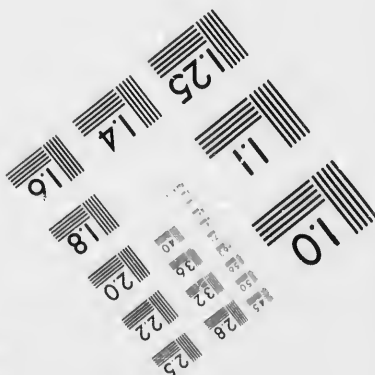
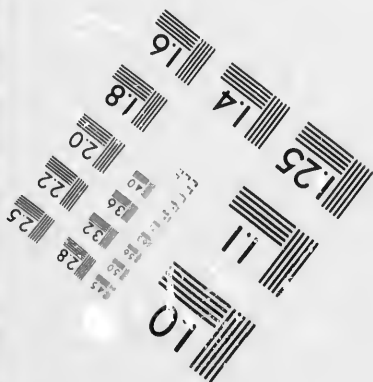
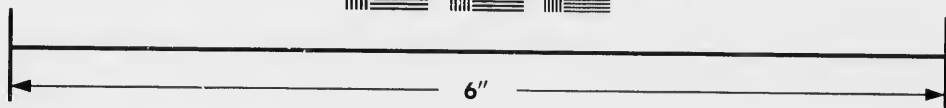
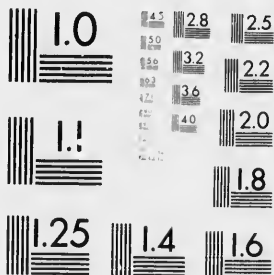


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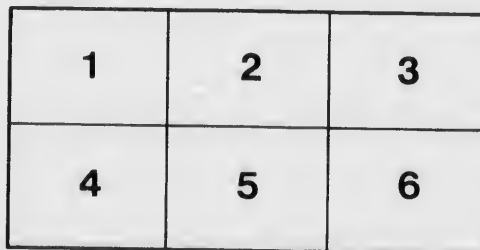
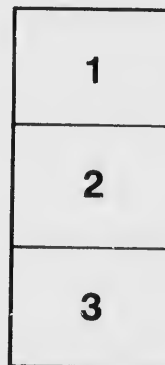
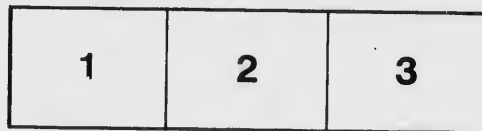
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SUPPLEMENTARY SCHOOL ACT,

1879.

EXPLANATORY NOTES

ON THE

CHANGES IN THE STATUTES RELATING TO PUBLIC SCHOOLS

AS EXPLAINED IN

PARTS I. & II.

OF THE

REVISED SCHOOL LAW,

BEING AN APPENDIX THERETO.

BY

J. GEORGE HODGINS, LL.D.

Barrister-at-Law and Deputy Minister of Education.

TORONTO:

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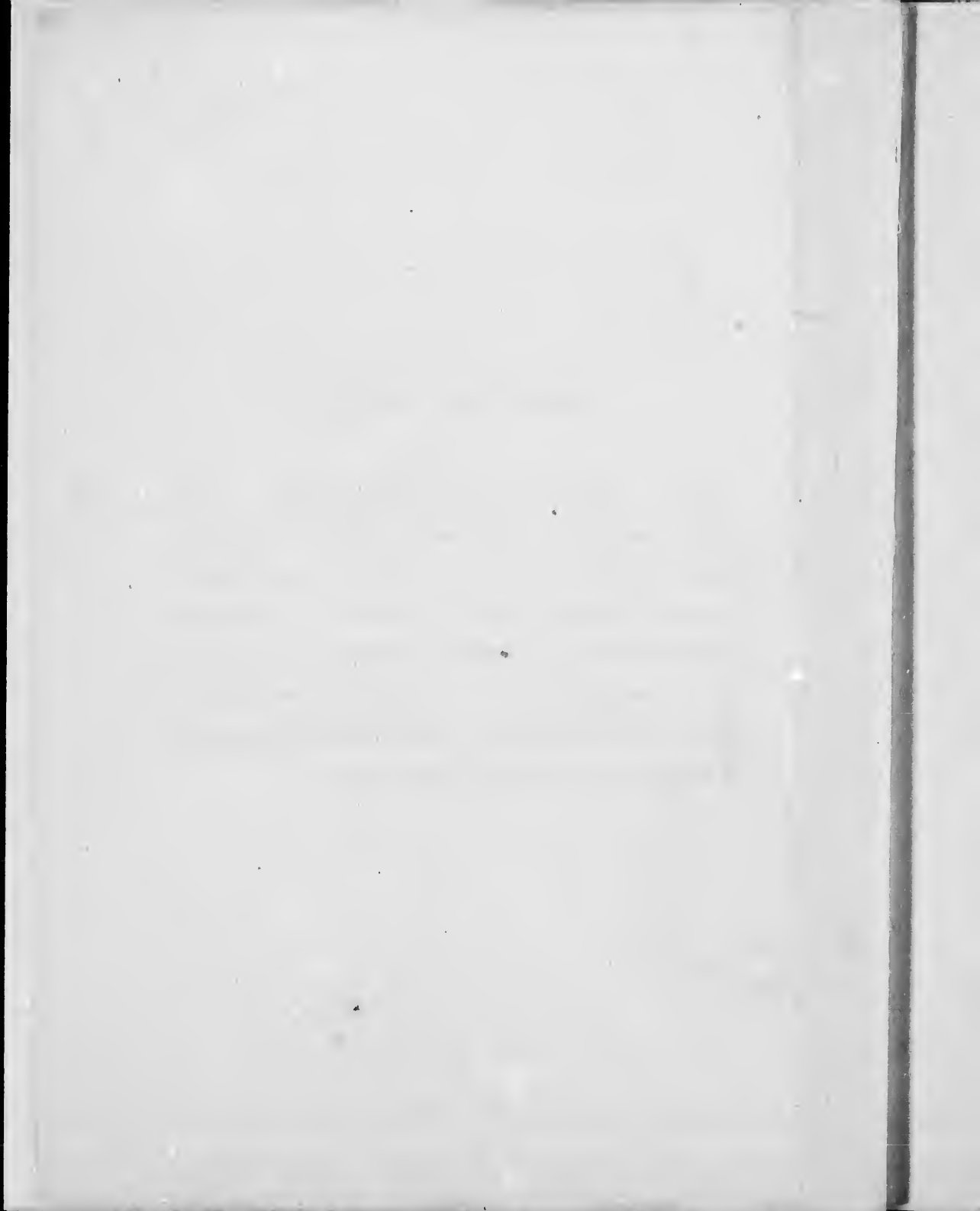
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PREFATORY NOTICE.

As some fundamental changes were made in the Public School Law of Ontario in the Supplementary School Act of 1879, the Author of the Revised School Law, Parts I. & II., has deemed it desirable to embody the whole of these changes in this publication. To facilitate reference to the chapters and sections in Parts I. & II., he has quoted them in connection with each of the changes made in the law. He has also added some Legal Decisions affecting portions of the School Law, which will be found of value.



