show that it afforded ample accommodation for all the school children of Bathurst Town, Roman Catholic as well as Protestant.

Like evidence was given as to the accommodation afforded by the public school building in the Village, but with this difference, that it was not claimed that this building could, in its then condition, afford sufficient accommodation for all the school children of the Village. To do that it would be necessary to make an addition to the building as well as certain alterations in it.

The evidence showed that in the public school building in the Town there were unoccupied rooms, and that this building would accommodate a larger number of pupils than were in actual attendance in the various school rooms

of the building, but such evidence did not satisfy me that the public school building in the Town had, as was claimed, accommodation for all the school children of the district. It had not, in fact, in my opinion, such accommodation. It was urged that the cubic contents of the rooms under the regulations were sufficient to allow space for so many pupils, but the cubic contents of the rooms, while, no doubt, one, is not the only criterion in determining how many children can be accommodated in the different rooms—that must depend upon a variety of circumstances, keeping in view proper grading, the number of departments, the number of school children in each grade, and other factors—the idea now being not to see how many children can be crowded into a school room, but how the comfort, convenience and health of both children and teacher can best be provided for. In this view, the public school building in the Town, the evidence shows, did not in my opinion contain all the accommodation required for the school children of the Town.

It was further urged that one at all events of the school rooms in the Convent school building in the Town did not meet the requirements of the School Act and regulations as to height of ceiling and in some other respects, but as this seventh ground of complaint is that the grading of the schools has not been conducted according to law, it may be sufficient simply to notice the objection to this school room, and to say that it was only a very few weeks before the complaint was filed with me that the attention of the trustees was called to the fact that this room in the Convent building did not meet the requirements of the Regulations, and proceed to consider the principal ground of this complaint.

It was made apparent by the evidence that the large number of the Roman Catholic children in attendance at the Convent school rooms both in Bathurst Town and Village rendered it difficult to have a proper and efficient grading of the schools both in the Town and Village. This was brought to the notice of Chief Superintendent Crocket, and after Dr. Inch became Chief Superintendent, under his notice. The Inspector also gave his attention to this subject of grading, and, as I have already stated, at the request of the Attorney General, in 1892, (as Mr. Mersereau, the Inspector, thinks,) prepared a paper giving his ideas for the information of the Attorney General as to what he thought would be a feasible scheme for the grading of the Village schools—he could not say whether the paper he so prepared had a reference to the Town schools or not. It appeared that the grading of the schools in the

Village was a very difficult matter to deal with ; in fact I think it may almost be taken as proved, that ideal grading, so to speak, was almost if not quite impossible under any circumstances in either the Town or Village schools, but more particularly in the latter schools, as there was a French population in the Village, and this was an element that would have to be taken into account in the grading.

Besides all this, Dr. Inch, as Chief Superintendent, has in reference to the schools both in the Town and Village given directions to the trustees as to the number of pupils that should be permitted to attend in the Convent school rooms, and in the rooms in the public school buildings.

Every reasonable effort appears to have been used by the Chief Superintendent of Education to obtain a satisfactory grading; and promises have been made by the trustees to meet the directions of the Chief Superintendent after the then present school term. No doubt, dual grading in such communities as Bathurst Town and Bathurst Village must impair to a certain extent the efficiency of the schools. It seems to me that the trustees are allowing matters to drift somewhat, and are not unwilling that the Convent school rooms should be filled to over-flowing with Roman Catholic children, because it is the wish of the parents of the children that they should attend the schools taught in those rooms. This, however, ought not to be permitted, as it has not allowed such possible grading as might be had, and as would be reasonably satisfactory. The directions of the Chief Superintendent, if followed out, would in his opinion provide a system of grading that would under the circumstances be workable, and fairly meet the requirements of the law and regulations.

If the trustees of both the Town and Village Districts fail to discharge their duty in this matter of grading—something most essential in the efficiently carrying on of the school work in such districts as Bathurst Town and Bathurst Village—and continue doing as they have done, the Board of Education will, no doubt, provide a remedy for any disregard in this respect of the directions of the Chief Superintendent.

It would hardly seem necessary to refer to the statement in this complaint that the trustees, aided and influenced by the clergy of the Roman Catholic church in the said districts, had made an effort to compel Protestants to send their children to the Conventual schools.—I may here say once for all that from the beginning of the evidence to the close of it, there was nothing to justify any one even thinking that the clergy of the Roman Cath-

olic church in these two districts had made any effort to compel Protestants to send their children to the school rooms in the Convent buildings. The complaint is evidently the production of some one who could not see any good in his neighbor if that neighbor was a priest of the Roman Catholic church.

(8) The eighth ground of complaint is that by the action of the trustees of the said school districts, as in the statement set out, and by the neglect of the said Board of Education, as also set forth in this statement, the efficiency of the school service in said school districts has been greatly lessened, and interfered with in the following particulars:—

(a) That inferior and incompetent teachers have been employed in said districts.

(b) That the Superior School in School District No. 16, (Bathurst Village,) was in consequence of the matters herein set forth closed, and the Grammar School in School District No. 2, Bathurst Town, was also closed.

(c) That such closing of the Superior and Grammar Schools was done in order to make it necessary as far as possible that the children of Protestants should be compelled to attend the said Conventual schools of the Roman Catholic church, and if possible firmly establish the latter schools in said School Districts No. 2 and No. 16.

(d) That a French teacher with an inferior grade of license was placed in charge of the primary department of the public school in District No. 16 at the beginning of the year 1892, and the Protestant children were compelled either to be under such inferior French teacher or attend the said Conventual schools.

(e) That a teacher obnoxious to the Protestant ratepayers in said School District No. 2, (Town school,) was placed in charge of the Grammar School in the hereinbefore last mentioned school district at the beginning of the present school term, such teacher was not a Grammar School teacher, and had been previously dismissed by the said Board of Education from the position of School Inspector under said Board.

This ground of complaint with its subdivisions must have exercised to a large extent the ingenuity of Mr. Skinner and Mr. Fowler, who prepared the complaint for the Reverend Mr. Thomson, so as to incorporate into it clerical interference throughout, from the beginning to the end. The whole complaint in this matter, permeating almost every sentence of it, is an allegation that every thing complained of has been done in the interests of the Roman Cath-



olic church; that Conventual schools have been established in their interest, and that there has been a design from first to last on the part of the Roman Catholic clergy of Bathurst Town and Bathurst Village to so work the schools of these two districts as that children of Protestant parents should be compelled to attend the teaching in the school rooms of the Convent buildings.

The evidence does not support any such state of facts. I take it that any ordinary, fair-minded man would come to the conclusion that when the Roman Catholics of Bathurst Town and Bathurst Village, after supporting by voluntary subscriptions their own schools for seventeen years and paying during that time the assessed school rates for the support of the schools in these districts from which Roman Catholic children derived but little benefit, concurred in arrangements by which these schools should come under the law, that they might at least be credited with some honesty in the matter, and instead of being charged with a desire to place the schools under the control of the Roman Catholic clergy, be believed to have accepted the School Law, as the witnesses stated they did,—perhaps, with reluctance, but nevertheless with the desire and intention that its provisions should be carried out during school hours in the school rooms which the trustees had taken for the purposes of the two districts.

Dealing, then, with the grounds of complaint under this head, the evidence showed that a state of feeling had arisen in the Village and Town Districts which resulted, as I think, in the employment by the trustees in the public school building in the Village, of teachers less competent than those who had been employed prior to 1891. These differences also led to an attempt to close the Superior School in the Village and a partial attempt to close the Grammar School in the Town. The action which looked to the closing of the Superior School in the Village was due to a certain extent to some personal altercation, the effects of which were brought to bear upon the ratepayers at the annual school meeting in 1892, and which induced them not to vote the necessary money to pay a teacher of a Superior School. However, this action of the school meeting only caused a temporary suspension of the school as a Superior School. A lady teacher was employed, and the school after some delay was in operation again as a Superior School.

At the annual school meeting in Bathurst Town held in 1892, considerable discussion took place as to whether money should be voted to keep up the Grammar School in the Town, and feeling being high no money was voted for a Grammar School. Hardly, however, had this taken place when it

was felt that a mistake had been made, and two meetings of the ratepayers were held to reconsider the matter, one on the 28th of December, 1892, and the other on the 4th of January, 1893; at the last of which meetings the ratepayers passed a resolution, the effect of which was that the Grammar School in the Town should be continued, and that the trustees be requested to provide a teacher for it with as little delay as possible.

This explains in a few words the action taken in both districts in respect to the Grammar School in the Town and the Superior School in the Village, and I should think without any argument would dispose of the ground of complaint (c), that such closing of the Grammar and Superior Schools was done in order to make it necessary as far as possible that the children of Protestants should be compelled to attend the said Conventual schools of the Roman Catholic church, and, if possible, firmly establish the latter schools in said School Districts No. 20 (Town) and No. 16 (Village).

(d) The evidence shows that the trustees did place a French female teacher, a Miss Landry, who held only a license of the Third Class, a license obtained by Acadian candidates after four-and-a-half or five months training and under which they are supposed to teach in Acadian districts, in charge of the primary department of the public school in the Village; and the Protestant children in consequence did not attend the school. The objection to Miss Landry as a teacher was not because she was French, but simply as alleged that while competent to teach according to her class of license she was not such a teacher as should have been placed in charge of the department she was placed in. This was certainly objectionable on the part of the trustees, and ought not in school interests to have been done. It was claimed to be done on the score of economy, as they wanted a teacher at a small salary; but such cheapening was nevertheless a serious wrong to the school children of the district. But I cannot see how it could be said to be done to compel the children of Protestants to attend the schools in the Convent school building; for if the feeling existed, as it appears it did exist among the Protestant parents, not to send their children to the rooms in the public school building in which two of the Sisters had been placed as teachers, much less would they be inclined to send their children to the school rooms in the Convent building taught by Sisters, simply because a teacher had been engaged in the public school building who held a class of license which Protestant parents thought did not qualify her to teach their children. It seems fair to say that the trustees, after they saw the engagement of Miss Landry was so highly detrimental to the school,

although she was engaged for a year, at the end of one term induced her to resign.

(e) That a teacher obnoxious to the Protestant ratepayers in School District No. 2, (the Town schools,) was placed in charge of the Grammar School in the hereinbefore last mentioned school district at the beginning of the present school term; such teacher was not a Grammar School teacher, and had previously been dismissed by the said Board of Education from the position of School Inspector under said Board.

By reference to Complaint No. 6, it will be observed that it was charged that the Board of Education had declined to take action in reference to a complaint sent by Protestant parents and ratepayers to the Board of Education at the beginning of the year 1893 with regard to the teacher, (*i. e.*, the teacher just referred to,) placed in charge of the Grammar School in Bathurst at the beginning of that year; and in regard to this charge it will be noted in my remarks when dealing with it that at the argument counsel on behalf of the Reverend Mr. Thomson frankly admitted and conceded that the evidence showed that the Board of Education had in this particular acted as promptly as could have been expected of them.

