

THE EXAMINER.

VOL. 2.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, MONDAY, MARCH 11, 1878.

NO. 254.

THE DAILY EXAMINER

Is Published every Evening.
OFFICE:
ING'S BUILDING, CORNER OF WATER
AND GREAT GEORGE STREETS,
Charlottetown, P. E. I.

RATES OF SUBSCRIPTION:
Six Months, \$2 50
Three Months, 1 25
One Month, 0 50
One Week, 0 12

Advertising at most moderate rates.
Contracts may be made for monthly, quarterly, or half-yearly advertisements, on application.
W. L. COTTON, J. W. MITCHELL,
Manager. Office Sup't.

PRINCE EDWARD ISLAND RAILWAY.

TIME TABLE NO. 8.
WINTER ARRANGEMENT.

To come into force MONDAY, DEC. 24, 1877

TRAINS GOING WEST.

STATIONS.	No. 5 EXPRESS	No. 7 MIXED
GEORGETOWN	Dp. 8.00	P. M.
Cardigan	" 9.02	
Mount Stewart Junction	Ar. 10.25	
Royalty Junction	Dp. 10.35	
	" 11.46	
CHARLOTTETOWN	P. M.	P. M.
	Ar. 12.10	Dp. 2.40
	Dp. 9.00	
Royalty Junction	" 9.25	" 3.05
North Wiltshire	" 10.22	" 4.02
Hunter River	" 10.40	" 4.20
Brakalbane	" 11.18	" 5.00
County Line	" 11.28	" 5.10
	P. M.	
Kensington	Ar. 12.07	" 5.50
SUMMERSIDE	Ar. 12.45	
	Dp. 2.00	" 6.20
Wellington	" 2.45	
Port Hill	" 3.28	
O'Leary	" 4.42	
Alberton	" 5.45	
Tignish	" 6.35	

TRAINS GOING EAST.

STATIONS.	No. 2 EXPRESS	No. 4 MIXED
TIGNISH	A. M.	
ALBERTON	Dp. 8.00	
O'Leary	" 8.55	
Port Hill	" 9.52	
Wellington	" 11.07	
	" 11.48	
SUMMERSIDE	Ar. 12.35	Dp. 8.35
	Dp. 2.10	" 9.12
Kensington	" 2.48	" 9.50
County Line	" 3.30	" 10.10
Brakalbane	" 3.40	" 10.10
Hunter River	" 4.20	" 10.40
North Wiltshire	" 4.35	" 10.58
Royalty Junction	" 5.30	" 11.56
CHARLOTTETOWN	Ar. 5.55	
	Dp. 2.05	" 12.20
Royalty Junction	" 2.30	
MT. STEWART Junc.	Ar. 3.40	
	Dp. 3.50	
Cardigan	" 5.12	
GEORGETOWN.	Ar. 5.40	

SOURIS BRANCH.

Going West. Going East.

STATIONS.	No. 5 MIXED	STATIONS.	No. 6 MIXED
	A. M.		P. M.
Souris	Dp. 7.30	Mt. St. w't Jc	Dp. 3.50
Harmony	" 7.55	Lot 40	" 4.25
St. Peter's	" 9.10	Morell	" 4.32
Morell	" 9.42	St. Peter's	" 5.05
Lot 40	" 9.48	Harmony	" 6.20
Mt. St. w't Jnc	Ar. 10.25	Souris	Ar. 6.45

C. J. BRYDGES, W. McKECHNIE
Gen. Superintendent Supt. P. E. I.
Govt. Railways. Railway.

Notice to the Public!

SUPPLIES for the "Soup Kitchen" will reach the Committee if left at the Store of Mr. Alex. Horne, Corner of Queen and Fitzroy Streets.
Donations of money will be received by them through Dr. Dodd and Mr. J. Quirk, N. B.—Food for the sick carefully prepared by the Committee.
Nov. 30, 1877.

TEA!

SEASON 1877-1878.
We have received, by last trip of "Northern Light,"
50 CHESTS TEA, of the latest season—FRESH AND VERY SUPERIOR.
CARVELL BROS.
Ch'town, Feb. 23-24

BUY THE DAILY EXAMINER for the latest news—local and telegraphic.

BOOK & JOB PRINTING!

neatly and expeditiously executed,
AT THE "EXAMINER" OFFICE
under the careful supervision of
J. W. MITCHELL

We are now in a position to execute orders for all kinds of Printing, such as

LETTER HEADS,
BILL HEADS,
CIRCULARS,
CARDS.