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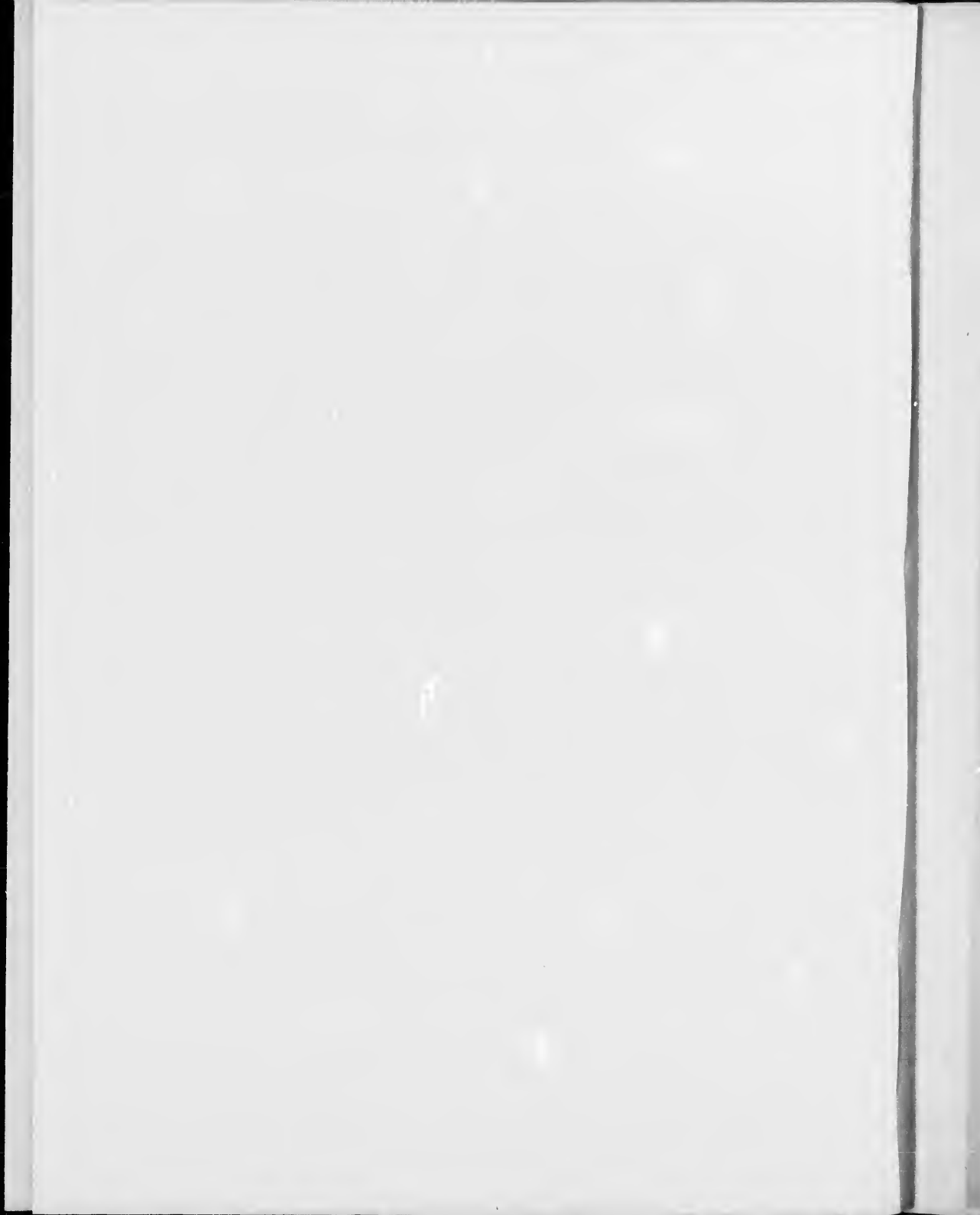
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EXPLANATORY NOTES.

CHANGES IN THE SCHOOL LAW, 1879.

AFFECTING PUBLIC SCHOOLS IN RURAL SECTIONS, CITIES,
TOWNS, INCORPORATED VILLAGES AND TOWNSHIPS.

The Changes in the School Law relate to the

- (1) Qualifications of voters and extension of the School Franchise.
- (2) Period of the Annual School Meetings.
- (3) Nomination and Election of School Trustees.
- (4) Abrogation of Powers of Trustees to levy School rates.
- (5) Extension of time to which school debentures may run.
- (6) Basis of Apportionment of the Parliamentary School Grant.
- (7) Apportionment of "Surplus School Moneys."
- (8) Payment of Teachers' Salaries by County Treasurer or Sub-Treasurer.
- (9) Fees payable by all non-residents.
- (10) School site arbitrations to affect all claimants.
- (11) Law in regard to Union School Sections.
- (12) Separate School law extensions as they affect Public Schools.
- (13) Duties of Municipal Councils in organized and unorganized townships.
- (14) Establishment of City and Separate School Model Schools.
- (15) Miscellaneous and minor provisions.

RURAL SCHOOL TRUSTEES.

(EMENDATIONS AND ALTERATIONS IN THE TEXT OF THE REVISED SCHOOL LAW, PART I.)

Changes in the Law—The following changes have been made in the School Law, as contained and explained in Part I. of the Revised School Law.

1.—Annual School Meeting.* (Sec. 1, ch. vi., page 45 and sec. 14, page 50.)

The day for holding the annual school meeting (as fixed in 1850) has been changed. The School Act of 1879 declares that :

"All the provisions of the Public School Act respecting the election of Trustees, and the annual meetings in Rural School sections, shall continue to apply to Rural School Corporations, except that the annual meeting and the nomination and election of Trustees thereat, shall be held on the last Wednesday in the month of December in each year, or if such Wednesday be a holiday, then on the day next following." (Sec. 9, Act of 1879.)

NOTE 1.—The "nomination" and election of trustees must be held at ten o'clock on the day indicated above. An adjournment before the election is not authorized in the School Act and would be illegal, as the law declares that the election shall be held on the day named. The hours (as indicated on page 45, and sec. 14, page 50, Part I.) remain the same. The new law authorizes the formal "nomination" of one or more persons whom it is proposed to elect as rural school trustee, or trustees, of a section. (Sec. 9, Act of 1879.)

NOTE 2.—Only one trustee goes out of office each year, and no more than one should be elected, unless a further vacancy occurs from any cause.

2.—School Section Voters' List. (Sec. 3, ch. vi., page 46.)

The School franchise has been extended so as to include all persons named in the "Voters' Lists." The law, as changed, declares that—

"The right of any person to vote in any municipality, at any election of Public School Trustees or upon any school question, is extended so as to comprise in addition to the persons now entitled by law, every person named upon "The Voters' List" of such municipality, and whether entitled to vote at municipal elections or elections to the Legislative Assembly, when such person has been assessed for, and has paid a rate imposed upon him for Public School purposes within the last twelve months in the ward, town, village or school section in which he is proposing to vote at such election or meeting."—(Sec. 2, Act of 1879.)

NOTE 1.—It will be necessary for a trustee to obtain a copy of the "Voters' List" from the township Clerk, so far as it relates to their own section, in order that the chairman of a school meeting can see who are the qualified voters of the section. (See next section.)

NOTE 2.—As to the sufficient payment of a school rate, see note to Sec. 4 on page 46, Part I., Revised School Law.

* Directions how to conduct School Meetings, printed on a large sheet, can be obtained from Messrs. Copp, Clark & Co., Toronto, for 10 cents.

Forms of Trustees' "Notice of an Annual School Meeting," three on a half sheet, can be obtained from Messrs. Copp, Clark & Co., Toronto, for 5 cents. Forms of Notice of Special School Meeting, three on a sheet, can also be obtained for 5 cents; and from the same publishers, "Directions How to Conduct School Meetings," on a large sheet, for 10 cents. Numerous other School forms are also supplied by them or any bookseller. See list.

3.—Declaration of Right to Vote. (Sec. 4, ch. vi., page 46.)

The old law has been changed so as to read as follows:—

"In case an objection is made to the right of any person to vote at any such election in any municipality or upon any other subject connected with Public School purposes therein, the returning officer, chairman or other officer presiding at the election or meeting shall require the person whose right of voting is objected to, to make the following declaration or affirmation:

"I, A. B., do declare and affirm that I am the person named in the certified copy of the Voters' List now shown to me [or have been rated on the last revised assessment roll of this municipality as a freeholder (or householder or tenant or in respect of income, as the case may be),] and that I am of the full age of twenty-one years, and that I have the right by law to vote at this election (or meeting as the case may be)."

"Whereupon the person making such declaration shall be permitted to vote." (Section 3, Act of 1879.)

NOTE.—The chairman of the meeting should submit the required declaration to every one who proposes to vote and is objected to. The 52nd Section of the Public Schools Act requires such declaration to be made, and the 3rd Section of the amended Act of 1879 makes this quite clear. The Dominion statute makes any false declaration of this kind perjury under the Criminal law. The Minister has no jurisdiction in contested matters at a public school meeting, that being left to the Inspector under section 194, sub-section 9, of the Public Schools Act, unless he deems it advisable to refer the matter to the Minister. (Minister's Decision, (13709) 1879.)

4.—No Appeal against Inspector's Decision. (Sec. 9, ch. vi., note, page 49, and sec. 16, page 51.)

The latter part of the note to clause 8, ch. vi., (page 49, Part I.), and the whole of Sec. 16, with note (page 51), may be struck out, as no appeal now lies to the Minister against the decision of an Inspector in regard to the proceedings of an annual or other school meeting (Minister's Decision, 1879.)

NOTE.—The fewer technical objections which are raised to the proceedings of a school meeting the better for the satisfactory working of the law. (Minister's Decision [11685], 1879.)

5.—Collection of School Rates. (Secs. 4-12, ch. iii., pages 26-36.)

The law, as explained on pages 26-36, ch. iii., Part I., will not in future apply to trustees' school section collectors, except in some particulars, as noted on page 27, to the collectors of school rate bills for fees. All school rates upon property must hereafter be collected by township councils on the estimate and requisition of the school trustees. The law, as it existed since 1850, has been altered as follows:

"The powers of trustees of rural school sections in organized townships, to levy or collect upon their own authority public school rates, shall cease and be determined on the passing of this Act, except in so far as any proceedings are now pending, which may be prosecuted until all rates thereunder are collected, and it shall henceforth be the duty of the public school trustees to obtain all moneys for public school purposes, which may be levied by rate on taxable property [by the township council] by the means and under the provisions contained in the 78th and 79th sections of the Public Schools Act." (Sec. 11, Act of 1879.)

NOTE 1.—Sections 78 and 79 of the Public Schools Act here referred to, are quoted and explained in Chapter viii., Part II., of the "Revised School Law."

NOTE 2.—See notes to the following sections.

6.—Trustees' Estimate* of Current Expenses. (Sec. 7, ch. iii., page 27.)

