

II. That holders of third-class grade B certificates just expiring, competing for grade A and failing to obtain it, may, if qualified, be awarded grade B, valid for one year but no longer.

III. That the first book of Euclid, exclusive of all deducibles; Algebra to simple equations; Mensuration of plane surfaces, and the elementary portions of book-keeping be added to the list of subjects for third-class certificates.

IV. That the History for third-class certificates be Canadian History and the Guelph period in English History, and that two-thirds of the marks given on the third-class History paper be for Canadian, and the other third for English History.

V. That the vacations for Public Schools be of the same length as that for High Schools.

VI. That teachers holding Provincial Certificates be permitted to be re-examined in any one or more subjects that they may previously have failed in, or that they may wish to be examined in at the Annual Teachers' Examination, and that the results be suitably appended to their existing certificates, but without altering the grade thereof.

VII. That a copy of these resolutions be sent to the Hon. A. Crooks, Minister of Education.

C. H. SANGSTER,  
Secretary, South Hastings Teachers' Association.

### III. Legal Decisions.

1. IN THE MATTER OF THE PUBLIC SCHOOL TRUSTEES OF SECTION NO. 6, IN THE TOWNSHIP OF SOUTH FREDERICKSBURGH, IN THE COUNTY OF LENNOX AND ADDINGTON, AND THE CORPORATION OF THE TOWNSHIP OF SOUTH FREDERICKSBURGH.

*School Trustees—Application for mandamus to levy rate.*

The trustees of a township school section sent to one of the councillors a notice signed by them addressed to the Reeve and councillors of the township, as follows: "Gentlemen,—You will please levy the sum of \$460 on the ratable property of school section No. 6, South Fredericksburgh, for the school purposes of said school section." This notice had no date. It was handed to one of the councillors, and the affidavits were contradictory as to its having been formally presented to the council, but the trustees were informed that the council would not act upon it, as it had no date.

*Held*, that such an application should be made through the township clerk: that the demand for a lump sum, simply for the school purposes of the section, is insufficient, for the corporation have a right to know particularly the purposes for which the money is required; and *semble*, that the absence of a date would alone have been a fatal objection.

A mandamus to compel the corporation to levy the amount was therefore refused, but as the affidavits filed on showing cause were unnecessarily long, the corporation were allowed only half their costs.

In Michaelmas term, November 18, 1875, *W. A. Reeve*, obtained from *Wilson, J.*, a rule *nisi*, calling upon the corporation to shew cause why a writ of mandamus should not issue to the corporation, commanding them to levy by assessment on the taxable property in the said section the sum of \$460, required for the school purposes of said section, pursuant to the application of the said public school trustees to the said corporation, at its meeting in August last; and why the corporation should not pay the costs of the application.

In support of the application, affidavits of each of the three trustees were filed, from which it appeared that on the 26th August, 1875, the trustees, at a regular meeting, after discussion, determined that \$460 was necessary, over and above the funds then on hand, to defray the usual and current expenses of the school for the current year, besides paying for the erection of a wood-shed erected during the year. The wood-shed cost \$40, and the balance was intended to meet the teacher's salary, fuel, and minor incidental expenses. The trustees thereupon decided to apply to the corporation to raise that sum, and a notice in writing was drawn up with that view, and given to one of the councillors, *Mr. Ball*, to lay before the council at its next meeting. The council met on the 28th of August, and the trustees afterwards were informed that the council did not consider the notice legal, as it had no date, and refused to act upon it.

The notice was as follows:—

"To the Honourable Reeve and Councillors of the township of South Fredericksburgh, Co. of Lennox and Addington.

"Gentlemen,—

"You will please levy the sum of four hundred and sixty dollars on the ratable property of School Section No. 6, South Fredericksburgh, for the school purposes of said School Section.

Yours, &c.,

"PETER BRISTOL," Trustees  
"WM. F. GAMON," S. S. G, S. F.  
"A. O. FRASER." }  
[C.S.]"