PAMPHLETS,
DODGERS,
HANDBILLS,
POSTERS,
AND ALL KINDS OF

Bank and Legal Blanks,
&c. &c. &c.
AT MODERATE PRICES.

Office:—Ings' Old Stand,
Corner Great George and Water Streets.

NORTH STAR COFFEE AND LUNCH ROOMS

OYSTER SALOON.

MRS. E. COOMBS,
SUCCESSOR TO
J. CARROL.

MEALS served at all hours of the day and evening, at reduced rates.
OYSTERS sent to all parts of the City at the very low price of

30 CENTS PER QUART!
Also for sale by the Barrel, Bushel, or Peck to suit purchasers.
Ch'town, Jan. 14, 1878—2 aw

A CARD TO THE PUBLIC

WHILE taking this opportunity of thanking our numerous customers for the liberal manner in which they have patronized

OUR NEW STUDIO,

we would inform them that we have now increased facilities for the production of first-class work, and are prepared to make PHOTOGRAPHS of a Style and Quality that has never been before attempted in this City.

We have on exhibition, at our Rooms, a large number of Photographs of every variety, including the

BEAUTIFUL PHOTO-ENAMEL

the most beautiful style of Photograph known, possessing a softness and delicacy of coloring that has never been equalled. This elegant picture has become deservedly popular elsewhere, and cannot fail to become so here.

Through the finish of our Photographs cannot be excelled, we would direct attention to the beautiful

Glace Pictures

which we make. They possess a highly enamelled surface, and are practically indestructible, and will retain their freshness and beauty for any length of time. If they become soiled they can easily be cleaned, as they will not lose any of their beauty by being wet. This valuable quality, combined with their remarkable elegance, make them very suitable for presents; while the difficulty of their production will prevent them ever becoming so common as to lessen their value. Our patrons can have one or all of their Photos finished in this style—an advantage which cannot be obtained elsewhere.

We give special attention to making Groups of Families, Societies, Schools, &c. Our pictures of children are sufficient evidence of our success in this difficult branch of our art.

Our ENLARGEMENTS, finished in India Ink, Pastel, Crayon, Oil and Water Colors, have made a favorable reputation for them selves throughout the Lower Provinces.

Parties intending to have Photographs made will find it to their advantage to sit early, as the number of our customers makes some delay in the delivery of the Photos unavoidable. We prefer to have our sitters come by appointment.

Photographs can be obtained for less money elsewhere; but in this case we ask that quality be given the preference; assuring the public that they will find our charges very moderate.

ROSS BROS.,
Cor. Queen and Dorchester Streets,
opposite Connolly's Bank.
Sept. 19, 1877—3m eod

1878.

THE Weekly Examiner

FURNISHES MORE NEWS, FOR LESS MONEY THAN ANY OTHER PAPER IN THE PROVINCE.

It Contains Twenty-eight Columns, nearly every one of which is in closely set READING MATTER.

CONSIDER OUR TERMS:

SINGLE COPIES to the 31st December, 1878—thirteen months—\$1.00 in advance.

SIX COPIES to one address, or addressed separately, as desired, \$5.50 in advance.

TEN COPIES to one address, or addressed separately, as desired, \$9.00 in advance.

FIFTEEN COPIES to one address, or addressed separately, as required, \$13.50 in advance.

TWENTY COPIES to one address, or addressed separately, as desired, \$17.00.

IN DULL TIMES

CHEAPEST AND BEST

The Weekly Examiner

is acknowledged to be ahead of any other paper in the Province in the item of

LOCAL NEWS

and is always well filled with

Political, Shipping, Commercial and General Information.

The debates of the Local Legislature will be carefully and impartially given. Special telegrams and letters from "Our Own Ottawa Correspondent" will contain everything of interest transpiring in the Dominion Parliament.

A Good Story will be made a specialty.

The Daily Examiner

Will be sent to any part of the Province, the Dominion, United States or Great Britain on receipt of

For Six Months, \$2.50
For Three Months, 1.25
For One Month,50

ADDRESS,
W. L. COTTON,
Manager Examiner Printing and Publishing Company.
Ch'town, Dec. 6, 1877.

Important Judgment.

We give below in full a very important decision of Judge Alley in the case of the Trustees of St. Catherine's School against Donald McPhail. The judgment will be found worthy of a perusal, as it touches on a point apt frequently to spring up in connection with the working of the School Law.

COUNTY COURT—SIXTH CIRCUIT.

