

MABEE, J.

MARCH 22ND, 1906.

TRIAL.

MALDEN R. C. SEPARATE SCHOOL (NO. 3 A)
TRUSTEES v. MARTIN.

Separate Schools—Formation of Union School Section—Defective Proceedings—Declaration that School not Legally Established—Injunction.

Action by the trustees of Roman Catholic separate school section No. 3 (a) in the township of Malden against defendants, as trustees of an alleged separate school known as union Roman Catholic separate school No. 7 for the townships of Malden and Anderdon, for a declaration that certain notices given and steps taken for the formation of the last mentioned school were null and void; that defendants had no authority to establish and maintain their school at the expense in whole or in part of supporters of the school in plaintiffs' section; for an injunction, &c.

A. H. Clarke, K.C., for plaintiffs.

F. A. Hough, Amherstburg, for defendants.

MABEE, J.:—The school of which plaintiffs are trustees was formed as the result of a meeting held on 14th November, 1874; a school house was built; and the scheme has been in operation ever since. The persons who formed this school were resident in public school section No. 3, as defined by a by-law of the township of Malden passed on 27th November, 1871, the limits of the section being fully set out in that by-law.

Certain separate school supporters in Malden resident in the above section and in the adjoining township of Anderdon took steps to form a union separate school in 1905, and it is the validity of those proceedings that are now in dispute, plaintiffs alleging that the establishment of this last mentioned school will either compel them to abandon the maintenance of their school or double the taxes of those who support it. This, however, is immaterial, as, if the establishment of the school of which defendants are trustees is legal, there is an end of the question involved in this action.