In making out their estimate of the current expenses of their school for the township council, trustees should be guided by the remarks contained in sections 6 and 7, ch. iii. (pages 27 and 28, Part I.), as these apply to the case. The explanation given of the powers of trustees in determining the amount of the estimate to be sent in to the township council also applies to this case. (See secs. 14 and 15, ch. ii., on page 22, and sec. 8, ch. vi., with note, page 47, Part I.)

NOTE 1.—The consent of the ratepayers to the levying of a rate at the request of the trustees by a township council only refers to moneys required for expenditure on "capital account" for the (1) purchase of a school site, (2) the erection or purchase of a school house, or an addition thereto, and (3) the purchase or erection of a teacher's residence. (Sec. 29, cl. 3, Act of 1879.)

NOTE 2.—The consent of the ratepayers to the levying of the rate by the township council for "current expenses" (as distinguished from "expenses on capital account") is not necessary, as already explained.

NOTE 3.—In all cases the township council should add the amount of the collector's fees and other expenses of collection to the rate to be levied, so as to enable the council to hand over the exact sum asked for by the trustees. This sum the trustees can lawfully claim, and can sue for it in case the full amount is not paid over to them by the council irrespective of fees.

7.—Expenditure on Capital Account.† (Sec. 8, ch. vi., note, page 47; sec. 10, cl. 6, page 52.)

The note to clause 4 of section 8 (page 47, Part I.), may be modified so as to leave out the words "cost of site, building teacher's residence, outbuildings, shed and fence." The law now requires that the consent of the ratepayers be first obtained, in order that the township council be authorized, on the requisition of the school trustees (and in case of refusal, compelled), to levy a rate, or consent to a loan by the trustees, for these purposes. The School Act of 1879 declares that in the case of rural school sections, the trustees shall apply to the township council, and not borrow or levy, or collect any rate for any sum of money for the purchase of a school site, or the erection or purchase of any school house or addition thereto, or other school accommodation, or for the purchase or erection of a teacher's residence, unless the proposal for the same has been first submitted to and approved of by the duly qualified school electors of the section. (Sec. 29, cl. 3, Act of 1879.)

* A proper form of "estimate" and requisition to be laid before the township council by trustees, can be obtained from Messrs. Copp, Clark & Co., Toronto, or any bookseller, for five cents.

† Where township councils authorize a school loan to be made by School Trustees, they are required to issue debentures for the amount of such loan. Forms of such Debentures, with coupons attached, can be obtained from Messrs. Copp, Clark & Co., Toronto, or other booksellers, for 15 cents.

NOTE 1.—The school meeting has now the right to object to a loan by the trustees, or to the levy of a rate by the township council, for the purposes mentioned above. It has also the right to object to any item of expense included in the trustees' estimate of expenditure on "capital account." In other words, the school meeting has full power to discuss with the trustees, and decide with them upon the expediency of the proposed outlay, its amount, or any particular item in the estimate. The final result of the discussions at the meeting should be embodied in formal resolutions for the guidance of the trustees, and on which they can, if the outlay be approved, base their estimate* and requisition to the township council.

NOTE 2.—When the proposed loan or rate for expenditure on "capital account" has been sanctioned by the school meeting, the trustees can compel the township council (in case of its refusal) by *mandamus*, from either of the Courts of Queen's Bench or Common Pleas, to authorize the loan, or to raise the amount required, by rate upon the section.

8.—Powers of Trustees Curtailed. (Sec. 13, ch. iii., page 36.)

The remarks in section 13, ch. iii. (page 36, Part I.), must be modified so far as they indicate that the trustees have an option either to raise a rate themselves, or apply to the township council to do so. The trustees have now no such option, but must apply to the township council to raise all rates required. (See, however, section 6, and note to section 7 above; see, also, next section.)

9.—Obligations on Township Councils to raise Moneys.

(Sec. 14, ch. iii., and sec. 13, cl. 37, pages 36 and 45.)

Township councils are still obliged to raise without question such moneys as the trustees of a school section may require for "current expenses" (as per their estimate and requisition sent in), including the salary of the teacher, repairs, and other ordinary yearly expenses of the school. (Sec. 11, Act of 1879.)

NOTE 1.—The consent of the ratepayers to the collection of a rate for "current expenses" is not necessary.

NOTE 2.—The township council cannot by a unanimous, or even two-thirds' vote of the members present, legally refuse to levy the required rate for current expenses, or for expenditure on "capital account." In this latter case it can only refuse to raise the rate or authorize the necessary loan to be made by the trustees, in case the consent of the ratepayers to the expenditure had not first been obtained. Should the council, however, refuse to comply with the requisition of the trustees, after such concurrence had been obtained, it can (as in the case of current expenditure) be compelled by *mandamus* to levy the required rate, or authorize the loan asked for.

NOTE 3.—The whole of this question as to the obligation on councils to levy the rates required by school trustees is discussed in the Revised School Law, Part II., Chapters x. and xi., which see.

10.—Issue of School Debentures. (Sec. 13, ch. iii., page 36.)

The School Act of 1879 provides that any debenture for any loan of money for school purposes may be for such term of years, not

* A blank form of estimate and requisition can be obtained from Messrs. Copp, Clark & Co., or any bookseller, for 5 cents. Other forms supplied. See list.

† Form of Debenture, with coupons attached, can be obtained from Messrs. Copp, Clark & Co. or other booksellers, for 15 cents.

exceeding twenty, as the municipal council may think fit; and the municipal council may also, in its discretion, make the principal of such debt repayable by annual or other instalments in the manner provided by the three hundred and thirty-second section of the Municipal Act. (Sec. 29, cl. 4, Act of 1879.)

11.—Equalization of Assessments. (Sec. 10, cl. 4, ch. iii., page 29.)

After the 1st January, 1880, the repeal of the law authorizing the equalization of assessment in union school sections takes effect.

NOTE.—See pages 123 and 134, Revised School Law, Part II.

12.—General Powers of Trustees. (Sec. 13, ch. v., page 43.)

NOTE.—Clauses 11, 18, 28, 36, 37 and 39 of Sec. 13, ch. v., Part I., have been modified or repealed as already explained.

13.—Trustees Personal Liability. (Sec. 10, chap. i., p. 15.)

NOTE TO CLAUSE 1, CH. I, PART I.—It has been decided in Chambers, that "No attachment will lie for not making a return to a peremptory mandamus;" it should be for not obeying the writ. The rule *nisi* called upon the trustees of school section 27 in the township of Tyendinaga, in the County of Hastings, to shew cause why an attachment should not issue against them. On an affidavit of service of this rule on A, B and C, stating them to be trustees of said section, a rule absolute was granted, following it in form, and thereupon an attachment issued against A, B and C. *Held*, bad, as not warranted by the rule. S. C. 3 P. R. 43, C. L. Chamb.—*Burns*.

14.—School Section Audit. (Sec. 10, ch. v., p. 42.)

In case collusion should be found to exist between the auditors of a rural school section and the trustees in regard to their accounts, or in case of any other alleged irregularity in the school accounts, any two ratepayers can, under the authority of the 232nd and following sections of the Public Schools Act, apply to the judge of the county court to summon witnesses and hold an inquiry into the facts, and take evidence in regard thereto under oath. (Minister's Decision [11333], 1879.)

15.—Proper Notice of Rural Trustee Meetings. (Sec. 9 (c) ch. i., p. 13 and sec. 13, cl. 20, ch. vi., p. 44.)

The proper legal way of holding a school trustees' meeting, as required by section 97 of the School Act, is by regular notice in writing given by the secretary of the school corporation (or by one of the trustees themselves). Any other mode would render the meeting voidable. (Minister's Decision, 1879.)

NOTE.—The School Act (Sec. 97), speaks of notifying the trustees "personally," but this is always a doubtful method, as, without witness to the fact, it is often incapable of proof in case of denial.





16.—Fees chargeable on all Non-Residents.* (Sec. 17, ch. ii., page 23; chap. iii., sec. 10, cl. 7, page 30; ch. iv., page 37; see page 82.)

The children of all non-residents alike, whether ratepayers of the section or not, must now pay a school fee not exceeding twenty-five cents per calendar month in advance. The School Act of 1879 declares that "from and after the eighteenth day of August next, [1879], the fee to be imposed upon any non-resident pupils shall not exceed the sum of twenty-five cents for each pupil for every calendar month." (Sec. 13, Act of 1879.)

NOTE.—Formerly the fee chargeable might be fifty cents per calendar month, now it cannot exceed twenty-five cents. Formerly, also, the children of non-residents who paid a school tax in support of the school were exempt from the payment of fees to such school; now, all non-residents alike pay the prescribed fee, as well as resident or non-resident supporters of Separate Schools who desire to send their children to the public school of the section. The law, however, as explained in the foot note on page 20, ch. ii., Part I., remains unchanged.

17.—School Taxes on Non-Residents. (Secs. 6-10, ch. iv., pp. 38, 39.)

The law relating to school taxes on non-residents, as explained on the pages indicated (38, 39, Part I.), does not apply to rural school trustees. (Secs. 11 and 29, Act of 1879.)