The appointment of this teacher by the trustees was a most unfortunate occurrence. I think it not unreasonable to conclude from the evidence that had it not been for this appointment school matters in the town would not have assumed the unpleasant and regrettable phase which followed this appointment.

When it was resolved at the meeting of ratepayers on the 4th day of January, 1893, that the Grammar School should be continued, the evidence showed the general concensus of opinion of the ratepayers to be that any Grammar School teacher to be appointed by the trustees should be a Protestant; that this should be the case was expressed in public by Kennedy F. Burns, Esquire, M. P., and other prominent Roman Catholic ratepayers; indeed, there did not seem to be any other expressed desire at the meeting.

To the great surprise and astonishment of the ratepayers, the board of trustees appointed Mr. Edward L. O'Brien to be the teacher of the Grammar School.

Mr. Edward L. O'Brien had been an Inspector of Schools, including the schools in Gloucester County, but had been removed from office by the Board of Education for inattention to, and gross neglect of the duties of his office as Inspector. The causes which led to this inattention and neglect were well

known in Bathurst, and were his habit of life. It is true, the complainant, the Reverend Mr. Thomson, withdrew from his memorial the words which implied a charge of this nature; but from the evidence adduced there could not be a question but that Mr. Edward L. O'Brien's habits were as well known to the trustees as to the ratepayers, and were such as ought to have induced them to say that they could not for a moment listen to any application looking to his appointment. But Mr. John E. O'Brien, one of the trustees and the secretary of the board, was the father of Mr. Edward L. O'Brien; and he supported the application of his son, and through his influence induced Mr. Michael Power, another of the trustees, to join him in making the appointment, the other trustee, Mr. Alexander Doucett, not concurring.

Mr. John E. O'Brien is a Protestant, and his son, Mr. Edward L. O'Brien, the young man appointed as teacher, is a Roman Catholic.

So soon as the appointment by the trustees of Mr. O'Brien as Grammar School teacher was made public, it created intense excitement in Bathurst, particularly among the Protestant ratepayers, and was looked upon with much disfavor by numbers of the Roman Catholics who thought the wishes of the public meeting of ratepayers should have been respected by the board of trustees, and a Protestant teacher for the Grammar School have been engaged.

Telegrams were at once sent to the Chief Superintendent of Education complaining of the appointment of Mr. O'Brien, and although it has been admitted that the Board of Education acted as promptly in the matter as could have been expected, and refused to grant Mr. O'Brien a Grammar School license, yet before this could be accomplished the Protestant ratepayers had become greatly exasperated at the conduct of Trustee O'Brien, and at what they then believed it might result in; namely, the foisting upon the district of Mr. O'Brien's son as Grammar School teacher; and they, therefore, took steps toward the establishment of a private school. This action is to be deplored, and to one outside looks to have been a somewhat hasty one; but it may be, and, no doubt, is very difficult to determine by after results whether what people have done was or was not at the time it was done, perhaps, the very thing that the person passing judgment upon it would himself have done under the circumstances. In considering this action of the Protestant ratepayers who took part in establishing this private school, it is significant that, although there had been some dissatisfaction as to the working of the schools in the town, the Reverend Mr. Seller, the Methodist minister stationed at and in charge of the Methodist church and congregation

in Bathurst Town, had not up to the time of Mr. O'Brien's appointment as teacher taken any active part in the matter. When Mr. O'Brien was appointed, he, Mr. Seller, did step to the front, and became most active in resisting what he thought to be a most obnoxious appointment. It must not be considered here that the objection to Mr. O'Brien as a teacher was because he was a Roman Catholic — the evidence would not sustain any such ground of objection. On the contrary, while it is evident that the Protestant rate-payers would have preferred that a Protestant Grammar School teacher should have been engaged, as understood by the ratepayers, yet from the evidence I do not think there would have been any opposition worth the naming on the part of the Protestants if the person appointed, although a Roman Catholic, had been competent and of unexceptionable moral character.

As I have already said, it was most unfortunate that Mr. O'Brien, the trustee, knowing what he must have known, should have been a party to the appointment of his son as Grammar School teacher. He thereby, I do not hesitate to say, threw a firebrand into Bathurst Town community, which brought much trouble into it in connection with this whole matter. So soon as the Board of Education refused to license Mr. O'Brien, the trustees appointed a Mr. Berton, of Saint John, Grammar School teacher in the Town; but arrangements had been then made or were about completed for the establishment of the private school, though teaching in it did not commence until about the 20th of March.

The private school established under the circumstances was in operation when the present investigation was held, and the number enrolled in its register was about forty.

When this school was established, it was opened in a building owned by a Mr. Charles Bosse, in rooms which had been rented by him to the Orange Lodge, and with the consent of the Lodge. After it had been in operation for a very short time, Mr. Bosse, for some reason or another, objected to the school being held in these rooms; saying he had only rented the rooms for an Orange Lodge, and had simply given his consent to their occupancy for the private school for a few weeks, and he desired that the rooms should not be occupied for school purposes.

Finding that the parties interested in the private school intended continuing the school in these rooms, he threatened he would put a stop to their holding the school in that building. From the evidence he attempted to take the stove pipe down, and thus deprive them of the means of having fire; he

also attempted to use other means to compel them to leave the building, and eventually fastened the outside door with a lock and staples.

The efforts of Mr. Bosse to prevent the private school being held in the building were for some days publicly talked of; and the night before the occurrence happened which I am about to mention, it was stated in public that there would be quite a time, so to speak, when they went to open the private school the next morning, as Mr. Bosse had put or intended to put a padlock and staples on the outside door.

Accordingly, on the next morning, being the 26th of March, 1898, a number of persons from curiosity or otherwise gathered in the vicinity of the building to see what would be done. Friends of the private school with an axe broke the padlock, and the teacher and pupils entered the school room without any molestation.

There were some twenty-five persons or thereabouts in all gathered to see what would be done. The evidence showed that of these about from twelve to fifteen were Protestants, and about nine to twelve Roman Catholics. After the lock had been broken, and the teacher and scholars had entered the school room, and while the persons present were standing around, a sled drove up, and the driver, who was a Protestant named Richard Miller, who did not belong to the district, jumped off his sled, inquired what the trouble was, and then addressed himself to the Roman Catholics present and made use of expressions calling them a sneaking crowd and other like expressions, and a Mr. Gammon also referred to them as a sneaking lot of Catholics.

These expressions brought on a war of words, which continued, perhaps, for half an hour or so, between a few Protestants on the one side and a few Roman Catholics on the other, as to this attempt of Mr. Bosse to close the private school.

Within less than an hour all had dispersed, and, so far as the evidence shewed, the effects of this war of words had ceased to be thought of as a disturbing element of any moment in Bathurst community.

It was charged in this connection that Bosse was instigated to do what he did at the instance of some of the Roman Catholics of the town, and more particularly at the instance of Mr. Patrick J. Burns, a brother of Mr. Kennedy F. Burns; but the evidence did not support, much less warrant any such charge.

After the conclusion of the war of words, perhaps some two or three

hours afterwards, the following telegrams were sent to Fredericton; the Legislature being then in session. First a telegram from the Reverend Mr. Thomson and the Reverend Mr. Seller to the Attorney General, as follows :

'HON. A. G. BLAIR, M. P. P.,

'Bathurst Station, March 28th, 1893.

'Fredericton, N. B. :

'On verge riot this morning — door private school barricaded — number Roman Catholics in vicinity when Protestants arrived — our liberties and rights threatened — call upon Government for protection.

'J. SELLER,

'A. F. THOMSON.'

And secondly a telegram from the Rev. Mr. Seller and the Rev. Mr. Thomson to Mr. Pitts, a member of the Legislature, as follows :

'H. H. PITTS, M. P. P.,

'Bathurst Station, March 28th, 1893.

'Fredericton, N. B. :

'Sent following telegram to Blair:— On verge riot this morning — door private school barricaded — number of Roman Catholics in vicinity when Protestants arrived — our liberties and rights threatened — call upon Government for protection.

'J. SELLER.

'A. F. THOMSON.'

I make no comments upon these telegrams, further than to say that Bathurst school matters were then under discussion in the Legislature. The evidence did not shew that there was any fear in the community of a riot, nor that the senders of these telegrams were themselves in any way alarmed as to the safety of the Protestant population of Bathurst Town. Perhaps, now that some time has elapsed since these telegrams, were sent, they, as well as the occurrence itself out of which they arose, may be considered as something to be relegated to oblivion.

I can only repeat here what I have already said, that it is very regrettable that Mr. Edward L. O'Brien should have been appointed Grammar School teacher by the board of trustees; but the whole responsibility for this must rest upon the two trustees who made the appointment.

(9) The ninth ground of complaint is that the course pursued by the said school trustees in so establishing the said conventual schools and in sustaining the same, and in rendering the public common schools of said districts less useful than they otherwise would have been, has greatly increased

the cost of maintaining schools in said school districts, to the great loss and injury of the ratepayers in said school districts.

Eliminating from this complaint the words, 'in so establishing said conventual schools,' because I do not find that conventual schools were established in either district, the question raised under this head of complaint is that the cost of maintaining the schools has been greatly increased in the Town and Village Districts, while the schools have been less useful than formerly, since the trustees occupied for school purposes the teaching rooms in the Convent school building in the Town and certain of the school rooms in the Convent building in the Village.

A great mass of testimony was given under this head of complaint, and comparisons made as to the cost of maintaining the public schools before the Convent school rooms were occupied for school purposes and afterwards; and lists of ratepayers were produced, and evidence given to shew what proportion of the rates and taxes were paid by resident and by non-resident Protestant ratepayers, what proportion by resident and by non-resident Roman Catholic ratepayers, and what proportion of such rates and taxes were paid by corporations resident and non-resident.

The school law never contemplated that the carrying on of the common schools in any district should be governed by the amount of rates paid respectively by the Protestant and Roman Catholic ratepayers in such district. Nine-tenths of the rates in a district might be paid by Protestant ratepayers, and three-fourths of the children entitled to avail themselves of the privilege of the common schools of the districts might be Roman Catholics, and *vice versa*. It is not charged that the rates were not assessed alike fairly and equitably upon Protestant and Roman Catholic ratepayers, but what the complaint really amounts to is that the sum voted by the ratepayers at the annual meeting is too much; in other words, that too many teachers are employed by the trustees, and other expenses incurred, such as additional janitors and rent of the school rooms in the Village, which, the complainants allege, greatly increase the cost of maintaining the schools in these districts.

The imposing of assessments and the regulating the amount of them is under the law so largely in the hands of the ratepayers themselves that unless something of a very outrageous nature were shown the Board of Education should not interfere with the action of the ratepayers—indeed how far they should or could do so I am not prepared to say, as no point of the kind was taken before me or argued.



If such an obligation were thrown upon the Board of Education as to ascertain whether an assessment which the ratepayers had voted was too large, it is safe to assert that dissatisfied minorities would be constantly appealing to the Board against assessments. I think the law has wisely left this in the hands of the ratepayers; and as each and every ratepayer has to pay his lot and scot, we know as a matter of fact that the sums voted at the annual meeting are as an almost universal thing never excessive.

