We think the error into which he fell arose from making the analogy between municipalities and trustees, and township collectors and collectors under warrants of trustees identical, thus restricting the common school acts by acts not necessarily affecting them.

It is clear that school trustees may themselves or through the intervention of the municipality, provide for the salaries of teachers and all other expenses of the school, in such a manner as may be desired by a majority of the freeholders and householders of the section at their annual meeting, and shall levy by assessment upon taxable property in the section such sums as may be required; and should the sums thus provided be insufficient, they may assess and collect any additional rate for the purpose; and that any school rate imposed by trustees may be made payable monthly, quarterly, half-yearly or yearly, as they may think expedient.

Many of the requirements of a school admit of no delay. The peculiar provisions respecting teachers demand great promptness in the payment of their salaries: repairs to school houses must be made when required. These may be sudden and unexpected. To oblige trustees, or those entitled to payment, to wait till the rolls of the year were made up, would be productive of great inconvenience, and if the law had been less clear than it is, we should not have felt justified in putting a stop to a practice which has, we learn, hitherto obtained, unless on grounds admitting of no doubt.

The generol principle is, that levies for municipal purposes shall be made upon the revised assessment of the year in which they are made. It is true that one rate for the year is only struck by the municipal authorities; but suppose a sheriff got an execution either at the suit of the crown or of a municipality in the month of January, would he be justified in delaying to levy until the revised assessment roll of that year was completed, and a certified copy given to the municipality?

So if the requirements of a school section created a necessity for levying a rate, would the trustees be excused from performing their duty by saying we must wait till the assessment roll of the year is completed before we can act? The obvious answer would be, there is the last revised assessment roll; it is available for all purposes until the new one is made.

On reading the 86th section we find that no township council shall levy and collect in any section during one year more than one school section rate, except for the purchase of a school site or the erection of a school house, and no council shall give effect to any application of trustees for the levying or collecting of rates for school purposes unless they make the application to such council at or before its meeting in August of the year in which such application is made.

But the 12th sub-sec. of sec. 27 authorises the school trustees to employ their own lawful authority as they may judge expedient for the levying and collecting by rate all sums for the support of their school, for the purchase of school sites, and the erection of school houses, and for all other purposes authorised by the act to be collected.

It is to be noted, that the legislature did not confer on the trustees the power to apply to the township council at any time they chose to levy rates; but at or before its meeting in August, and then only for one rate, except *for the purchase of a site*, or the *erection of a school house*. Suppose a second rate for a site or a school house were applied for in a part of the year from January to August, would not the council be bound to levy it? During this period there would be but the existing roll to use for the assessing of this rate.

The restriction to one rate, and the exceptions in regard to the rates authorised to be levied by the municipality for school purposes, lead us to infer that when the trustees chose to exercise their own authority to levy, they were not restricted, and might levy oftener than once for the payment of teachers, and for the other purposes mentioned in the 27th section.

In the case of an arbitration between the trustees and a teacher, the arbitrators may levy, but the trustees are bound to do so; for by the 23 Vic. cap. 49, in case they wilfully refuse or neglect, for one month after publication of award, to comply with or give effect to the award, they shall be held personally responsible for the amount awarded, which may be enforced against them individually by the warrant of the arbitrators. But if they are thus bound at any time to exercise their power to levy, it must necessarily be done upon the existing assessment roll. None of the authorities cited touch this question as raised; but looking at the scope of the acts relating to common schools, the duties imposed upon trustees, the exigencies of schools, and the powers conferred upon trustees to levy rates, we are of opinion that trustees are not restricted to making one levy, but may levy at any time as need requires it; and may use, and can only use, the last existing revised assessment roll for imposing the required rate. The appeal will therefore be allowed.

Appeal allowed.

COMMON LAW CHAMBERS.

(*Reported by* ROBT. A. HARRISON, ESQ., *Barrister-at-law.*)

IN RE ANDREW SMITH.

Canadian Foreign Enlistment Act, 28 *Vic. cap.* 2—*Sufficiency of warrant—Powers of police magistrates.*

Held, 1st, That a warrant of commitment on a conviction had before a police magistrate for the town of Chatham, in Upper Canada, under the recent statute 28 Vic. cap. 2, averring that on a day named, "at the town of Chatham, in said county, he the said Andrew Smith did attempt to procure A. B. to enlist to serve as a soldier in the army of the United States of America, contrary to the statute of Canada in such case made and provided;" and then proceeding: "And whereas the said Andrew Smith was duly convicted of the said offence before me the said police magistrate, and condemned," &c., sufficiently showed jurisdiction.

Held, 2nd, That the direction to take prisoner "to the common gaol at Chatham," the warrant being addressed "To the constables, &c., in the county of Kent, and to the keeper of the common gaol at Chatham, in the said county," was sufficient.

Held, 3rd, That the warrant as above set out sufficiently contained an adjudication as to the offence, though by way of recital.

Held, 4th, That the words "to enlist to serve" do not show a double offence, so as to make a warrant of commitment bad on that ground.

Held, 5th. That the offence created by the statute was sufficiently described in the warrant as above set out.