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Robert Bell Esq.

TRUSTEES' SCHOOL MANUAL.

THE CONSOLIDATED ACTS

RELATING TO

COMMON SCHOOLS

IN UPPER CANADA;

TOGETHER WITH A FULL DIGEST OF THE DECISIONS OF THE SUPERIOR COURTS, RELATING TO SCHOOL CASES, DOWN TO 1864;

AND

Forms, General Regulations, and Instructions

FOR EXECUTING THEIR PROVISIONS.

WITH A COPIOUS ANALYTICAL INDEX.

Edited, with Notes, by authority of the Chief Superintendent of Education, by

J GEORGE HODGINS, LL.B., F.E.G.S.

Deputy Superintendent.



TORONTO,

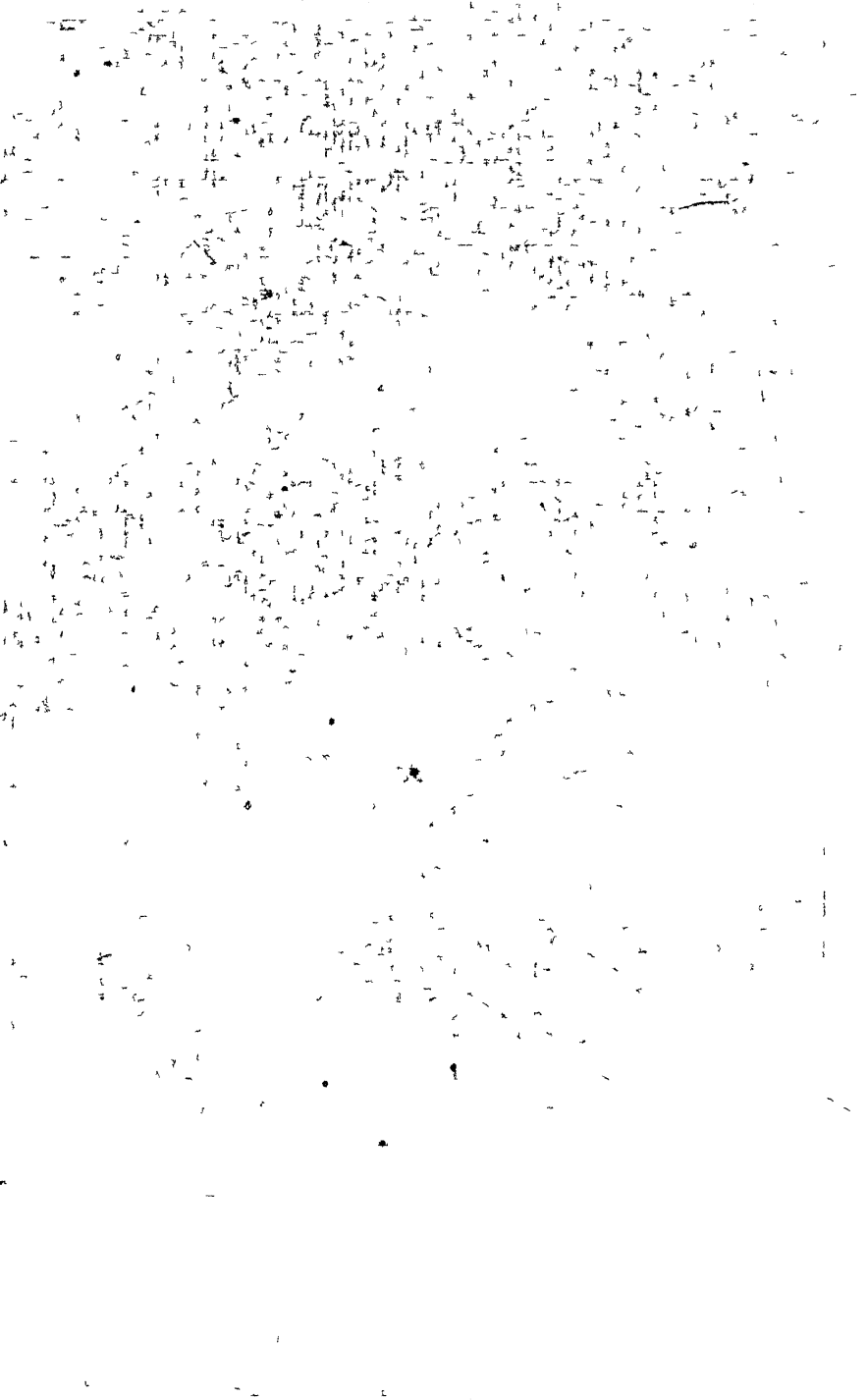
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BY LOVELL AND GIBSON, YONGE STREET

1864

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THE PROPERTY OF THE SCHOOL CORPORATION,
AND NOT OF ANY INDIVIDUAL TRUSTEE.



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PREFATORY NOTE TO THE FOURTH EDITION.

IT has been considered advisable to collect and arrange for easy reference, in one Manual, all the provisions of the law, and the general regulations and instructions for the government of Common Schools in the rural School Sections of Upper-Canada, for the guidance of Trustees, Local Superintendents, and all others officially connected with our Common Schools. By means of numerous notes and references appended to the text, and a copious analytical index, this Manual will be found to contain a complete digest of the existing laws and regulations affecting the Public Schools. Sections of other Statutes affecting Common Schools, have been, for greater convenience, quoted at length, and arranged in the body of the text.