The law, no doubt, gives the board power to order an assessment where a district fails to provide money to carry on the schools; but that is a very different thing from the board undertaking to interfere with the vote of ratepayers, and to say to them that they have voted too much money for school purposes in the district where the law has not placed any limit upon the amount to be voted, as it has not in the two districts (the Town and Village) now under discussion. But, without entering into minute details such as I have above referred to, let us for a moment consider in a general way the sums voted for school purposes at the annual meetings in these two districts prior as well as subsequent to the taking of the Convent building school rooms in the Town and Village in the summer of 1890.

The evidence showed that the annual assessment in the Town prior to the taking over of the Convent school was about \$1,100.00 per annum, and after the Convent school building was taken over about three hundred and fifty dollars per annum extra.

In the Village school, the amounts voted at the annual meetings for several years were as follows:—

|              |           |
|--------------|-----------|
| In 1884..... | \$ 850 00 |
| In 1885..... | 850 00    |
| In 1886..... | 850 00    |
| In 1887..... | 800 00    |
| In 1888..... | 800 00    |
| In 1889..... | 500 00    |
| In 1890..... | 1300 00   |
| In 1891..... | 850 00    |
| In 1892..... | 600 00    |

During the years from 1884 to 1888 inclusive, the trustees always had a balance on hand, a saving from the assessment; but at the annual meeting in 1889, as Dr. Duncan, the secretary of the trustees, stated, the ratepayers kicked, and thought there should be no balance on hand, but that the assessment should just be run from year to year, and that is the reason

why in that year only \$500 was voted. At the close of the year 1889 there was a small balance on hand of about one hundred and twenty-six dollars, and Dr. Duncan gives as a reason for the assessment of \$1300.00 in 1890 that more money was needed to pay for additional accommodation and additional teachers; but it must also be borne in mind that provision had to be made for the additional scholars, who came in under the law, and also for the portion of the term the Sisters of Charity taught in 1890 as well as for the year 1891.

Dr. Duncan states that the reason why the assessment ordered at the annual meeting in 1892 was only \$600.00 was because the ratepayer who proposed that sum did so in opposition to the request of the school trustees for \$800.00; and that such ratepayer had an idea running through his head that the principal of the Superior School should be dismissed or asked to resign and a cheaper teacher engaged, and therefore a less amount would be needed.

Having thus given the amount voted annually by the ratepayers in these two districts, (which, of course, by no means represents the expense of carrying on the schools of the two districts—yet the sums I have mentioned as having been assessed were the only sums, besides the expense of collection, &c., which the ratepayers as such had to pay,) can it from these figures be said that the additional sums voted at the annual meetings in either of these two districts were or could in any sense be considered as excessive, or, to use the words in the complaint, 'as having greatly increased the cost of maintaining the schools,' when we look to the additional number of children that had to be provided with school privileges after the Roman Catholic ratepayers in 1890 in these two districts expressed their intention that their children should be taught in schools conducted under the law?

In saying this, I by no means close my eyes to the fact that the trustees may not have engaged in all instances teachers of as good a class to teach in the public school buildings as was done prior to 1890, and may have had a disposition, perhaps, to permit a larger number of the Roman Catholic children of the two districts to attend the rooms in the Convent buildings in which the Sisters of Charity were teachers than was consistent with an efficient system of grading, and may have had on the staff in the Village District one teacher more than would be otherwise required. The letters of Chief Superintendent Inch to the trustees would shew that he

considered steps should be taken to remedy this state of matters; and the directions he gave to the trustees of the Town are contained in his letter to J. E. O'Brien, Esquire, the secretary to the trustees, under date the 24th December, 1892. In that letter Dr. Inch says: 'I am prepared to sanction the following arrangements for conducting the schools in your district: 1st, The present number (6) of teachers to be retained, three in the Grammar School building, and the other three in any other building rented by the trustees for the purpose, so long as the average daily attendance of pupils shall not fall below 150 in the district, and 75 in each building. 2nd, That as nearly as may be practicable the whole number of pupils in the district shall be equally divided between the two buildings, and that after the close of the first term of 1893 all the pupils of the seventh grade and upwards shall be registered in the Grammar School building. 3rd, That the departments in both buildings shall be conducted in conformity with the School Law and regulations.

'I trust that the meeting of the ratepayers called for the reconsideration of the resolution passed at the annual meeting in regard to the Grammar School will unanimously consent to the continuance in efficiency of that department, and that all parties with mutual forbearance and in the interest of peace and harmony may unite in promoting the educational work of the town.'

And in his letter to Dr. Duncan, the secretary of the trustees of the Village school, under the same date, 24th of December, 1892, Dr. Inch says: 'After mature consideration I have decided to sanction the arrangement agreed to substantially at my conference with the trustees on the 21st inst. The only additional condition I would add is this: Should the average daily attendance of pupils in the district fall at any time below 100, then in such case not more than three teachers shall be engaged for the following term.

'The arrangement to which I understood the trustees to give their assent is as follows:

'1st, A Superior School shall be maintained in the Public School building, with two departments, and at least one-half of the children of the district enrolled therein. It was understood that about seventy-five pupils would be registered in the public school building. The average daily attendance ought not to be less than fifty.

'2nd, Two departments, including the first five standards, may be con-

continued in the Convent building, pupils above Grade V. to be sent to the Superior School.

3rd, the Schools in both buildings and in all departments to be conducted in strict conformity with the School Law and Regulations.'

The trustees of the Village school took some action upon this letter, and at a meeting held by them on the 27th of December, 1892, wished Grade VI. to remain in the Convent school building, and desired in reference to the average attendance falling at any time below one hundred that the Board of Education would give them such notice as would enable them to legally notify their teachers, and that in any case the proposed arrangement should be good for one year irrespective of enrollment or average.

On the 2nd of January, 1893, Dr. Inch replied substantially that while desirous of meeting the views of the trustees, he could not see how the Superior School could be maintained if the higher grades were withdrawn from it, and therefore, that he could not without instructions from the Board of Education withdraw the condition referred to unless there were pupils enough in Grade VI. to require the work of two teachers. Dr. Inch in his communication further stated that he could not recede from the position he had taken, that there should be a daily average attendance in both buildings of at least one hundred, and that in case the average daily attendance in either building should fall below fifty that then notice should be given at the earliest possible period under the contract for the dismissal of one of the teachers in the Convent building. Dr. Inch further stated that the charge was urged with persistence that too many teachers were employed, and in his opinion if the daily average attendance for the district fell below one hundred the charge would have to be sustained.

The trustees answered Dr. Inch that his reply was not satisfactory, in so far as it did not sanction the proposition made by the trustees with regard to having Grade VI. retained in the Convent.

In answer to this Dr. Inch, under date the 5th of January, 1893, expressed his regret that the trustees did not regard the terms of his letter of the 24th of December, 1892, as a satisfactory adjustment of existing difficulties; and felt assured that if the trustees of Bathurst Village persisted in a course which rendered it virtually impossible to retain an efficient graded school in the public school building of the district, it would precipitate a crisis which in his opinion it was the duty of all who care for the best interests of the country to endeavor to avert. Dr. Inch further

added that the public school building in its present condition could accommodate two departments with at least one assistant teacher, and that the number of teachers indicated could give instruction to at least one hundred children, and that if the reasonable proposals suggested in his letter of the 24th of December should be rejected by the trustees, he could not see any other course than to ask the Board of Education to confine the public school work to the public school house.

Dr. Inch addressed other letters to the trustees of the Village District, under date 9th January, 1893, and one under date 6th of February, 1893, relating to the schools in the Village, and in his letter of the latter date he says: 'I am bound to believe that the trustees are in good faith carrying out to the best of their ability the instructions contained in my letter (of the 24th of December.) I wish now only to say that if the official returns at the close of the current term shew that the conditions stated in my letter of December 24th have not been met, serious difficulty may arise in regard to the provincial and county fund appropriations.'

It will be seen from the extracts I have just made between Dr. Inch, the Chief Superintendent, and the trustees, that the Board of Education have in my opinion shewn not only due vigilance in respect to securing proper and reasonable grading of the schools, but also have evinced, as it was their duty to do, a most earnest desire to have the schools in the Town and Village carried on in accordance with the requirements of the School Law and Regulations. That there have been difficulties in attaining all this is not to be wondered at, and although at the time of my holding the investigation they were not entirely removed, I trust, to use the words of Dr. Inch in one of his letters, 'That all parties with mutual forbearance and in the interests of peace and harmony may unite in promoting the educational work of the Town'; and I will add of the Village also.

Mr. McManus, one of the trustees of the Village schools, in his evidence suggested as a means of solving difficulties in the management of the schools in the Village that the boundaries of the Village District, (No. 16,) be enlarged. It is not for me to say whether what he proposed would or would not lead to a more efficient carrying-on of the schools and to a better system of grading in the Village District.

I merely call attention to the fact as showing that Mr. McManus, as a trustee, felt that there was some remedy which in his opinion would enable

the trustees to meet the reasonable requirements of the Board of Education in the matter of grading. Then, again, I have endeavored to analyze the amount paid by the Protestant ratepayers and the Roman Catholic ratepayers in the Town and Village Districts.

The figures following give the enrolment and average attendance of pupils in the schools in Bathurst Town and Bathurst Village for each term of the years 1890, 1891 and 1892 respectively :

## FOR BATHURST TOWN.

|                             | Enrolment. | Average Attendance. |
|-----------------------------|------------|---------------------|
| Term ending June, 1890..... | 167        | 113                 |
| Do Dec., 1890.....          | 230        | 157                 |
| Do June, 1891.....          | 227        | 164                 |
| Do Dec., 1891.....          | 212        | 145                 |
| Do June, 1892.....          | 213        | 140                 |
| Do Dec., 1892.....          | 225        | 167                 |

## FOR BATHURST VILLAGE.

|                             | Enrolment. | Average Attendance. |
|-----------------------------|------------|---------------------|
| Term ending June, 1890..... | 92         | 54                  |
| Do Dec., 1890.....          | 171        | 116                 |
| Do June, 1891.....          | 163        | 120                 |
| Do Dec., 1891.....          | 170        | 105                 |
| Do June, 1892.....          | 156        | 103                 |
| Do Dec., 1892.....          | 121        | 86                  |

On the 31st of May, 1893, the number enrolled in the Village schools was 164. From this it will be seen what increase in the enrolment took place as a consequence of the Roman Catholics of the Town and Village having come in under the law. The increase in the enrolment for the term ending 30th December, 1890, in the Town, was from 167 to 230, or an increase of 63, and in the Village, from 92 to 171, or an increase of 79.

It appeared by the evidence that the population of the Village had between 1887 and 1892 decreased somewhat, owing, as I understood, to the closing of some milling establishment in the Village.

Dr. Duncan in his evidence stated that previous to the year 1890 the average amount of expenditure for schools in the Village was about \$1,100 per annum.

