

JOURNAL OF



EDUCATION,

Province of

Ontario.

VOL. XXIII.

TORONTO, JULY, 1870.

No. 7.

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SCHOOL LAW DECISIONS BY THE COURTS.

We commence in this number of the *Journal* a series of recent decisions by the Superior Courts on contested points in the School Law. They will be valuable for reference by Trustees and others interested in the working of the Acts relating to the Public Schools. The decisions given in this number are by the Courts of Common Pleas and Queen's Bench respectively.

DECISION.—LOCAL SUPERINTENDENT'S CHECK MUST BE BASED UPON SCHOOL TRUSTEE'S ORDER, &c.

Digest of the Case:—Declaration by a school teacher against defendant as sub-treasurer of school moneys, setting out an order signed by the local superintendent of schools in favour of plaintiff upon defendant, as such sub-treasurer, directing him to pay plaintiff \$27.80, and charge to account of county assessment for 1866, and alleging a refusal by defendant to pay plaintiff in pursuance of such order, with a claim for a mandamus, and £50 damages.

Held, on demurrer, declaration bad, as not shewing that the check or order was drawn on the order of the school trustees, and in setting out a check void on its face, because drawn upon a fund over which the local superintendent had no control, and in not shewing that the sub-treasurer had money in his hands belonging to the school section, or that the county council had made provision to enable him to pay the amount.

The declaration demurred to, in which there were two counts substantially the same, is sufficiently indicated by the head-note to the case.

J. WILSON, J., delivered the judgment of the Court.

This declaration has been framed upon the assumption that a duty is cast upon sub-treasurers of school moneys and on county treasurers to pay the local superintendent's order,

whether lawful or not, on behalf of a school teacher, in anticipation of the payment of the county school assessment, whether he has money in his hands for that purpose or not, and that the order or check, as it is called in the Statute, is lawful without the order of the school trustees.

This, we think, is not the law, for the primary duty is cast upon the municipality of the county to make the necessary provision to enable the county treasurer to pay the amount of such order, and that the check of the local superintendent is not lawful unless authorized by the order of the trustees.

In regard to raising the necessary funds for sustaining common schools, the 50th section of the Act respecting Common Schools enacts, that each county council shall cause to be levied yearly upon the several townships of the county such sums of money for the payment of the salaries of legally qualified common school teachers as at least equal the amount of school money apportioned by the chief superintendent of education to the several townships thereof for the year.

The 51st section enacts that the sum actually required to be levied in each county for the salaries of legally qualified teachers shall be collected and paid into the hands of the county treasurer on or before the fourteenth day of December in each year; but notwithstanding the non-payment of any part thereof to such treasurer in due time, no teacher shall be refused the payment of the sum to which he may be entitled from such year's county school fund, but the county treasurer shall pay the local superintendent's lawful order on behalf of such teacher, in anticipation of the payment of the county school assessment, and the county council shall make the necessary provision to enable the county treasurer to pay the amount of such order.

The 57th section enacts that, if deemed expedient, the county council shall appoint one or more sub-treasurers of school moneys for one or more townships of the county; in which event, each such sub-treasurer shall be subject to the same responsibilities and obligations, in respect to the paying and accounting for school moneys.

In enacting these clauses the Legislature took it for granted there would always be money in the hands of the county treasurer, from which he would be able to pay all orders drawn upon him by the local superintendents for the payment of the salaries of teachers, in anticipation of the school fund, in case it were not paid into his hands at the proper time.