NOTE.—The law, however, applies to the collection of school fees from non-residents. In case, however, a non-resident living outside of the township makes default of payment to the collector, the trustees must sue him in the Division Court. (School Act, sec. 102, cl. 15.)

NOTE 2.—In the case of *Healy v. Carey*, 13 L. J. (N. S.), it has been decided that a school collector cannot sue for the rates due. The action must be brought in the name of the trustees of the section. (Revised School Act, sec. 102, cl. 15.)

18.—Collectors of Rural School Fees. (Sec. 4, ch. iii., page 26.)

After the rates levied by Trustees before the 11th of March, 1879, have been collected, the powers and duties of school section collectors will be limited to the collection, as may be directed by the trustees, of school fees on non-residents. (Sec. 11 and sec. 29, cl. 3, Act of 1879). (See preceding sec. and note.)

19.—Lawfulness of Trustee Expenditure. (Sec. 10, ch. v., p. 42.)

In the case of *Malcolm v. Malcolm*, (15 Chy. 13), the Court of Chancery declared it was "contrary to the rule of this court, in dealing with persons who have not acted properly, to punish them more severely than justice to others renders necessary; and therefore where school trustees wrongfully expended money in building on a site which had been changed by competent authority, relief was only granted to a ratepayer who complained of the act, subject to equitable terms and conditions."

* A form of rate bill roll and warrant, can be obtained from Messrs. Copp, Clark & Co., or other booksellers, for 5 cents.

20.—School Rate Bill for Fees. (Sec. 4, ch. iv., page 37, and sec. 5, ch. iii., page 27.)

The fee has been reduced, as explained in note to sec. 16 above. The remarks on page 27, ch. iii., Part I., apply to the collection of fees from non-residents.

NOTE.—The blank form of rate bill and trustees warrant can be obtained from Messrs. Copp, Clark & Co., or other booksellers, for 5 cents.

21.—Site Wrongfully Conveyed*—Claim. (Sec. 15, ch. vii., page 58.)

The Court of Chancery decided the following case:

“A school site had been granted to certain parties in trust, and a school house erected thereon, but by mistake the wrong site was conveyed. The grantor subsequently made a mortgage on his estate, but exempted the portion reserved for a school site. He died shortly afterwards, leaving his son and heir-at-law a minor. The defendant, during the minority of the heir, obtained a lease of the premises, excepting the site in question; but on the coming of age of the heir obtained a deed from the said heir, without any reservation of the school site. About the same time, or a little before, he also obtained an assignment of the mortgage so as to perfect his title. He then claimed the land on which the school house was erected, on the ground that in consequence of the mistake no title was vested in the trustees, whereupon the trustees of the school section filed a bill against him, and it was held, that he had express notice of the trustees' title; and that even if the trustees were volunteers as to this piece of land, the defendant was also a volunteer, and being prior to him they had a right to the aid of equity to have his title to said piece of land cancelled, or a conveyance thereof from said defendant. Held also, that the township council was a necessary party to the suit.”—*School Trustees v. Farrell*, 5 L. J. 230, Chy.

22.—School Reserve Binding. (Sec. 15, ch. vii., page 58.)

The Court of Chancery has decided the following case:

“A reservation for school purposes is of such a character as to be the subject of dedication. The owners of land in 1856 caused the same to be surveyed and laid off into village lots, and on the plan thereof which was duly registered, marked a portion as ‘reserve for school ground.’ An auction sale of lots took place during the same month with reference to the lots not fronting on the reserve, when lots to the value of \$20,000 were sold; and after the auction, lots were sold privately, according to the plan. The school trustees did not take possession of the school reserve. Subsequently conveyances were executed to S. of all the undisposed of portion of the town as surveyed. S. in January, 1863, caused a new plan to be prepared and registered, in which the school reserve was laid out into village lots, some of which had meanwhile been bought by the defendant from an intermediate owner, with notice of the original plan and the reservation for school purposes. Held, on a bill filed in 1876, that the original plan was binding; that the conveyance to S. did not give him the ownership of the soil of the streets or reserves for public purposes; and that the defendant was not entitled under the 36 Vic. c. 22, Ont., to be paid for any improvements he had made upon the lots forming part of the school reserve.”—*The Corporation of Wyoming and the Public School Board of Wyoming v. Bell*, 24 Chy. 564.

* Proper forms of School Deeds, with Dower, can be obtained from Messrs. Copp, Clark & Co., or other booksellers, for 20 cents.

23.—Who is "Owner" of School Site. (Sec. 12, ch. vii., page 57.)

The term "owner" of land for a proposed school site can generally be easily ascertained, but it is sometimes difficult to determine who is the real owner. Sec. 128 of the School Act, therefore, provides that :

"All corporations and persons whatever, tenants in tail or for life, guardians, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons, seised, possessed of or interested in any land, may contract for, sell and convey all, or part thereof, to school trustees for a school site, or an addition to the school site, or for a teacher's residence."

It also provides in section 129 (see Division II., sec. 8, cls. 3 and 4 of ch. xv., pages 189, 190 of the Revised School Law, Part II.), that in case the owner of such land is unknown, the certificate of a sworn surveyor "not interested in the matter," who knows the land, that such a sum (naming it) "is a fair compensation for the same," be laid before the County Judge, who shall direct certain notice to be served on the parties interested.

24.—Failure to Choose an Arbitrator. (Sec. 3, ch. vii., page 52.)

The Court of Chancery has decided the following case :

"Where school trustees selected a new site for the school house, and at a special meeting of the ratepayers, duly called, those present rejected the site so selected and chose another, but neither party named an arbitrator. *Held*, that an arbitrator might be appointed by the ratepayers at a subsequent meeting.—*Malcolm v. Malcolm*, 15 Chy. 13.

NOTE.—The same Court also decided that : "A dissent by school trustees from a decision of the ratepayers as to a site for the school should be intimated promptly, and if not announced till after the expiration of the current year it is too late.—*Coupland v. The School Trustees of Nottawasaga*, 15 Chy. 339.

25.—Powers of Arbitrators.* (Sec. 6, ch. vii., page 53.)

The School Law of 1879 provides that :

"In addition to the powers conferred upon arbitrators, under the Public Schools Act, in reference to the compulsory taking of land for school sites, they shall have the power to settle all claims or rights of incumbrancers, lessees, tenants, or other persons, as well as those of the owner in respect of the land required for the purpose of the school site, upon notice in writing to every such claimant, and after hearing and determining his claims or rights." (Sec. 15, Act of 1879.)

NOTE.—For full exposition of the powers and duties of arbitrators, see ch. vii., Part I., page 54 ; but especially Part II., ch. xv., pages 188-194, where will be found a summary of decisions of the superior Courts on the subject.

26.—Sale or Exchange of Site. (Sec. 11, ch. vii., page 56.)

The various interests connected with the disposition of the school site and property, "not otherwise required," in consequence of a

* "Directions in regard to Arbitrations and Awards," printed on a large sheet, can be obtained from Messrs. Copp, Clark & Co., or other booksellers, for 10 cents.

change of site, etc., are fully discussed in Part II. of the Revised School Law, chapter iii., secs. 9 and 10, pages 125, 126; and ch. iv., sec. 9, cl. 4, page 132.

27.—School House Accommodation. (Sec. 9, ch. ii., page 19.)

In case trustees fail to provide suitable outhouse, fences, maps and tablets, inspectors should require that these deficiencies be supplied within a reasonable time; and unless reasonable and satisfactory efforts be made, having regard to the circumstances of each school, the defaulting should be reported to the Department, in order to the consideration of the propriety of withholding the apportionment of the school fund from such section. (Minister's Decision [11642], 1879.)

28.—Use of School House. (Sec. 11, ch. ii., page 20.)

In *Rabian v. The School Trustees, Thurlow* (12 Chy. 115), a bill was filed by a ratepayer, seeking to restrain school trustees from allowing the school house to be used for religious services, but the bill did not allege that it was filed on behalf of the plaintiff and all other ratepayers. Two of the three school trustees consented to the injunction being granted as asked. The Court refused the application on the grounds—first, that the suit was not properly constituted; and that if it had been, it appearing that a majority of the trustees were in favour of the views of the plaintiff, they had themselves the power to do that which they consented to the Court doing. *Quare*, if the bill had been by the plaintiff on behalf of himself and all other ratepayers, whether then the suit would have been properly constituted.

29.—Payment for Holidays. (Secs. 4 and 14, ch. ix., pages 62 and 71.)

If the period for which a teacher is engaged is completed at "the expiration of the school term," he is justly entitled to payment for the holidays or vacation immediately following that term. If, however, the agreement has still a further time to run, and is broken by the teacher giving up the school before the time mentioned in that agreement, or failing to get his certificate renewed, it would be optional with the trustees to allow for the holidays or vacation.

NOTE 1.—It must, however, be borne in mind that this view applies only to cases where, by the non-compliance of the teacher to continue his professional duties during the term of his agreement, the interests of the school have been injuriously affected.

