

GILBERT JONES, WILLIAM VAL-
 ENTINE, JOHN GARRATT,
 ADAM HENRY GARRATT, JOHN
 STANLEY WHITE, WALTER S.
 VARNEY, LEVI V. BOWERMAN,
 WILLIAM BRANSCOMBE, WIL-
 LARD GARRATT, LEVI VAR-
 NEY, WALTER LEAVENS,
 NATHANIEL SWEETMAN, A. M.
 OUTWATERS, RALPH P. JONES,
 AND AMOS BOWERMAN (DE-
 FENDANTS)

APPELLANTS;

1886
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 \*Nov. 17.  
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 1887  
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 *May 2.

AND

JOHN T. DORLAND, STEPHEN W.
 WHITE, ANTHONY T. HAIGHT
 AND ANTHONY HAIGHT, CORY
 B. CRONK, AND BENNETT BOW-
 ERMAN (PLAINTIFFS).....

RESPONDENTS.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO.

Title to land—Society of Friends, or Quakers—Lands held in trust for—Authority of governing body.

Thê supreme or governing body of the Society of Friends, or

PRESENT—Sir W. J. Ritchie C. J. and Strong, Fournier, Henry, Taschereau and Gwynne JJ.

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Quakers, in Canada, as well in respect to matters of discipline as to the general government of the society, is the Canada yearly meeting.

The Canada yearly meeting having adopted a book of discipline which certain members of the society refused to accept these dissentient members, therefore, could not hold, nor exercise any right over, property granted to a subordinate branch of the society to which they had formerly belonged.

Judgment of the court below affirmed.

APPEAL from the decision of the Court of Appeal for Ontario (1); reversing the judgment of Proudfoot J. in the Chancery division (2) in favor of the defendants.

The material facts of the case, which are more fully set out in the report in the Chancery Division, are as follows—

The plaintiffs are the trustees of the West Lake Monthly Meeting of Friends duly appointed pursuant to R. S. O. ch 216 and sue on behalf of all the members of the said monthly meeting.

By deed dated the 14th May, 1821, and registered 18th February, 1829, Jonathan Bowerman and John Bull, in consideration of \$60, bargained and sold to Jonathan Clark, Daniel Haight and Gilbert Jones, trustees of the said West Lake Monthly Meeting of Friends and to their successors in trust for said monthly meeting, all that certain parcel or tract of land situate lying and being in the township of Hallowell in the county of Prince Edward and province of Ontario, containing six acres (describing them), to have and to hold said lands to said trustees of said monthly meeting for the time being and to their successors in trust as said meeting shall from time to time see cause to appoint for the only use and benefit of said monthly meeting.

By a deed dated 14th December, 1835, which recites the deed of 1821 and the act 9 Geo. IV. Ch. 2 (which limits the quantity of land to be held in trust for the purposes mentioned in the act to five acres), Jonathan

(1) 12 Ont. App. R. 543.

(2) 7 O. R. 17.

Bowerman, one of the grantors named in the deed of 1821, purported to convey three acres (being half the land granted by the deed of 1821) to Jonathan Clark and Gilbert Dorland, trustees of the West Lake Monthly Meeting of Friends, and to their successors, in trust for the said Meeting "so long as the members constituting it shall remain and be from time to time continued in *religious unity* with the Yearly Meeting of Friends (called Quakers) as now established in London, Old England, and no longer."

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The Society of Friends (called Quakers) is one body of Christians composed of Yearly Meetings with their subordinate branches in England, Ireland, the United States and Canada.

In 1821 and down to 1867 the West Lake Monthly Meeting was under the jurisdiction of the New York Yearly Meeting. In 1867 the New York Yearly Meeting, with the consent and approbation of the various other yearly Meetings of Friends, set off the Canada Yearly Meeting, to which, through the West Lake Quarterly Meeting, the West Lake Monthly Meeting has been since and is now subordinate.

In 1821 and down to 1859 the New York Discipline of 1810 as from time to time altered and amended by the Yearly Meeting was in force in the West Lake Monthly Meeting. In 1859 the New York Yearly Meeting revised their Discipline, and the said Discipline of 1859 was in force in Canada until the constitution of the Canada Yearly Meeting in 1867.

In 1867 the Canada Yearly Meeting on the 2nd day of its first session adopted the New York Discipline of 1859.

In 1877 the New York Yearly Meeting again revised their Discipline and the said Discipline so revised was adopted by the Canada Yearly Meeting in 1880.

The defendants and others members of the Westlake

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Monthly Meeting, claimed that the Discipline adopted by the Yearly Meeting in 1880 was not regularly adopted for want of unity among the members and other informalities, and also that it was an entire departure from the established doctrines and usages of the society, and they constituted themselves a separate society with its own yearly and subordinate meetings, and elected from among themselves trustees for the above described property. Eventually, the plaintiffs had to bring this suit to determine which body was, in law, the Westlake Monthly Meeting.

