

requiring the said corporation to provide for the united board of grammar and common school trustees, for the Village of Trenton, the sum of \$500, as contained in the estimate of the said united board, dated the 25th September, 1866, and referred to in the affidavits filed.

The application was based on an affidavit of the secretary of "The United Board of Grammar and Common School Trustees of the Village of Trenton," who stated that before the 26th of September last "the Trustees of the incorporated Village of Trenton County Grammar School" united with "The Board of School Trustees of the Village of Trenton," in the county of Hastings, and the same became and have since been the United Board of Grammar and Common School Trustees of the Village of Trenton, and that such union took place about the month of June or July last; that on the 26th of September the estimates, a copy of which was attached to the affidavit, were passed by the said united board and under the seal thereof, and that he on the same day left the original estimates with the Clerk of the corporation of the Village of Trenton; that the corporation refused to provide for the grammar school purposes in said estimates mentioned, and still refuse so to do; that on the 5th day of November last, the said corporation passed resolutions, a copy of which was annexed to the affidavit.

The estimates were as follows:—"The following are the estimates of the United Board of Grammar and Common School Trustees of the Village of Trenton, for the current year, 1866, and 1867:

For Grammar School purposes.

For paying part of the salary of Teacher...	\$300
For building Grammar School House, repairing, furnishing, warming, &c.....	200
	\$500

For Common School purposes:

For paying part of the salaries of Teachers	\$700
Warming, furnishing and keeping in order the school houses, their appendages, &c...	100
For all other necessary expenses connected with the schools, &c.....	100
	\$1400

The United Board of the Grammar and Common School Trustees of the Village of Trenton desire the Municipal Council of said village to provide the above sums for the said Trustees, according to law.

September 26, 1866.

(Signed),

J. MARSH,

Chairman,

U. B. G. and C. S. T. Trenton.

The resolutions referred to were as follows:

Council Room, November 5th, 1866. (Then the names of the four councillors present.)

Moved by, &c., that a By-law be passed levying 15½ cents on the dollar, for common school purposes.—Carried.

Moved by, &c., that a By-law be passed levying 6 cents on the dollar for grammar school purposes.—Yeas, 2; Nays, 2. Res. lost.

During this term *M. C. Cameron, Q.C.*, shewed cause, and *Read, Q.C.* supported the rule.

Con. Stat. U. C., ch. 63, secs. 16, 20, 24, 25, sub-sec. 7; ch. 64, sec. 27, sub-secs. 4, 7, 12; secs. 77, 79, sub-secs. 9, 11, 18; *The Trustees of*

the Weston Grammar School and the Corporation of York and Peel, 10 U. C. L. J. 42; *The School Trustees of Toronto and the Corporation of Toronto*, 20 U. C. Q. B. 302; *School Trustees of Sandwich and Corporation of Sandwich*, 23 U. C. Q. B. 612, were cited on the argument.

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

It was contended on the part of the applicants that they were a joint board within the provisions of the 7 sub-section of sec. 25, Con. Stat. U. C., ch. 63.

That sub-section authorizes the board of trustees of a grammar school "to employ, in concurrence with the trustees of the school section, or the board of common school trustees in the township, village," &c., "in which such grammar school may be situate, such means as they may deem expedient for uniting one or more of the common schools of such village," &c., "or departments of them, with such grammar school; but no such union shall take place without ample provision being made for giving instruction to the pupils in the elementary branches, by duly qualified English teachers; and these schools thus united shall be under the management of a joint board of grammar and common school trustees, who shall consist of and have the powers of the trustees of both the common and grammar schools; but when the trustees of the common school exceed six in number, six only of their number, to be by them selected, shall be the common school portion of such joint board."

Sub-section 9 of sec. 79 of the Upper Canada Common School Act (Con. Stat. U. C., ch. 64) authorises the board of school trustees "to adopt, at their discretion, such measures as they judge expedient, in concurrence with the trustees of the county grammar school, for uniting one or more of the common schools of the city, town or village, with such grammar school."

It was objected that the statutes did not authorise the union of these two boards of trustees into a united board; that it was not shewn that the provisions of the two sub-sections above mentioned were complied with, or that the schools referred to were united; and it was argued that before the joint board were entitled to call upon the corporation to provide the amount of the estimates sought to be enforced by mandamus, the applicants must show that a union of the schools, or some of them, had taken place under sub-section 7, above quoted.

It certainly does not appear from the affidavit or papers filed that one or more of the common schools of the village of Trenton and the grammar school of that village are united. What is shewn is, that the trustees of the grammar school of that village united with the board of school trustees, and became the united board of that village, in what way and for what purpose does not appear.

What the school acts authorise is the union upon certain conditions, of the grammar school and one or more common schools, not of the two sets of trustees as trustees, and that such schools, when united, shall be under the management of a joint board of the trustees of the grammar school and the trustees of the common school the latter not exceeding six in number. There is no affidavit or proof of the union of such schools, or that the union of the grammar school was