NOTE 2.—Where the trustees consent to the retirement of the teacher, by accepting his resignation, they become parties to the dissolution of the agreement, and thus give him a legal and equitable right to be paid for the holidays and vacations, should any occur at the close of the term mentioned in the letter of resignation which had been accepted. (Departmental Decision.)

30.—Employment of Teachers.* (Sec. 14, ch. ii., page 22.)

The trustees of every school section have full power to employ a duly qualified teacher. The ratepayers cannot interfere with this right, nor can the inspector interfere, unless the trustees should

* Forms of Contract-Agreements between trustees and teachers can be obtained from Messrs. Copp, Clark & Co., or other booksellers, for 5 cents.

assume to appoint a teacher who is not duly qualified to take proper charge of all the classes in the school. In such a case it would be his duty to caution the trustees, and seek to get them to comply with the law, so that the section would not run the risk of loosing its share of the school fund. There is also the probable legal penalty for failure to carry out the programme at the instance of any aggrieved rate-payer.

31.—Agreements with Teachers—Remedy. (Sec. 4, ch. ix., page 62.)

When a teacher enters into a formal agreement with the trustees, under their corporate seal, he has his remedy against them in the Division Court. Sometimes, however, a teacher by letter or telegram accepts an offer of trustees to conduct their school, and then fails to carry out his agreement. What is then the remedy against him? In such cases the Minister of Education has decided that "a school teacher possessing a Provincial certificate is in the same position as any other contracting party, and is liable to be sued in damages for refusing to fulfil an agreement. The question whether there is a contract or not would depend upon written evidence, signed by the teacher, or sent by original telegraph over his signature. Letters and telegrams will answer if sufficiently unequivocal. The proceedings against a teacher in case of failure to fulfil his engagement could be had in a Division or a County Court, or in one of the superior Courts, according to the amount of actual damages which had resulted from such failure.

NOTE.—Any questions as to legal liability on either side would, of course, be removed, if the form of Teachers' Contract-Agreement, published by Messrs. Copp, Clark & Co., Toronto, had been used.

32.—Mandamus for Rate for Salary. (Sec. 15, ch. ix., page 71.)

The Court of Common Pleas has decided the following case :

"The Court refused a rule *nisi* for a *mandamus* to the trustees to levy a rate to pay the applicant the balance of his salary as teacher, recovered in the Division Court against former trustees, it not appearing when, for how long, and by whom the said teacher was employed."—*O'Donohoe v. School Trustees of Section No. 4, Thorah*, 5 C. P. 297.

33.—Enforcement of Agreements. (Sec. 15, ch. ix., page 71.)

The Court of Queen's Bench has decided the following case :

"A school teacher sued the trustees in the Division Court for his salary, upon an agreement, under defendants' corporate seal, by which they bound themselves to employ the powers legally vested in them to collect and pay him ; and upon the common count for work and labour. It appeared that he was not a legally qualified teacher, but that he had taught the school during the time claimed for. *Held*, that he could not recover : 1. Because by C. S. U. C. c. 64, s. 27, sub-sec. 9, as amended by 34 Vic. c. 33, s. 30, defendants were prohibited from giving an order in his favour on the local superintendent ; and the latter, by sec. 91, sub-sec. 2, from giving him a check upon the treasurer. 2. Because, if entitled to payment, his remedy would be by *mandamus*, or a special action, not by an action

for the money, which was not in the defendants' hands. See also as to this point, *Quinn v. School Trustees*, 7 Q. B. 130. *Quere*, as to the meaning of 34 Vic. c. 33, s. 27, O.—*Wright v. The Trustees of School Section No. 3, in the Township of Stephen*, 32 Q. B. 541.

34.—Religious Exercises in Schools. (Sec. 5, cl. 3, ch. ix., page 63.)

In conducting the ordinary religious exercises authorized in the regulations on the opening and closing of his school, no teacher has any right to give explanations of scripture of a denominational character, but such only, simple explanations, "as may be requisite for the proper understanding of the language read." He may begin and end the school with a simple form of prayer and read portions of scripture, but without note or comment further than above indicated. (Minister's Decision, 1879).

35.—Pupils and Religious Exercises. (Sec. 6, ch. xiii., page 82.)

The general regulations require all of the pupils to be present at the prescribed time for opening the school, and to remain for dismissal together. Unless there are two school rooms, however, the pupils, whose parents object to their joining in the daily religious exercises at the opening and closing of the school, could not retire into any room during the exercises. All the pupils have an equal right to the school room during school hours, and none can be properly excluded. The children of objecting parents must, therefore, remain in the same school room, but without being obliged to take part in the exercises. They are, however, amenable to the same strict order and discipline as should prevail during the ordinary exercises of the school, and subject to the full authority of the teacher. The teacher could properly require them to occupy a form or seats by themselves, and to maintain a respectful demeanor, subject to the usual penalties for disobedience. (Minister's Decision, 1878.)

36.—Power of Teachers as to Rules. (Sec. 6, ch. ix., page 63.)

All special rules not specified or directly authorized in the Official Regulations, which may be adopted in a school, must first have the sanction of the trustees before they can be lawfully enforced by the teacher.

NOTE.—This decision of the Department, as intimated in clause 1 of sec. 5 (page 63), is frequently overlooked by a teacher, and, in many cases, involves him in unnecessary trouble and litigation. The teacher is merely an officer or agent of the trustees, and possesses no powers, except those conferred upon him by statute, Departmental regulations, or by the trustees themselves. All rules, therefore, which he enforces should have the sanction of law, regulation, or the authority of the trustees.

37.—Unauthorized Text Books Illegal. (Sec. 18, ch. ii., page 23; sec. 4, ch. xiii., page 82.)

The regulations in this matter have been made more stringent. In addition to the law as given on pages indicated, no new authorized

text book can be introduced into a school unless by consent of the trustees and inspector. (Regulations, 1879.)

38.—School Registers. (Sec. 19, ch. ii., page 23; sec. 9, ch. ix., page 67.)

The two registers required to be kept in each school will hereafter be furnished gratuitously through the Inspector and not direct from the Department. (Estimates, 1878.) (Regulations.)

CHANGES IN PART II.

REVISED SCHOOL LAW.

I.—COUNTY COUNCILS AND THEIR OFFICERS.

1.—County School Treasurers. (Sec. 12, ch. i., page 114.)

The law has been harmonized so that the county assessment, as well as the county school grant, shall be paid out by the county treasurer direct, instead of by county sub-treasurers, when so directed by the public school inspector. (Sec. 14, Act of 1879.)

NOTE.—See latter part of section 12, page 114, Revised School Law, Part II.

2.—Duties of County Treasurer. (Sec. 29, cl. 1, ch. ii., page 120.)

(1) In addition to his former duties the county treasurer is required "to furnish the Minister of Education with such information as he may require respecting moneys raised or expended in the municipality for public or high school purposes." (Sec. 14, Act of 1879.)

(2) So much of the county rate levied yearly upon the several townships of the county for the payment of teachers' salaries, which shall have been levied upon and collected from any persons being supporters of separate schools in any township, shall be paid over by the county treasurer to the trustees of the separate schools of which such persons are supporters as aforesaid. (Sec. 26, cl. 2, Act of 1879.)

3.—Duties of County Clerks. (Sec. 29, cl. 4, ch. ii., page 121.)

In addition to their former duties county clerks are required "to furnish the Minister of Education, before the first day of April in each year, with a statement showing the population of each minor municipality within the county, according to the returns upon the assessment rolls for the previous year of each such minor municipality." (Sec. 21, Act of 1879.)

4.—Appeal to County Council. (Sec. 21, ch. i., page 117.)

The committee of the county council appointed to consider appeals against the action of a township council should see that the trustees, or other parties concerned, had received notice of the appeal, so that they might have an opportunity to appear before the committee, if necessary.

NOTE 1.—If the committee should proceed without notice to the trustees, their award (in the shape of a report to the county council) would be bad in law, and could be avoided by an application to the Court of Queen's Bench or Common Pleas. (Minister's Decision [831], 1879.)

NOTE 2.—There is no appeal to the Minister or other party against the report or award of a committee of the county council on matters submitted to it. The county inspector should endeavour to reconcile any differences which may arise, and to prevent by conciliation a result to law suits, which only result in throwing expense upon the ratepayers. (Minister's Decision [13448], 1879.)

II.—TOWNSHIP COUNCILS AND THEIR OFFICERS.

5.—Obligations on Township Councils to Raise School Moneys. (Secs. 4 and 5, ch. viii., pages 152 and 153.)

The alteration in the old School Law of 1850, relating to the powers of rural school trustees, and the obligations upon municipal councils, which the Act of 1879 has introduced, may be briefly stated to be:

1. The power of rural trustees to raise moneys by rate for any of the school purposes of their section has been taken away

2. Rural trustees are now required, as a preliminary to their requisition on a township council, to submit their estimate* of the sum necessary for the purchase of a school site, the erection and enlargement (not repairs) of the school house and premises, and the purchase or erection of a teacher's residence, to a vote of the ratepayers. (See page 4 of this publication.)