It cannot but be gratifying to observe how much the whole tone and character of the Public Schools have been raised within the last few years; and it is to be hoped that their future prosperity will afford the strongest evidence to the Legislature, that the Trustees are anxious to avail themselves, to the fullest extent, of the ample provisions of the law, to adapt our Schools to the highest wants of the community, and to place them in a state of efficiency not yet surpassed by any Schools in the world. This can be easily done, if a true spirit of educational zeal animates us, and if a thorough appreciation of the great Christian and national objects contemplated in the establishment of a public system of education for all classes, guides us in our efforts. The suggestions of the Chief Superintendent on this point, which will be found on pages 133—144, are designed to promote the accomplishment of these noble and patriotic purposes.

The Legislature has generously provided means to sustain the Schools, and the public has nobly seconded its efforts.* It has also provided means for the supply of all our Public Schools with well-trained teachers, and with the most approved library books, school prizes, maps, charts, diagrams, and apparatus. The powers, duties, and responsibilities of Trustees are clearly defined, as well as those of the Local Superintendent, in the Act. A summary of the duties of each, and an Educational Calendar of the dates requiring their attention, have been inserted in the appropriate places. No want, therefore, need be felt on any of these points.

A complete Summary of the Decisions of the Superior Courts, on various points of the School Law, down to the latest dates, will be found incorporated in the notes which the Editor has appended to the text.

The amended School Act of 1860, although included in the text and notes to the Consolidated School Act, has been inserted entire on pages 114—118. Extracts from the Act passed in 1863, authorizing the investment of moneys for school purposes, will also be found on pages 52 and 70.

J. G. H.

EDUCATION OFFICE,
Toronto, February, 1864.

* Nearly \$1,232,900 were expended in 1862, to sustain the Public Common Schools of Upper Canada. The grand total expended for educational purposes in connection with Common, Separate, and Grammar Schools and Colleges, was \$1,535,240. See pages 83 and 84 of the Annual Report of the Chief Superintendent of Education, for 1862.

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THE UPPER CANADA CONSOLIDATED COMMON SCHOOL ACT.

INTRODUCTORY SUMMARY

OF THE

POWERS, DUTIES, AND RESPONSIBILITIES OF COMMON SCHOOL TRUSTEES.

NOTE.—From the following summary, Trustees can easily learn the extent of their general powers, duties, and responsibilities. For more definite information, when necessary, they can refer to sections of the Act and the Index at the end.

I. The necessary and discretionary Powers of Common School Trustees.

1. To take possession and have sole custody of all common school property, movable property, moneys, &c.

2. To obtain a legal title to their school premises, as provided by law.

3. To do whatever they may judge expedient in regard to the building, &c., &c., of the school-house, appendages, play-ground, enclosures, lands, and movable property.

4. To have the sole authority to appoint and fix the amount of the salary of all male and female teachers appointed by them.

5. To appoint a secretary-treasurer, a school collector, and a librarian.

6. To establish, if they judge expedient (with the consent of the local superintendent), a male and female school in their section.

7. To raise all moneys, in the manner (*i. e.* by rate-bill, subscription, or school-rate) authorized by the school meeting. If the rate-bill or subscription be insufficient; they can levy a school-rate upon property, without any appeal to a school meeting. No meeting can lawfully decide what *amount* the trustees shall raise, but only the *manner* in which they shall do it. Should a meeting neglect or refuse to decide upon the *manner* of raising the sums required, the trustees can exercise their own discretion as to which of the three modes they will adopt.

8. To apply, if they judge expedient, to the municipality of their township, once a year, before the August meeting (except in case of a site and building), to raise any school-rate authorized by the inhabitants; and to compel the council to collect it, by *mandamus* from the Queen's Bench, should the council refuse to do so.

9. To exempt all indigent persons from section school-rates.

10. To sue non-residents for school rate-bills or subscriptions. School-taxes on absentees must, however, be collected as pointed out on page 25. In case the township council should refuse to pay these taxes (duly returned to the clerk), the trustees can enter an action, in any competent court, against the township council for the amount.

11. To call a special school meeting for any lawful school purpose.

12. To unite their school with the adjacent grammar school.

13. To resign the office of trustee, with the consent in writing of their colleagues and of the local superintendent.

14. To decline re-election for *four* years next after going out of office.

N.B.—No school meeting of their constituents can deprive trustees of any of these powers, or prevent their exercise.

II. Their Positive Duties.

1. To call the annual school meeting, and also a special one in case of any difference in regard to the school-site, death or removal of trustee, &c.
2. To prosecute all illegal voters at school meetings.
3. To make a declaration of office within *two* weeks after notice of election as trustee.
4. To see that their school is furnished with a trustees' book, a visitors' book, a teacher's register, and a *Journal of Education*. These two latter are furnished without cost. The two former must be purchased at the expense of the section.
5. To employ, and pay school moneys to none but legally qualified teachers.
6. To fix no rate-bill upon persons sending children to school. for any purpose (including fuel, collector's fees, &c.) higher than *twenty-five cents* per month, for each child attending school. In free schools, no rate-bill can be imposed upon the inhabitants. Rate-bills are payable in advance.
7. To permit all residents, on whose behalf school-rates are paid, and who observe the rules, to attend their school.
8. To visit the school and see that it is properly conducted; that no unauthorized books are used; that all the pupils are supplied with proper text-books; that the library is available to the inhabitants, and that it is lawfully managed.
9. To exercise all the corporate powers vested in them, for the fulfilment of all agreements, contracts, &c.: and to maintain a school in their section *at least* during *six* months of the year.
10. To transmit their *half-yearly* returns and their *yearly* reports to the local superintendent, and also to submit their *yearly* report to the annual meeting of their constituents.
11. To affix their corporate seal to all official documents under their hand.
12. To take proper security from the secretary-treasurer and school collector.
13. To make a return to the municipal clerk of all rates imposed by them.
14. To make no contract with any member of the school corporation, except for school site, or as collector.
15. To transact no school business except at a trustee meeting of which each member of the corporation has had due notice.
16. To appoint a school auditor before the *1st of December* in each year, and lay before the auditors all necessary information.
17. To comply with the award of the arbitrations between themselves and the teachers, under a penalty.

