

judgment by attachment, and he is not a party to this application.

The appeal of plaintiff will be allowed with costs.

ANGLIN, J.

SEPTEMBER 14TH, 1904.

WEEKLY COURT.

RE KINCARDINE SCHOOL SECTIONS.

*Public Schools — Boundaries of School Sections — By-law—
Petition—Award—Powers of Arbitrators—Finality of
Award—Order Setting aside Award as to one School Section
—Effect on Others.*

Motion by the trustees of school section 5 of the township of Kincardine to set aside the award of arbitrators appointed by the county council of Bruce under sec. 42 of the Public Schools Act, 1 Edw. VII. ch. 39, determining the boundaries of certain sections.

W. H. Blake, K.C., for the applicants.

C. A. Moss, for the trustees of sections 6 and 12.

No one appeared for the trustees of section 15, who were notified.

ANGLIN, J.—School section 8, upon notice to section 5, which however did not appear, but without notice to sections 6 and 12, obtained on 28th April, 1904, an order setting aside the award in question “so far as it purports to affect section 8, or the boundaries thereof, or the lands therein contained.” The net result of this order is, that a large tract of land, taken by the award from section 8 and added to section 5, is restored to section 8. The award had deprived section 5 of other lots given to it by the by-law of the township council, and had annexed these lots to sections 6 and 12, with which they remain, leaving section 5 too small, the trustees allege, to be a workable school section. They now ask an order declaring that the order of 28th April operates to set aside the award so far as it affects section 5. The respondents contend that the order of 28th April, because made without notice to them, cannot thus affect their position under the arbitrators’ award.

This award was duly published on 18th January, 1904. By sec. 55 of the Public Schools Act, no notice to set it aside having been filed in the office of the township clerk within one month of its publication, notwithstanding any defect in