mies being abolished as such, to have the moneys so set free made use of to endow about four superior institutions of the class which they are supposed to represent, to be so located throughout the Province as to be most easily accessible to the greatest number. Those of Pictou and Yarmouth, already so well established and in such successful operation, might make two of them; another could be placed in one of the western shore counties, and the fourth—say at some central and easily accessible spot in the Island of Cape Breton. Of course, we consider the High School for Halifax as an indispensable quite apart from these.

Whether the foregoing suggestions will commend themselves to the friends of education in Nova Scotia generally, or not, it is unnecessary for us to risk even a conjecture, but we are confident that the subject of them is one to which all those friends should give their early and earnest consideration. In our efforts to improve the Educational System of the country, we should not dream of finality, but go on improving forever. Entertaining this view, we feel confident that the subject of these remarks is one which affords a fine field for early improvement.

THE SCHOOL LAW.

HERETOFORE there has not been, that we are aware of, much controversy respecting the provisions of the act, for the better encouragement of education; nor has the aid of the law been invoked to settle any disputes arising between the trustees and the inhabitants of any school district. A cause however, came up for trial before Judge McCully, at the Lunenburg Court in October last, which, as far as a single judge, sitting at *Nisi Prius* could do so, settled some important points in the act, which might reasonaly be considered to come under the category of *vixata questiones*. and to which therefore we propose shortly to refer. The facts as we understand them are briefly these:—

The rate-payers of School District, No. 26, Mahone Bay, at the annual meeting in 1869, elected a new trustee for the then ensuing year in the place of the one retiring, and transacted other business; but for some reason, dissatisfaction at the state of the finances, and the non-submittal of any accounts being alleged, did not vote any sum for the support of the school, and the trustees shortly after dismissed the teachers and closed the doors. After some months a majority of the rate-payers, petitioned the trustees to call a meeting of the rate-payers to transact business of the section, relative to the school, and the house. This the trustees refused to do, whereupon the rate-payers petitioned the Board of Commissioners, complaining of the trustees, and praying the Board, in the exercise of its powers, to remove the old and appoint other trustees. The Board met, investigated the matter, and appointed new trustees, in the place of the old trustees, who had refused to act.

The new trustees convened a meeting of the rate-payers of the district, who voted money to carry on the school, and to build a new and commodious house. They then immediately engaged teachers, and reopened the school, when the old trustees brought an action of trespass, charging that the new trustees, had entered the school house and ejected them. The defendants appeared to the action, and amongst other pleas pleaded one, justifying their acts, in virtue of being the trustees of School District, No. 26, Mahone Bay, legally appointed. The main issue at the trial, therefore, was, the legality of the appointment of the new trustees, made by the Commissioners. The clause of the School Act, relied upon by the defendants is as follows, "Where any trustee or trustees have been elected, and refuse to act, or shall neglect the performance of duty for twenty days after such election, the Board of Commissioners shall with or without a requisition appoint trustees or a trustee, in place of the person or persons refusing so to act." And a subsequent clause of the Act empowers "the Board of Commissioners to appoint a committee of not less than three of their members to perform the duties imposed on the Commissioners in relation to the appointment of trustees."

The plaintiffs insisted that the Act conferred no power on the Commissioners to dismiss, except the refusal to act or neglect of duty, occurred within twenty days after the election of the trustee or trustees, and that after that term, the only remedy for such neglect or refusal was the forfeiture of the sum of twenty dollars, imposed for such offence by a subsequent clause of the Act. The defendants on the other hand, contended that the Commissioners were fully empowered to act as they had done, and that to confine the remedy to the infliction of a fine of twenty dollars, would be to defeat the object of the Act itself, by rendering it possible, for trustees, so disposed, to close a school during the whole term of their office, for which the fine imposed would be a most inadequate remedy. The matter was fully investigated before Judge McCully and a jury of Lunenburg County. The defendants proved the requisition to the trustees to call a meeting, and their refusal to act, and the subsequent requisition to the Board of Commissioners, and the appointment by the Board of the two defendants, and a third party as trustees in place of the plaintiffs, who had refused to act. At this stage of the case, the judge expressed a very decided opinion on the law, and the plenary powers conferred on the Commissioners in the case of trustees refusing to act, and held that the defendants were legally appointed trustees by the Commissioners, and, that as such trustees, they were legally vested with the school house and justified in their subsequent acts. The plaintiffs in deference to the ruling of the learned judge, consented to become nonsuit, and judgment was entered up for the defendants.

A cross action brought by the new trustees against the defendants to recover the value of a number of maps and a pair of globes, which the old trustees had carried out of the school house, after their dismissrl, and of the use of which the section had since been deprived, was also tried. The defendants the old trustees, set up by way of defence that the custody of the maps belonged to the sec'y. of the trustees, and that he had carried away the property in question for safe keeping. The judge, however, ruled that the school apparatus, &c., was the property of the trustees, for which they were responsible, and under his direction the jury found a verdict for the plaintiffs for the value of the articles so taken.

Without mixing ourselves, or the JOURNAL, up in any way, with the *casus belli* between the rate-payers and the original trustees, we may say, that we are glad that the power of Commissioners of Schools, has been successfully maintained. It is now settled that the Commissioners have the power summarily to interfere in cases where trustees shall refuse to act or shall neglect the performance of their duty, and, that during any period of their term of office. If it were otherwise, a School Section might receive incalculable damage from the arbitrary conduct of trustees. To confine the power of the Commissioners to a period of twenty days after the election of the trustee would be practically to denude them of all authority in the premises by placing the section at the mercy of the trustees, except for a most insignificant period of time. Nor have the trustees themselves any cause of complaint at the power vested in the Commissioners, as an appeal is by the law given from the decision of the Commissioners to the Council of Public Instruction; and if in this case the old trustees had deemed that they had been harshly or unjustly dealt with, it would have been more prudent in them, and have better subserved the cause of education to have carried the case before the Council for final adjudication, rather than have rushed into law at the risk of fomenting strife and ill-feeling in the section, upsetting all that had been done in the section in the meanwhile, and possibly of subjecting innocent parties to heavy costs, who, in accepting office had only performed a gratuitous duty imposed upon them by their fellow rate-payers. Any cause, that has the tendency to rend a district into rival party-factions, is to be deplored, as aiming a blow at the interest of education in the most vital part; but in the case of the Mahone Bay difficulty, we are glad to learn, that no such fatal consequences will follow, as nearly the whole of the rate-payers side with the new trustees' and have shown their appreciation of education not only by the large and flourishing schools established in the section, but have assessed themselves for the erection of a large, handsome and commodious school-house, which, when complete, and standing as it does on rising ground, will be, not only an ornament to the thriving village of Mahone Bay, but a monument of the intelligence and public spirit of the people, and such an expression of their estimation of the benefits to be derived from a liberal education as none may deny or gainsay.