III. Their Responsibilities.

Personal Responsibility.—(1) For all contracts or agreements, when not officially fulfilled as authorized by law. (2) For the award (if any against them) of arbitrators appointed under the School Act. (3) For the amount of an award against them if they refuse to give it effect. (4) For all moneys lost to the section through their neglect of duty:—such as omission to send the half-yearly return to the local superintendent, neglect to keep open the school during at least six months of the year, &c. (5) For neglecting to take security from any person with whom they intrust school moneys, if any loss accrue. (6) For neglect or omission to affix their corporate seal to official agreements, contracts, or documents.

N.B.—Trustees neglecting to perform any of the "positive duties" required of them as above (and to the neglect of which no specific penalty is attached), may incur the risk of having the apportionment to their school section withheld, and themselves made *personally responsible* for the loss consequent thereon, (See the *thirty-first* section of the Upper Canada Consolidated Common School Act.

IV. Penalties for neglect of Duty.

1. *Twenty* dollars for refusal to perform the duties of their office.
2. *Twenty* dollars for making a false return.

3. *Five* dollars for every week of delay in forwarding their *annual report* to the local superintendent.

4. *Five* dollars for neglect of calling annual or other necessary school meetings.

5. *Five* dollars for refusing to serve as trustee when elected.

6. *Fine* or *imprisonment* in case they refuse to furnish the school auditors with information.

V. Penalties imposed on other Parties by the Common School Law.

1. *Twenty* dollars on *returning-officer* for wrong doing.

2. *Twenty* dollars on *teacher* for false returns, &c.

3. *Twenty* dollars for disturbing a school meeting, or interrupting a public school.

4. *Five* dollars or *ten* dollars, or imprisonment, for illegal voting.

5. *Five* dollars on a *chairman* for neglecting to forward to the local superintendent a copy of the proceedings of a school meeting.

6. *Five* dollars on person appointed to call first section meeting should he neglect to do so.

7. *Action* against *treasurer* for refusing to honour a local superintendent's order for school fund.

8. *Imprisonment* of any *secretary-treasurer* refusing to deliver up books, papers, moneys, &c.

9. *Forfeiture* by *teacher* of any claim which he may have on trustees, and be guilty of a *misdemeanor*, in case of refusal to deliver up the key of the school-house and the register, when demanded.

III. Specific periods to be observed.

1. Every Saturday to be a holiday in the Common and Roman Catholic Separate Schools.

2. Trustees to give *six days'* notice of annual and special school meetings, in *three* public places.

3. Declaration of office must be made by trustees within *two weeks* after election.

4. Award must be complied with by trustees within *one month* after its publication, under a penalty.

5. In cases of arbitration between school trustees and teachers, the opposite party must, within *three days*, appoint an arbitrator, or forfeit his right to do so.

6. Collectors to collect school-rates within *ten days*; and *fourteen days* after the first application for the payment of rates, to seize and sell the goods and chattels of defaulters within the section (*thirty days* when without), and to give *six days'* notice of sale.

7. Within *twenty days* after the failure of calling annual or other meeting, *two* resident assessed freeholders or householders to give *six days'* notice of such meeting in *three* public places.

8. Within *twenty days* after each rural school election, county or township local superintendents can hear complaints, and set aside or confirm such election. Local superintendents can appoint a school auditor *after* the *twenty-second* day of December, in case the trustees neglect or refuse to do so.

9. The Chief Superintendent can appeal from the decision of any County Judge in school matters, within *thirty days* from the rendering of judgment.

10. In default of payment of any fines lawfully imposed by a Justice of the Peace, under the authority of the School Acts, the offender may be imprisoned for *thirty days*.

11. *Ten years* are the limit of a loan to trustees for the purchase of a site and the erection of a school-house, &c., as authorized by the township council.

12. When a public library book has been detained *seven days* beyond the week allowed for every hundred pages it contains, the librarian shall require it to be delivered within *three days*, or be paid for, in addition to the fine of *one penny* a day for detention. The library catalogue to be open for inspection "at all reasonable times."

13. Pupils commencing the classics, to be admitted into the grammar schools after the Christmas and Midsummer vacations. Those in English alone, or who have commenced Latin, to be admitted at the beginning of each term.

14. There are *two vacations* in the rural common and Roman Catholic separate schools each year:—(1) The summer vacation of *two weeks* (in cities, towns, and villages, *four weeks*); (2) The winter vacation of *eight days* at Christmas. As to union schools, see General Regulations.

15. The *afternoon* of one day in each week, after four o'clock, to be set apart for religious instruction in the common schools.