He gave figures of expenditures as follows: For the year ending 1st October, 1889, \$1,171.48; for the year ending 1st October, 1890, \$1,070.60;

for the year ending 1st October, 1891, \$1,429.70, and for the year ending 1st of October, 1892, \$1,271.49—the year ending 1st of October 1891 would include in part the provisions which it was necessary to make for more than one year's school service by reason of the coming under the School Law of the Roman Catholics of the district.

Dr. Duncan further stated that in the assessment list for 1893 there were 130 ratepayers all told; that of these 37 were Protestant ratepayers and 91 Roman Catholic ratepayers, and two corporations, one a resident corporation, and the other the People's Bank of New Brunswick. That the sum voted with cost of collection amounted to \$645.55; that of this sum the Protestant ratepayers would pay \$246.42. The Roman Catholic ratepayers would pay \$322.13, and the People's Bank \$77.00, making the \$645.55. He included the local corporation among the Protestant ratepayers.

I regret to say that from the evidence I am unable to make up, with the accuracy I could have wished for, the proportion of rates paid by Protestants and Roman Catholics respectively in the Town, but still the statement I submit, I think, may be considered as fairly reliable. Mr. O'Brien, the secretary of the board of trustees, stated that for the year 1893 there were in the Town 54 Protestant ratepayers. Alexander J. H. Stewart, another witness, places the number of Protestant ratepayers at 55. Mr. O'Brien places the value of assessable property of Protestants at \$45,650, and Mr. Stewart places it at \$45,750.

Mr. O'Brien places the value of assessable property of the Roman Catholics at \$43,800, not including the St. Lawrence Lumber Co.'s property. The assessable value of the St. Lawrence Lumber Co.'s property is placed at \$26,000. Kennedy F. Burns, Esquire, the most prominent Roman Catholic in the Town, is the president and manager of this company, and the owner of the greater part of the stock in the company. Of the whole assessable property, \$36,450 is owned by corporations and non-residents, but this sum includes the \$26,000, the assessable value of the St. Lawrence Lumber Co.'s property, and deducting this from the \$36,450, it would leave \$10,450 as the assessable value of the property of other companies and non-residents, of which Mr. O'Brien said about \$5,000 would be on corporations and the other \$5,000 on non-resident individuals.

It was claimed that the St. Lawrence Lumber Co.'s property ought to be put down as property assessable as against Mr. Burns, and should be

added to the \$43,800, the other assessable property of Roman Catholics in the Town, which would make the value of their assessable property \$69,800.

Be this as it may, the figures I have given will enable one to reach a very fair conclusion as to the proportions in which any sum of money assessed upon the Town for school purposes would be borne and paid by Protestants and Roman Catholics respectively.

Under this head of complaint I cannot think that the evidence establishes that there has been such an excessive cost in maintaining the schools in the said districts as the complaint would seek to put forward; but beyond question the school trustees had not up to the time of the investigation fully met, as I think they ought to have done, the reasonable requirements of the Chief Superintendent of Education in regard to grading and average attendance; but as his letter virtually gave the trustees up to the end of the then current term (30th of June, 1893,) to meet the requirements he demanded, it is to be hoped that by that date the trustees may have shewn compliance with the terms contained in his letter to them.

(10) The tenth ground of complaint is that the said conventual schools were so established for the special benefit of the Roman Catholic church, and with a view of forwarding the interests of such church, and for the purpose of injuring the Protestant church and to the injury of the Protestant ratepayers of said school districts, who pay a large proportion of the school taxes assessed upon the said school districts.

I have already stated that in my opinion no conventual schools, in the sense that the tenets of the Roman Catholic church were to be taught therein, were established or were sought to be established in Bathurst Town or Bathurst Village; and all that was done in regard to the taking over of the Convent school buildings in Bathurst Town and Bathurst Village and the engaging of duly licensed Sisters of Charity to teach in the Town and Village, was done with a *bona fide* intention of having the schools in such buildings taught and conducted under the provisions of the School Law and in accordance with the regulations of the Board of Education, and not in the slightest degree for the special benefit of the Roman Catholic church or with the view of forwarding the interests of that church or of injuring the Protestant church or the Protestant ratepayers of said school districts, as is alleged in this ground of complaint.



(11) The eleventh ground of complaint is that Regulation No. 10 of the School Manual issued under and by authority of the Board of Education in the year 1892 was when passing through the press illegally and improperly changed and altered, because the said trustees of said school districts objected to comply with the terms of said regulation as originally passed by said Board of Education, and the reason of their so objecting was that the alteration and change would the better enable such trustees to cut down the rights of Protestants in said school districts.

There is no evidence to sustain any such charge as is put forward in this ground of complaint, that Regulation 10 of the School Manual of 1892 was when passing through the press illegally changed and altered. The Regulation is as follows:—

‘Regulation 10, *Leasing School Buildings*—A lease or other written agreement must pass between the owner or owners of any room or building rented for school purposes and the Board of Trustees of the district. Such rooms or buildings, as the case may be, shall be under the supervision and control of the Trustees for school purpose, during school hours and at such other times as the necessities of the school may require. Any school house or school houses owned by the district shall be first occupied to its or their full seating capacity before additional accommodation shall be leased, unless the Chief Superintendent or the Board of Education in consideration of special circumstances in any case shall otherwise order.’

It was claimed that the words towards the conclusion of the regulation, ‘unless the Chief Superintendent, or the Board of Education, in consideration of special circumstances in any case shall otherwise order,’ were illegally added to the regulation.

Dr. Inch states that when this regulation was first drafted it did not contain these words, but that when he came to further consider the proposed regulation and its bearing, not only upon the schools in Bathurst Town and Village, but upon some schools in other districts, mentioning a district in Westmorland county, he found it necessary that there would be some qualification of the proposed regulation which required absolutely the occupation to full capacity of the school buildings owned by the district before additional accommodation should be leased, and the additional words were added to the regulation. Dr. Inch also shewed clearly that there was a committee, of whom he was one, with full authority for supervising the printing, and making the addition as well as other alterations in the regulations while they were in the hands of the printer, and he further made it clearly appear that after

the printer had done his work the regulations as then revised and printed were read, approved of, and adopted by the Board of Education, and became then, and not until then, the regulations of the Board.

I may here say that when I was a member of the Board of Education and a new School Manual was to be prepared, exactly the same course was adopted as in the present case—a committee was appointed to supervise the publication, with power to make alterations and suggestions, and then when completed such committee submitted the printed manual with the alterations and suggestions made by them, which was then adopted in so far as such alterations met the approval of the Board of Education.

This disposes of this ground of complaint, besides I may add that the qualification appended to the original draft was in my opinion one that was absolutely necessary to the efficient carrying out of the spirit of the regulation, because in every case it might not be in the interest of the education of the children of the district to have such a hard and fast regulation as was at first drafted. As it now stands, where there are special circumstances, of which the Board of Education must be the judge, these are to be considered in any order that the Board may make under the regulation.

(12) The twelfth ground of complaint is that in the County of Gloucester, and in other school districts in said county, the said trustees of said heretofore last mentioned districts have refused to employ Protestant teachers on account of their religious faith, and because such teachers would not from conscientious scruples agree to teach the Roman Catholic catechism to the pupils of said schools.

Very little evidence was offered in support of this ground of complaint. A Miss Alexander thought she was not employed in one district because she was a Protestant, and very likely some one or more of the trustees led her to believe that that was an objection to her securing an engagement as teacher; and one or two other applicants for the position of teacher in various districts thought they were not engaged by the trustees because they, the applicants, were Protestants. However, Miss Alexander in subsequent years was employed as a teacher in a district where some of the trustees and nearly all the children were Roman Catholics, and it did not seem to trouble her conscience very much to teach the children the Roman Catholic catechism after school hours. Miss Alexander stated she did this because she thought she might lose her position if she did not accede to a suggestion from one of the trustees

that it would be agreeable to the parents to have her teach the catechism to the children after school hours.

I cannot find anywhere in the evidence, (it may be there and may have escaped my notice,) that the trustees of any district refused to employ Protestant teachers because such teachers would not from conscientious scruples agree to teach the Roman Catholic catechism to the pupils of said schools.

Assuming all that is stated in this complaint to be true, how it can affect the Board of Education or the provisions of the school law, I am at a loss to understand. It was never, so far as the evidence shows, brought under the notice of the Board of Education; and if it had been, as the trustees can engage such teachers as they think fit, complying in every respect with the law—it may not be proper for Roman Catholic trustees to say to a teacher: We will not employ you, because you are a Protestant; or for Protestant trustees to say to a Roman Catholic teacher: We will not employ you, because you are a Roman Catholic; but how can the Board of Education interfere, and must not the remedy in all these cases be after all left to the discretion, good judgment, and fair dealing of those in whom the law has placed the power of engaging teachers, namely, the school trustees of each district.

As a practical abstract question, we know that probably every trustee in every school district if he were a Protestant would desire to have a Protestant school teacher, and if the trustee were a Roman Catholic, he would desire to have a Roman Catholic teacher; but after all the law has placed the engagement of teachers in the hands virtually of the ratepayers themselves, for the ratepayers elect the trustees, and the trustees select the teachers.

It does not seem to me that this ground of complaint need further be considered.

(13) The thirteenth ground of complaint is: That arrangements have been entered into between the Board of Education and the trustees of School Districts Number 15 and 16 in said County of Gloucester, under which teachers have been employed with the distinct understanding that they will impart religious instruction in the tenets of the Roman Catholic church to the pupils in the schools of said school districts after the regular school hours, and before the said pupils have departed to their several homes; thereby infringing upon and attempting to destroy the non-sectarian character of the schools in the said districts in the said County of Gloucester.

The facts as appears from the evidence are stated to be these: That the

school building in No. 15 not being in a state of repair to permit of two departments and two teachers, which it was said would be necessary to provide for all the school children of the district, and it being understood that it was agreeable to the ratepayers and trustees of District No. 15, and that they would pay the salary of one teacher in the Convent school building, permission was given to the sending of a certain number of pupils from District No. 15 to the schools in District No. 16 (the Village District.) When the arrangement was sanctioned it was understood to be a merely temporary one, agreeable to all parties, and was simply permissive until provision could be made by District No. 15 to put its school building in an efficient state to accommodate all the school children of the district.

Dr. Inch in his evidence says he had knowledge of a temporary arrangement by which one of the Sisters, a teacher in District No. 16, was to be allowed to teach pupils belonging to District No. 15. These pupils might attend the school in District No. 16, but not for the purpose of religious instruction. Dr. Inch says he made the arrangement himself, understanding it was agreeable all round; but when he learned that Mr. Colin Nevin, one of the trustees of District No. 15, was opposed to the arrangement, he withdrew his consent, and informed the trustees of District No. 16, (the Village District,) it must be discontinued after the end of the term. But on a petition being presented to the Board of Education, they gave Dr. Inch authority to act in the matter; and Dr. Inch, thereupon, when he was in Bathurst in December, 1892, informed one of the trustees of District No. 15 that for the reasons stated by the petitioners the existing temporary arrangement would be allowed to continue until the end of the June term, 1893. While this arrangement existed the salary of one of the teachers in District No. 16 was paid by District No. 15.

