

Held, reversing the judgment of the Court of Queen's Bench (Appeal side), Lower Canada, that the exemption from municipal taxes enjoyed by educational establishments under said 41 Vict., c. 6, sect. 26, extends to taxes imposed for special purposes, *e. g.*, the construction of a drain in front of their property. (SIR W. J. RITCHIE, C.J., dissenting.)

Per STRONG, J., every contribution to a public purpose imposed by superior authority is a 'tax' and nothing less.

Appeal allowed with costs.

Geoffrion, Q.C., for appellants.

Ethier for respondents.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

COURT OF APPEAL.

[May 14.]

CANADIAN LOCOMOTIVE COMPANY
v. COPELAND.

Bill of lading—Rate of freight—Demand of freight at too high a rate—Refusal of consignees to accept cargo—Sale of cargo by master of vessel—Expenses of sale—Damages—Demurrage.

This was an appeal by the plaintiffs from the judgment of the Queen's Bench Division (reported 14 O.R. 170) and came on to be heard before this court (HAGARTY, C.J.O., BURTON, OSIER and MACLENNAN, J.J.A.) on the 28th and 29th days of January, 1889.

The court (HAGARTY, C.J.O., dissenting) allowed the appeal with costs; agreeing with the court below that freight was payable only at the reduced rate, but holding that it was the duty of the defendants to tender the coal to the plaintiffs with a demand for payment of freight at the reduced rate, and that not having done so the sale was unauthorized, and the expenses in connection therewith could not be charged against the plaintiffs.

The court also held that for the same reason the allowance of damages in the nature of demurrage could not be sustained, but that the defendants were entitled to some compensation (fixed at \$100) for the delay of the plaintiffs in unloading the vessel, after the duty of unloading was actually undertaken by them.

Britton, Q.C., and *Rogers*, for the appellants.
W. Cassels, Q.C., and *A. W. Aytoun-Finlay*, for the respondents.

HIGH COURT OF JUSTICE FOR ONTARIO.

Queen's Bench Division.

ROSE J.]

[June 1.]

IN re MCCALLUM AND BOARD OF PUBLIC
SCHOOL TRUSTEES OF SECT. 6, TP. BRANT.

School law—Public school—Suspension of pupil—Mandamus to trustees—Discretion—Delay—Change of position.

A pupil at a public school having injured the top of a school desk by cutting it, he was ordered by the schoolmaster to replace the top, and was suspended until he should do so. The suspension was on the 20th February, 1888, and on the 7th of May, 1889, notice of motion was served by the father of the pupil for a mandamus to compel the trustees to re-admit the son. In the meantime appeals had been made by the father to three of the trustees, to the Public School Board, and to the annual school meeting, on all of which applications the action of the teacher was sustained. During this time the pupil attended another public school.

Held, that the discretion exercised by the master and trustees should not be interfered with, especially after the delay and change in the position of affairs.

W. H. Blake for the applicant.

Aylesworth for the trustees.

Chancery Division.

BOYD, C.

[May 22.]

Re HEWISH.

Conveyancing Act, 1886—Sale by the Court, R. S.O., 1887, c. 44, s. 53, subs. 10—Mortgage—Bar o dower—Equitable dower.

In certain partition and sale proceedings wherein lands were sold and a vesting order made, but whereto the wives of certain persons entitled as tenants in common were not made parties,

Held, that the title of those claiming under the vesting order was defective, and the Convey-