16. The hours of teaching in common and separate schools shall not exceed *six*. School to commence at *nine* o'clock a.m. The school-house to be ready *fifteen minutes before nine*.

17. School to commence and close by reading a portion of Scripture and by prayer. The Ten Commandments are recommended to be repeated *once a week* by the pupils.

18. The number of teaching days in each month, omitting the allowed holidays and vacations, will be found in the General Regulations.

19. Before the 1st of March in any year, supporters of Roman Catholic separate schools to give notice of such support to the clerk of the municipality; and before the Second Wednesday in January they may give notice to the Clerk of the withdrawal of their support from separate school.

IV. School Arbitrations.

The arbitrations authorized by the School Acts are as follows:

1. Between trustees and teachers, "in regard to salary or any other matter in dispute." Any other tribunal is forbidden.

2. Between trustees and a majority of their constituents present at a special meeting called to decide upon the school site.

The local superintendent is, *ex officio*, one of the arbitrators. The awards in all cases are final, and should be in writing.

VI. Common School Trustees' Yearly Calendar.*

(Taken from the Upper Canada Common School Acts.)

| | | |
|------|----|--|
| JAN. | — | A week before the <i>second Wednesday</i> of this month, to post up <i>three</i> notices, in at least <i>three</i> public places, fixing the place of the annual school meeting. |
| " | — | <i>Second Wednesday</i> —To attend the annual school meeting, submit their report for the year then closing, and provide for keeping open the school for the next year. |
| " | — | After school meeting, new trustee to make declaration of office before the chairman of the school meeting. |
| " | 15 | To transmit their <i>annual</i> report to the local superintendent. |
| JUNE | 30 | To transmit their first half-yearly return to the local superintendent. |
| NOV. | — | To appoint a school auditor before the <i>first day of December</i> . |
| DEC. | — | To call a public meeting, for auditing purposes, not later than the <i>22nd of December</i> . |
| " | 30 | To transmit their second half-yearly return to the Chief Superintendent. |

In addition, to call special school meetings for fixing site; election in case of death, resignation, or removal of colleague, when necessary; to make out the rate-bills (if any) monthly, quarterly, or yearly, in advance, &c.

* For periods the dates of which are not fixed, see *Educational Calendar* on next page.

Educational Calendar for Upper Canada.

Constructed from the School Laws and Regulations.

I. FIXED DATES.

| | | |
|-------------|--------|---|
| JANUARY | 1 | The School Year begins. A statutory holiday (<i>Circumcision</i> .) |
| " | First | <i>Monday</i> : First Quarterly Examination at Toronto of candidates for masterships in Grammar Schools. |
| " | 6 | A statutory holiday in the Education Office (<i>Ephany</i> .) |
| " | 7 | Winter term in the County Grammar Schools begins. |
| " | 8 | Winter Session of the Normal School begins |
| " | Second | <i>Wednesday</i> : Annual school elections throughout Upper Canada, of which <i>six</i> days previous notice must be given in <i>three</i> public places of each section, ward, &c. Within <i>twenty</i> days after meeting, election complaints can be investigated, and set aside or confirmed by the Local Superintendent in townships, and by a County Judge in cities, towns, and incorporated villages. |
| " | 15 | Grammar School Annual Report to be sent to the Chief Superintendent, by the Board of Trustees. |
| " | — | Common and Roman Catholic Separate School Annual Reports to be sent to the Chief Superintendent by the respective Boards of Trustees in cities, towns, and villages. An abstract of the report is to be published in one or more local newspapers. |
| " | 30 | Chief Superintendent's Annual Financial Report to Board of Audit. |
| " | 31 | School Section Annual Report to be sent to the Local Superintendent by the Trustees, who, after the 31st, are liable to a fine of <i>five</i> dollars for every week the report is delayed. |
| " | — | <i>Two</i> Grammar School Trustees to retire annually from the board on this day, and their places to be filled up by the County Council at their first meeting after the <i>1st of January</i> . |
| FEBRUARY | First | <i>Wednesday</i> : the Board of Grammar School Trustees to meet annually on this day. |
| " | Last | <i>day</i> : Annual Financial Report of each Sub-Treasurer to be made up and transmitted, with vouchers, to the County Auditors. |
| MARCH | 1 | County, city, town, and village clerks to transmit to the Chief Superintendent the Auditors' account of school moneys, and other information. |
| " | — | Supporters of E. C. Separate Schools to give annual notice in writing to, and receive certificate from, clerk of municipality in which separate school is situated, of such support, on or before this day. |
| " | — | Local Superintendents to transmit their annual reports to the Chief Superintendent. |
| " | 25 | A statutory holiday in the Education Office (<i>Annunciation</i>) |
| " | — | Annual subscriptions of four dollars to the superannuated common school teachers fund, due in January, and to be transmitted as early in the year as possible. Should the subscription not be forwarded during the year, the sum of five dollars must be forwarded. |
| GOOD FRIDAY | | <i>Good Friday</i> is a holiday in the County Grammar and Common Schools and in the Education Office. |
| EASTER | | In <i>March</i> or <i>April</i> occurs the <i>Easter</i> vacation in the County Grammar and Common Schools. The Spring Term in the Grammar Schools commences on the <i>first Wednesday</i> after <i>Easter</i> . |
| APRIL | 1 | Termination of Local Superintendent's annual period of office; after which the new, or re-appointments will have to be reported to the Chief Superintendent by the County Clerk, or by the Board of Trustees in cities, towns, and villages. |
| MAY | 1 | Appointment to Grammar and Common Schools to be notified by the Chief Superintendent. |
| " | 9 | <i>Moveable</i> : A statutory holiday in the Education Office (<i>Ascension</i> .) |
| " | 24 | <i>Queen's birthday</i> . a holiday in the County Grammar Schools and in the Education Office. |
| JUNE | 10 | <i>Moveable</i> : A statutory holiday in the Education Office (<i>Corpus Christi</i> .) |
| " | 15 | Normal School Winter Session ends. |
| " | Last | <i>Friday</i> : County Grammar School Spring Term ends with half-yearly examinations. |
| " | 29 | A statutory holiday in the Education Office (<i>St. Peter and St. Paul</i> .) |
| " | 30 | Half-yearly returns to be sent by the Trustees of Grammar (and Roman Catholic Separate) Schools to the Chief Superintendent, and by the Trustees of Rural Sections to the Local Superintendents. |
| " | — | Clerks of counties, cities, towns, and villages, to report the name of the Treasurer to the Chief Superintendent. |