At the investigation in Bathurst, something was said as to the form of a portion of the charge; and Mr. Skinner in regard to this stated that what the complainant alleged was that an arrangement was made whereby one of the Sisters engaged to teach in District No. 16 was allowed to teach the pupils of District No. 15 (who were Catholic children) in order to impart to them in connection with the school religious instruction of the Roman Catholic church, because there was no teacher in District No. 15 that was considered by the Roman Catholic authorities competent to teach that religion. After some discussion it was understood Mr. Skinner might proceed with the examination of Dr. Inch, the witness then under examination, as if the charge had been

formulated as Mr Skinner desired ; Mr. Skinner nevertheless claiming that the complaint No. 13 covered the matter.

Dr. Inch most emphatically denied that any arrangement made by him was with a view of having religious instruction of the Roman Catholic church imparted to the pupils of No. 15 who might attend school in District No. 16, nor was there any evidence to support this portion of the complaint or to support the statement that the object was to have these pupils taught the Roman Catholic religion because Roman Catholic authorities considered that there was no teacher in District No. 15 competent to teach that religion.

Dr. Inch says further that the arrangement was made as a temporary arrangement, and for the purpose of allowing some of the children in District No. 15 to go to the school in the Convent building in No. 16, because the school building in No. 15 would not accommodate all the children in the district.

Dr. Inch says that in conversation with the Reverend Mr. Thomson or in correspondence he may have expressed an opinion to those opposed to the arrangement that it was beyond the provisions or spirit or intention of the act ; but that he was prepared to offer a full explanation of his connection with the matter, and such explanations as would shew that it was at least explicable, and that it did not cover, as far as his knowledge went, anything improper. In answer to Mr. Skinner's question : ' Was that arrangement forced upon you by the Board or did you do it yourself ? '—Answer : ' I did it myself ; that is in the first place—I withdrew' (he means I presume after seeing Mr. Nevin at Bathurst) ' the sanction that had been given, and then a memorial came before the Board from the trustees and certain ratepayers of No. 15 representing that they were placed in a very unfortunate position, because of the withdrawal of the consent that I had given, and the Board authorized me to inquire more fully into matters when I came to Bathurst, and exercise my own discretion as to a temporary continuance of the arrangement. Upon considering the whole case, I thought the educational interests of No. 15 required an extension of the arrangement for the present term, when it was understood it should cease.'

The present term to which Dr. Inch refers means the term ending 30th of June, 1893.

This complaint, divested of the glamour contained in it about giving religious instruction in the tenets of the Roman Catholic church, which so largely permeates all these complaints, is a very simple one ; viz : that Dr. Inch, for what he believed to be satisfactory reasons, and as he understood

with the consent of all concerned, sanctioned a temporary arrangement by which certain pupils of District No. 15 might attend school in District No. 16, and when informed that one of the trustees of District No. 15 had never assented to such arrangement withdrew his consent, and said the arrangement must terminate; but subsequently, thinking the educational interests of District No. 15 required an extension of the arrangement, he extended it for one term.

The arrangement as made was a temporary arrangement to secure to certain children of District No. 15 their school privileges by attending the schools of another district during the time required to enable the trustees to put the school building in their own district in such condition as to afford ample school accommodation for all the children of the district. If there was wilful misrepresentation (I do not say there was) as to the condition and capacity of the school building in District No. 15, the parties making the misrepresentation, not Dr. Inch or the Board of Education, should bear the responsibility.

Suppose, for instance, the school building in District No. 15 had been destroyed by fire, could it be urged that it would be objectionable to permit as a temporary arrangement the children of the district to attend the schools in District No. 16, (with the consent, of course, of the trustees and ratepayers of No. 16,) paying their fair lot and scot, until a new building could be erected in No. 15? I think it could not be so urged. In the present case the insufficiency of school accommodation in No. 15 was stated to be the reason for the permission granted.

It seems to me the case was one which the Board had power to deal with, and which came within the purview of sub-section 8 of Section 5 of the Common Schools Act, Chapter 65 Consolidated Statutes.

That sub-section enacts that the Board of Education shall have power 'to make such regulations as may be necessary to carry into effect the chapter, and generally to provide for any exigencies that may arise under its operation.'

This may be said to be an exigency which the law contemplated the Board should provide for, and the time limit of the arrangement having expired, no good can now be accomplished by further discussions of the question.

I may add that in what was done there did not appear to be any attempt to infringe upon or destroy the non-sectarian character of the schools in Districts No. 15 and 16 in Gloucester County.

(14) The fourteenth ground of complaint is that in certain of the schools in the County of Gloucester the Roman Catholic catechism has been taught within school hours—that Roman Catholic prayers have been used within such hours in said schools—that Protestant children have been in the habit of kneeling in said schools within said school hours and crossing themselves along with the Roman Catholic pupils—that in one or more instances Protestant children have been forced by their teachers in said schools to so kneel and cross themselves—that in one instance a Protestant pupil in one of said schools was ordered by the teacher of such school to leave the same, because he would not kneel in said school with the Roman Catholic pupils, and the said Protestant pupil did leave the said school under and by reason of such order.

Taking up each of these grounds of complaint *seriatim*: That in certain of the schools in the County of Gloucester the Roman Catholic catechism has been taught within school hours—I think the evidence shows that the Roman Catholic catechism was taught in certain of the schools in the County of Gloucester during the hour allowed at noon for recreation. This was done by the teachers under the impression and belief by them that such noon hour did not form any part of the school hours of the day, and not from any intention to violate the law; and I have already stated reasons why I think a teacher might not unreasonably conclude that as the noon hour is stated in the regulations to be '*an hour allowed at noon for recreation*' therefore it was not a school hour, and that he and the pupils with the consent of their parents might employ it as they thought best.

For reasons which I have above stated, I think this noon hour formed part of the school day. Looking over the evidence, it shows that in some schools there was teaching of the catechism within teaching hours; but that in other schools in which it was sought to establish such teaching, the evidence did not support the charge. It is true some of the children who were examined as witnesses thought the teaching of the catechism in some of the schools was within teaching hours, but it was apparent that their idea of time was somewhat confused, and as against the evidence of the teacher in the cases in which teachers were called to give evidence and stated they did not teach the catechism within school hours, I incline to the opinion that the teacher who has to make his school returns under oath that he has conducted the school in accordance with the School Law and the school regulations would not wilfully violate the law by giving to the pupils sectarian teaching during

teaching hours; and, therefore, that the children must be mistaken as to the hour at which the teaching of the catechism took place.

Miss Mary Alexander says she saw within the last few years in a school in Kinsale, in School District No. 8, between two and three o'clock in the afternoon, catechisms in the hands of the children; and in the year 1884 at Caraquet she saw the French teacher teach the catechism within school hours. Miss Alexander was, as she says, while at this school, principal of the school. Miss Alexander also says that before she became a teacher herself she attended a school in Kinsale, District No. 8, taught by a Miss MacAlear, and that the catechism was taught in that school during school hours—this between nine and four o'clock,—and she says she thought this was about the year 1878 or 1879.

A teacher of the name of Lizzie Garrett stated that in the latter term of the year 1889 or 1890 she was teacher of a school in Bass River District, on the Miramichi road, in the County of Gloucester, and taught the Roman Catholic catechism; that she also taught a Protestant catechism—the Church of England catechism—to the Protestant children in the school, who all belonged to that church; and that she taught such Protestant catechism at the request of one of the Protestant trustees there being two Protestant trustees and one Roman Catholic trustee in the district, and the Roman Catholic catechism she taught of her own motion. She further stated that she taught one catechism after the other, and that sometimes she taught the catechism within school hours before four o'clock in the afternoon, and sometimes after four o'clock. Miss Garrett further stated that she was a Roman Catholic, and when teaching either catechism she used just question and answer, not making any explanations; that she understood giving religious instruction to be the making of explanations to the children.

Another ground of complaint under this head is that Roman Catholic prayers have been used within such hours in said schools.

The regulation as to the reading a portion of Scripture and as to prayers in schools is as follows:—

'Regulation 22—School Manual 1892—*Privilege of Teachers with respect to opening and closing exercises of Schools*: It shall be the privilege of every teacher to open and close the daily exercises of the school by reading a portion of the Scripture (out of the common or Douay version, as he may prefer), and by offering the Lord's Prayer. Any other prayer may be used by permission of the Board of Trustees. But no teacher shall compel any pupil to be present at these exercises against the wish of his parent or guardian, expressed in writing to the Board of Trustees.'



As will be seen, the regulation does not direct nor command the teacher to open and close his school by reading a portion of Scripture and by offering prayers; it simply states that it shall be his privilege to do so.

The evidence before me shewed a very variable practice among teachers in the carrying out of the privilege given them by this regulation. Some teachers opened their school by reading Scripture and offering prayer, and then before dismissal at the noon recess again offering prayer, and then at the opening of the afternoon session again offering prayer, and when the school closed by Scripture reading and prayer, construing the regulation to mean that the forenoon session should be opened and closed with prayer. Other teachers said prayers at the opening of the forenoon and afternoon sessions only, and one teacher had prayers at the opening of the forenoon and afternoon sessions and at the close of the school.

The regulation seems to be plain enough, and, when the teacher desires to exercise his privilege of reading Scripture and offering prayer, contemplates that such Scripture reading and prayer should take place only twice in any daily session of the school, namely, at the opening of the school, and at the close of the daily exercises, and does not contemplate the saying of prayers just before and immediately after the noon recess or the hour allowed for recreation.

The saying of prayers, therefore, just before and just after the noon recess would be contrary to the regulation.

Another objection is that the prayers which were used by the teachers were Roman Catholic prayers.

The prayers used were what are called and known by the names of 'Hail Mary' and the 'Angelus.' The Lord's Prayer was also used.

The saying of these prayers, where they were used by permission of the trustees, cannot be said to be in violation of the wording of Regulation 22, and in all cases but one I think it was shewn by the evidence that the teachers who used them did so with the permission of the trustees, and in that one case the teacher did not directly apply to the trustees for permission, because he said he was aware of the fact that the former teachers in the same district had used such prayers and the trustees knew he was using them. It is not for me to say that the Board of Education did not contemplate that the permission granted to the trustees to use any other prayer would be construed by the trustees in such a manner as to permit what are strictly Roman Catholic

prayers to be said by the teacher at the opening and closing of the daily school session. All I can say is that the doing it is not in my opinion contrary to the words contained in the regulation.

The regulation was originally made on the 15th of November, 1871, (Regulation 21, School Manual 1872;) and is the same as the present Regulation 22, School Manual 1892.

Another ground of complaint under this head is that Protestant children have been in the habit of kneeling in said schools within said school hours and crossing themselves along with the Roman Catholic children.