The Trustees of the St. Catherine's School District, Number 35, in the County of Queen's, vs. Donald McPhail:

This action was brought for the recovery of assessment under the "Public Schools Act, 1877," against the defendant as a ratepayer in the District.

The liability to District assessment in respect to real estate under the "Public Schools Act" is regulated by 19th Section and subsections thereto—(a) and (b). Sub-section (a) provides that "Residents of the District shall be rated and assessed in such District in respect of their real estate property rateable for provincial purposes." Does this property refer to all the real property held by the residents of a School District where soever it may be situate, or is it restricted to such property as is held by residents within the District? The sub-section, it is true, does not *totidemis verbis* define the property of residents which shall be liable under the law to District assessment, but I think the following sub-section and the 20th section sufficiently explain its meaning and removes the ambiguity which would otherwise exist on the subject. Sub-section (b) is providing for the cases of corporations and companies, firms where any of the partners reside without the District, and persons non resident in the District; but liable to be rated as inhabitants by reason of carrying on business therein, indicates that the liability is intended to be local, and restricted to property situate in the District when the rate-payer is assessed. It is attachable to these classes as inhabitants, or by reason of carrying on business in the District. Provisions are made that they shall be rated in the District where the real property is situate. Under the New Brunswick Common School Act, from which this section has been copied, express provision is made that non-residents, owning Real Property in any District in the Parish shall, in respect of such property, be rated and assessed in the District in which it lies. The omission of this provision in our Statute, gives rise to the question under consideration, and the insertion of sub-section (b) would seem to limit the liability of non-residents to the class therein enumerated. The parties liable to be assessed may therefore be divided into two classes, viz: individuals actually resident, and persons, firms, or companies non-resident, or bodies corporate who are nevertheless to be regarded in the light of inhabitants of, or in other words, residents in the district by reason of carrying on business therein. *Vide* Corbett vs. Steam Navigation Company; 28 L. J., Extract 214. The liability of this latter class is clearly restricted to such property as is situate within the district, and this subsection must, in my opinion, be read and construed as subordinate to and explanatory of the first subsection. The same measure or extent of liability must therefore attach to individuals resident in the district under the first subsection. The reference to trustee executors and others liable to be rated in a special capacity must be held to apply to that class of persons holding a fiduciary relation towards persons resident in the district and whose property is situate therein. In those cases the persons beneficially interested are regarded as the real owners for the purposes of the Act. The next section further assists, in removing doubt upon this point, in providing that the Chief Superintendent shall, for the purpose of imposing the assessment; furnish to the trustees a certified copy of the Provincial Assessment Roll, so far as it relates to the District. The word "District" is defined in the Act to mean that portion of territory into which the Government may divide the Province for local school government and for the purposes of construction it must either receive this meaning or the definition given to it under the Land Assessment Act.

The latter definition, although apparently the one which has been given to it in the working of the Act, is not, in any sense, reconcilable with the spirit or intention of the Statute. Those words, "as far as relates to the District," must, therefore, be construed to apply or relate to the rateable land or real property, situate within the School District; and not simply to the persons resident therein, without regard to the consideration, whether their land is situate within its limits or not. This section further defines that such copy shall contain all the names of rate-payers in the District, together with the kinds and amounts in value of their rateable property, and the following section empowers the Trustees to add the name of any person liable to be assessed in their District, which may have been omitted, and to insert the kind and value of his rateable property. This authority conferred on the Trustees to supply omissions is co-ordinate with that to be exercised in the preparation of the Assessment Rolls; and it is unreasonable to assume that the law intended to give them authority to value lands not within their District. The language of the section and the whole spirit and purview of the statute, forbids this construction. The Act is, in nearly all its important provisions, a transcript of the New Brunswick School Act, which contains provisions almost identical with subsections (a) and (b) of the 19th section of our Act. Express provision is also made in that Act that land of non-residents shall be liable under all circumstances to pay school rates for the District wherein they are situate. This provision has been omitted in our statute, so that the liability for District assessment must be confined to residents of Districts by reasons of lands held therein, and to those particular classes of non-residents, mentioned in subsection (b). The object of the Statute is to make each School District dependent upon itself in raising the assessment required for the purposes enumerated in the 19th section, and this object can only be attained by adopting this construction. By adopting the other, a double liability would be im-

posed on rate-payers who reside in one district and carried on business in another, in respect of such property as was held by them in the district in which they were non-residents. This could never have been contemplated by the Legislature.