EDUCATIONAL CALENDAR—(Continued):

| | | |
|---------|--------|--|
| JULY | 1 | (1) Annual apportionment, payable by the Chief Superintendent of Education; also the semi-annual apportionment to (2) Grammar and (3) Roman Catholic Separate Schools; and (4) the half-yearly pension to superannuated common school teachers.* |
| " | — | Chief Superintendent's Annual Report to the Governor General. |
| " | First | Monday: Second half-yearly examination of Grammar School Masters. |
| " | — | Legislative school grant to be distributed by Local Superintendents among the rural Schools from which half-yearly returns have been received. |
| AUGUST | First | Monday: the Common School vacation of two weeks begins. |
| " | Second | Monday: Summer Term in the County Grammar Schools begins. |
| " | 8 | Autumn Session of the Normal School begins. |
| " | — | The application of Trustees of rural sections to the Township Council for the imposition of a school-rate to be made before the August meeting, except for the expenses of site and school-house. |
| OCT'BER | 1 | Agreements with Common School Teachers, in rural sections, after this date, not valid, unless signed by those Trustees who remain in office for at least one year after the following January election. |
| " | — | Summer Term in the County Grammar Schools ends on the Friday next before the 15th. The Autumn Term begins on the Monday following the close of the Summer Term. |
| NOVEM | — | A statutory holiday in the Education Office (<i>All Saints</i>) |
| " | — | Common School Trustees to appoint an auditor of school accounts before the 1st of December in each year. |
| DECEM. | 14 | Common and Grammar School County Assessments by law available for the payment of Teachers. |
| " | 22 | Autumn Session of the Normal School ends. |
| " | — | In case Trustees of Common Schools neglect to call an Auditors' meeting by the 22nd of December, two electors, or the Local Superintendent, may call it. |
| " | — | Autumn Term in the County Grammar Schools ends with a public examination. |
| " | 25 | Christmas holidays in the Grammar and Common Schools commence. A holiday in the Education Office. (<i>Christmas-Day</i> .) |
| " | — | Alterations in the boundaries of school sections take effect. |
| " | — | Trustees' returns of unpaid school-rates on absentees' lands to be made before the end of the year to the Township Clerk. |
| " | 31 | Half-Yearly Returns from Grammar and (Roman Catholic Separate) School Trustees to be sent to the Chief Superintendent, and from rural Trustees to the Local Superintendents. |
| " | — | Second half-yearly payments by the Chief Superintendent to (1) Grammar and (2) Roman Catholic Separate Schools, and balance of year's pension to (3) superannuated common school teachers. |
| " | — | The school year ends. Trustees must keep open a school during at least six months of the year. |

II. Periodical Duties for which no specific dates are given.

1. The County Board of Public Instruction shall meet *half-yearly*, for the examination of common school teachers.
2. There shall be *quarterly* examinations held in all the common schools, and *half-yearly* examinations in the grammar schools
3. Local superintendents shall make *two* or more official visits to the common schools; "one shall be made some time between the 1st of April and the 1st of October, and the other some time between the 1st of October and the 1st of April." Other visits may be made, as directed by the county council.
4. Local superintendents shall "deliver in each school section, at least *once* a-year," a public school lecture
5. Local superintendents to be appointed *annually* by the county council; also the chairman, secretary, and treasurer of each Grammar School Board; the chairman, secretary, and (if necessary) a committee of *three* persons for each common

*The cheques issued by the Educational Department for these sums are payable *at par*, at any of the Branch Agencies of the Bank of Montreal. The following is a list of the agencies at present established in Canada, Belleville, Brantford, Brockville, Chatham, Clifton, Cobourg, Cornwall, Elora, Fergus, Goderich, Guelph, Hamilton, Kingston, Lindsay, London, Montreal, head office, Mount Forest, Niagara, Ottawa, Perth, Peterboro', Picton, Quebec, Simcoe, St. Mary's, Stratford, Toronto, Waterloo, and Whitby.

and separate school; the county, city, town, and village auditors of school moneys; and the rural school section auditors.

6. Rate-bills in common and separate schools are payable *monthly, quarterly, or yearly*, in advance.

7. Abstract of city, town, and village school report to be published *annually* in one or more local newspapers. In rural sections it is to be read at the *annual* meeting.

