

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of The Brothers of the Christian Schools and others v. The Minister of Education for the Province of Ontario and another, from the Court of Appeal for Ontario; delivered the 2nd November 1906.*

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Present at the Hearing :

LORD MACNAGHTEN.

LORD DUNEDIN.

LORD ATKINSON.

SIR ARTHUR WILSON.

SIR ALFRED WILLS.

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[*Delivered by Lord Macnaghten.*]

This is an Appeal from the Court of Appeal for Ontario upon a Reference of the Lieutenant-Governor in Council under the provisions of Chapter 84 of the Revised Statutes of Ontario, 1897.

The question submitted to the Court in substance was this: Are members of the two Religious and Educational Communities known as "the Brothers of the Christian Schools" and "the Community General Hospital, Almshouse, and Seminary of Learning of the Sisters of Charity of Ottawa," commonly called "The Grey Nuns," who became members of those communities after the passing of the British North America Act, 1867, to be considered qualified teachers for the purposes of the Separate Schools Act, and therefore eligible for employment as teachers in the Roman Catholic Separate Schools within the Province of Ontario when such members have not received certificates of qualification to teach in the public schools of the Province?

The answer to this question depends upon the meaning and effect of the concluding words of Section 36 of the Ontario Separate Schools Act, R. S. O. 1897, chap. 294. That section is in the following terms:—

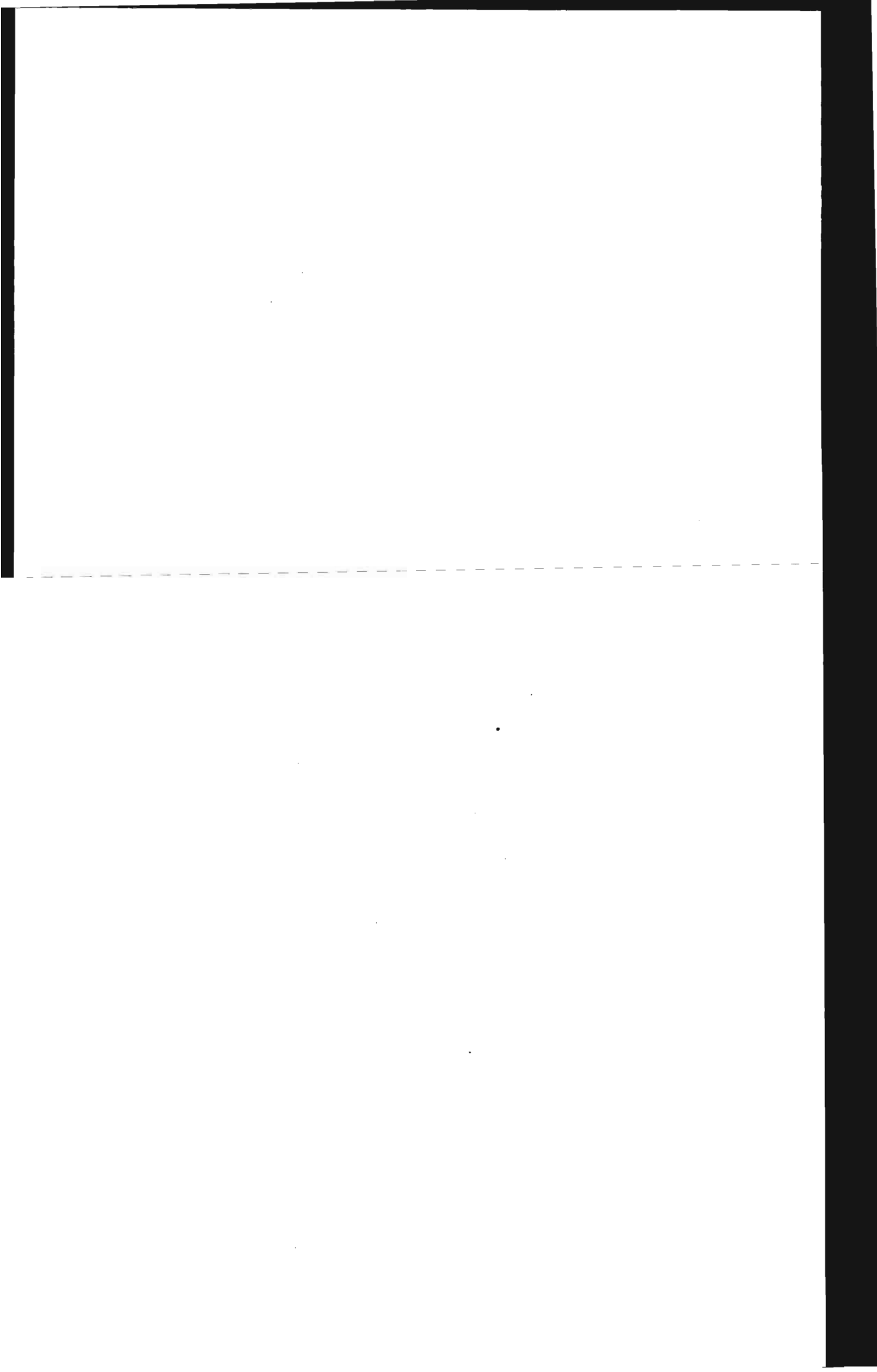
“The teachers of a separate school under this Act shall be subject to the same examinations and receive their certificates of qualification in the same manner as public school teachers generally: but persons qualified by law as teachers either in the Province of Ontario or at the time of the passing of the British North America Act, 1867, in the Province of Quebec shall be considered qualified teachers for the purpose of this Act.”

The Court of Appeal answered the question in the negative, holding that the concluding words of Section 36 of the Ontario Separate Schools Act served only to protect the rights of those persons who, as individuals, were at the date of the passing of the British North America Act, 1867, in the Province of Quebec entitled to exemption from examination.

Their Lordships agree in the conclusion at which the Court of Appeal arrived, and are satisfied to adopt the reasons on which that conclusion is founded.

Their Lordships therefore will humbly advise His Majesty that the Judgment of the Court of Appeal should be affirmed and the Appeal dismissed. There will be no costs of the Appeal.

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