

CARTWRIGHT COUNCIL

A special meeting of Council was called by Reeve on July 14, 1925, at 7.30 p. m. to have all minute books, notices of agreement of contract and all papers in connection with the Continuation School investigated by W. H. Harris, solicitor. The members were all present except Couns. Devitt and Van Camp.

As per motion of previous meeting clerk had notified the sec-treas. of S. S. No. 2, to have the trustees present and produce minute books, notices of meetings agreement of contract and all papers in connection with the Continuation School. Trustees did not appear nor produce their books, etc. Mr. Harris being present made the following remarks:

The trustees of Public School Section No. 2 of Cartwright Township called a meeting of the ratepayers of School Section No. 2 on July 4th, 1924, to decide whether a Continuation School should be erected on School Section No. 2. On July 4 and July 7th, 1924, a poll was taken and by a vote of 45 for and 42 against it was decided to erect a Continuation School.

On July 7, 1924, the trustees of school section No. 2 met for the purpose of calling a special meeting of the ratepayers to choose a site for the Continuation School and to authorize the trustees to apply to the Township Council to issue debentures for \$8000 to erect and equip a Continuation School. No motion or resolution was made by the Trustee Board in pursuance of the object of the meeting calling for a meeting of the ratepayers, nor is there anything to show that proper notices were given or issued, nor is there anything to show that the trustees first selected a site in pursuance of Section 11, Sub-section 1 of the School Act.

The ratepayers met on July 15th, 1924, and it was moved and carried that the Continuation School should

be erected and conducted in the grounds, contiguous to the present school and the trustees were authorized to purchase additional lands adjoining the present site and to make same adequate for the purposes of said Continuation School.

It was also moved that the Board of Trustees of School Section No. 2 were authorized to apply to the Council for the Corporation of the Township of Cartwright to raise \$8000 and to hand same over to the trustees to meet the costs of said Continuation School and to pass a by-law to raise said sum of debentures bearing interest at 5 1/2% repayable in equal annual payments of principal and interest over a period of 20 years.

In pursuance of said resolution passed by the ratepayers, two members of the Public School Board signed an application to the Council asking the Council to issue debentures for \$8000.

1. To purchase additional land adjoining the site of the present school, to make the same adequate for the purposes of said Continuation School or

2. To purchase land for another site on which to build said school and to build said school on said site;

3. To approve of the plans and specifications which have been prepared for the said Continuation School either to be built as an addition to the present Public School or as a separate building on a new site to be purchased.

In pursuance of said application, the Council passed a by-law to raise the said sum of \$8000, worded as in the application for the three purposes therein mentioned.

From the information above mentioned, I notice the following flaws in the proceedings:

1. The trustees did not call a special meeting of the ratepayers by resolution.

2. The trustees did not select a site as directed by Sec. 11 of the School Act.

3. The ratepayers selected a site contiguous to and adjoining the old school site, but the trustees selected another site some distance away.

4. The application to the Council varied from the selection of site by the electors and does not earnestly state the selection of the electors by mentioning three different places for the Continuation School.

5. There is nothing to show that the application for debentures was made by resolution of the School Board. Two members of the School Board signed, but it was not signed by the secretary of the Board, nor was it signed pursuant to the resolution of the Board.

If the facts are as above outlined then I am clearly of the opinion:

(a) That the purchase of a Continuation School site 15 rods or more from the present site and on the opposite side of the road is an illegal transaction and that the monies for the debentures may not be used for purchasing the site.

(b) That the trustees may be restrained from purchasing the site.

(c) The present by-law is invalid because it provides for three methods of selecting a school site and is not in accordance with the School Act.

(d) The application by the trustees for by-law to issue debentures is irregular because it does not agree with the resolution passed by the electors and because there is nothing to show that the application was made by the Board of Trustees. The application should be withdrawn by the Board for this reason, and a new application made.

I am of the opinion that all the proceedings are invalid if facts are as I have stated. The Trustee Board did not call a meeting of electors, and if a meeting was called, it was called irregularly by some other party without any authority from the Trustee Board. There is nothing to show that a special meeting of the trustees was called to select a site for the Continuation School and there is nothing to show that the trustees did select a site. If the meeting of the electors selected a site, the selection was very indefinitely expressed and it would be very difficult to say where they did choose a site.