8. Collectors of school-rates in rural school sections, shall collect the rate within *ten* days from the date of their warrant; and in case of refusal of payment, shall, within *fourteen* days after demand being made, proceed to seize and sell the goods and chattels of the defaulter. He shall give notice of sale in *three* public places, at least *six* days before the sale by auction.

9. A general meeting of school visitors may be held at any time. They should attend the *quarterly* examinations of the schools.

10. Estimates of sums necessary to be raised for the Board of School Trustees, to be laid before the city, town, or village council any time during the year. The annual estimate should be laid before the council early in the year.

11. County, city, and village clerks to transmit to the Chief Superintendent, immediately after the meetings of the council, a report of all proceedings relating to education; the appointment and post-office address of each local superintendent, &c. In cities, towns, and villages, this latter duty should be performed by the secretary to the Board of Trustees.

12. Grammar, common, and Roman Catholic separate school trustees, elected to fill a vacancy, to hold office only during the unexpired term.

13. A *Meteorological Journal* to be regularly kept by the head master of each senior county grammar school.

14. The Chief Superintendent to present his annual financial report to the legislature "at each sitting thereof."

15. Inspector to visit each of the grammar schools in the course of a year.

16. Defaulting secretary-treasurer to deliver up books, moneys, papers, &c., "by a certain day, to be named by the County Judge," or to be imprisoned "until the Judge shall be satisfied" that delivery is made.

17. A School Register and the *Journal of Education* to be procured annually by the trustees,—the former from the local and the latter from the Chief Superintendent.

DIVISION I.

THE CONSOLIDATED COMMON SCHOOL ACT FOR UPPER CANADA.

22 VICTORIA, CHAP. 64.

(With which is incorporated the School Law Amendment Act of 1860,
23 Victoria, chap. 49.)

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Existing School Organization continued.

1. All common school sections or other common school divisions, together with all elections and appointments to office, all agreements, contracts, assessments, and rate-bills, heretofore duly made in relation to common schools, and existing when this Act comes into force, shall continue, subject to the provisions of this Act.

2. The term for which each school trustee who holds office at the time this Act takes effect, shall continue as if such term had commenced by virtue of an election under this Act; and on the *second Wednesday in January* next after this Act takes effect, the trustee or trustees whose term of office then expires, shall retire from office, but may, with his or their own consent, be re-elected under the provisions of this Act.

Annual Election on the Second Wednesday in January.

3. The annual meetings for the election of school trustees, as hereinafter provided, shall be held in all the cities, towns, townships, and villages of Upper Canada, on the *second Wednesday in January*, in each year, commencing at the hour of *ten* of the clock in the forenoon.

When the Poll at School Elections shall close.

[3]. *The School Law Amendment Act of 1860 further enacts, that:* 4. The poll at every election of a school trustee or trustees shall not close before *eleven* of the clock in the forenoon, and shall not be kept open later than *four* of the clock in the afternoon.* In [rural] school sections the poll shall close on the same day the election is commenced; in cities, towns, and incorporated villages, the same time shall be allowed for the election of school trustees which is allowed for the election of municipal councillors.]

* The mode of proceeding in closing the poll in ordinary municipal elections is as follows (taken from the *seventh* clause of the *ninety-seventh* section of the Upper Canada Consolidated Municipal Institutions Act): The returning officer may close the election one hour after commencing the same, if within that time

PART I.—TRUSTEES OF RURAL SCHOOL SECTIONS.

Trustees' Term of Office.

4. For each township school section there shall be *three* trustees, each of whom, after the first election of trustees, shall hold office for *three* years, and until his successor has been elected.

5. Any trustee elected to fill an occasional vacancy shall hold office only for the unexpired term of the person in whose place he has been elected.

Trustees not to hold certain Offices.

6. And no trustee of a school section shall hold the office of local superintendent or of a teacher, within the section of which he is a trustee.

[6½. *The School Law Amendment Act of 1860 further enacts as follows:* [11.** Nor shall any teacher or local superintendent hold the office of trustee;

Six Months' Non-residence vacates Office.

And a continuous non-residence of *six* months from his school section by any trustee, shall cause the vacation of his office.]

Proceedings on the formation of a New Section.

7. Whenever a school section is formed in any township, as provided in the *thirty-ninth* section of this Act [page 54], the clerk of the township shall give notice to the person appointed to call the *first* school meeting for the election of trustees, of the description and number of such school section.*

[only one candidate be proposed]; but in case there are more candidates, and a poll is demanded, he shall keep open the election until four of the clock in the afternoon * * * and no longer.

* *The form of this notice should be as follows:*

Township of _____,
Clerk's Office, _____, 186 .

SIR,—I have the honour to inform you, that, in conformity with the *eighth* section of the Upper Canada Consolidated Common School Act, the Municipal Council of this township has authorized, and hereby requires you, within *twenty* days after receiving this notice, to appoint the time and place of holding the first school meeting for the election of *three* trustees for school section No. —, in this township, which school section is bounded and may be known as follows: [*Here insert a full description of it.*] Copies of your notice are to be posted in at least *three* public places in the school section above described, not less than *six* days before the time of holding such meeting.—I am, sir, your obedient servant,

A. B., *Township Clerk.*

To C. D. (appointed to call the first school meeting in Section No. —,
Township of _____.)

