intention appears—there are the "rural school," the "urban school" and the "separate school," all of which signify "*separate schools*" *for Roman Catholics* in townships, cities, towns or incorporated villages, respectively, now or hereafter established. These separate schools are for Roman Catholics, the trustees are to be themselves, and to be elected by Roman Catholics exclusively, and no one else has a right to the benefits of their educational advantages.

Under the Separate Schools Act they are open to the children of Roman Catholics and are schools for Roman Catholics only (see subsection 3 of section 18 of the Separate Schools Act). None but persons who are householders or freeholders and Roman Catholics, can take part in the election of trustees. The supporters of the school are Roman Catholics, and the trustees are to provide adequate accommodation and a legally qualified teacher for all children between the ages of 5 and 21 years, belonging to the supporters of their school (see section 28 of the Separate Schools Act), so that neither in the technical nor in the ordinary sense can a separate school be held to be or constitute a "public school."

The well known policy of the Church of Rome puts it beyond question, from a religious point of view. It is the aim of the clergy and people of that communion to impart religious instruction to their youth; they insist that religious teaching and secular learning go hand in hand, and they eschew the provision of the 7th section of the Public Schools Act as dangerous to the rising generation. Of course it is not for me here to discuss this policy further than to say that the existence of a dissentient or separate school places it beyond the generic term of a "public school."

A reference to section 42, and what follows, plainly shows the distinction between separate and common schools.

THE ASSESSMENT ACT.

By section 7, all property in the province is liable to taxation, subject to the exemptions set forth in the several subsections.

By subsection 4, certain public educational institutions are exempted from general municipal taxation, but by a special proviso (a) to that subsection, "the buildings and grounds of and attached to an incorporated seminary of learning (whether vested in a trustee or otherwise) are nevertheless liable to be assessed for local improvements, in the same manner and to the same extent as other lands, but this proviso does not apply to schools which are maintained in whole or in part by a legislative grant or school-tax.

A similar provision is found in section 684 of the Municipal Act.

Subsection 5 of section 7 of the Assessment Act exempts every public schoolhouse with the land attached and the personal property belonging thereto.

I may say here that, without going further, I do not consider that the property involved in this appeal comes within the exemption of subsection 5, because a public school is an institution of learning and a free school established under the Public Schools Act, open to, and at which every person between the ages of 5 and 21 years has a right to attend (see section 6 of the Public Schools Act).

LOCAL IMPROVEMENTS.

Sections 668, 689, 690 and 686.

It is quite clear to my mind that this is a matter, the consideration of which applies to only the owners of lands, and leaseholders whose unexpired terms of holding, including any renewals therein provided for, extends over a period not less than the duration of the proposed assessment. If the trustees of the school were the lessees and had covenanted in this lease to pay all municipal taxes on the demised property, during the term of the lease, the case might have been exceptional, and within the proviso of section 684, but that does not apply here, because there is no such lease or demise from the appellants to the trustees of the Separate School Board, or covenant from that School Board to the Episcopal corporation trustee, which is the owner of the fee in TRUST for purposes set forth in the original deed of trust, so that the trustees of the School Board have neither the right to petition for or against the local improvements, nor have they the right to appeal against the assessment, nor have they appealed, nor does the appellant corporation hold the fee in trust for the Separate School Board. The owner of the property in fee, alone, has all the rights respecting it (vide Mun. Act, section 668) for the purposes of the original trust.

THE WORK OF THE IMPROVEMENT.

By section 664 we find the mode of procedure for assessing real property for paving a street or other local improvement by special rate. The special rate to be assessed and levied is to be an annual rate, according to the frontage upon the real property immediately benefited by the work or improvement (vide section 665).

HAYNES VS. COPELAND, 18 U. C. C. P. 151.

The decision in this case, which was cited in the argument of appellant's counsel, was founded upon the statute laws then in force, with reference to municipal local improvements, and the assessment of property in the province. It was there held that subsection 3 of section 9 of the then existing Assessment Act, altogether exempted every place of worship, churchyard and burying-ground, and that the legislature made no distinction in the exemptions stated therein between assessments for general and for local purposes.

But we are now under the legislation of a later period, for by subsection 3 of section 7 of the Assessment Act (chapter 224, R. S. O., 1897), it is expressly enacted that whilst "Every place of worship and land used in connection therewith, and every church-yard or burying-ground are exempted from the general assessment for municipal rates, that 'land on which a place of worship is erected and land used in connection with a place of worship, 'are' liable to be assessed for local improvements in the same way and to the same extent as other land.'"

Section 683 of cap. 223 is a provision of the Municipal Act having a direct bearing upon what properties may be assessed for local improvements, and what are exempted, by enacting that "land on which a place of worship is erected and land used in connection with a place of worship shall be liable to be assessed in the same way and to the same extent as other lands for local improvements made or to be made."

It is quite clear to my mind that this case comes within the exceptional Section 683 of the Local Improvements Act, which changed the law from its former statutory provision as respects the assessment of land on which a place of worship is erected, and land in connection with a place of worship, which before were exempt but which are thereby made liable in the same way and to the same extent as other land for local improvements made or to be made.

Section 683 has no other bearing on the question than to show that the land of the Roman Catholic Corporation, who are appellants here, is liable for this assessment, and the same may be said of section 7 (3) of cap. 224.

This appeal is not the act of the Board of Separate School Trustees, and who have no *locus standi* here, for the land, the buildings and grounds assessed are not theirs but belong to the Roman Catholic Corporation, who is the appellant here. The title is not vested in the appellant as trustee for the purposes of a separate school, nor in the Board of Separate School Trustees, who are competent to acquire and capable of holding lands for the purposes of their school. They are mere tenants at will and are not the class of tenants referred to in subsection (2) of section 668.

Section 684 makes the buildings and grounds belonging to school corporations liable to be assessed in the same manner and to the same extent as other land is assessed for local improvements made or to be made, whether the fee or title be vested in a trustee or otherwise, but that section does not apply to schools which are maintained in whole or in part by a legislative grant or school tax. It has been urged upon me that this proviso meets the present case.

But after every consideration which I have been able to bring to the proviso of section 684 I am of the opinion that it relates only to the buildings and grounds of, and owned by a school corporation and attached to a university, college or other incorporated seminary of learning (referred to in the first part of the section) whether vested in a trustee (or in the