I am not aware that the kneeling by the children in the school during the saying of prayers by the teacher is objectionable, and I will not so far insult the intelligence of the complainant or his counsel as to suppose that that is the gist of this ground of complaint, but confine my remarks to the latter portion of the complaint; that is, that Protestant children were in the habit of crossing themselves along with the Roman Catholic pupils.

Some few of the Protestant children stated that they did at first cross themselves during prayer time, but on telling their parents that they had done so, in almost every case the Protestant parents told the child that he or she might kneel with the other children, but that they did not desire them to cross themselves; and the children stated that they obeyed their parents' directions, and knelt, but never afterwards crossed themselves during the saying of prayers.

It was manifest from the evidence that the Protestant parents in these districts knew that the children knelt in school during prayer time, and that the Roman Catholic children crossed themselves; and it was quite open to them if they did not desire their children to be present at the reading of the Scripture or the saying of prayers that they could under the provisions of Regulation 22 have expressed their wish in writing to the board of trustees that they did not desire their children to be present at such exercise, but no such wish was shewn to have been expressed in writing or even to have been verbally expressed by any Protestant parent to the trustees in any single case; on the contrary, Protestant parents allowed their children to attend at prayer time, and to kneel.

I think this ground of complaint has nothing in it.

Another ground of complaint under this head is 'That in one or more instances Protestant children have been forced by their teachers in said schools to so kneel and cross themselves.'

The only instance in which this was sought to be established was in the case of the child Lyda May Ellis, a Protestant pupil, who at the time of the investigation before me was fourteen years of age, and at the time of the occurrence stated by her would be about nine years of age. Her evidence is to the effect that when she attended the school in District No. 4, at Petit Rocher, Elm Tree school, taught by Phillip Boudereau, about five years ago, (which would be about 1888,) that she knelt at prayers and crossed herself; and that she was told by Mr. Phillip Boudereau, the teacher, to kneel, and also to cross herself. She said she told her parents about it, and that they said to her she might kneel, but not to cross herself; that she told the teacher what her parents had said to her, and that he replied to her to kneel down whether she crossed herself or not. She stated that she did not know the words used in crossing herself, but simply went through the form. She said in her direct examination that the teacher told her how to make the sign of the cross; but on cross examination she completely broke down, and stated that the teacher did not teach her how to cross herself, but that she simply learned it from seeing the other children do it. And she further stated that in open school she made objection to the teacher as to her crossing herself, and that this was done in the presence of and before all the other children of the school, and that they could hear it; and that the teacher threatened to punish her if she did not cross herself. And when asked, 'Did he say how he would punish you?' she answered: 'He said he would beat me.' She said two Protestant children beside herself went to Boudereau's school, viz: Anna Ethel Corbett and James Huntley Corbett. The cross-examination of this witness was a mass of contradictions which it would take up too much time to refer to; but I will dispose of these contradictions by a remark I will make later on in this connection. At the time this witness gave her evidence, Boudereau, the teacher, was in the United States.

Although Anna Ethel Corbett and James Huntley Corbett were examined as witnesses by counsel for the complainant, they were not interrogated as to this alleged statement of Lyda May Ellis, that Boudereau told her she must kneel and cross herself, or he would beat her if she did not; and this is the more extraordinary from the fact that they were her schoolmates at the time and must have known all about such conduct of Boudereau if it had occurred in open school in the presence of all the children, as Lyda May Ellis said it did. Then, again, Anna Ethel Corbett and James Huntley Corbett were examined as witnesses before Lyda May Ellis; and, therefore, the counsel for

the trustees and for the Board of Education, not knowing what Lyda May Ellis would testify to, had no opportunity of asking the Corbett children whether anything of the kind did take place in the school or not.

Besides, could anything more absurd be imagined than that a Roman Catholic teacher with ordinary common sense would, in open school in the presence of the scholars, threaten to punish a Protestant pupil by beating her because such pupil would not cross herself—at least if he did so it could not but be well known in the district and form matter of comment, and from the parents of the child be ground for strong remonstrance; but not a word of this is heard of until it is put forward in the present complaint five years after the alleged occurrence. In addition to this there is the evidence of Elizear Godin, who states that Lyda May Ellis was going to school to Phillip Boudereau all the time he went, as well as the two Corbett children, and that he never saw, heard or knew anything about Boudereau's having required Protestant children to kneel or cross themselves in school, nor never heard of any complaint that he had done so. Henry M. Ellis, a brother of Lyda May Ellis, and two years younger than she is, says he went to Boudereau's school when his sister, Lyda May Ellis, was there, and continued there all the time she did; and that he never heard Mr. Boudereau, the teacher, tell her to cross herself, nor did she, Lyda May Ellis, ever tell him, Henry, that Mr. Boudereau had made her cross herself.

However, it so happened that Mr. John Phillip Boudereau, the teacher who was alleged to have committed this grievance, and who at the time of the investigation was shown to have gone to the United States, returned to New Brunswick; and I permitted him under the circumstances to be examined as a witness before me, and he was so examined at Fredericton on the 19th August last.

Mr. Boudereau in his evidence stated that he left New Brunswick to reside at Washburn in the State of Wisconsin, and while there was second assistant cashier in the Bank of Washburn; that, owing to the failure of the bank, among the hundreds of banks in the United States which went down in the financial panic of 1893, he was thrown out of present employment, and returned to New Brunswick on the eighth of August, 1893; and hearing what had been said about him at the investigation in Bathurst, he was prepared to deny on oath the statements made against him.

In his testimony he said that in his school Protestant children were not required to attend prayers, nor did he ever tell any of the Protestant children to

kneel or to cross themselves ; that he was acquainted with Lyda May Ellis ; that she never attended his school as a scholar ; that her father did not belong to the district, but at his earnest request, as it would be a convenience to him, the father, who in his occupation was driving backwards and forwards past the school, to have her attend the school, he induced the trustees to permit her to attend the school ; but she was never enrolled as a pupil, and she was only at his school for a few weeks.

Mr. Boudereau emphatically contradicted the statements of Lyda May Ellis, that he ever required her to kneel, that he ever told her she must cross herself, nor did he ever show her how to cross herself or in any way threaten to beat her if she did not cross herself.

It seems unnecessary to pursue the inquiry of this charge further.

I will merely say that Miss Lyda May Ellis' statement as to what she says occurred in the school cannot be accepted as true ; she having on cross-examination distinctly contradicted herself ; and I the more incline to this view, as the occurrence seems so improbable in itself—besides if true it might have been corroborated by witnesses—the Corbetts and others who attended school with her, and who the complainant knew were in the school with her—while her own brother, Henry M. Ellis, and Elzear Godin, who went to school with her at the time, state they never saw or heard of the occurrence ; and Mr. Boudereau, the teacher, positively swears nothing of the kind ever took place.

I, therefore, express as my opinion that the evidence does not warrant the statement that Protestant children in any of the schools in Gloucester County were forced by the teachers in the schools to kneel or to cross themselves.

Another ground of complaint under this head is that in one instance a Protestant pupil in one of said schools was ordered by the teacher of said school to leave the same, because he would not kneel in said school with the Roman Catholic pupils, and the said Protestant pupil did leave the school under and by reason of such order.

It appeared by the evidence that at prayer time in one of the schools in a district at Green Point, in Gloucester County, outside of the Town and Village, one of the pupils named James Doncett, during the time lawfully occupied by the reading of Scripture and the offering of prayer by the teacher, was observed by the teacher to be sprawling over his desk, was remonstrated with, and told he must observe a proper demeanor in the school during prayer time or go home.

I think such action on the part of the teacher strictly proper. If the

pupil was a Protestant, and did not wish to appear in the school room while prayers were said, good and well; and if a Roman Catholic, he did not wish to appear in the school room while prayers were said, good and well; but the pupil if present must observe proper demeanor. In the case in question the evidence proved that the pupil was wholly unobservant of that demeanor which should be shown by any one, pupil or otherwise, present in a school room when Scripture was read or prayers were being said by the teacher; in fact the pupil, James Doucett, was examined as a witness before me, and admitted that his conduct was not justifiable; that he was sprawling over his desk during prayer time, and that he thought the teacher acted properly, and that he had no ground of complaint.

The pupil, Doucett, in his evidence says: 'I was leaning over the desk, and doing it for a piece of fun, when the teacher, Miss Philimon Boudereau, told me if I would not kneel right to go home.' He said he did not blame the teacher for finding fault with him, and thought it was the proper thing for her to do.

This disposes of this ground of complaint.

(15) The fifteenth and last ground of complaint in the Reverend Mr. Thomson's complaint is that generally the acts of the legislature of the Province of New Brunswick regarding the common public schools have been violated and disregarded by the trustees of the schools in said districts in the County of Gloucester, so as to bring such schools into harmony with and make them subservient to the Roman Catholic church and deprive such schools of their non-sectarian character, and to take away from the Protestant pupils attending such schools the right and privilege guaranteed by law to such Protestant pupils.

I can quite understand that Mr. Skinner and Mr. Fowler would be likely to close their list of complaint with just such a general statement as is contained in this fifteenth ground of complaint.

It would seem sufficient in answer to say that their various grounds of complaint having been dealt with it must be determined from the previous grounds of complaint and the evidence bearing upon them whether the general allegations in this ground of complaint have or have not been sustained.

In my opinion the evidence does not show that generally the acts of the legislature of the Province of New Brunswick regarding the common public schools have been violated and disregarded by the trustees of schools in the

districts in the County of Gloucester; nor do I think that the evidence shows that there is or has been any endeavor to bring such schools into harmony with and make them subservient to the Roman Catholic church, and thus deprive such schools of their non-sectarian character, and to take away from Protestant pupils attending such schools the rights and privileges guaranteed by law to such Protestant pupils.

This general statement leaves it open to me to state my opinion in so far as I have not already stated it in regard to certain facts in connection with this Bathurst School question, so called.

It will be readily seen by any one who is desirous of getting at the facts that nearly every allegation in the complaint is in reference to matters of school management, or mismanagement, which have until they were set forth in this complaint of the 18th of May, A. D. 1893, never been brought to the notice of the School Inspector for Gloucester County or to the notice of the Board of Education.

It was, of course, within my inquiry to investigate all complaints charging any infraction of the School Laws and regulations of the Board of Education regarding Bathurst Town and Village, as also any and every matter of complaint touching the management of any school or schools in the County of Gloucester which might be laid before me.

I think as a general result of the evidence I may state my opinion, formed therefrom, as to some of the questions, in brief, as follows:—

1st—That no Conventual Schools have been established in Bathurst Town or Village in the direction indicated in the complaint, that is, schools which it was sought to have under the control of the Roman Catholic church; but on the contrary that the trustees of both Town and Village, in securing for school purposes certain school rooms in the Town Convent building and certain rooms in the Village Convent building, intended that the schools carried on in such buildings should be *bona fide* carried on, and conducted in all respects in accordance with the Common Schools Act and the regulations of the Board of Education.

2nd—That the evidence does not establish that there has been any Roman Catholic priestly or clerical interference with the schools in the Town or Village, or in any of the school districts in the County of Gloucester.