REMARKS.—In notifying the formation of several school sections, or the formation of parts of sections, the phraseology of the notices should be varied, at the discretion of the township clerk, and in accordance with the proceedings and directions of the council. See *thirty-ninth* section of the School Act, page 54.

For form of deed for a school site, &c., see page 27.

A Meeting in New Section to be called within Twenty Days.

8. The person so appointed shall, within *twenty* days after receiving such notice, prepare a notice in writing, describing such section, and appointing a time and place for the *first* school section meeting, and shall cause copies of such notice to be posted in at least *three* public places in the school section, at least *six* days before the time of holding the meeting.*

Chairman and Secretary to be appointed at Meeting.

9. The [resident or non-resident assessed] freeholders and householders of such school section then present, shall elect one of their own number to preside over the proceedings of such meeting, and shall also appoint a secretary, who shall record all the proceedings of the meeting.

Duties of Chairman†—His Casting Vote.

10. The chairman of such meeting shall decide all questions of order, subject to an appeal to the meeting; and in case of an equality of votes, shall give the casting vote—but he shall have no vote except as chairman.

* *Form of notice for a first school section meeting:*

NEW SCHOOL SECTION NOTICE.

The municipal council of this township having formed a part of the township into a school section, and designated it School Section No. —, its boundaries and limits are as follows: [*Here insert a full description of the section.*]

The undersigned having been authorized and required by the municipal council to appoint the time and place of holding the first meeting for the election of trustees for the school section above described, hereby notifies the assessed freeholders and householders of said school section, that a public meeting will be held at —, on —, the — of —, at the hour of *ten* o'clock in the forenoon, for the purpose of electing *three* fit and proper persons, from among the resident assessed freeholders or householders, as school trustees of the said section, as required by the *eighth* section of the Upper Canada Consolidated Common School Act.

Given under my hand, this — day of —, 186—.

[Name.]

REMARKS—Should the person authorized and appointed by the municipal council to call the first school section meeting, refuse or neglect to do so, he subjects himself, by the *twenty-first* section of this Act, page 16, to a penalty of *five* dollars, recoverable for the purposes of such school section; and then, any *two* assessed freeholders or householders are authorized, within *twenty* days, on giving *six* days' notice, to call a meeting for the election of trustees. See the *twenty-second* section, page 17. The local superintendent may also call this meeting. See *second* clause of the *twenty-fifth* section of this Act, on page 19.

† The usual form of proceedings at school meetings, compiled from the Rules of the Legislative Assembly of Canada, and from other sources, is as follows:

1. The chairman shall preserve order and decorum, and shall decide questions of order, subject to an appeal to the meeting.

2. Every elector, previous to speaking, shall rise and address himself to the chairman.

3. When two or more electors rise at once, the chairman shall name the elector who shall speak first, and the other or others may appeal to the meeting, if dissatisfied with the chairman's decision.

4. Each elector may require the question or motion in discussion to be read for

Mode of Recording Votes at School Meeting.

11. The chairman shall* take the votes in the manner desired by a majority of the electors present, but he shall,* at the request of any two electors, grant a poll for recording the names of the voters by the secretary.

Three Trustees to be Elected at First School Meeting.

12. At such first school section meeting, the electors present shall, by a majority of votes, elect from the [resident assessed] freeholders or householders in such section, three trustees.

Trustees must be resident assessed Ratepayers.

[12]. *The School Law Amendment Act of 1860 further enacts:—*11. No person shall be eligible to be elected or to serve as school trustee, who is not a resident assessed freeholder or householder in the school section for which he is elected.]

Term of Office of each Trustee.

13. The trustees so elected shall respectively continue in office as follows :

(1) The *first* person elected shall continue in office for two years, to be reckoned from the annual school meeting next after his election, and thence until his successor has been elected ;

(2) The *second* person elected shall continue in office one year, to be reckoned from the same period, and until his successor has been elected ;

his information at any time, but not so as to interrupt an elector who may be speaking.

5. No elector shall speak more than twice on the same question or amendment without leave of the meeting, except in explanation of something which may have been misunderstood, or until every one choosing to speak shall have spoken.

6. The names of those who vote for, and of those who vote against the question, shall be entered upon the minutes if two electors require it.

7. A motion to adjourn an annual school meeting is unlawful, and cannot be entertained ; but a motion to adjourn a special school meeting shall always be in order : Provided no second motion to the same effect shall be made until after some intermediate proceedings shall have been had.

8. A motion may be debated, but cannot be put from the chair, unless the same be in writing and seconded.

9. After a motion is read by the chairman, it shall be deemed to be in possession of the meeting ; but may be withdrawn at any time before decision or amendment, with consent of the meeting.

10. When a question is under debate, no motion shall be received unless to amend it, or to postpone it, or for adjournment. (See No. 7 above.)

11. All questions shall be put in the order in which they are moved. Amendments shall all be put in the same order before the main, or first, motion.

12. A motion to reconsider a vote may be made by any elector at the same meeting ; but no vote of reconsideration shall be taken more than once on the same question at the same meeting.

* By the General Interpretation Act, the word "shall" in this and in other statutes is declared to be imperative, and the word "may" permissive. See note * on page 8.

(3) The *third*, or last person elected, shall continue in office until the next ensuing annual school meeting in such section, and until his successor has been elected.

