tion of the board he was directed to ask liberty from the plaintiffs to make repairs to the school room, known as the model school, &c.

This action was brought on the 12th September, 1874, after the passing of the statute of that year, 37 Vic. ch. 28, sec. 25, O. That Act declared that the school trustees for every city were to be a corporation under the name of "The Public School Board of the City of ———."

And sec. 86, sub-sec. 4, empowered them "To take possession of all public school property: to accept and hold as a corporation all such property acquired or given at any time, for public school purposes, in the city, town, or village, by any title whatsoever."

At the trial the defendants contended that LeBreton's deed must be held as contemplating a common school, and that at all events by the existing statute law the defendants had it vested in them, as being in their locality.

The learned Judge who tried the case without a jury, reviewed the law, and decided in favour of the plaintiffs, considering that LeBreton's deed gave the land for the use of the district, not for any common school purpose; that they used it as they lawfully might for a model school; and that nothing had occurred to divest the plaintiffs' estate.

A verdict was rendered for the plaintiffs.

In Michaelmas Term, November 30th, 1875, *Beaty*, Q. C., obtained a rule *nisi* to enter a verdict for the defendants, or for a new trial on the law and evidence, on the ground that the plaintiffs could not hold property within the jurisdiction of the City of Ottawa, and that by the statute law the property of the plaintiffs was vested in the defendants.

In this term May 21st, *Harrison*, Q.C., shewed cause. The deed from LeBreton conveyed the land to the district of Dalhousie for the purpose of erecting a school house, without expressly mentioning it to be for a model school, but what took place at the time, taken in connection with 7 Vic. ch. 29, sec. 57, which only empowered the district of Dalhousie to hold land for a model school, and the subsequent resolution of the district council in establishing the school as a model school, shew that the grant was for a model school. The land having been so vested in the district, never was divested: for 10 & 11 Vic. ch. 19, sec. 4, while vesting the common school lands in the city, expressly provided that the model school lands should remain vested in the district. 13 & 14 Vic. ch. 28, sec. 14, does not apply; nor do any of the numerous school Acts, and under the Municipal Act, 36 Vic. ch. 48, sec. 20, sub-sec. 6, express authority is given to a county to hold lands in a city. As the county of Carleton now constitutes the former district of Dalhousie, the land is vested in it.

Beaty, Q.C., contra. The school was not a model, but a public school. This clearly appears from the grant itself, and therefore the exception in 10 & 11 Vic. ch. 19, sec. 4, as to model schools, does not apply, and the land being within the limits of the city of Ottawa, vested in the plaintiffs. Also 10 & 11 Vic. ch. 43, sec. 17, enacted that the district should not thereafter exercise any municipal control in the city of Ottawa, and holding and carrying on a school house is clearly exercising such control. 13 & 14 Vic. ch. 48, sec. 19, also shews that the land vested in the city; and 37 Vic. ch. 28, sec. 86, sub-sec. 4, is to the like intent. The verdict therefore should be entered in the plaintiffs' favour.

May 29th, 1875. HAGARTY, C. J., delivered the judgment of the Court.

The chief argument urged on us was as to the effect of the existing law.

We fully agree with the learned Judge at the trial, that the plaintiffs were entitled to succeed.

We can see nothing in the statute law to divest their title to this property.

The land was conveyed to them to erect a school house for the district of Dalhousie. At that time they were empowered by law to establish a model school, and the council had agreed to do so just before the grant, and did so, in fact, within the year mentioned in the grant.

Now nothing but the most explicit words used by the Legislature could take away such an estate and hand it over to another body.

We do not think the Legislature has ever used any such words, or exhibited any apparent intention to make such a transfer of property.

On the contrary, in 10 & 11 Vic. ch. 10, sec. 4, they expressly reserved to the district all lands then vested in it for a model school.