On behalf of the council, the affidavit of *Mr. Ball*, the councillor to whom the notice was given, stated that the notice was given to him by a boy about 10 or 12 years of age, son of a trustee, without any request to present it to the council, or any instructions as to what he was to do with it; that he had it at the meeting where some of the members of the council saw it privately, but he never presented it to the council, and the council were never in fact asked to provide the money, nor was any note of the application entered on the minutes. A copy of the minutes, filed by the trustees, showed that no note was entered of the application.

Other affidavits were filed by the trustees and the council, on the one hand, with reference to statements made by *Ball* at public meetings and elsewhere, that he had presented the notice, and on the other hand denying that he made any such statements.

January 11, 1876, *Delamere* showed cause. The affidavits show that the notice was never presented to the council even informally. To be effectual it should be presented through the township clerk. The want of a date is also relied on. It is also defective in not giving the particulars for which the money is required.

*F. Osler*, contra. On the affidavits it is contended that *Ball* did in fact present the notice, and the council were aware of it, and should be bound as much as if it had been formally presented. It must be presumed that the sum was required for the expenses of the current year, and the absence of the date is of no consequence.

January 18, 1876. *HAGARTY, C. J. C. P.*—I have read over all the papers filed.

I think the application should have been made to the council through the township clerk, their proper organ. Had this course been taken all the present difficulty might have been avoided. The clerk has fixed statutable duties, and is responsible for the custody and management of all papers, and of the minutes of the proceedings of the council.

Had the council, as the applicants insist, only objected to the requisition because it wanted a date, there would perhaps have been a strong ground for objecting on that score alone.

I do not read the Act of 1874 as permitting a requisition of a single sum of money simply "for the school purposes of the section." I think the council have a right to know what these purposes are. 37 Vic. ch. 28, sec. 46, directs the council to levy, &c., such sums as may be required by the trustees thereof for the purchase of a school site, the erection, &c., of a school-house, &c., &c., (specifying several matters), and salary of the teacher, assistant or monitor as may be determined by such trustees.

Sec. 47 enacts that the council shall not levy during any one year more than one school section rate, except for the purchase of a school site, or erection of a school-house, &c.

This shews the importance of seeing for which year and for what purposes the money is required.

On this requisition there is no date whatever, nor any statement of the year or the purposes for which the money is required.

Sec. 26, sub-sec. 14, directs the trustees to apply to the township council for the levying and collecting by rate, &c., all sums for the support of their schools, purchase of site, &c., and for any other school purpose authorized by this Act.

I hold that the council of the township has a right to know the purposes for which the money is required by the school trustees.

The case of *In re Port Rowan High School*, in 23 C. P. 11, was on a different Act, and was not the case of a public school.

As to costs. I think the township council either never had the requisition presented to them, or if they rejected it, it was so insufficient that it ought not to have been acted on without explanation and date. I think they ought to be allowed some costs. But as they have followed the evil example of the applicants in indulging in a quantity of useless statements, I direct that only half the costs of their affidavits be taxed to them.

As to the applicants, they have run into the most extravagant exuberance of affidavit.

*Rule discharged.*

2. IN RE THE NIAGARA HIGH SCHOOL BOARD AND THE TOWNSHIP OF NIAGARA, AND THE REEVE, ETC., OF THE SAID TOWNSHIP.

*High Schools—37 Vic., ch. 27, O.*

*Held*, under 37 Vic., ch. 27, O., that the High School Board for a district consisting of two municipalities, a town and township, could call upon one of the municipalities, the township, to contribute towards the erection of a school-house in the other municipality, and not merely towards its maintenance.

In Michaelmas Term, *James A. Miller* obtained a rule calling on the parties above named to shew cause why a writ of mandamus should not issue, commanding them forthwith to raise the sum of \$2008.47, the amount or proportion required to be raised and paid by the said township for the purpose of providing for school accommodation for the Niagara High School, as required by the de-