3. Formerly (and up to 1874), trustees were only required to submit the single question to their constituents as to whether they should apply to the township council, or employ their own authority, to levy such rates as they considered necessary for all the school purposes of their section. Now all of such rates must, upon the estimate and requisition of the trustees, be raised by the township council.

4. As the law on this subject now stands it may be summed up as follows:

(1) For the annual *current expenses* of a rural school section, the township council, on the estimate and requisition of the trustees of a school section, sent through the township clerk, can (in case of refusal to do so) be compelled by *mandamus* from either of the superior Courts of Queen's Bench or Common Pleas to raise the necessary rate by tax upon the ratable property of the section.

NOTE.—This estimate is not required to be submitted to the ratepayers for their approval, or even for their consideration. The trustees are wholly responsible for this expenditure, and should submit it to the council on their own authority, with the necessary requisition.

(2) For an expenditure on "capital account" for the purchase of a school site, purchase or erection of, or addition to, a school house

* Forms of this requisition can be obtained from Messrs. Copp, Clark & Co., or any bookseller, for 5 cents.

or teacher's residence, the trustees must, before sending in their estimate and requisition, through the township clerk, obtain the consent of the ratepayers to the proposed expenditure. But having obtained that assent, the township council, in case of refusal to raise the required sum, or authorize a loan for the same, can be compelled to do either by *mandamus*.

NOTE 1.—The rural trustees should, with their estimate and requisition for moneys on "capital account," transmit to the township council, through its clerk, a copy of the resolution adopted at a school meeting, approving of the proposed outlay.

NOTE 2.—The debentures must be issued by the township council and not (even under its authority) by the trustees. *In re McIntyre and the Corporation of the Township of Elderslie*, it is stated that the township by-law authorized the trustees of the school section, instead of the reeve, to sign the debentures. The judge held that this was a fatal objection, notwithstanding that, in fact, the debentures had been executed by the reeve. (27 C. P. 58.)

6.—Surplus School Moneys. (Sec. 3, cl. 5, ch. viii., page 152.)

An option has been given to the township council to apportion surplus school moneys according to rate of salary given to teachers in the township, or (as other school moneys are apportioned) "according to the average attendance of pupils at each school during the year then last past." (Sec. 12, Act of 1879.)

7.—Surplus Municipal School Moneys. (*Ibid.*)

The authority of municipal corporations to set apart moneys under the Municipal Loan Fund Scheme for educational purposes is derived from the Acts of 1874, second session, 38 Vic. cap. 29. The by-law may set apart such moneys for any educational purposes for which the municipality might lawfully set apart other surplus money; and under section 2, in case such money is not so set apart, then the amount is to be invested and applied as other surplus money for educational purposes.

On reference to sections 360 and 361 of the Municipal Act, page 1692, Revised Statutes, it would not appear that the money can be dealt with, except by being invested as thereby authorized, or loaned to school boards as therein appears. The 93, 94, 95 and 96 sections of the Public Schools Act show what further authority a municipal corporation has over these moneys, as well as funds derived from the Municipalities' Fund or Clergy Reserves. (Minister's Decision [981], 1879.)

NOTE.—Sections 93 to 96 of the Public Schools Act, and section 360 of the Municipal Act, enable the township council to invest the moneys coming from the Ontario Municipalities' Fund, and to set it apart for educational purposes. The principal moneys cannot be lawfully divided amongst the different school sections, but the interest can be paid over to the school section from time to time. It would be illegal to pay over to the ratepayers personally, any interest or other moneys received from this fund. (Minister's Decision [3333], 1879.)

8.—Loans by Rural Trustees. (Sec. 7, ch. viii., page 154.)

A council must, on the estimate and requisition of rural school trustees, sent through the township clerk, authorize them to make such a loan as they may require, and as may be sanctioned by a school meeting. The council must, after receiving the requisition, accompanied by an intimation of the consent of the meeting, issue debentures for the sum to be borrowed for any required period, not exceeding twenty years. (Sec. 29, ch. 4, Act of 1879.)

NOTE.—The debentures must be in the form authorized by law, and as provided by Messrs. Copp, Clark & Co., Toronto.

9.—Trustees Application to Council. (Sec. 11, ch. viii., page 157.)

No. 4 in this section (11, page 157), may be omitted, and the note must be modified in accordance with the change in the law. The trustees must now ask the consent of the ratepayers, and intimate such consent to the township council, through its clerk.

NOTE.—See decisions of the superior Courts, Nos. 1 and 4, ch. ix., pages 159 and 160, Part II.

10.—Equalizing Assessments. (Sec. 2, cl. D and sec. 14, ch. iv., pages 123 and 134.)

The provision requiring reeves and inspectors to equalize the assessments in union school sections has been repealed, to take effect on the 1st of January, 1880.

The one hundred and thirty-fifth section of the Public Schools Act [authorizing the equalization of assessments in union school sections and divisions] shall become of none effect, and be repealed on and after the first day of January next [1880], and the provisions contained in the one hundred and thirty-seventh section and the several sub-sections thereof, shall thenceforth apply to and govern all union sections. (Sec. 18, Act of 1879.)

NOTE.—The 137 section will be found in sections 3-8, ch. iv., Part II., pages 128 and 130. See also pages 134 and 135 of the same.

11.—Union Section Alteration. (Sec. 8, cl. r b., and sec. 9, cl. 2, ch. iv., pages 130 and 131.)

The School Act of 1879 gives legal effect to the interpretation of the Act contained in the clauses named on pages 130 and 131, Part II. It provides that:

“A union school section may be altered so that a part of the same may be withdrawn by the council of the municipality, in its discretion, in which such part is situate, without withdrawing the whole portion of such municipality forming the union, in case such alteration is petitioned for by a majority of the assessed freeholders and householders of such part; and the one hundred and fortieth section of the Public Schools Act shall be construed to apply also to the case of an alteration of the boundaries of a union school section, where a part only of the portion in either municipality is withdrawn by the council thereof.” (Sec. 17, Act of 1879.)

NOTE.—Where a township council desires to take from existing school sections so as to add to the area of a union school section, two steps are necessary under the Public Schools Act: 1. Under sections 81–86, as to altering the boundaries of existing school sections within the township; and 2nd, under section 140, for altering the boundaries of a union school section. The first would require action before the 1st of May, the second before the period of three months before the 1st of January following. (Minister's Decision [11645], 1879.)

12.—Union Sections, where Taxable, &c. (Secs. 13, 17 and 18, ch. iv., pages 134 and 136.)

The School Law of 1879 declares that:

“In the case of a union school section composed of parts of two or more municipalities, the union school section shall be held for the purposes of inspection, taxation, the borrowing of moneys, and for all school purposes as within the township, town, or village, in which the school house of the union is situate.” (Sec. 16, Act of 1879.)

NOTE.—This provision is simply an amplification of the old law, as explained on pages 135 and 136, Part II., Revised School Law.

13.—Township Assessor and Separate School Supporters.

1. In any case where the trustees of any Roman Catholic separate school desire to ascertain, through the assessor of the municipality, the persons who are the supporters of separate schools in such municipality, the assessor shall accept the statement of, or made on behalf of, any ratepayer that he is a Roman Catholic, as sufficient *prima facie* evidence for placing such person in the proper column of the assessment roll for separate school supporters, or if the assessor knows personally any ratepayer to be a Roman Catholic, this shall also be sufficient for placing him in such last mentioned column. (Sec. 26, cl. 3, Act of 1879.)

2. Any person who, if resident in the municipality, would be entitled to be a supporter of any separate school in such municipality, in giving notice under section three of the Assessment Act, that he is the owner of unoccupied land in such municipality, may also require that such land be assessed for separate school purposes in such municipality, if a separate school exists therein; and the assessor shall thereupon enter such person in the assessment roll as a separate school supporter, and the proper entries in that behalf shall be made in the prescribed column for separate school rates; and such land shall be assessed accordingly for separate school rates, and not for public school purposes. (Sec. 25, Act of 1879.)

III.—TOWNSHIP BOARDS IN ORGANIZED AND UNORGANIZED TOWNSHIPS.

14.—Election of Township School Boards. (Sec. 6, ch. vii., page 147.)

The law regulating the nomination and election of members of township school boards, is now identical with that relating to the





election of school trustees in cities, towns and villages, which will be found on pages 22 of this publication.

NOTE.—See also the law specially affecting the election of township boards in unorganized townships (sec. 10, Act of 1879), sec. 16 below.

15.—Powers of Township Boards. (Sec. 9, ch. vii., page 148.)

In addition to the provision in sec. 9 (page 148, Part II.), the School Act of 1879 declares that :

“The public school board of any township may exercise and enjoy all the rights and powers of trustees of rural school sections, under the provisions of the Public Schools Act, as well as those of public schools in cities and towns ; and in cases where the public school board was established before the second day of March, one thousand eight hundred and seventy-seven, the period of five years after which a by-law for the repeal thereof may be submitted, shall be taken to begin from the time when the public school board was originally established.” (Sec. 19, Act of 1879.)