Under all circumstances, I am of the opinion that the whole business of deciding on a Continuation School, selecting a site for the said school and giving instructions to have debentures issued, should be done at another meeting of the electors, properly called by the trustees.

I would suggest that a trustee meeting be first called properly to make a selection of the site and for the purpose of calling a meeting of the electors for the various purposes above mentioned. All the trustees should be properly notified and evidence of such notification should be kept.

Act which shall select a site upon call of ratepayers. I did not select a school site and did not authorize a special meeting of the electors to be called.

I would refer to the case re Township of Cartwright 50, L. R., pg. 699, where the judge of appeal says: I think it the clear duty of the Township Council acting judicially without bias to investigate the facts.

I would refer you to a case in the court of appeal between Toronto Public School Board and the City of Toronto 40, L. R., pg. 473, where the judge says as follows: the right and duty of the Council is to examine the estimates so far as to ascertain that it is for purposes "stra vires" the school board. If an item or class of item is clearly for a purpose for which the board is not authorized by law to expend money, it is the right and duty of the Council to reject it.

I would refer you to the case of HeGugan vs. school trustees of Southwold O. R. 17, pg. 429, which says:

The meeting is called to pass upon two matters: first as to whether there shall be a change of site, and if so, second whether the purposed new site is acceptable.

The special meeting is called for a special purpose, and that purpose should be so presented to the ratepayers assembled that there shall be no peradventure as to what was the thing, agreed upon by the majority.

In this case the trustees had not decided upon any site to put before the electors.

Moved by Couns. Edgerton that Mr. Harris, solicitor, take proceedings and demand an investigation of books and papers of the trustees of S. S. No. 2 re Continuation School, seconded by Coun. Jobb and supported by Reeve. Carried.

Reeve adjourned meeting at 8.40 p. m. till next regular meeting or subject to call by him.

The minutes of the trustee meetings should be properly entered, the notices of public meetings should be kept, the minutes of public meetings should be kept.

The trustee meeting to make the application to the Council for debentures should be properly called. The minutes of said meeting should be properly kept and the by-law should be drawn in pursuance of all facts duly recorded in the application and in the by-law.

I refer to the following cases: Orr v. Ranney, U. E. Queen's Bench Reports, pg. 377, vol. 12.

The trustees cannot without reference to the ratepayer select and purchase a school site. This is practically what the trustees are doing in this case. This case also decides that two trustees of a school section are not competent to act in all cases without consulting the third. We cannot say whether the third trustee was consulted in making the application because we have none of the minutes of the Trustee Board before us and we cannot say whether proper notices of this meeting before application for debentures, was sent out by the trustee.

CARTWRIGHT COUNCIL

A special meeting was called by the Reeve on July 14th, 1925, with members all present.

Clerk read communication from D. B. Simpson, J. C. attending school re Honer vs. Council. Council being constituted with Mr. Harris, moved by Couns. Jobb and Edgerton that clerk write Mr. Simpson.

Reeve stated owing to the opinion of Ling and Daley Co., bond experts, the validity of By-law No. 580 and other matters, thought Council should take some action to protect the Council and ratepayers.

Coun. Edgerton moved that a special meeting be called by Reeve. Clerk to notify trustees of S. S. No. 2 to be present and produce minute book notices of meeting agreement of contract and all papers in connection with the Continuation School. Reeve and Clerk to be a committee and get legal advise and have a solution at said meeting when called to investigate. Seconded by Couns. Jobb and supported by Reeve. Carried.

Reeve adjourned the meeting. Clerk stated their should have been a caution put on Trustees of S. S. No. 2 till the validity of the debentures is ascertained. Councillor Van Camp stated meeting as adjourned.

Reeve then declared the meeting adjourned for one hour.

After the lapse of one hour Council met with members all present except Coun. Van Camp.

Reeve asked for motion to caution the Trustees.

Coun. Edgerton moved that clerk notify trustees of S. S. No. 2 not to sell or dispose of the debentures re Continuation School until the validity of same had been ascertained. Seconded by Couns. Jobb and Reeve stated carried.