Full Court.] [Jan. 19.

TRUSTEES R.C. SEPARATE SCHOOL *v.* TOWNSHIP OF ARTHUR.

Separate schools—Incorporation—R.S.O., 1887, c. 227, ss. 21-24.

When a notice to convene a public meeting of persons desiring to establish a Separate school for Roman Catholics was given, purporting to be a notice within ss. 21-23 of the Separate Schools Act, R.S.O., 1887, c. 227, but which appeared to have been signed by six persons, of which two were residents of School Section No. 9, whereas the others were residents of School Section No. 10, and one was, moreover, not the head of a family,

Held, affirming the judgment of FERGUSON, J., that there had been no valid incorporation of the proposed trustees of the Separate school.

Per BOYD, C. It is sound doctrine that in the acquisition of corporate powers the methods prescribed by the Legislature should be substantially and even strictly followed.

R.S.O., 1887, c. 227, s. 67, does not extend to a disagreement which involves the original status as a corporate body upon an objection raised by the municipality wherein the alleged Separate school corporation seeks to exercise taxing and governmental powers, but applies to matters of internal economy and regulation wherein the legal status of the trustees as a corporation is assumed. Other parts of the Separate school law considered by MEREDITH, J.

Hoyles, Q.C., and *Guthrie*, Q.C., for the plaintiff.

Kingstone, Q.C., for the defendants.

ROBERTSON, J.] [Jan. 30.

FULLER *v.* ANDERSON.

Will—Construction—Words importing entail applied to personal estate.

A testator, whose estate consisted wholly of personalty, made his will in the following words: "I give, devise, and bequeath all my real and personal estate of which I may die possessed to Ellen Cedar, . . . to have and to hold unto her and the heirs of her body through her marriage with me, their and each of their sole and only use forever."

Held, that Ellen Cedar was entitled absolutely to the residue of the estate.

M. Cowan for the plaintiffs.

Hoyles, Q.C., for the adult defendant.

J. Hoskin, Q.C., for the infant defendant.

BOYD, C.] [March 4.

HICKEY *v.* HICKEY ET AL.

Will—Devise—Misdescription of land.

A testator owning lots 6 and 8 in the 1st concession, devised the same in his will in two devises, as "My property known as lot x x x., 2nd concession, etc."

Held, that his lots in the 1st concession passed.

A. McKechnie for the plaintiffs.

J. Hoskin, Q.C., for the infant.

Practice.

MR. HODGINS.] [Dec. 23.

REILY *v.* CITY OF LONDON.

Discovery—Examination of person by surgeons.

In an action to recover damages for bodily injuries caused to the plaintiff by the alleged negligence of the defendants,

Held, that the court had no power to order the plaintiff to attend and submit to an examination of her person by surgeons chosen by the defendants.

Swabey for the defendants, the City of London.

W. H. Blake for the other defendants.

Middleton for the plaintiff.

[Affirmed by STREET, J., 7th March, 1891.]

BOYD, C.] [Feb. 11.

TOWNSHIP OF LOGAN *v.* KIRK.

Costs—Taxation—Defendants severing—Counsel fee on examination of witnesses out of the jurisdiction—Costs of examination for discovery.

In an action by a municipality against a contractor, one of his sureties and the executors of a deceased surety, three separate defences were delivered by different solicitors. It did not appear that the separate solicitors were employed for the mere purpose of increasing costs.

Held, that the defendants were not liable in any joint character, and were entitled to tax separate bills of costs. Upon taxation a fee was properly allowed for counsel in British Columbia attending upon examination of witnesses there. An objection that a person examined by the defendants for discovery was not an officer or representative of the plaintiffs should have been