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## RIGHTS, POWERS AND DUTIES OF SCHOOL TRUSTEES AND MUNICIPAL COUNCILS IN TOWNSHIPS.

In the August number of this *Journal*, we explained at some length the powers and duties of School Trustees, especially in reference to cities, towns, and villages. Since then several questions have arisen, and inquiries have been made, relative to the powers and duties of Trustees in country school sections, and their relations to Township Councils.

1. In some instances, it has been maintained that Trustees have no right to levy a rate upon the taxable property of the householders and landholders of their section, without the consent of their Township Council; whereas the Trustees have authority to act without the consent of any Council or other body, high or low, in levying and collecting whatever may be necessary to provide for all the expenses of their School. One leading feature and primary object of the school law is, to make each section a school municipality, with power to provide for the furnishing and support of its school, in every respect, in its own way, and to settle all its differences and difficulties by local arbitration. It is not, therefore, for the Chief Superintendent of Schools, or for any Council whatever, to decide in what manner, or in what amount, moneys shall be raised for school purposes in any School Section. The elected Trustees in each School Section are alone authorised by law to consider and determine from time to time the sums required for their school purposes; and a majority of electors at an annual School Section meeting, or special meeting, decide upon the *manner* (not the amount) in which such sums shall be provided.

2. Again, in some instances, Township Councils have refused to levy the sums applied for according to law by School Trustees. In all such cases the Councils concerned have violated the law; and they might be compelled to do their duty by a mandamus from the Court of Queen's Bench, should the Trustees concerned think proper to procure one. The object of this provision of the School Act (sec. 18, clause 4) is to relieve Trustees of part of the burthens imposed upon them by their office, and to save expense and time in the collection of school rates, which can in general be levied and collected more cheaply under the authority of the Township Council than under that of School Trustees: for the Council has a Collector and Rolls already provided; and the Collector must collect rates on all the taxable property within his jurisdiction each year for other than school purposes. For him, therefore, to have the school rates, in any or all the School Sections, within the limits of his collectorship, added to the other rates, and collect them at the same time, will involve but little additional trouble and expense; and the rates on the property of absentees can be collected in the same manner as other rates on the same property. But when Trustees themselves levy school rates on property, they must appoint a special collector, and pay him a higher per centage for such special service than would be paid to an ordinary collector: must procure an extract from the Assessment Roll, and sue each defaulting non-resident. Nor do Trustees receive any pecuniary remuneration for their much trouble and loss of time in the performance of their duties,—which is otherwise with Township Councillors. It was therefore thought just and economical, (as provided in the 9th clause of the 12th section of the School Act,) that Trustees should have the option of levying and collecting school rates on property themselves, or transfer, by request, the duty of doing so to the Township

Council, the members of which are paid for their time and services. And to prevent any unnecessary discussion or loss of time in doing their duty, the Council is not authorised to judge of or vary the amount required to be assessed, but simply to give legal effect to the will of a portion of the school electors of the Township in respect to their own school municipality, as decided by them at a public meeting, and as communicated and attested by their chosen Trustees. In some cases, Township Councils have assumed the right which belongs exclusively to Trustees, of judging as to the amount and even property of such assessments of School Sections—a right which does not appertain to any Council, either in city or country, but is in all cases confided to School Trustees, who are specially elected for such purposes. The High Sheriff of a county is the executor, not the judge, of the law in the matters placed in his hands; so, in this case, the duty of a Township Council is simply to execute the wish of certain School Sections in regard to taxing themselves for their own purposes. There will, of course, always be individuals in such sections opposed to rates for any school purposes; but with such individuals a Township Council has nothing to do—the Trustees, or a majority of them, being the elected and responsible exponents of the wants of their own school municipality.

3. Another question has then arisen, as to what Trustees should do in the event of a Township Council refusing to levy a school rate, as authorised and required by the 1st clause of the 18th section of the School Act. In every such case, the Trustees of a School Section can do, as have the Trustees of one or two towns and villages, apply to the Court of Queen's Bench for a mandamus, and compel an anti-school Council to do its duty, and the opposing members of such Council would be justly responsible for the expenses and consequences of such a proceeding. Trustees, though unpaid for their services, are liable to a penalty if they refuse or neglect to do their duty, after having accepted office; and it would be only equal if Township Councillors, who are paid for their services, should be made responsible for refusing or neglecting to do their duty in school matters. But thus far, in such cases, Trustees have been recommended to exercise their own corporate powers to levy and collect the amount of rates required for their school purposes. Where Trustees provide for the salary of their Teacher by rate-bills on parents sending children to the school, and not rate on property, of course they alone can impose and collect such rate-bills. It is, however, gratifying to know that, in the very great majority of instances, the Township Councils sympathise with Trustees in their efforts to improve and furnish school houses, and to establish free schools—the cases to which we have referred being exceptions to the general rule. In some instances, Township Councils would be glad to provide forthwith for making all the schools free within their municipalities.

4. Inquiry has also been made, as to what property in a School Section is liable to be taxed for School purposes? The terms employed by the Act are "taxable property, as expressed in the Assessor or Collector's Roll," and "the freeholders and householders of such section." It will therefore be observed, that all descriptions of "freeholders and householders," are included, whether resident or non-resident,—there being no exception. All "*taxable property*" is also included, whether wild lands or cultivated lands, or personal property; or whether the property of absentees or residents—all is made tributary to the great interests of education. In collecting school-rates from *resident* freeholders and householders making default of payment, the 2nd, 8th and 9th clauses of the 12th Section of the School Act authorise Trustees to proceed by *warrant*; but the 11th clause of the same section authorises them "to *sue* for and recover by their name of office the amounts of school-rates or subscriptions due from persons *residing without the limits of their Section*, and making default of payment."