3rd—That the trustees in the Town and Village districts had not up to the time of my holding the Investigation in the Town of Bathurst in May and June last discharged their duties as such trustees as efficiently as they might

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have done in regard to having a satisfactory grading of the schools of the Town and Village, notwithstanding the constant efforts and directions of the Chief Superintendent of the Board of Education looking to that end.

4th—That there has been a tendency on the part of the trustees both in the Town and Village to grant permits to Roman Catholic children to attend the school rooms in the Convent buildings in which the Sisters of Charity are teachers to a larger extent than is consistent with satisfactory grading of the schools in both the public school buildings and the rooms in the Convent school buildings, taken as a whole school district; and this I consider largely attributable to the desire of Roman Catholic parents to have their children placed as pupils in schools in which the Sisters of Charity are teachers. The directions and requirements of the Chief Superintendent of Education, as contained in his letters of the 24th of December, 1892, to the trustees of both districts, if fully carried out, would appear under all the circumstances of population, religion and nationality to reasonably meet the requirements of the case and be likely to produce a reasonably satisfactory system of grading in both Town and Village.

5th—The evidence establishes that several of the teachers in Bathurst Town and Village have during the recreation hour at noon taught the Roman Catholic catechism, and given religious instruction during such hour, after the dismissal of the pupils at noon and before the hour for re-assembling in the afternoon, under the full belief that such hour was not a part of the teaching day. While this was an infringement of the law according to the regulation as I have interpreted it, it was not in my opinion a wilful infringement of it, inasmuch as the teachers who so taught the catechism honestly believed that the recreation hour was no part of the teaching day.

6th—That Roman Catholic prayers have been used at the opening and closing of the school in certain of the schools; but they have been so used with the permission of the school trustees under the wording of School Regulation 22, which permits the use of prayers approved by the school trustees, and Roman Catholic prayers have also been used in a few of the schools at the close of the morning session of the school, and at the opening of the afternoon session, the teacher who so used such prayers being under the impression that he or she was to open or close each school session, forenoon and afternoon, with prayer, and not with any intention in so doing of violating the School Law or School Regulations.

7th—That in a few, but, perhaps, not in more than three or four



schools in Gloucester County, which are all situate outside of the Town and Village Districts, the Roman Catholic catechism may have been taught by teachers in the school service during school hours, the instances going back to the years 1878 or 1879 and 1884.

8th—That no Protestant child or pupil has been forced by any teacher to kneel or cross himself or herself in school.

9th—That no Protestant pupil was ordered by the teacher of any school to leave the same because he would not kneel in the said school with the Roman Catholic pupils, nor did he leave the school under and by reason of such order.

10th—That some of the Protestants in the Town and Village object to the licensing of Sisters of Charity as teachers and refuse to send their children to any department in which the teacher is a Sister of Charity.

There may be other grounds in regard to which I ought to express an opinion, but I feel it is unnecessary to lengthen out this report by discussing some minor questions.

The substantial question involved in the investigation was to ascertain whether there had been any infraction of the School Law and Regulations in regard to the schools in Bathurst Town and Village and in Gloucester County; and I have endeavored by taking up each ground of the complaint *seriatim*, and dealing with it according to the evidence, to ascertain whether in respect to the complaint, although the complaint itself might not set forth an infraction of the School Laws and Regulations, there had or had not been an infraction of the School Laws and Regulations.

My report on each ground of complaint is given above, and will speak for itself.

Many of the complaints presented to me for investigation were stale complaints.

All sorts and kinds of irregularities may occur in the carrying on of the schools in any county, but unless they are brought to the notice of the Inspector of Schools for the county, and through him to the notice of the Board of Education, or directly to the notice of the Board of Education itself, it would be manifestly unjust to charge the Board of Education with any dereliction of duty in regard to such irregularities.

In so far as any of the Rev. Mr. Thomsons's complaints were brought

directly under the notice of the Board of Education, I have in the previous part of this report dealt with them.

In regard to the statement sent me by Patrick Howard and John Alexander, two of the trustees, and Patrick Maloney and other ratepayers of School District No. 8 in the Parish of Bathurst, under date the 20th of May, 1893, asking for an investigation by me of charges against the trustees of said district for acting in contravention of the non-sectarian principles of the School Law in three particulars :—

(1) That they had constrained their teacher to teach the Catholic catechism during school hours.

(2) In that they had refused to engage a teacher on the sole ground that such a teacher was a Protestant, and

(3) That they had compelled their teacher to keep the Catholic holy days.

Mr. Patrick Maloney was called as a witness in support of his statement, and stated that as trustee he never in hiring a teacher made it a condition that the teacher should teach the catechism in the school, nor did he ever refuse to engage a teacher because such teacher was a Protestant, nor did he ever compel the teacher to observe Catholic holy days. He said his children did not, nor did any of the Roman Catholic children, go to school on church holy days.

It would not appear to me necessary to make any further observation in respect to the statement sent me from School District No. 8.

I have endeavored, in dealing with all the matters I was empowered to investigate, to get at the facts which bore upon each particular ground of complaint. This was no easy thing to do, owing to the great volume of testimony taken at the Investigation, and more than half of which testimony I am safe in saying has no bearing whatever on any of the grounds of complaint.

Before closing this report, I desire to express the great gratification I felt at the courtesy and good feeling which was exhibited throughout the Investigation by the several counsel engaged in it, as well towards each other as towards myself, and at the marked skill and ability with which the counsel conducted the respective sides of the case at Bathurst, while their very able argument at Fredericton greatly aided me in coming to the conclusions which I have reached on the various grounds of complaint.

Accompanying this report I submit the evidence taken before me at Bathurst as well as the evidence of John Phillip Boudereau which I heard at Fredericton.

Appended to the report are copies of the following :—

1st : The Commission issued to me under which the Investigation was held.

2nd : The notice issued by me, and published in the public press of the Province, requiring statements of the grounds of complaint to be sent to me not later than the 26th of May, 1893, the day appointed for the opening of the Investigation being the 30th of May, 1893.

3rd : The printed complaint of the Reverend Alexander F. Thomson under date the 18th of May, 1893, and filed with me on the 25th of May, 1893, as amended at the hearing.

4th : The statement sent in by Patrick Howard and John Alexander, two of the trustees of School District No. 8 in the Parish of Bathurst, County of Gloucester, and Patrick Maloney and other ratepayers in the said district, referred to in the foregoing report.

In submitting this report I wish to say that I have endeavored to confine it to what the Commission required me to do; namely, to report all the evidence taken at the Investigation which I was empowered to hold, together with a statement of the facts which in my opinion were established by the evidence so taken.

Respectfully submitted,

(Signed) JNO. JAS. FRASER,

*Judge of the Supreme Court.*

Fredericton, N. B., November 23, 1893.

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CORRECTION.

Page 40, line 17—After the word 'made', insert 'from the correspondence.'

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## APPENDIX

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NEW BRUNSWICK, ss.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c., &c.  
To Our trustworthy and well-beloved the Honorable John James Fraser, one of Our Justices of the Supreme Court in Our said Province,  
GREETING;—

We, reposing especial trust and confidence in your loyalty, learning, zeal and integrity, have assigned, constituted and appointed, and by these presents do assign, constitute and appoint you, the said the Honorable John James Fraser, to be a sole Commissioner, under the Act of Assembly 49 Victoria, Chapter 4, intituled 'An Act to authorize the Issue of Commissions under the Great Seal, in certain cases and for certain purposes,' and you are hereby authorized and required to proceed to Our County of Gloucester and there to inquire into and thoroughly investigate all complaints which may be laid before you, charging any infraction of the School Law or Regulations of Our Board of Education, by or on the part of the teachers or trustees or any or either of them, in School District Number Two, as well as in School District Number Sixteen, in the Parish of Bathurst in the County of Gloucester, or complaining of the management of the schools or any of them in said districts or either of them, and also any and every matter of complaint touching the management of any other school or schools in said Gloucester County which may be submitted to you;

And on such investigation or enquiry to summon witnesses and compel their attendance, and to administer to such witnesses or any or all of them the oath prescribed in Section Two of the said Act of Assembly, and to take evidence under oath and to require the production of books and papers necessary for the purposes of such investigation; and generally to have and enjoy all powers and authority which may lawfully be held or enjoyed by a sole Commissioner appointed under the provisions of the said Act of Assembly;

And you are hereby required, with all convenient speed, to hold such investigation and enquiry as aforesaid, and to report under your hand all the evidence that you may take thereat, together with a statement of the

facts which in your opinion are established by the evidence so taken, and whatsoever you may do in the premises, to Us at Fredericton.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent and the Great Seal of New Brunswick to be hereto affixed :

WITNESS, Our trusty and well-beloved His Honor the Honorable Sir Samuel Leonard Tilley, C. B., K. C. M. G., LL. D., Lieutenant Governor of Our said Province, at Fredericton, the eighteenth day of April, in the year of our Lord one thousand eight hundred and ninety three, and in the fifty-sixth year of Our Reign.

By Command of the Lieutenant-Governor.

(Signed) JAMES MITCHELL.

(2)

*To all Persons whom these Presents may concern :*

Having been commissioned by the Honorable Sir Samuel Leonard Tilley, C. B., K. C. M. G., LL. D., Lieutenant Governor of the Province of New Brunswick, under the Great Seal and by virtue of the powers and authorities vested in him under the Act of Assembly 49th Victoria, Chapter 4, intituled 'An Act to authorize the issue of Commissions under the Great Seal for certain purposes,' sole Commissioner to proceed to the Town of Bathurst, in the County of Gloucester, and there to enquire into and thoroughly investigate all complaints charging any infraction of the School Law or Regulations of the Board of Education, by or on the part of the teachers or trustees or of any or either of them, in School District Number Two in the Town of Bathurst, as well as in School District Number Sixteen in the Parish of Bathurst, in the said County of Gloucester, or complaining of the management of the schools or any of them in the said districts or either of them, and also any and every matter of complaint touching the management of any other school or schools in said County of Gloucester which may be laid before me, and to report under my hand all evidence that I may take or receive thereupon, together with a statement of the facts which in my opinion shall be established by the evidence so taken ; and having accepted the burthen of the said trust and duties imposed upon me by virtue of the said Commission ; I do hereby give public notice that I have appointed, and by these presents do appoint, Tuesday, the thirtieth day of May, A. D. 1893, at eleven o'clock in the forenoon, at the County Court House in the said Town of Bathurst, as the time and place for holding the said investigation and enquiry ; and that I will then and there enter upon and thereafter, from day to day until the termination, continue to inquire into and investigate all matters of complaint coming

within the purview of my said Commission. And for the more convenient and orderly pursuing of the said investigation, I do hereby require that all the matters of complaint which I am so empowered to enquire into be presented to me in writing not later than Friday the twenty-sixth day of May instant, and that a copy thereof be filed in the office of the Honorable the Provincial Secretary at Fredericton not later than the same day, of which all persons are required to take due notice and govern themselves accordingly.