On the hearing before Mr Justice Proudfoot judgment was given for the defendants the learned judge holding that as the right to property was in question he was obliged to inquire into the religious opinions of the opposing parties to see who were the beneficiaries, and he found that the defendants were, and the plaintiffs were not, in religious unity with the Yearly Meeting of Friends as established in London, England, when the trust was created. The Court of Appeal reversed this judgment, and held that the criterion as to the Monthly Meeting was only its continued existence as such, and that depended upon its adherence to the supreme body, the Yearly Meeting. The defendants then appealed to the Supreme Court of Canada.

*MacLennan* Q. C. and *Arnoldi* for the appellants cited *Attorney General v. Jeffrey* (1); *Attorney General v. Pearson* (2).

*S. H. Btate* Q. C. and *Clarke* for the respondents referred to *Williams v. Bishop of Salisbury* (3); *Attorney General v. Gould* (4); *White lick Quar. Meeting v. White lick Quar. Meeting* (5); *White v. Nelles* (6).

SIR W. J. RITCHIE C.J.—I agree with the conclusion

(1) 10 Gr. 273.

(2) 3 Mer. 353; 7 Sim. 290.

(3) 2 Moo. P. C. (N. S.) 375.

(4) 28 Beav. 485.

(5) 89 Ind. R. 136.

(6) 11 Can. S. C. R. 587.

arrived at by the Court of Appeal, namely, that the adoption of the discipline of 1877 was matter with which it was competent for the yearly meeting to deal as having the final and controlling jurisdiction. So far as I can understand the yearly meeting is recognized as the tribunal of last resort ; its decisions on all matters within its jurisdiction are conclusive, and all true Friends are bound by them ; and the matter in question was properly and regularly dealt with and determined by that meeting, in accordance with the mode in which the doings of yearly meetings of Quakers are conducted and the results of them ascertained, and without objection declared and minuted by the clerk, the regular officer in that behalf, or refusal to acquiesce or submit, and so substantial unanimity was secured ; no alterations were made in the practice and discipline which the yearly meeting was not competent to make and effect, and if it was not properly and regularly dealt with and adopted by that meeting, then, as suggested by Mr. Justice Patterson, if the adoption and promulgation of that book of discipline was not the act of the meeting matters, so far as the meeting was concerned, remained as they were. In this case I can discover, as Chief Justice Shaw expresses it :

No such departure from the fundamental principles on which the society is founded on the part of the yearly meeting, the responsible head and representative of the whole body, in fact the society itself, so deep and radical as to destroy its identity with the Society of Friends who had been invested by law with the enjoyment of property and civil rights.

The attempt to set up a separate quarterly meeting at Pickering, ignoring the yearly meeting regularly appointed to meet the following year at Norwich, and not in the regular order of the society, was, so far as I can understand the case, wholly unwarranted and contrary to discipline and usage, and therefore irregu-

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lar and void, not having been formed according to discipline, but "to avoid the rightful authority and controlling action of the yearly meeting to which they were subordinate," and in doing so the defendants put themselves out of the society and so ceased to be in unity with the Society of Friends, and therefore cannot properly claim to be the Westlake Monthly Meeting for whose use and benefit this property was purchased.

I therefore think that the plaintiffs are the persons who now truly and lawfully answer the description of the Westlake Monthly Meeting of Friends, and as such represent the real Westlake Monthly Meeting, which is really the only point in controversy.

This case has been so fully and ably discussed in the judgment of the court below and in the authorities cited, particularly those decisions of the American courts which have so exhaustively and learnedly dealt with the history, constitution, doctrine, modes of proceeding, discipline and practice of this body known as the Society of Friends, or Quakers, and with all the principles by which this case must be governed, that I feel that I can throw no new light on the subject, and I therefore content myself with thus shortly stating the conclusions at which I have arrived. Therefore, I think this appeal should be dismissed.

STRONG J.—For the reasons given by the learned judges of the Court of Appeal, I am of opinion that this appeal should be dismissed.

FOURNIER J.—Concurred.

HENRY J.—I have arrived at the conclusion, not without a great deal of difficulty, that this appeal should be dismissed. I have failed to find any sufficient evidence of departure from the rules of the society to enable the parties to hold this property.

I think, for the reasons given in the judgment of the court below, that the appeal should be dismissed.

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TASCHEREAU J.—I am of opinion that the plaintiffs are entitled to the property referred to in their statement of claim, for the reasons given by Patterson J. in the Court of Appeal. I would dismiss the appeal.

Taschereau  
J.

GWYNNE J.—Concurred.

*Appeal dismissed with costs.*

Solicitor for appellants: *G. O. Alcorn.*

Solicitors for respondents: *Blake, Lash, Cassels & Holman.*

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