

Laws of Her Majesty's Province of United Canada, passed in the year 1851. Quebec: Stewart Derbshire and George Desbarts, 1852.

16 Victoria – Chapter 185

An Act supplementary to the Common School Act for Upper Canada. Assented to 14th June, 1853.

Whereas it is expedient to make some further provision for the improvement of Common Schools in Upper Canada, and to modify and extend some of the provisions of the Act passed in the session held in the thirteenth and fourteenth years of Her Majesty's Reign, chaptered forty-eight., and intituled, *An Act for the better establishment and maintenance of Common Schools in Upper Canada*, hereinafter called "the Upper Canada School Act of 1850": Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Board of School Trustees in each City, Town and incorporated Village, shall, in addition to the powers with which they are now legally invested, possess and exercise, as far as they shall judge expedient, in regard to each such City, Town and incorporated Village, all the powers with which the Trustees of each School Section are or may be invested by law in regard to each such School Section: Provided always, that the Chairman of each such Board of School Trustees shall be elected by the Trustees from their own number, and shall have a right to vote at all times, and in case of an equality of votes, the maxim *præsumitur pro negante* shall prevail.

II. And be it enacted, That in any Village or Town not divided into Wards in Upper Canada, which shall become incorporated according to Law, an Election of a Board of School Trustees for such Village or Town shall take place at the time specified in the second section of the said Upper Canada School Act of 1850; Provided always, that the first Election of such Board of School Trustees shall be called by the Returning Officer appointed to hold the first Municipal Election in such Village or Town, or in case of his neglecting to do so for one month, by any two Freeholders in such Village or Town, on giving six days' notice in at least three public places in such Village or Town; Provided also, that all Elections of School Trustees that have taken place in Villages and Towns not divided into Wards, which have been incorporated since one thousand eight hundred and fifty, shall be and are hereby con-firmed, and the acts of Boards of School Trustees so elected in such Villages and Towns, are hereby made as valid as if such Boards had been elected for Villages and Towns incorporated before one thousand eight hundred and fifty: Provided likewise, that in the words "two years" which occur in the second proviso of the twenty-fifth section of the said Act, the word "three" shall be substituted for the word "two," and the said proviso shall be held to have and to have had effect as if the word "three" had been originally inserted therein instead of the word "two"; Provided nevertheless, that the twenty-fifth and twenty-sixth sections of the said Act shall be construed to apply to all such Boards of School Trustees.

III. And be it enacted, That in case an objection be made to the right of any person to vote at an Election or a School Trustee or Trustees in any City, Town, or incorporated Village, or upon any other subject connected with School purposes, the Returning Officer presiding at such Election shall require the person whose right of voting is thus objected to, to make the following declaration:

“I do declare and affirm that I have been rated on the Assessment-Roll of this City (Town or Village, as the case may be) as a Freeholder {or householder, as the case may be) and that I have paid a public School tax in this Ward, (or Village, as the case may be,) within the last twelve months, and that I am legally qualified to vote at this Election.”

And the person making such declaration shall be permitted to vote: Provided always, that any person who shall, on the complaint of any person, be convicted of wilfully making a false declaration of his right to vote, shall be deemed guilty of misdemeanor, and punishable by fine and imprisonment in the manner provided for similar cases in the seventh section of the said Upper Canada School Act of 1850.