Dated at Fredericton this ninth day of May, A. D. 1893.

(Signed) JOHN JAMES FRASER,

*Judge of the Supreme Court.*

(3)

*To the Honorable John James Fraser, Judge of the Supreme Court:*

Sir:—You having been commissioned by the Honorable Sir Samuel Leonard Tilley, C. B., K. C. M. G., LL. D., Lieutenant Governor of the Province of New Brunswick, under the Great Seal and by virtue of the powers and authorities vested in him under the Act of Assembly 49th Victoria Chapter 4, intituled 'An Act to authorize the Issue of Commissions under the Great Seal for certain purposes,' sole Commissioner to proceed to the Town of Bathurst, in the County of Gloucester, and there to inquire into and thoroughly investigate all complaints charging any infraction of the School Law and Regulations of the Board of Education by or on the part of the teachers or trustees, or of any or either of them, in District No. 2 in the Town of Bathurst, as well as in School District No. 16 in the Parish of Bathurst, in the said County of Gloucester, or complaining of the management of the schools, or any of them, in the said districts, or either of them, and also any and every matter of complaint touching the management of any school or schools in said County of Gloucester which may be laid before you, and to report under your hand all evidence that you may take or receive thereupon, together with a statement of the facts which in your opinion shall be established by the evidence so taken;

And Your Honor having given notice that for the more convenient and orderly pursuing of the said investigation, that you require that all the matters of complaint which you are so empowered to inquire into be presented to you in writing not later than Friday the 26th day of May instant, and that a copy thereof be filed in the office of the Honorable the Provincial Secretary, at Fredericton, not later than the same day;

I therefore beg most respectfully to present to Your Honor the following matters of complaint in the premises:—

1. That the Reverend James Rogers, Roman Catholic Bishop of the diocese of Chatham in the Province of New Brunswick, with a view to



having the Common Schools in School District No 2, in the Town of Bathurst in the County of Gloucester, and in School District No. 16 in the Parish of Bathurst in said County of Gloucester, under the control of religious teachers of the Roman Catholic church, and of the said church, did enter into an agreement with, and come to an understanding with certain members of the Roman Catholic church of said school districts, to bring members of certain religious teaching Orders of the Roman Catholic church to said Districts, and there to establish Conventual schools, with a view to having the children of Protestant parents taught within such Conventual schools, and pursuant to such agreement and understanding the members of one or more of said orders were brought to said district and one or more of said Conventual schools were established in said districts, or in one of said districts;

2. That special arrangements were made by the Board of Education of the Province of New Brunswick for the examination of the said members of the said religious teaching Orders on their coming as aforesaid to said school districts, and on their so coming to said school districts they were examined in the Roman Catholic Convent in the County of Gloucester, for the purpose of being duly licensed as teachers under the Common Schools Act of this Province, and upon such examination held as aforesaid they were contrary to law licensed to teach in said district under said Act.

3. That the Roman Catholic priests, exercising their religious offices in the said school districts, have interfered with the schools of said districts, in the following manner;—

(a) One of said priests after the establishment of said Conventual schools as aforesaid, on a Sunday in the Roman Catholic church in Bathurst, gave instruction as to what children should attend the said Conventual school and what children should attend the schools taught outside of the said school presided over and taught by the members of said religious teaching orders.

(b) That during the school term ending December 30th, 1892, another of said priests ordered the mother of one of the pupils attending one of the public schools of one of said districts to take her daughter, the said pupil, from the said public school which she was then attending, and send her to one of the said Conventual schools.

(c) That one of said priests instructed Theodore Langis, one of the teachers in the public schools in said District No. 16, to teach the pupils in said schools the Roman Catholic catechism, which said teacher did, in pursuance of said instructions, and by the further direction of one of the trustees of the said School District No. 16, so do.

(d) That one of said priests, previous to the establishment of said Conventual schools in said District No. 16, wrote a letter to the board of

trustees of said district, requesting said trustees to rent the Convent building in said district for school purposes in the district aforesaid, and to employ the members of the said religious teaching order as teachers therein; and in consequence thereof the said trustees did so engage and occupy a portion of the said Convent building for such school purposes, and did employ said members of said religious teaching order as teachers therein.

4. That under and by reason of the influence of the Roman Catholic authorities of the Roman Catholic church in said school district, Roman Catholic holy days, not being school holidays, have been observed in the public schools in said districts as well as in said Conventual schools.

5. That a report prepared by George W. Mersereau, Esq., School Inspector for said districts, with reference to certain of their statements of facts, and forwarded to and received at the Office of the Board of Education at Fredericton, has not been laid before the Board of Education.

6. That the Board of Education of the Province of New Brunswick has from time to time and persistently declined to take action on the memorials, communications and complaints addressed to it, in reference to the matters set out in this statement, and particularly a memorial sent by the Protestant ratepayers and electors of said districts to the said Board of Education in the month of December, 1890, as to establishing said Conventual schools as public schools under said Act, and protesting against the same, and also a complaint sent by Protestant parents and ratepayers to the said Board of Education at the beginning of the year 1893, with regard to the teacher placed in charge of the Grammar School in Bathurst at the beginning of this present year, in consequence of which declining to act by the said Board of Education the trustees of school districts aforesaid were allowed to continue to act illegally.

7. That the grading of the schools in the said school district has not been conducted according to law. That the trustees of the said school districts, aided and influenced by the clergy of the Roman Catholic church in said districts, have made an effort to compel Protestants in said school districts to send their children to the said Conventual schools, and that the religious teachers of the Roman Catholic church in said school districts were by the said trustees placed in actual charge of certain departments of the public common schools in said school districts in the year 1891, all of which was brought about in consequence of the employment of the members of the said religious teaching orders of the Roman Catholic church by the trustees aforesaid, as hereinbefore set forth.

8. That by the action of the trustees of said school districts, as in this statement is set out, and by the neglect of the said Board of Education as also set forth in this statement, the efficiency of the school service in said school districts has been greatly lessened and interfered with in the following particulars :

(a) Inferior and incompetent teachers have been employed in said districts.

(b) That the Superior School in School District No. 16 was in consequence of the matters herein set forth closed, and the Grammar School in said District No. 2 was also closed.

(c) That such closing of the Superior and Grammar schools was done in order to make it necessary as far as possible that the children of Protestants should be compelled to attend the said Conventual schools of the Roman Catholic church, and if possible firmly establish the latter schools in said School Districts No. 2 and No. 16.

(d) That a French teacher with an inferior grade of license was placed in charge of the primary department of the public school in said District No. 16 at the beginning of the year 1892, and the Protestants' children were compelled either to be under such inferior French teacher or attend the said Conventual schools.

(e) That a teacher obnoxious to the Protestant ratepayers in said School District No. 2 was placed in charge of the Grammar School in the hereinbefore last mentioned school district at the beginning of the present school term. Such teacher was not a Grammar School teacher, and had been previously dismissed by the said Board of Education from the position of School Inspector under said Board.

9. That the course pursued by the said school trustees in so establishing said Conventual schools and in sustaining the same and in rendering the public common schools of said districts less useful than they otherwise would have been, have greatly increased the cost of maintaining schools in said school districts, to the great loss and injury of the ratepayers in said school districts.

10. That the said Conventual schools were so established for the special benefit of the Roman Catholic church and with a view of forwarding the interests of such church and for the purpose of injuring the Protestant church, and to the injury of the Protestant ratepayers of said school districts, who pay a large proportion of the school taxes assessed upon the said school districts.

11. That Regulation No. 10 of the School Manual issued under and by the authority of the said Board of Education in the year 1892 was when passing through the press illegally and improperly changed and altered because the said trustees of the said school districts objected to comply with the terms of said Regulation as originally passed by said Board of Education and the reason of their so objecting was that the alteration and change would better enable such trustees to cut down the rights of Protestants in said school districts.

12. That in the County of Gloucester, and in other school districts in said county, the said trustees of said hereinbefore last mentioned districts have refused to employ Protestant teachers on account of their religious faith, and

because such teachers would not, from conscientious scruples, agree to teach the Roman Catholic catechism to the pupils of said schools.

13. That arrangements have been entered into between the Board of Education and the Trustees of School Districts Number 15 and 16 in said County of Gloucester, under which teachers have been employed with the distinct understanding that they will impart religious instruction in the tenets of the Roman Catholic church to the pupils in the schools of the said school districts after the regular school hours and before the said pupils have departed to their several homes, thereby infringing upon and attempting to destroy the non-sectarian character of the schools in the said districts in the said County of Gloucester.

14. That in certain of the schools in the County of Gloucester the Roman Catholic catechism has been taught within school hours.

That Roman Catholic prayers have been used within such hours in said schools.

That Protestant children have been in the habit of kneeling in said schools within said school hours and crossing themselves along with the Roman Catholic pupils.

That in one or more instances Protestant children have been ordered by their teachers in said schools to so kneel and cross themselves.

That in one instance a Protestant pupil in one of said schools was ordered by the teacher of such school to leave the same because he would not kneel in said school with the Roman Catholic pupils, and the said Protestant pupil did leave the school under and by reason of such order.

15. That generally the acts of the Legislature of the Province of New Brunswick regarding the common public schools have been violated and disregarded by the trustees of the schools in said districts in the County of Gloucester so as to bring such schools into harmony with, and make them subservient to the Roman Catholic church, and deprive such schools of their non-sectarian character, and to take away from Protestant pupils attending such schools the rights and privileges guaranteed by law to such Protestant pupils.

Dated the 18th day of May, 1893.

I have the honor to be

Your obedient servant

(Signed) A. F. THOMSON.

(4)

North Teteagouche, May 20th, 1893.

To the Honorable John James Fraser, Judge of the Supreme Court,

Sir:—WHEREAS it has been asserted both in the press of the country and on the floors of the Local Legislature that the trustees of

School District No. 8 of the Parish of Bathurst have been contravening the non-sectarian principle of the New Brunswick School Law, 1st, in that they have constrained their teacher to teach the Catholic catechism during school hours; 2ndly, in that they have refused to engage a teacher on the sole ground that such teacher was a Protestant, and 3rdly, in that they compel their teacher to keep the Catholic holy days, therefore we the undersigned trustees and ratepayers of said District No. 8 respectfully request that you make the above recited complaint and any others that may be formulated in connection with said district the subject matter of investigation when you come to Bathurst on 30 inst. to hold your court of inquiry *in re* the Bathurst school difficulty.

We remain,

Your obedient servants,

(s'g'd) PATRICK MALONEY,  
 PATRICK HOWARD, (trustee)  
 JAMES T. CARTER,  
 JOHN CALNAN,  
 DAVID MURPHY,  
 JOHN MURPHY,  
 DANIEL HAGGERTY,  
 JOHN ALEXANDER, (trustee)



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*Handwritten notes and scribbles:*  
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 (11-11)  
 9 + 16 = 25  
 (1-5) + (1-3) = 2-8  
 4 + 10 = 14  
 7 + 8 = 15

