

they were precluded from pleading that it had not been laid before them as the law required.—(*Idem.*)

(46) *A resolution of a Board of School Trustees is not the Estimate required by law.*

The communication by a Board of School Trustees to the Municipal Council of a town, of a resolution of the Board, that the chairman do order the Town Council to furnish the Board with a sum of money immediately, for the purpose of purchasing a site and erecting a school-house—a copy of which resolution was sent to the Town Council—is not a compliance with the sixth clause of the twenty-fourth section of the School Act of 1850, requiring the Board to prepare an *estimate* of the sums it may require; and consequently does not render the Town Council liable to be compelled to pay the amount by mandamus.—*In re Board of School Trustees v. Municipality of Port Hope*, 4 C. P. R. 418.

(47) *A vote of the school rate-payers not necessary in Cities, Towns, and Villages, as in school sections.*

A vote of the rate-payers is not necessary in cities, towns, and villages—although it is in school sections—to authorize an application to the Town Council, or a rate by the Board.—(*Idem.*)

(48) *Ward School Assessments of a City or Town illegal.*

A Board of School Trustees applied to a Municipal Council to levy a distinct sum in each of the wards of the Municipality, and the Council passed a By-law for that purpose:

Held, That it was illegal. An assessment for School (as well as Municipal) purposes must be levied equally upon the rate-payers of the Municipality in proportion to their ratable property, and cannot be levied by an unequal rate in the different wards of such Municipality.—*In re Scott v. Municipality of Ottawa*, 13 Q. B. R. 346. (See 32, page 52.)

(49) *Order on Treasurer must precede an application for writ of Mandamus to compel payment.*

The Board of School Trustees of a village applied to the Village Municipality to levy a sum of money required to pay for a School site which they had contracted to purchase. The Municipality refused to do so, and the Board applied for a mandamus. It did not appear that the Trustees had appointed a Secretary-Treasurer.

Held, That the Board should first have given an order to the person from whom they had agreed to purchase, upon the Treasurer of the Municipality.—*In re Board of School Trustees v. Municipality of Galt*, 13 Q. B. R. 511. (See 56, on this page.)

(50) *Meaning of "Taxable Inhabitants," in Cities, Towns, and Villages.*

Persons who are rated for statute labor only, and who are not householders, are not "taxable inhabitants" within the meaning of the twenty-second section of the School Act of 1850, and cannot therefore vote at the election of School Trustees.—*The Queen ex rel. McNamara v. Christie et al.*, 9 Q. B. R. 682.

(51) *Extension of time for collection of School rates.—Power of Collector.*

The time for levying a School tax in the City of Kingston, imposed by By-law in December, 1855, was extended by resolutions of the City Council, under 18 Vic., ch. 21, sec. 3, until the 1st August, 1856, and again, on the 22nd December, 1856, to the 1st March, 1857.

Held, That the collector, who was the same person for both years, might distrain, between the 1st August and the 22nd De-

cember, 1856, although no resolution extending the time was then in force.—*Newbury v. Stephens, et al*, 16 Q. B. R. 65.

(52) *Moneys collected under a By-law of any Municipality must be paid to the Municipal Treasurer.*

Under a By-law of the District of Huron Municipal Council, a certain School Section was assessed in £25 to build a school-house therein;

Held, That all monies collected for the erection of school-houses under any By-law of the District Municipal Council were payable to the District Treasurer, who alone under the late Act was authorized to take security from collectors for the payment of moneys collected for public purposes.—*Brown v. Styles et al*, 2 C. P. R. 346.

MISCELLANEOUS.

(53) *Decisions on School Questions by the Chief Superintendent.*

The duties imposed upon the Chief Superintendent and the several Local Superintendents by the School Acts, show that the Legislature intended to provide a domestic forum for the settlement of school questions; and the reference of several other matters involving legal considerations to arbitration, answers the objection sometimes urged that the Legislature did not mean legal questions to be determined by an officer who, perhaps, might not be versed in legal technicalities. It appears, therefore, looking at the whole scope of the acts, that it was supposed the affairs of the schools could be managed by means of arbitrators, and references to the Local Superintendent, and finally to the Chief Superintendent, without troubling the Courts.—10 Q. B. R. 475.

(54) *Maximum rate of interest to be paid by Municipal Councils.*

Municipal Corporations cannot, by By-law, provide for money at a rate of interest exceeding that authorized by the Statute.—*Wilson v. Municipality of the County of Elgin*, 13 Q. B. R. 129.

(55) *Treasurer must honor Trustees' Orders for School Moneys.*

That portion of the rate which by the enactment of law goes into the hands of the Treasurer, is subject to the order of the Trustees. He may not have received the money, or may refuse to obey their order, but in neither case can they be liable to an action for not paying the money. They are public officers, who have only to discharge their proper duty. If they refused to make an order, a Mandamus would lie against them, or perhaps a special action for not making the order, but not an action for the money, for that is not in their hands. If the Treasurer fails in his duty he is liable to indictment, and might be found liable also to a remedy by action.—*Quin v. Trustees, No. 4, Seymour*, 7 Q. B. R. 138. (See 49 and 52, on this page.)

(56) *School Trustees contract not valid without their Corporate Seal.*

The Trustees of a School Section being a corporation under the School Act of 1850, are not liable as such to pay for a school-house erected for and accepted by them, not having contracted under seal for the erection of the same. The seal is required as authenticating the concurrence of the whole body corporate.*—*Marshall v. Trustees No. 4, Kitley*, 4 C. P. R. 375. (See 4, page 49.)

* "A corporation being an invisible body, cannot manifest its will by oral communication; a peculiar mode has heretofore been devised for the authentic expression of its intention,—namely, the affixing of its common