IV. And be it enacted, That in all Cities, Towns and incorporated Villages and School Sections, in which separate Schools do or shall exist according to the provisions of the Common School Acts of Upper Canada, persons of the religious persuasion of each such separate School, sending children to it, or supporting such School by subscribing thereto annually an amount equal to the sum which each such person would be liable to pay (if such separate School did not exist) on any assessment to obtain the annual Common School Grant for each such City, Town, Incorporated Village or Township, shall be exempted from the payment of all Rates imposed for the support of the common public Schools of each such City, Town, incorporated Village or School Section, and of all rates imposed for the purpose of obtaining the Legislative Common School Grant for such City, Town, incorporated Village or Township; and each such separate School shall share in such Legislative Common School Grant only (and not in any School money raised by Local Municipal Assessment) according to the average attendance of pupils attending each such separate School, (the mean attendance of pupils for winter and summer being taken) as compared with the whole average attendance of pupils attending the Common Schools in each such City, Town, incorporated Village or Township; and a Certificate of qualification, signed by the majority of the Trustees of such separate School, shall be sufficient for any Teacher of such School: Provided always, firstly, that the exemption from the payment of such School Rates, as herein provided, shall not extend beyond the period of such persons sending children to or subscribing as aforesaid for the support of such separate School; nor shall such exemption extend to School rates or taxes imposed or to be imposed to pay for School Houses, the erection of which was undertaken or entered into before the establishment of such separate School; Provided secondly, that the Trustees of each such separate School shall, on or before the thirtieth day of June, and thirty-first day of December of each year, transmit to the local Superintendent, a correct return of the names of all persons of the religious persuasion of such separate School, who shall have sent children to or subscribed as aforesaid for the support of such separate School during the six months previous, and the names of the children sent, and amounts subscribed by them respectively, together with the average attendance of pupils in such separate School during such period; And the

Superintendent shall forthwith make a return to the Clerk of the Municipality and to the Trustees of the School Section or Municipality in which such separate School is established, stating the names of all the persons who being members of the same religious denomination contribute or send children to such separate School, and the Clerk shall not include in the Collector's Roll for the general or other School Rate, and the Trustees or Board of Trustees shall not include in their School Rolls, except for any rate for the building of School Houses undertaken before the establishing of such separate School as herein mentioned, the name of any such person as appears upon such return then last received from the said Superintendent: And the Clerk or other Officer of the Municipality within which such separate School is established, having possession of the Assessor's or Collector's Roll of the said Municipality, is hereby required to allow any one of the said Trustees, or their authorized Collector, to make a copy of such Roll as far as it shall relate to their School Section; Provided thirdly, that the provisions of the thirteenth section of the said Upper Canada School. Act of 1850, shall apply to the Trustees and Teachers of separate Schools, the same as to Trustees and Teachers of other Common Schools: Provided fourthly, that the Trustees of each such separate School shall be a corporation and shall have the same power to impose, levy and collect School Rates or subscriptions upon and from persons sending children to or subscribing towards the support of such separate School, as the Trustees of a School Section have to impose, levy and collect School Rates or subscriptions from persons having property in such Section or sending children to or subscribing towards the support of the Common School of such section: Provided fifthly, that the foregoing provisions in this clause shall take effect from the first day of January, one thousand eight hundred and fifty-three, and shall extend to the separate Schools established or intended to be established under the provisions of the Upper Canada Common Schools Acts: Provided sixthly, that no person belonging to the religious persuasion of such separate School, and sending a child or children thereto or subscribing towards the support thereof, shall be allowed to vote at the Election of any Trustee for a public Common School in the City, Town, incorporated Village or School Section within the limits of which such separate School shall be situate.

V. And be it enacted, That the Trustees of each School Section shall, on or before the thirtieth day of June, and the thirty-first day of December in each year, transmit, to the local Superintendent, a correct return of the average attendance of pupils in the School or Schools under their charge during the six months then immediately preceding; nor shall any School Section be entitled to the apportionment from the School Fund for the said six months, the Trustees and Teacher of which shall neglect to transmit a verified statement of such average attendance of pupils in their School or Schools; Provided always, that nothing herein contained shall be construed to repeal the provisions of the thirty-first section of the said Upper Canada School Act of 1850.

VI. And be it enacted, That the Trustees of each School Section shall have the same authority to assess and collect School rates for the purpose of purchasing School sites and the erection of School Houses, as they are now or may be invested with by law to assess and collect rates for other School purposes: Provided always, that they shall take no steps for procuring a School site on which to erect a new School House, or changing the site of a School House established, or that may be hereafter established, without calling a Special Meeting of the Freeholders and

Householders of their Section to consider the matter; and if a majority of such Freeholders and Householders present at such Meeting, differ from a majority of the Trustees as to the site of a School House, the question shall be disposed of in the manner prescribed by the eleventh section of the said Upper Canada School Act of 1850; Provided that such Trustees shall, whenever they impose any rate for School purposes, make a return to the Clerk of the Municipality of the amount of the rate so imposed by them.