NOTE.—The township school trustee must be an assessed resident in the municipality.

16.—Schools in Unorganized Townships. (Sec. 11, ch. vii., page 149.)

The defects pointed out and as explained in section 11 (page 149), have been remedied by the School Act of 1879. It declares that :

“The thirty-third section of the Public Schools Act is hereby amended so as to read as follows : ‘In municipalities composed of more than one township, but without county organization, it shall be optional with the municipal council thereof to form portions of the townships comprising the municipality into school sections, or to establish a board of public school trustees, two members being elected for each ward, and if not divided into wards, two for each township thereof; and such board shall possess all the powers and duties of township boards, and shall also upon the petition of at least five heads of families, provide school accommodation and a teacher for their children and others.’” (Sec. 10, Act of 1879.)

NOTE 1.—Where township boards have been formed under the 33rd section of the Public Schools Act, the township council concerned can revise their action and take advantage of this section as amended above, so as to make it applicable at the end of the year. (Minister's Decision, [11381], 1879.)

NOTE 2.—The township clerk can act as returning officer of the election of a township board, if so appointed. He need not make a declaration of office. (*Ibid*, [7147].)

IV.—CITY, TOWN AND VILLAGE COUNCILS AND THEIR OFFICERS.

17.—Councils to raise School Moneys. (Sec. 6, ch. x., page 169.)

For all purposes of the annual *current expenditure* of boards of school trustees, the city, town or village council is required, as formerly, to raise such sums as the board may require, as per their estimate and requisition ;* but this obligation does not refer to loans or taxes for expenditure on “capital account,” viz., for

- (1) Purchase of a school site.

*A form of this estimate and requisition can be obtained from Messrs. Copp, Clark & Co., Toronto, or any bookseller, for 5 cents.

(2) Erection or purchase of a school house or other school accommodation.

(3) Erection of addition to school house or other school accommodation.

(4) Erection or Purchase of a teacher's residence.

NOTE 1.—The estimate should be in the form provided, and should be specific so far as the nature or object of each service is concerned, and also as to the total amount, so that the council may know accurately the respective purposes and amounts. (Minister's Decision [6425], 1879.)

NOTE 2.—The council cannot review an estimate or requisition, if properly made by a school board upon it. (*Ibid.*)

NOTE 3.—By the 90th section of the School Act, the council must raise an equivalent, at least, to the legislative grant; this, however, should be taken note of, or included in the trustees estimate and requisition. (*Ibid.*)

NOTE 4.—The municipal treasurer should keep a separate account of public school moneys raised by the council, so that it can be drawn upon at any time by the public school board. (*Ibid.*)

NOTE 5.—In case of refusal to raise this rate, the council can, by *mandamus*, be compelled to do so. (See decision of the Courts, page 171, Part II.)

18.—Option of Council to Raise Money on "Capital Account."

(Sec. 7, ch. x., page 170.)

The Act of 1879 gives the council the option to refuse to act upon the estimate and requisition of the board for expenditure on capital account. It says that where a "school corporation may, by law, require the municipal council to raise or borrow a sum of money for the purchase of a school site, or the erection or purchase of any school house, or addition thereto, or other school accommodation, or for the purchase or erection of a teacher's residence, such municipal council may refuse to raise or borrow any such sum, when it is so resolved by a two-thirds vote of the members present at the meeting of the council for considering any by-law in that behalf." (Sec. 29, Act of 1879.)

NOTE 1.—The council has no power to "alter or amend" the trustees' estimate in any particular, or reduce the gross amount required. It may accept it by a vote of the majority present, or reject it as a whole by a two-thirds vote, but it cannot otherwise deal with it.

NOTE 2.—The application of the 29th section of the Act of 1879, is limited, at all events, during 1879, as follows:

"The provisions contained in the twenty-ninth section and the several sub-sections thereof (except sub-section four, relating to date of debentures), shall not apply to any case where the trustees of any high or public school corporation, before the passing of this Act, 11th March, 1879, shall have resolved upon incurring any expenditure for any of the purposes in the twenty-ninth section mentioned, or where they have entered upon or incurred, or have become liable for any such expenditure; and in any such case the said trustees shall retain, possess and exercise all the same powers and rights, as if the said twenty-ninth section and the sub-sections thereof (except sub-section four) had not been enacted." (Sec. 30, Act of 1879.)

19.—Trustees Remedy in Case of Rejection of Estimate.

The new law states that:

“Where the municipal council, by a two-thirds vote, refuses to raise or borrow the sum proposed on capital account, then such question shall be submitted by the municipal council, if requested by the school board, to the vote of the electors of the municipality in the manner provided by the 330th section of the Municipal Act for the creating of debts; and in the event of the assent of the municipal electors being thereby obtained, then it shall be the duty of such council to raise or borrow such sum.” (Sec. 29, cl. 2, Act of 1879.)

20.—By-law for Loan. (Sec. 8, ch. x., page 170.)

The quotation from the 91st section of the Public Schools Act, quoted on page 170 (Part II., Revised School Law), has been modified so as to read in substance as follows:

“No by-law of a city, town or incorporated village council for creating a debt for school purposes, shall be required to be submitted to a vote of the electors or ratepayers, unless at the request of a board of trustees of such city, town or village, in case of refusal of the council concerned (by a two-thirds vote of the members present) to act upon the estimate and requisition of the board with a view to provide funds for expenditure by such board on ‘capital account.’” (Sec. 29, Act of 1879.)

21.—Duty of Clerks of Cities and Towns Separated.

The clerk of every city and town separated from a county shall, before the first day of April in each year, make a return to the Minister of Education, showing the population of such city or town, as shown by the assessment rolls for the previous year of such city or town. (Sec. 22, Act of 1879.)

22.—Municipal Clerk and Separate School Supporters.

(Sec. 2, ch. x., page 167.)

The clerk of the council of every city, town and village, is required, on request, to furnish the Roman Catholic separate school board in such municipality with “a list of persons being supporters of separate schools in each ward, or school district, as shown by the last revised assessment roll, or the notices or lists of separate school supporters filed in his office. (Sec. 23, Act of 1879.)

23.—Municipal Clerks and Separate School Voters' Lists.

1. The clerk of each city and town, divided into wards, is required to furnish the separate school board, “within three days after request in writing, ‘the voters’ list’ for each ward of such municipality, annexing thereto a list of the names of persons being supporters of separate schools; and also a list of the names, alphabetically arranged, of all freeholders, householders or tenants, and persons entitled to vote in respect of income, rated upon the then last revised assessment roll, and not being already upon ‘the voters’ list.’” (Sec. 4, Act of 1879.)

2. In towns not divided into wards and villages, the clerk of the municipality shall furnish to the separate school board, within three days after request in writing, "the voters' list" for each polling subdivision in the case of such town or village, as provided by the last preceding section. (Sec. 5, Act of 1879.)

V.—SCHOOL BOARDS IN CITIES, TOWNS AND VILLAGES.

24.—Day of Nomination and Election. (Sec. 1, ch. xii., page 175.)

The provision of the law relating to the election of trustees, as quoted on page 175 (Part II.), has been changed so as to read as follows:

1. *Day of Nominations.*—A meeting of the electors for the nomination of candidates for the office of public school trustees shall take place at noon, on the last Wednesday in the month of December annually, or if a holiday, on the day following, at such place as shall from time to time be fixed by resolution of the public school board, and in municipalities divided into wards, in each ward thereof, if the board in its discretion thinks fit.

2. *Returning Officers.*—The public school board shall by resolution name the returning officer or officers to preside at the meeting or meetings for the nomination of candidates; and in case of the absence of such officer, the chairman chosen by the meeting shall preside; and the public school board shall give at least six days' notice of such meeting.

3. *Proceedings at Nomination.*—If at the said meeting only the necessary number of candidates to fill the vacant offices are proposed and seconded, the returning officer or person presiding shall, after the lapse of one hour, declare such candidates duly elected; but if two or more candidates are proposed for any one office, and a poll in respect of any such office is demanded by any candidate or elector, the returning officer or chairman shall adjourn the proceedings for filling such office until the first Wednesday of the month of January then next, when a poll or polls shall be opened at such place or places, and in each ward, where such exist, as shall be determined by resolution of the said trustees.

4. *Hours of Polling.*—The poll or polls shall be opened at the hour of ten of the clock in the forenoon, and shall continue open until five o'clock in the afternoon, and no longer; and any poll may close at any time after eleven o'clock in the forenoon, when a full hour has elapsed without any vote having been polled.

5. *Place for Nomination and Election—Returning Officer.*—The public school board shall before the second Wednesday in December in each year, by resolution, fix the place or places for the nomination meeting, and also for holding the election in case of a poll; and also name the returning officer who shall preside at the respective polling places, and forthwith give public notice thereof.

6. *Duty of Returning Officer.*—The returning officer or person presiding shall, on the day after the close of the election, return the poll book to the public school board, with his solemn declaration thereto annexed, that the poll book has been correctly kept, and contains a true record of the votes given at the polling place for which he was returning officer.

