

which I have felt myself compelled to place upon the statute may make it very difficult where, as in this case, there is a bitter conflict between the trustees and the majority of the ratepayers, to reach a conclusion which will enable the trustees to perform their statutory duty of providing adequate school accommodation for the children of the section; for if, as I think, it was the duty of the arbitrators in this case, having come, as I assume they did, to the conclusion that the site selected by the trustees was not a suitable one, to have confined their award to so determining, it will be impossible to reach the point of adopting a site until the trustees and the majority of the ratepayers are of one mind, or the arbitrators appointed have reached the conclusion that some site selected by the trustees is a suitable one.

Having come to this conclusion, it is unnecessary to deal with the other questions argued in support of the application.

The result is that the award must be set aside, but without costs, unless the respondents desire that the matters referred should be remitted to the arbitrators in order that they may make an award approving or disapproving of the site selected by the trustees, with a declaration as to the powers of the arbitrators under the reference, in accordance with the opinion I have expressed. If the respondents so elect, such an order may go, without costs to either party, unless the appellants desire to be heard on this point, and if they desire to be heard no order will issue until further argument has been had.

MEREDITH, C.J.

NOVEMBER 2ND, 1903.

WEEKLY COURT.

RE ARTHUR AND MINTO UNION SCHOOL SECTION 17.

*Public Schools—Formation of Union School Section—Award—Appointment of Arbitrators—Township Councils—By-law—Resolution—Description of Lots—Reference to Petition—Municipal Clerk as Arbitrator—Necessity for Unanimous Award—Time for Publishing Award—Uncertainty as to Surplus Moneys—Reference back to Arbitrators.*

An application by the trustees of public school sections numbers 12 and 12 in the township of Minto to set aside an award made on the 25th May, 1903, by David Clapp and George Cushing, providing for the formation under the authority of sec. 46 of the Public Schools Act (1 Edw. VII. ch. 39) of a new union school section, to be called union school