

that the questions were not put fairly before it. The plaintiffs, representing the minority of supporters, complained to the Public School Inspector, under sec. 54 (11) of the Act, and he determined that the proceedings were substantially in accordance with the Act.

The County Court Judge was right in construing sec. 20 (3) as he did—the attack was not made on the first meeting, and there was no by-law of the council. This exhausted the jurisdiction conferred by sec. 20 (3); and leave to appeal should not be granted.

It was contended that this Court had jurisdiction to declare the proceedings at the later school meeting invalid: *McGugan v. School Board of Southwold* (1889), 17 O.R. 428. But the aspect of the matter now under discussion was not presented in that case. The plaintiffs having gone to the Inspector, his decision was conclusive. Moreover, his decision appeared to be correct.

In *Smith v. Fort William School Board* (1893), 24 O.R. 366, it was determined that a School Board could not contract for the building of a school-house until the necessary funds had been provided for the erection of the school; and see *Ford v. Grimsby Public School Board* (1903), 6 O.L.R. 539. The learned Judge was unable to see any foundation for reading such a limitation into the Act: see sec. 45 (1).

This being the only question which remained to be disposed of in the action, the plaintiffs' motion should be turned into a motion for judgment and referred to a Divisional Court of the Appellate Division, where the decisions in the two cases referred to may be reviewed: *Judicature Act, R.S.O. 1914 ch. 56, sec. 32 (3)*.

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LATCHFORD, J., IN CHAMBERS.

MAY 3RD, 1916.

RE NEWCOMBE v. EVANS.

*Surrogate Courts—Removal of Testamentary Cause into Supreme Court of Ontario—Surrogate Courts Act, R.S.O. 1914 ch. 62, sec. 33 (3)—Value of “Property of the Deceased”—Assets in Foreign Country, whether Included—Nature and Importance of Case.*

Application by the defendant, under sec. 33 of the *Surrogate Courts Act, R.S.O. 1914 ch. 62*, for the removal of the application for probate into the *Supreme Court of Ontario*.

A. W. Langmuir, for the defendant.

H. S. White, for the plaintiff.