VII. And be it enacted, That the Trustees of each School Section shall see that each School under their charge is, at all times, duly provided with a Register and Visitors' Book, in the form prepared according to law.

VIII. And be it enacted, That the Trustees of each School Section shall have authority to take such steps as they may judge expedient to unite their School with any public Grammar School, which shall be situate within or adjacent to the limits of their School Section.

IX. And be it enacted, That the Trustees of each School Section shall be personally responsible for the amount of any School moneys which shall be forfeited and lost to such School Section during the period of their continuance in office, in consequence of their neglect of duty; and the amount thus forfeited or lost shall be collected and applied in the manner provided by the ninth section of the said Upper Canada School Act of 1850, for the collection and application of the fines imposed by the said section.

X. And be it enacted, That the Trustees of each School Section, shall, each personally forfeit the sum of One Pound Five Shillings for each and every week that they shall neglect, after the thirty-first day of January in each year, to prepare and forward to their local Superintendent of Schools, their School Report, as required bylaw, for the year ending the thirty-first of December immediately preceding; and which sum or sums thus forfeited, shall be sued for by such local Superintendent, and collected and applied in the manner provided by the ninth section of the said Upper Canada School Act of 1850.

XI. And be it enacted, That no agreement between Trustees and a Teacher in any School Section, made between the first of October and the second Wednesday in January, shall be valid or binding on either party after the second Wednesday in January then next, unless such agreement shall have been signed by the two Trustees of such School Section, whose period of office shall extend to one year beyond the second Wednesday of January, after the signing of such agreement.

XII. And be it enacted, That any person residing in one School Section, and sending a child or children to the School of a neighboring School Section, shall nevertheless be liable for the payment of all rates assessed for the School purposes of the Section in which he resides, the same as if he sent his child or children to the School of such Section; and such child or children shall not be returned as attending any other than the School of the Section in which the parents or guardians of such child or children reside; but this clause shall not be held to apply to persons sending children to or supporting separate Schools, or to prevent any person who may be taxed for Common School purposes on property situate in a different School Section from that in which he

resides, from sending his children to the School of the Section in which such property may be situate on as favorable terms as if he resided in such section.

XIII. And be it enacted, That no rate shall be imposed upon the inhabitants of any School Section according to the whole number of children, or to the number of children of legal school age, residing in such section; but all the School expenses of such section shall be provided for by any or all of the three authorized methods of voluntary subscription, rate-bill for each pupil attending the School, or by rate upon property: Provided always, that, no rate-bill shall be imposed exceeding One Shilling and Three Pence per month for each pupil attending the School.

