

That the duty imposed on the clerk in making out the assessment list of the section in accordance with the Township by-law, was in accordance with the Statute.

That a proviso of the by-law sanctioning receipts, *pro tanto*, given to those who had paid under the invalid by-law, did not render the second by-law void—because such parties, although entitled to restitution, would have to pay *de novo*.—(*Idem.*)

(37) *Townships have no power to levy a School-rate for County purposes.*

A Township by-law was quashed in so much of it as related to the raising of a sum of money, to defray the demands of the County Council on the township, and as an equivalent to the Legislative School grant; it not appearing in the face of the by-law that it was directed to the purpose of meeting a deficiency.

It follows therefore that a Township Council has not power to pass a rate in aid of any county rate, as the thirty-first section of the Act 16 Vic., cap. 182, authorizes the County Councils to pass by-laws to raise money for County purposes, and the Township Council for Township purposes; and the 27th section of the School Act 13 and 14 Vic., cap. 48, expressly makes it the duty of the County Council (and not the Township Council) to cause to be levied each year upon the several townships of the County, such sums of money as shall at least be equal, clear of all charges of collection, to the amount of school money apportioned to the several townships out of the government grant.—*Fletcher v. Municipality of Euphrasia et al.*, 13 Q. B. R. 129.

(38) *Trustees' Warrant to collect School Rates, only legal within their own Section. They must sue non-residents.*

School Trustees can only give a warrant to collect School rates within the limits of the Section for which they are appointed. They can only sue non-residents.—*Gillies v. Wood*, 13 Q. B. R. 357. (See 20, page 51.)

(39) *Form of Warrant.*

The warrant may be signed by two Trustees (but see 29, page 172).

In making cognizance under such warrant, it is sufficient to state that the plaintiff was duly assessed, and that the collector was duly appointed. It is not necessary to state therein that the rate was decided upon at a meeting, as required by statute, or how the appointment was made.—(*Idem.*)

(40) *An undivided Lot must be in the same Municipality. Municipal Boundaries divide Lots.*

Certain property, through which ran a municipal division line between a Town and Township, was assessed by the Trustees of a School Section in the Township, according to the value of that portion of it lying in their section, and outside the town. The owner refused to pay, and was sued by the Trustees as a non-resident, in accordance with the provisions of the School Law. The Judge of the Division Court decided against the Trustees, on the ground that the proviso in the 15th section of the Supplementary School Act of 1853, referred to undivided lots within different municipalities, as well as within but one municipality. The Chief Superintendent appealed the case, and it was

*Held*, That the Trustees acted rightly,—they being guided by the assessment roll of their municipality; and that the proviso referred to applies only to the case of an undivided property extending into more than one School Section of the same municipality, and not where the land lies in different municipalities. Hence

municipal boundaries divide lots.—*Chief Superintendent appellant in re Trustees No. 4, Hallowell v. Storm*, 14 Q. B. R. 541.

(41) *Trustees can levy a rate for the erection of a School-house without consent of a public meeting.*

Under the School Act of 1850, Trustees are authorized to levy a rate for the erection of a school-house in their section. This authority is more clearly and definitely expressed in the sixth section of the Supplementary School Act of 1853.—*Chief Superintendent Appellant, in re Kelly v. Hedges et al.*, 12 Q. B. R. 531.

(42) *Trustees can levy rate for defraying costs of defending a groundless action.—Separate school supporters, when exempt.*

A rate may be levied to reimburse School Trustees for the costs of defending a groundless action brought against them (See 8, page 164). Where such charge was incurred before the establishment of a separate Roman Catholic school:

*Held*, That the supporters of that school were not exempt from the rate.—*In re Tiernan and Municipality of Nepean* 15 Q. B. R. 87.

(43) *Testator's estate liable for School Assessment rate in the hands of devisees and executors.*

An action of replevin may be brought upon a distress for school rates, and notice of action is not necessary, where several devisees and executors were rated for a school rate in respect to the property of their testator, as "John Applegarth and brothers," which entry appeared to have been made at the instance of some of them; but two of them only had slept on the premises occasionally, although such was not their ordinary place of residence, and they had received the usual notice of assessment in that form without appealing, and the same two had paid taxes on an assessment on the township roll in their individual names.

*Held*, 1st. That the facts afforded sufficient evidence to show that the plaintiffs were "inhabitants" for the purposes of the rate.

2nd. That the parties were sufficiently named on the roll to render the rate lawful.

3rd. That a demand made by the collector on "John Applegarth," named on the roll, was sufficient to bind all the plaintiffs.—*Applegarth et al. v. Graham*, 7 C. P. R. 171.

#### CITIES, TOWNS, AND VILLAGES.

(44) *Boards of School Trustees, in Cities, Towns and Villages, not subject to the restrictions of rural Trustees in regard to the number of schools to be established.*

The School Trustees in cities, towns, and villages, have unlimited discretion, under the twenty-fourth section of the School Act of 1850, as to the number of schools to be kept up, and are not subjected to the restrictions in this respect imposed upon school section trustees in Townships.—*In re Board of School Trustees v. Municipality of Brockville*, 9 Q. B. R. 302.

(45) *Payment by the Town Council of a part of the Trustees' Estimate a recognition of the whole.*

When an estimate of the sum required for school purposes was sent to the Municipal Council, by the Board of School Trustees, and the Council recognized the presentation of such estimate by paying a portion of the amount, and submitted to court their reasons for refusing to pay the balance.

*Held*: That by such recognition of the Trustees' estimate,