7. *Duty of Public School Board.*—The public school board shall add up the number of votes for each candidate for any office, as appears from the poll book so returned, and shall declare elected the candidate or candidates having the highest number of votes; and shall at noon, on the day following the return of the poll books, put up in some conspicuous place in the municipality, and at one or more of the school houses therein, a statement shewing the number of votes for each candidate; and a majority in number of the trustees remaining in office, shall be a quorum for the foregoing purposes.

8. *Casting Vote.*—In case two or more candidates have an equal number of votes, the member of the board present who is assessed highest as a ratepayer on the last revised assessment roll, shall, at the time of declaring the result of the poll, give a vote for one or more of such candidates, so as to decide the election.

9. *County Judge to Receive Complaints.*—The judge of the county court shall, within twenty days after the election of any trustee of a public school board in any municipality within his county, receive and investigate any complaint respecting the validity or mode of conducting the election, and in a summary manner shall hear and determine the same; and may by order cause the assessment rolls, collector's rolls, poll books, and any other records of the election, to be brought before him; and may inquire into the facts on affidavit or affirmation, or by oral testimony; and cause such person or persons to appear before him, as he may deem expedient; and may confirm the said election, or set it aside, or order that some other candidate was duly elected; and the judge may order the person found by him not to have been duly elected to be removed; and in case the judge determines that any other person was duly elected, the judge may order him to be admitted; and in case the judge determines that no other person was duly elected instead of the person removed, the judge shall order a new election to be held, and shall appoint the time and place of holding such election.

10. *Vacancy in Office of Trustee.*—In case of any vacancy in the office of trustee of any public school board arising from any cause, the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy so created, and the person thereupon elected shall hold his seat for the residue of the term for which his predecessor was elected, or for which the office is to be filled.

11. *Proceedings at New Election.*—The new election shall be conducted in the same manner, and be subject to the same provisions as an annual election; and the public school board shall give at least six days' notice of the nomination of candidates, and in case a poll be demanded, the election shall be held one week from the day of said nomination. (Sec. 7, Act of 1879.)

25.—Elector's Right to Vote. (Sec. 10, ch. xii., page 178.)

The right of any person to vote in any municipality, at any election of public school trustees, or upon any school question, is extended so as to comprise in addition to the persons now entitled by law, every person named upon "the voters' list" of such municipality, and whether entitled to vote at municipal elections or elections to the Legislative Assembly, when such person has been assessed for, and has paid a rate imposed upon him for public school purposes within the last twelve months in the ward, town, village or school section in which he is proposing to vote at such election or meeting. (Sec. 2, Act of 1879.)

26.—Test of Right to Vote. (Sec. 11, ch. xii., page 178.)

In case an objection is made to the right of any person to vote at any such election in any municipality or upon any other subject connected with public school purposes therein, the returning officer, chairman or other officer presiding at the election or meeting, shall require the person whose right of voting is objected to, to make the following declaration or affirmation:

"I, A. B., do declare and affirm that I am the person named in the certified copy of the Voters' List now shown to me [or have been rated on the last revised assessment roll of this municipality as a freeholder (or householder or

"tenant, or in respect of income, as the case may be),] and that I am of the full age of twenty-one years, and that I have the right by law to vote at this election (or meeting, as the case may be)."

Whereupon the person making such declaration shall be permitted to vote. (Sec. 3, Act of 1879.)

27.—Trustees to obtain Voters' List from Municipal Clerk.

1. *In cities and towns divided into wards.*—It cities and towns divided into wards, and in townships where public school boards exist, the clerk of the municipality shall furnish to the public school board within three days after request in writing "the voters' list for each ward of such municipality, annexing thereto a list of the names of persons being supporters of separate schools, and also a list of the names alphabetically arranged of all freeholders, householders or tenants, and persons entitled to vote in respect of income, rated upon the then last revised assessment roll, and not being already upon "the voters' list." (Sec. 4, Act of 1879.)

2. *In towns and villages not divided into wards.*—In towns not divided into wards and villages, the clerk of the municipality shall furnish to the public school board within three days after request in writing, "the voters' list" for each polling sub-division in the case of such town or village, as provided by the last preceding section. (Sec. 5, Act of 1879.)

28.—Proceedings at City, Town and Village School Elections.

The public school board shall provide each polling place with the list aforesaid and also a poll book; and, at every election at which a poll is demanded, the returning officer or person presiding, or his sworn poll clerk, shall enter in such book in separate columns the names of the candidates proposed and seconded at the nomination, and shall, opposite to such columns, write the names of the electors offering to vote at the election, and shall, in each column on which is entered the name of a candidate voted for by a voter, set the figure "1" opposite the voter's name, with the residence of the voter, and in case of a poll demanded upon any public school question, the name of each voter shall be similarly placed in separate columns, marked "for" or "against." (Sec. 6, Act of 1879.)

29.—Sections of Chapter X. not affected by Act of 1879.

Sections 8, 9, 12, 13, 15, and following sections of chapter xii., pages 177-181, Part II. of the Revised School Law, have not been affected by the changes in the supplementary school Act of 1879.





VI.—POWERS OF SCHOOL BOARDS. (Chapters XV. and XVI., pages 187 and 196.)

30.—Requisition of Board on Council. (Sec. 3, ch. xvi., p. 197.)

NOTE 1.—*Current Expenditure.*—The law has not been changed in regard to the obligation resting on city, town and village councils to raise by rate all sums required by public school boards, as per their estimate and requisition, for current expenditure. (See section on page 19 of this publication.)

NOTE 2.—*Expenditure on "Capital Account."*—The obligation formerly resting on city, town and village councils to raise such sums for expenditure on "capital account" as may be required by public school boards, has been modified in the manner pointed out in section 18, page 20, of this publication. (Sec. 29, Act of 1879.)

31.—School Sites—Arbitrators. (Sec. 8, ch. xv., page 188.)

In addition to the powers conferred upon arbitrators, under the Public Schools Act, in reference to the compulsory taking of land for school sites, they shall have the power to settle all claims or rights of incumbancers, lessees, tenants, or other persons, as well as those of the owner, in respect of the land required for the purpose of the school site, upon notice in writing to every such claimant, and after hearing and determining his claims or rights. (Sec. 15, Act of 1879.)

32.—City Model School. (Sec. 14, ch. xvi., page 202.)

The public school board of any city may constitute one or more of the public schools of such city to be a model school for the preliminary training of public school teachers therein, subject to the regulations of the Education Department. (Sec. 1, Act of 1879.)

NOTE.—As to the claim of the teacher of a model school to the legislative and local grants to a model school, the Minister has decided that the whole intention and object of these grants are to secure by proper salaries a sufficient staff for model school purposes, so as to enable the trustee board to meet the requirements of the official regulations. The arrangement is between the Department and the public school board. The teachers are employed by the board, and they and the school are under the control of the board and its inspector. The teachers have, therefore, no direct claim upon these grants; but it is a subject for consideration when they are engaged by the board.

33.—Fees on Non-Resident Pupils. (Sec. 21, cl. 4, page 205.)

After the 18th of August, 1879, trustee boards are authorized to impose a fee upon the children of all non-residents of their municipality, whether ratepayers in it or not, not exceeding 25 cents per calendar month in advance. (Sec. 13, Act of 1879 and Regulations.)

NOTE.—See section 16, page 7, of this publication.

34.—To what Municipality do Town or Village Union Divisions belong. (Sec. 13, ch. iv., page 134.)

In the case of a union school section, composed of parts of two or more municipalities, the union school section shall be held for the

purposes of inspection, taxation, the borrowing of moneys, and for all school purposes as within the township, town, or village, in which the school house of the union is situate. (Sec. 16, Act of 1879.)

VII.—MISCELLANEOUS—INSPECTORS, ETC.

35.—County Inspector for Towns not Separated.

County inspectors may, with the concurrence of the Department, be appointed inspectors of public schools in towns not separated from the county. To accomplish this it is necessary for the public school board, in any town not separated from the county, to pass the required resolution, and thenceforth it would cease to possess any inspector of its own; and its schools would thenceforth be under the jurisdiction of the county inspector as such. His remuneration would then be payable by the county council and the Department at the rate of \$5 each per school per annum.

NOTE 1.—In the case mentioned no part of the salary or other remuneration of the town inspector would be lawfully payable by the town board. (Minister's Decision [1064c], 1879.)

NOTE 2.—The policy of the law and official regulations is to make the *whole* municipal county (including towns not separated and incorporated villages) one county; also for inspection purposes. (*Ibid.* [6719], 1879.)

36.—Public School Inspectors and Entrance to High Schools.

In cities and towns the inspector of public schools, and the head master of the high school or collegiate institute, shall together constitute the board of examiners for the admission of pupils to the high school or collegiate institute; and the expenses of the examination shall hereafter be borne equally by the high and public school boards, after deducting any fees imposed by the Education Department therefor; and sub-sections twenty-two and twenty-three of section one hundred and four of the Public Schools Act, are hereby repealed, so far as inconsistent with the provisions of this section. (Sec. 31, Act of 1879.)

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