

township; and that the said by-law directed, and was intended to direct, a levy upon said school section, not as the said section is bounded according to law, the boundaries thereof lawfully settled by the committee of the county council of the county of Bruce, and authorized a levy upon the said applicant and others whose lands were not within the said section as by law established.

The objections to by-law No. 174 were substantially the same as those taken to by-law No. 173.

From the affidavits and papers filed, it appeared that on 13th April, 1874, the township council passed a by-law altering the school sections in the township. Against this alteration, a petition was presented to the county council in June, 1874, who appointed a committee in accordance with the statute, to revise and alter the boundaries of the school section or sections, so far as to settle the matters complained of. This committee reported, and established the school sections in a manner essentially different from that laid down by the said by-law, and embraced union sections over which they had no control, and consequently was inoperative. This was in November, 1874. By the 57th section the alteration was not to take effect until the 25th of December next after the alteration was made. In the month of April, 1875, the township council passed another by-law, No. 167, repealing the former by-law, and again defining the limits of the different school sections.

Several petitions were presented to the county council at their June session against this by-law, who again appointed a committee, who made their report and award in the early part of December, 1875. Before the council met in December, and before the committee had reported, namely, in September, the township council passed by-law 171, now complained of.

This by-law was passed on the 11th September, 1875, after the report made by the committee in 1874, and in fact treated the limits of school sections as defined by this report null and void.

The by-law was entitled:

"By-law No. 171, A.D. 1875.

"For the purpose of raising by levy the several sums asked for by the trustees of the school sections of this municipality, hereinafter named, for school purposes." And it then recited that the trustees of school sections 1 (this was the section in which the relator was principally interested), and 2, have made application to the council to raise certain sums of money therein mentioned. It then enacted that these sums should be raised, &c.

By-law No. 173 was passed by the said corporation, on the 13th of December, 1875, and was entitled, "A by-law to grant to the trustees of school section No. 4, of the said corporation, authority to borrow the sum of \$500, for the purpose of erecting a school house in the said section, in the township of Elderslie, and for the levying in each year on the taxable property in the said school section, a sufficient sum for the payment of the interest on the sum borrowed; and a sufficient sum to pay off the principal in four years."

By-law No. 174, was passed by the said corporation on the 13th December, 1875, and was similar to the last named by-law, granting to the trustees of school section No. 2, of the said township, authority to borrow the sum of \$450, for the purpose of erecting a school house in said section.

These were the by-laws now complained of.

On September 15th, 1876, *Oslor*, shewed cause.

Robinson, Q. C., contra, referred to *Hart and Municipality of Vespra*, 16 U. C. R. 32.

October 17th, 1876, *GALT, J.*—By the 48th section of "The Public School Law," 37 Vic. ch. 28, O., "Every township council shall have authority to pass by-laws," sub-section 10, "to alter the boundaries of a school section, in case it clearly appears that all parties to be affected by the proposed alteration in such boundaries have been duly notified of the proposed alteration by the council, or of any application made to it to do so" (a) "Any alteration in the boundaries of a school section made at any previous time by a township council, or the neglect or refusal of the council to alter such boundaries at the request of the trustees of the school section concerned, or of the inspector, may be appealed against to the county council, as provided in section 61 of this Act."

Sec. 61, sub-sec. 9, authorizes the county council to appoint committees to settle appeals against formation or alteration of school sections.

Sub-sec. (a), "The committee thus appointed shall revise and alter the boundaries of the school section or school sections, so far as to settle the matters complained of."

It appears to me to have been the intention of the Legislature that, until the result of the appeal shall be known, the alteration contemplated shall not take effect, and that the limits of the school sections, as they were established prior to the proposed change, must continue.

In this case, as it appears that the report of the committee in

1874 embraced union sections over which they had no authority, and consequently could not be carried into effect, I think that the township council were justified in considering that the different sections remained as they were prior to December, 1874, and in passing a by-law to raise the money required by the trustees.

This rule, therefore, so far as relates to by-law 171, will be discharged.

As respects by-law 173, entitled a by-law to grant to the trustees of school section No. 4 authority to borrow the sum of \$500, for the purpose of erecting a school-house in said section, and for levying in each year upon the taxable property in the said school section a sufficient sum for the payment of the interest on the sum borrowed, and a sum sufficient to pay off the principal in four years:

It is objected that the said by-law does not settle an equal special rate to be levied, in each year, in addition to all other rates, for paying the debt thereby authorized to be contracted and the interest thereon, nor recite the amount of the special rate in the dollar required for paying the interest and creating an equal yearly sinking fund, nor that the said debt is created upon the security of the special rate created by said by-law: that the said by-law authorizes the trustees of said school section to borrow upon debentures to be executed by them, and not by the corporation of the said township; and that the said by-law directs and is intended to direct a levy upon said school section, and as the said section is bounded according to the boundaries thereof lawfully settled by the committee of the county council of the county of Bruce, and authorizing a levy upon the said applicant and others, whose lands are not within the said section as by law established.

By-law 174, which authorizes a loan to section No. 2, is objected to on substantially the same grounds.

Both by-laws are open to all the above objections, with the exception of that which states that the by-law does not state that the debt was created upon the security of the special rate.

There is no special rate in the dollar mentioned, which appears to me to be a fatal objection. This is expressly required by section 248 of the Municipal Act of 1873, sub-sec. 3, which enacts: "The by-law shall settle an equal special rate per annum, in addition to all other rates, to be levied in each year for paying the debt and interest."

There is also another fatal objection pointed out by the rule, namely, that the by-laws authorize the trustees of the school section affected to execute the debentures. It is true that it appears that the debentures have been executed by the reeve, but this is not in accordance with the terms of the by-laws.

This rule therefore will be absolute to quash by-laws Nos. 173 and 174, with costs.

As respects by-law 171, as the township council appears to have acted with an entire disregard of what they must have known was the opinion of the committee of the county council, there will be no costs.

Rule discharged as respects by-law 171, without costs.

Rule absolute to quash by-law 173 and 174, with costs.

DECISION IN REGARD TO COMPULSORY EDUCATION.—A few days ago an interesting case was tried before a bench of magistrates in Wawanosh. John Marwood, of lot 30, con. 7, East Wawanosh, in 1875 failed to send his children, aged respectively 12, 10 and 8 years, to school for four months in the year, as the law prescribes. He further refused to pay the fine which the trustees are empowered to impose, and which was in this instance fixed at forty cents per month of absence. The trustees of S. S. 7 thereupon cited him before the magistrates, and having consented to cancelling the fine in the case of the younger child, Mr. Marwood was ordered to pay the 80 cents fine. The fine and costs amounted to \$3.80. This should prove a warning to parents who refuse to send their children to school.

III. Local School Administration.

1. GENERAL REPORT ON THE SPECIAL INSPECTION OF SCHOOLS IN THE PARRY SOUND DISTRICT.

1. In the thirteen townships of the Parry Sound District, Foley, Humphrey, Christie, Spence, Ryerson, Chapman, Croft, Monteith, Hagerman, McKellar, Ferguson, McDougall, Carling, twenty-four school sections have been established. Of these, seven are union sections. In twenty of the twenty-four sections, school-houses have been erected, and, in sixteen, schools were in operation during the first half of the current year.

2. Last year returns of the attendance of pupils were received