

To the Trustees of _____

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DIGEST OF SCHOOL CASES LATELY TRIED BEFORE THE SUPERIOR COURTS.

In this number of the *Journal* we insert a digest of the cases affecting the public schools which have been tried before the Superior Courts since the publication of the *Trustees' School Manual* in the early part of 1861. In addition, we insert several extracts from the Departmental decisions, especially applicable to cases which arise out of the election of Trustees, the appointment and report of school auditors, and other proceedings of the annual school meetings.

We would particularly call the attention of Trustees, school electors, and other persons interested, to the provisions of the law which require that all appeals against the election of Trustees and other business of the annual meeting be made to the Local Superintendent (and not to the Educational Department), within twenty days after the day of meeting. A great deal of additional correspondence has yearly been thrown upon the Department in consequence of the anxiety of persons interested to appeal first to the higher tribunal instead of to the officer specially authorised to receive these complaints and settle disputes arising out of them.

Another point we would notice. The law requires the Trustee-elect to make an official declaration of office before the Chairman of the school meeting after election. In consequence of the neglect of parties to make this declaration, innumerable disputes as to the legal completeness of the election and the legality of such Trustee's official acts, have been the consequence. By attention to the simple and appropriate provision of law in regard to the declaration of office, all these disputes

would be avoided, and the harmony of the section would be undisturbed.

There is one other point to which we would call particular attention, and that is the regulations in regard to appeals to the Educational Department. Those regulations are so frequently lost sight of, that much delay and unkind feeling is the consequence. Besides, the Department is placed in the unpleasant position of being considered partial, should an opinion even on a legal point be given, without hearing both sides alike. The regulations will be found on page 3 of this *Journal*.

1. RATE FOR SCHOOL PURPOSES—MANDAMUS—CONSOLIDATED STATUTES OF U. C., CHAP. 64, SEC. 79.

A mandamus was granted to compel a city council to levy a sum required for school purposes for the year, according to the estimate furnished to them by the school trustees.

It appeared in this case that the corporation having received the estimate did not object to it, but passed a by-law to provide the sum required, which they afterwards repealed, and substituted another, imposing a smaller and insufficient rate; and no reason was given for refusing to provide the sum called for. *The School Trustees of the City of Toronto v. The Corporation of the City of Toronto, Q.B. Reports, xx., 302.*

2. BY-LAW TO LEVY RATE FOR SCHOOL HOUSE—EXTRINSIC OBJECTIONS—REFUSAL TO QUASH—HOW THE DESIRE OF RATE PAYERS MUST BE EXPRESSED—CONSOL. STATS. U. C.

The township council, by resolution, agreed to lend to the school trustees, out of the clergy reserve fund, a sufficient sum to build a school-house, taking as security their debentures. This arrangement was made by the trustees without any reference to the rate-payers, but at the next annual school meeting, at which the applicant was present, the matter was discussed, and the contract and plans for the building examined. The council subsequently, on the requisition of the trustees, passed a by-law to raise a sum for school purposes, which was required to pay the interest of these debentures and redeem one of them. The applicant moved to quash this by-law, objecting that the loan effected by the trustees without the consent of the rate-payers was illegal; but it appeared that the school-house had been finished and occupied, many of the rate-payers swore that they were satisfied with what had been done, and the affidavits were contradictory as to how far the applicant had acquiesced in the proceedings. The by-law not being illegal on the face of it, the court under these circumstances refused to interfere.