XIV. And be it enacted, That any person who has been or may be appointed Local Superintendent of Schools, shall continue in office, (unless he resigns or is removed from office for neglect of duty, improper conduct, or incompetency,) until the first day of April of the year following that of his appointment: Provided always, that no Local Superintendent shall be a Teacher or Trustee of any Common School during the period of his being in office: Provided, secondly, that no Local Superintendent shall be required unless he shall judge it expedient, (except with a view to the adjustment of disputes) or unless directed so to do by the Municipality appointing him, to make more than two official visits to each School Section under his charge, one of which visits shall be made some lime between the first of April and the first of October, and the other sometime between the first of October and the first of April. Provided, thirdly, that the Local Superintendents of adjoining Townships shall have authority and are hereby required to determine the sum or sums which shall be payable from the School apportionment and assessment of each Township in support of Schools of Union School Sections consisting of portions of such Townships; and they shall also determine the manner in which such sum or sums shall be paid: Provided fourthly, that in the event of one person being Local Superintendent of both of the Townships concerned, he shall act in behalf of such Townships; and in the event of the Local Superintendents of Townships thus concerned not being able to agree as to the sum or sums to be paid to each such Township, the matter shall be referred to the Warden of the County or Union of Counties for final decision: Provided, fifthly, that each Local Superintendent of Schools shall have authority to appoint the time and place of a Special School Section Meeting, at any time and for any lawful purpose, should he deem it expedient to do so: Provided, sixthly, that each Local Superintendent of Schools shall have authority, within twenty days after any meeting for the Election of Common School Section Trustees within the limits of his charge, to receive and investigate any complaint respecting the mode of conducting such Election, and to confirm it or set it aside, and appoint the time and place of a new Election, as he shall judge right and proper: Provided, seventhly, that each Local Superintendent shall have authority on due examination, (according to the programme authorized by law for the examination of Teachers,) to give any Candidate a Certificate of qualification to teach a School within the limits of the charge of such Superintendent until the next ensuing meeting (and no longer) of the County Board of Public Instruction of which such Local Superintendent is a Member; but no such Certificate of qualification shall be given a second time, or shall be valid if given a second time, to the same person in the same County: Provided, eighthly, that in the event of a Local Superintendent of Schools resigning his office, the Warden of the County or Union of Counties within which such Superintendent shall have held office, shall have

authority, if he shall deem it expedient, to appoint a fit and proper person to the office thus vacated until the next ensuing meeting of the Council of such County or Union of Counties.

XV. And be it enacted, That the last proviso of the seventeenth Section of the Upper Canada School Act of 1850, shall be and is hereby repealed; And be it also enacted, That the Arbitrators mentioned in the said seventeenth Section of the said Act, shall have authority to administer oaths to and to require the attendance of all or any of the parties interested in the said reference, and of their witnesses, with all such books, papers and writings as such Arbitrators may require them or either of them to produce; and the said Arbitrators, or any two of them, may issue their Warrant to any person to be named therein, to enforce the collection of any sum or sums of money by them awarded to be paid, and the person named in such Warrant shall have the same power and authority to enforce the collection of the money or moneys mentioned in the said Warrant, with all reasonable costs, by seizure and sale of the property of the party or corporation against whom the same is rendered, as any Bailiff of a Division Court has in enforcing a judgment and execution issued out of such Court; and no action shall be brought in any Court of Law or Equity, to enforce any claim or demand which by the said seventeenth Section of the said in part recited Act, may be referred to arbitration as therein mentioned.

XVI. And be it enacted, That whenever the lands or property of any individual or company shall be situate within the limits of two or more School Sections, it shall be the duty of each Assessor appointed by any Municipality, to assess and return on his Roll, separately, the parts of such lands or property according to the divisions of the School Sections within the limits of which such lands or property may be situate; Provided always, that every undivided occupied lot or part of a lot shall only be liable to be assessed for School purposes in the School Section where the occupant resides.

XVII. And be it enacted, That no Township Council shall have authority to levy and collect in any School Section during any one year, more than one School Section rate, except for the purchase of a School site or the erection of a School house; nor shall any such Council have authority to give effect to the ninth clause of the twelfth section of the Upper Canada School Act of 1850, for the levying and collection of rates for School purposes of any School Section in any one year, unless the Trustees of such School Section make application to the Council at or before its meeting in August of such year: Provided also, that each such Township Council shall have authority, under the restrictions imposed by law in regard to the alteration of School Sections, to form such part of any Union School Section as is situated within the limits of its jurisdiction, into a distinct School Section, or attach it to one or more existing School Sections or parts of Sections, as such Council shall judge expedient.

XVIII. And be it enacted, That for and notwithstanding any thing contained in the Upper Canada School Act of 1850, the Chief Superintendent of Schools shall have authority to direct the distribution of the Common School Fund of any Township, among the several School Sections and parts of Sections entitled to share in the said Fund, according to the length of time in each year, during which a School shall have been kept open by a legally qualified Teacher in each of such Sections or parts of Sections.

