

A number of objections were taken to the various notices, calling of meetings, and process of organization of the school represented by defendants' trustees; but, in the view I take of the matter, it is necessary to consider one only of these objections.

Proceedings were taken under R. S. O. 1897 ch. 294, sec. 21, which provides that not less than 5 freeholders or householders and heads of families resident within any school section may convene a public meeting of persons desiring to establish a separate school for Roman Catholics in such school section. The mode of procedure adopted was to form a union separate school section, and, without considering whether that is contemplated by the Act, or whether the proper course to pursue would not have been to form independent separate schools in Malden and Anderdon, and then take the steps provided by sec. 29 to form them into a union section, it appears that there were 5 persons in the township of Malden who were householders or freeholders and heads of families, within sec. 21, who were in favour of the establishment of this school and who convened the meeting. It is contended by plaintiffs that 4 only of those persons were resident within school section No. 3, and that sec. 21 not being complied with, as the initial step in the matter, everything that followed was a nullity.

The by-law of 27th November, 1871, was amended by by-law No. 271 of the township of Malden, passed on 30th March, 1891, which purports to be a by-law to divide school section No. 2, Malden, into two sections, and it then, by its enacting clause, divides section No. 2 into 2 sections, to be thereafter known as section 2 and section 3, and the various township lots and parts of lots forming each of these sections, Nos. 2 and 3, are specifically mentioned and set forth in the by-laws, and lot No. 43 is designated as forming part of school section No. 3. This by-law, read in conjunction with that of 27th November, 1871, establishes two No. 3 sections, with the boundaries of each all clearly defined, and one of the 5 persons moving for the establishment of the new separate school lives on lot 43, and thus 4 are heads of families in what may be called old section No. 3 or 3 (A), and one in new section 3 or 3 (B); and so there are not 5 persons from the same section moving in the matter.

It was strongly urged for defendants that there were not two No. 3 sections; but the by-laws clearly shew that there