

least of the ratepayers in the section are dissatisfied with the award site. I am of opinion that there is no power to change the site before the erection of a school house thereon. Two of the amendments to the Public Schools Act of 1901 are important in this connection. . . .

[Reference to 4 Edw. VII. ch. 30, sec. 2, amending sec. 34 of the principal Act by adding a new sub-sec. 4; and to 6 Edw. VII. ch. 53, sec. 22, repealing sub-sec. 1 of sec. 34 of the principal Act and substituting a new sub-section.]

As the law stood in 1901, the power of trustees under the then sub-sec. 1 of sec. 34 was limited to selecting a site for a new school house, or to agreeing upon a change of site for an existing school house.

Under the amended Act, if the trustees, backed up by the ratepayers, can, even after accepting the award site, change it and select a new one, they should not now be compelled to erect a school house upon that award site.

The mandamus asked for would not be an effectual remedy of the trouble of which the majority complain.

In conclusion, I am of opinion that there is no imperative duty cast upon the trustees to ask for the money by a single levy, and to proceed to build upon the site selected by the award. The trustees have considered the whole matter and have come to a conclusion. I am not able to say that that conclusion is an erroneous one—but, right or wrong, if the discretion was theirs to exercise upon their judgment, the Court ought not to interfere. The language of the Chancellor in *Wallace v. Township of Lobo*, 11 O. R. at p. 656, is applicable. . . .

Appeal dismissed with costs.