XIX. And be it enacted, That if any person shall wilfully disturb, interrupt or disquiet any Common or other Public School, by rude or indecent behaviour, or by making a noise either within the place where such school is kept or held, or so near thereto as to disturb the order or exercises of such school, such person shall, on conviction thereof before any Justice of the Peace, on the oath of one or more credible witnesses, forfeit and pay such a sum of money not exceeding Five Pounds, together with the costs of and attending the conviction, as the said Justice shall think fit; such conviction and all other convictions before a Justice or Justices of the Peace under this Act or the Upper Canada School Act of 1850, and the costs thereof, to be levied and collected from the offender, who, in default of payment, may be imprisoned for any time not exceeding thirty days, unless such fine and costs, and the reasonable expenses of endeavouring to collect the same, shall be sooner paid.

XX. And be it further enacted, That the Certificates of qualification which have heretofore been granted to Teachers of Common Schools by any County or Circuit Board of Public Instruction in Upper Canada, or at any meeting of any Members not less than three of the Members of such Boards, and which have not been cancelled, shall at all times be considered as duly and legally granted, notwithstanding any want of notice to the several Members of the said Board, of the times and places of meeting for the purpose of granting such Certificates, and notwithstanding any other want of form in the organizing or conducting of the business of any such County or Circuit Board; and any Certificate purporting to be granted by any such Board, or any three Members thereof, and having the signature of at least one Local Superintendent of Schools, shall be considered a good and valid Certificate of qualification, according to the effect thereof, until the same shall be annulled.

XXI. And whereas doubts have arisen whether the Trustees of any School Section, or the Board of School Trustees of any City, Town or Village, can appoint any one or more of their own number, Collector or Collectors of School rates; For the removal thereof, Be it enacted, That it shall and may be lawful for the Trustees of any School Section, or the Board of School Trustees in any City, Town or incorporated Village, to appoint one or more of their number a Collector or Collectors to collect the School rates of any such Section, City, Town or Village,

XXII. And be it enacted, That if the Collector appointed by the Trustees of any School Section, shall have been unable to collect that portion of any School rate which was charged on any parcel of land liable to assessment, by reason of there being no person resident thereon, or no good and chattels to distrain, the Trustees shall make a return to the Clerk of the Municipality before the end of the then current year, of all such parcels of land and the uncollected rates thereon; and the Clerk shall make a return to the County Treasurer of all such lands and the arrears of School rates thereon, and such arrears shall be collected and accounted for by such Treasurer in the same manner as the arrears of other taxes; and the Township, Village, Town or City in which such School Section is situate, shall make up the deficiency arising from the uncollected rate on lands liable to assessment, out of the General Funds of the Municipality.

XXIII. And be it enacted, That whatever additional sum or sums of money may be payable to Upper Canada out of the Legislative School Grant, or may be granted during the present session of this Parliament for Common School purposes in Upper Canada, shall be expended in the following manner: Firstly, a sum of not less than Four Thousand Pounds shall be apportioned and expended for the support of Common Schools, as provided in the thirty-fifth Section of the Upper Canada School Act of 1850: Provided always, that not more than Five Hundred Pounds of the said sum may be expended in special aid of Common Schools in new and poor townships; Secondly, a sum not exceeding One Thousand Pounds per annum shall be expended in further support of the Normal and Model Schools for Upper Canada, and in supplying a copy of the Journal of Education to each School Corporation and each local Superintendent of Schools in Upper Canada: Provided always, that not more than Four Hundred and Fifty Pounds of the said sum shall be expended in the circulation of the Journal of Education; and the balance of such sum shall be expended as provided for in the thirty-eighth Section of the Upper Canada School Act of 1850; Thirdly, a sum not exceeding Five Hundred Pounds per annum may be expended by the Chief Superintendent of Schools in the purchase, from time to time, of Books, Publications, Specimens, Models and Objects, suitable for a Canadian Library and Museum, to be kept in the Normal School Buildings, and to consist of Books, Publications and Objects, relating to Education and other departments of Science and Literature, and Specimens, Models and Objects illustrating the Physical Resources and Artificial Productions of Canada, especially in reference to Mineralogy, Zoology, Agriculture and Manufactures; Fourthly, a sum not exceeding Five Hundred Pounds per annum, shall be applied towards forming a fund for the support of superannuated or worn out Common School Teachers in Upper Canada, under such regulations as may be adopted, from time to time, by the Council of Public Instruction, and approved of by the Governor in Council: Provided always, that no Teacher shall be entitled to share in the said fund who shall not contribute to such fund at least at the rate of One Pound per annum, for the period of his teaching School, or receiving aid from such fund, and who shall not furnish satisfactory proof to the Council of Public Instruction, of inability, from age or loss of health in teaching, to pursue that profession any longer: Provided also, that no allowance to any superannuated or worn out Teacher shall exceed the rate of One Pound Ten Shillings for each year that such Teacher shall have taught a Common School in Upper Canada.

