

MORRISON, J.—By the 84th section of "The Upper Canada Common School Act," it is enacted that "in case of any difference between trustees and teacher, in regard to his salary, the sum due to him, or any other matter in dispute between them, the same shall be submitted to arbitration, in which case:

1. Each party shall choose an arbitrator.

2. In case either party in the first instance neglects or refuses to appoint an arbitrator on his behalf, the party requiring the arbitration may, by a notice in writing to be served upon the party so neglecting or refusing, require the last mentioned party, within three days inclusive of the day of the service of such notice, to appoint an arbitrator on his behalf, and such notice shall name the arbitrator of the party requiring the arbitration; and in case the party served with such notice does not, within the three days mentioned therein, name and appoint an arbitrator, then the party requiring the arbitration may appoint the second arbitrator.

3. The local superintendent, or in case of his inability to attend, any person appointed by him to act in his behalf, shall be a third arbitrator, and such three arbitrators or a majority of them shall finally decide the matter."

The 85th section enacts that the arbitrators may require the attendance of the parties and witnesses, books, &c., and administer oaths, &c.

The 86th section authorizes the arbitrators, or any two of them, to issue their warrant to any person named therein to enforce the collection of any money awarded to be paid, and the person named in such warrant shall have the same powers and authority to enforce the collection of the moneys mentioned in the warrant; &c., by seizure and sale of the property of the party against whom the same has issued, as any bailiff of a Division Court has in enforcing a judgment and execution issued out of such court.

The 87th section enacts, that no action shall be brought in any court of law or equity to enforce any claim or demand between trustees and teachers which can be referred to arbitration as aforesaid.

And by the 9th section of 23 Vic. ch. 49, it is declared that if the trustees wilfully refuse or neglect, for one month after publication of award, to comply with or give effect to an award of arbitrators appointed as provided by the 84th section of the Upper Canada School Act, the trustees so refusing or neglecting shall be held to be personally responsible for the amount of such award, which may be enforced against them individually by warrant of such arbitrators within one month after publication of their award; and no want of form shall invalidate the award or proceedings of arbitrators under the school acts.

It was contended on the part of the plaintiff that the arbitrators had no jurisdiction to make any award, as no contract under the corporate seal of the trustees was proved to have been produced before them—the 12th section of 23 Vic. ch. 49, enacting that all agreements between trustees and teachers to be valid and binding shall be in writing, signed by the parties thereto, and sealed with the corporate seal. But it was proved by the plaintiff's witness that an agreement was produced before the arbitrators, and the witness thought under the corpo-

rate seal; and as the plaintiff, as a trustee, named an arbitrator, and submitted the matter in dispute to the arbitrators, we may, under these circumstances, assume that the arbitrators had all the necessary material before them to give them jurisdiction to enter upon the arbitration and make the award.

It was also objected that the award was informal: that there was no award, as it was not made in terms between the corporation and the teacher. The award put in evidence was in the following words:

"At an arbitration, held May the 2nd, 1864, to decide a dispute between the trustees of the Roman Catholic separate school No. 20, Thurlow, in the village of Canifton, and Miss Ann McGurn, teacher in said section, the following were the arbitrators: Wm. Naylor, on behalf of Miss McGurn; S. S. Pake on behalf of the trustees; F. H. Rouse, Local Superintendent of Hastings. After hearing the evidence, and considering the case fully, the arbitrators decide and award that the trustees of said section shall forthwith pay into the hands of Mr. Rouse the sum of sixty-four dollars twenty-two and one half cents, such sum to be disposed of as follows:—

To Miss McGurn	\$59 12½
Expenses of arbitration	5 10

\$64 22½

(Signed) SAMUEL S. PAKE,
WILLIAM NAYLOR,
F. H. ROUSE, L. Sup. S. Hast.

Belleville, May 2, 1864.

The 17th section of the Separate School Act, Con. Stats. U. C. ch. 65, declares that the trustees of each separate school shall be a body corporate, under the name of the Trustees of the Separate School of (as the case may be), in the township, city or town (as the case may be) of, &c.: and, as before stated, the latter part of sec. 9 of 23 Vic. ch. 49, enacts that no want of form shall invalidate the award or proceedings of arbitrators under the school acts.

The object of the legislature was to give a simple, speedy and inexpensive mode of settling disputes between trustees and teachers by arbitration, and it probably assumed that it might frequently happen that arbitrators would be appointed from a class unacquainted with the drawing up awards in a technical form; and in order to avoid expense and litigation, and to give effect to the adjudication of the arbitrators when acting within their jurisdiction and powers, provided against their awards becoming inoperative from want of form. Such being the case, I think it is incumbent on us to give the most liberal construction to the provisions of the statutes, with a view of carrying into effect the intentions of the legislature; and where we can see, as in the present case, on the face of the award itself, that in all material points it is sufficiently certain, although informal in some respects, to strive to uphold it. And in my judgment the objections taken to the award are to matters of form, within the meaning of the enactment, and they do not render the award invalid.

Upon the other point in the case, and which was the principal one argued at the bar—where the arbitrators and their bailiff were within the protection of the statute for the Protection of