As the 20th section, already referred to, makes the provincial assessment roll, so far as it relates to the District, the basis upon which the District Assessment is to be estimated, the provisions of the Land Assessment Act, and the Public Schools Act, ought so far harmonize as to make this construction a practical one. Then does the Provincial Assessment Act furnish the means of, enabling the Chief Superintendent to obtain a certified copy of the roll, so far as it relates to the District in the sense here applied to the Act?

That Act defines the District for which each Board of Assessors is appointed to mean an electoral district, and each of such Districts includes a number of School Districts. The 19th section provides that the Provincial Treasurer shall furnish each Board of Assessors with schedules with printed headings, to be filled up as directed by Schedule B, and the 21st section sets out the contents of this schedule. Amongst these are (No. 6.) The name and number of the School District and (No. 7) the number of the Township. These requirements must be held to relate to the District and number of the Township where the property assessed is situate. The 22nd section, requiring the Secretary of the Board of Trustees in every School District (other than incorporated towns), to furnish the assessors with the names of the persons liable to be rated in each District for District School purposes, is framed from the 27th and 28th section of the of the New Brunswick School Act, and appears to have been introduced into the Land Assessment Act for the very purpose of supplying the information necessary to make this Act auxiliary to the Education Act in this respect.

The schedule B, contains two columns for insertion of the School District—one for residents, and the other for non residents. The column for insertion of the School District must have been provided, either for the purpose of designating the School District where the property is held, or the School District where the rate-payer resides. The object of the Legislature in providing this column for the first named purpose, is perfectly clear and intelligible, and is consistent with the construction I have already given the Education Act—that object being to furnish the necessary information for working the Public Schools Act, in accordance to the Trustees the means of imposing assessment thereunder. The 17th section of the Act makes provisions relating to assessments upon corporations and companies similar to that part of the 19th section of the Public Schools Act relating to them. While the Provincial Assessment Act is not perfectly clear in providing that the *quantum* of land held by each person in which School District shall be separately stated, the fact that each School District shall be set forth in the schedule and that the Secretary of each Board of Trustees shall furnish a statement as required by the 22nd section, implies that the land of each person in each School District shall be distinguished in the Assessors returns. I understand that in some cases this course has been adopted by the Assessors, while in others the land owned by each person in the electoral District has been valued in a gross sum without distinguishing the valuations of farms belonging to the same person situate in separate School Districts, but within the the same electoral District. The former course seems to be correct, and most consistent with the true interpretation of the two Acts; and in cases where it has not been adopted, the 57th Section of the Assessment Act enables the Assessors so to amend the lists as to correct the error in this respect. On the whole question, I think that residents of School Districts are only liable under the law to be taxed for the lands within the District; and that non-residents are only liable in those cases embraced in subsection (b) for Assessment in the School District where their lands are situate. It is a clear rule of law that statutes imposing taxes are to receive a strict construction, and in cases of doubt, the construction most favorable to the subject must be adopted.

Having thus reached this conclusion as to the classes of persons liable to district assessment and the extent of their liability, let us now consider the proofs necessary under the Statute to establish such liability in any action brought for the recovery of the assessment. These are prescribed by the 20th section and five succeeding sections of the School Act. This section already referred to makes the certified copy of the Provincial Assessment Roll, so far as it relates to the District, and containing the names of all rate-payers therein, with the kinds and amounts of their rateable property, the bases upon which such assessment shall be estimated; and in the 21st section provision is made that the Trustees may add thereto the names of any persons liable to be assessed in their district, but in no other respect shall they alter or interfere with such certified copy. The *quantum* of land of each rate payer and the valuations, as set forth in the Roll so certified, are made conclusive and unalterable. As explanatory of the meaning of this section, reference may be made to the 37th section, which provides that in cases where the Trustees are unable to discharge their duties, owing to any default in the school meeting, they shall furnish to the Inspector a copy of the list duly certified by the Provincial Treasurer of the amount of the taxable valuation of the property liable to be assessed in their District, who shall transmit the same to the Superintendent, and he is empowered to give the Trustees the same authority to assess under those circumstances which they would otherwise derive from the School Meeting. Under the following section, the Trustees are directed, after making such additions, to add up the total amount in value of the valuable property therein, and apportion it rateably among the rate-payers on such list, and after such list is complete, they shall furnish the same to their Secretary with a written authority to him, under their signatures, to sue for the several amounts set opposite their names. Provision is further made that on the hearing of any suit the list so furnished and purporting to be signed by the Trustees, and evidence of the demand under the Act shall, where no notice is