XXIV. And whereas it is highly desirable that uniformity of decision should exist in cases that may arise triable in the Division Court, against and between Superintendents, Trustees, Teachers and others acting under the provisions of the Common School Acts of Upper Canada — Be it therefore enacted, That the Chief Superintendent of Schools for Upper Canada, may, within one month after the rendering of any Judgment in any of the said Courts in any case arising as aforesaid, appeal from the decision of any Judge of the said Courts to either of the Superior Courts of Law, at Toronto, by serving notice in writing of such his intention to do so, upon the Clerk of such Division Court, which Appeal shall be entitled, “The Chief Superintendent of Schools for Upper Canada, Appellant, in the matter between (A. B. and C. D.) and it shall be the duty of the Judge of the said Court, to certify under his hand, to either of the Superior Courts aforesaid, as the case may be, the summons and statement of claim and other proceedings in the case, together with the evidence and his own Judgment thereon, and all objections made thereto: whereupon the same matter shall be set down for argument at the next term of such Superior Court, which Court shall give such Order or direction to the Court below, touching the Judgment to be given in such matter, as

the law of the land and equity shall require, and shall also award costs in their discretion, against the Appellant, which costs shall be certified to and form part of the Judgment of the Court below; and upon receipt of such Order, direction and certificate, the Judge of the Division Court shall forthwith proceed in accordance therewith: Provided that all costs awarded against the Appellant, and all costs incurred by him, shall be payable by the Chief Superintendent, and the amount chargeable to the Contingencies of his Office: And the Judge presiding over any Division Court wherein any action of the kind referred to in this section is brought, may order the entering of judgment to be delayed for a sufficient time to permit either party to apply to the Chief Superintendent of Schools to appeal such case, and after Notice of Appeal is served as herein provided, no further proceedings shall be had in such case until the matter of the Appeal shall be decided by such Superior Court.

XXV. And be it enacted, That it shall be the duty of the Clerk of each Township Municipality to prepare in duplicate a Map of the Township, shewing the divisions of the Township into School Sections and parts of Union School Sections, one copy of which shall be furnished to the County Clerk for the use of the County Council, and the other shall be retained in the Township Clerk's Office, for the use of the Township Municipality.

XXVI. And be it enacted, That such of the provisions of the Upper Canada School Act of 1850, as are contrary to the provisions of this Act, shall be and are hereby repealed.

XXVII. And be it enacted, That the provisions of this Act shall apply to all School affairs and to all persons referred to in the said provisions, for the present year one thousand eight hundred and fifty-three.

XXVIII. And be it enacted, That in citing or otherwise referring to the said Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act for the better establishment and maintenance of Common schools in Upper Canada*, it shall be sufficient to designate it as "The Upper Canada School Act of 1850," and that in citing or otherwise referring to this Act, it shall be sufficient to designate it as "The Upper Canada Supplementary School Act of 1853;" and that in citing or otherwise referring to the said Acts generally, or to them and to any other Act or Acts relative to Common Schools, which may at the time of such citation or reference be in force in Upper Canada, it shall be sufficient to use the expression, "The Common School Acts of Upper Canada."