We may fairly assume, from the date of the resolution of the Dalhousie council, their action in the matter, and the date of LeBreton's deed, that the trust was in fact for a model school, though the word "model" is not in the deed. The council had nothing to do with establishing common schools, and it was the only school just then they could well establish.

Then when the Legislature use such words as that the public school board shall take possession of and hold all public school property acquired or given at any time for public school purposes in the city, &c., by any title whatsoever, we cannot apply such words to property vested in the county council for general county purposes, and never coming under the description of property held for public school purposes in the locality.

The Act of 1870-71, 34 Vic. ch. 33, sec. 1, declared that all common schools should thereafter be designated as public schools; and sec. 32 enacts that the public school board in cities should succeed to all the property, &c., of the board of common school trustees in such cities.

It seems to us, therefore, clear, that the words relied on by the defendants in the school Acts as divesting the property because it happens to be in the city, have no such effect.

The public school board gets all the property which the board of common schools could hold, and all lands acquired for public, that is, common school, purposes.

We see no difficulty whatever in a county council owning land originally acquired by them, in a city or town carved out of the county, after such acquisition.

Nor have we anything to do in this case with any possible difficulty that can be suggested, or that may occur in the county using this land for school purposes.

For the determination of this suit it is sufficient to say that the land belongs to the plaintiffs, and that they have a right to its possession.

Rule discharged.

IN RE MCINTYRE AND THE CORPORATION OF THE TOWNSHIP OF ELDERSLIE.

Alteration of school sections—By-law authorizing.—Appeal to County Council—Debentures—Requirements of—37 Vic. ch. 28, secs. 48, 61.

A township council in April, 1874, under 37 Vic. ch. 28, sec. 48, passed a by-law altering certain school sections in the township, and on its being petitioned against to the county council, they, in June, 1874, appointed a committee, under sec. 61, to settle the matter. In November, 1874, the committee established the section, and reported to the county council, which, under sec. 57, would not take effect until the 25th December following; but in consequence of the report embracing union sections over which the committee had no control, it was inoperative. In June, 1875, the township council passed another by-law, repealing their former by-law, and defining the limits of the sections. This also on petition was referred by the county council to committee to settle and report on, which they did in December. Previously, however, to their report being so made, the township council, on the 11th September, 1875, passed the by-law in question, levying a rate for school purposes on the sections as they existed prior to December, 1874.

Held, that the by-law was valid, for that until the result of the appeal was reported to the county council the sections as established before December, 1874, continued to exist.

By-laws were passed by a township council granting to the trustees of school sections authority to issue debentures for the erection of a school house, and creating a rate not payable within the year, &c., as required by sec. 243 of the Municipal Act, of 1873. *Held* invalid.

The by-law authorized the trustees of the school section, instead of the reeve of the township, to sign the debentures: *Held* also a fatal objection, notwithstanding that in fact the debentures had been executed by the reeve.

On March 31st, 1876, *Robinson*, Q. C., obtained a rule *nisi* to quash by-laws Nos. 171, 173 and 174, of the corporation of the township of Elderslie, or some one or more of them, wholly or in part.

The objections taken to the said by-laws were as follows:

To by-law 171, that it directed the levies therein mentioned to be made on the several school sections of the said municipality according to the original boundaries of the said sections, as they were before the appointment of the committee by the County Council in 1874, and the said by-law was, in this respect, unauthorized and beyond the power of the municipality, the said sections having been duly revised and altered by authority of the said county council: and because the levy thereby directed in school section one was excessive and not warranted by the facts as recited in said by-law.

To by-law No. 173, that the said by-law did not settle an equal special rate to be levied in each year in addition to all other rates, for paying the debts thereby authorized to be contracted, and the interest thereon; nor recite the annual special rate in the dollar required for paying the interest and creating an equal yearly sinking fund, nor that the said debt was created upon the security only of the special rate created by said by-law; that said by-law authorized the trustees of said school section No. 4, to borrow upon debentures to be executed by them, and not by the corporation of the said