Copy of Proceedings to be sent to the Local Superintendent.*

14. A correct copy of the proceedings of such first and of every annual and of every special school section meeting, signed by the chairman and secretary, shall be forthwith transmitted [by the chairman] to the local superintendent of schools.

Penalty on the Chairman for neglect.

[14]. *The School Law Amendment Act of 1860 further enacts, that:* [19. Any chairman who neglects to transmit to the local superintendent a copy of the proceedings of an annual or other school section meeting over which he may preside, within ten days after the holding of such meeting, shall be liable, on the complaint of any rate-payer, to a fine of not more than five dollars, to be recovered as provided in the one hundred and fortieth section of the Upper Canada [Consolidated] Common School Act aforesaid.]†

A School Trustee to be annually Elected in each Section.

15. A trustee shall be elected to office at each ensuing annual school meeting, in place of the one whose term of office is about to expire: and the same individual, if willing, may be re-elected; but no school trustee shall be re-elected except by his own consent, during the four years next after his going out of office.‡

* *A report in the following form should be sent to the local superintendent:*

_____, 186—. [—Post Office.]

SIR,—We have to inform you, that at a meeting of the [assessed] freeholders and householders of school section No. —, in the township of —, held according to law, on the — day of — [Here insert the name or names or address of the person or persons elected] — chosen school [trustee or trustees], of said section.

The other business transacted at the meeting, of which due notice was given, was as follows:—[Here insert it.]

We have the honour to be, sir, your obedient servants,

To the Local Superintendent of Schools
for the County, or Township, of —

D. E., Chairman of the Meeting
F. A., Secretary of the Meeting.

NOTE.—The Trustees elected must be resident assessed freeholders or householders in the Section for which they are elected. See section 12‡, on page 11.

The twenty-fifth section of the Upper Canada Consolidated Common School Act authorizes Local Superintendents to investigate and decide upon school election or other complaints, if made to him within twenty days after the school meeting. See page 18.

† The omission on the part of the chairman to transmit this notice does not invalidate the proceedings of the meeting itself, but it renders him liable to a fine for neglect of duty.

‡ This exemption from re-election does not extend to persons who pay the fine imposed by the twenty-third section, for refusing to serve. See page 17.

Mode of Proceeding at Annual Meeting.

16. At every annual school section meeting in any township, as authorized and required to be held by the *third* section of this Act [page 8], the [resident, or non-resident, assessed] freeholders and householders of such section present at such meeting, or a majority of them—

Appointment of Chairman and Secretary.

(1) Shall elect a chairman and secretary, who shall perform the duties required of the chairman and secretary, by the *tenth* and *eleventh* sections of this Act [pages 10, 11; and also by the *nineteenth* section the School Law Amendment Act of 1860, as section 14½, on page 12.]

Trustees' General Report to be submitted.

(2) Shall receive and decide upon the [general, not the financial] report of the trustees, as required by the *twenty-first* clause of the *twenty-seventh* section of this Act [page 42.]*

Annual Election of School Trustees.

(3) Shall elect a [resident assessed] trustee or trustees, to fill up the vacancy or vacancies in the trustee corporation;† and

To decide on the manner of supporting the School for the Year.

(4) Shall decide upon the manner in which the salaries of the teacher or teachers, and all other expenses connected with the operation of the school or schools shall be provided for‡ [as authorized by the *one hundred and twenty-fifth* section of this Act.]§

* The public school meeting has no legal authority to discuss the financial items in the trustees's report, unless the auditors cannot agree upon them. That duty, and the entire audit of these items, belongs exclusively to the two school auditors. The auditors should read their report to the school meeting, but only for its information. In case of a difference of opinion between the auditors, in regard to the lawfulness of any expenditure, they should proceed as pointed out in the *eighth* section of the School Law Amendment Act of 1860, page 44.

† See *eighteenth* section of the School Law Amendment Act of 1860, as [23‡], and the *twenty-fourth* section of the Consolidated Common School Act, both on page 18.

‡ *Special Meetings may determine how the School shall be supported.—Resolutions passed at the Annual School Meeting may be rescinded at a Special Meeting.*—The Court of Common Pleas has decided that power is given to assemble a *special* meeting of the assessed freeholders and householders of any school section, for the purpose of maintaining a common school within their section.—*Held*, also, that any resolution passed at the general annual meeting, deciding on any one mode for maintaining the school for the year, may be rescinded by a *special* meeting properly convened for that purpose—*Wilson v. Thompson*, 9 C. P. R. 364. See also the *tenth* clause of the *twenty-seventh* section of the Act, on page 34.

§ It belongs to the *office of Trustees* to estimate and determine the *amount* of the teacher's salary, and all expenses connected with the school; but it appertains to the majority of the assessed freeholders and householders of each school section, at a public meeting called for the purpose, to decide, (as authorized by the *one hundred and twenty-fifth* section of this Act,) as to the *manner* in which

Auditors' Report to be received.

[(5) The *eightth* section of the School Law Amendment Act of 1860, provides that the annual meeting shall receive the report of the auditors of school section accounts of the previous year, and dispose of the same. See page 48.]

School Section Auditor to be appointed.

[(6) The same section of the Act of 1860, also provides that the annual meeting shall appoint an auditor of the school accounts of the section for the current year. See page 42.]

[The *seventeenth* section of the Consolidated School Act has been superseded by the *third* section of the School Law Amendment Act of 1860, as follows:]

[Who are legal Voters at School Meetings.*

[17. The *seventeenth* section of the Upper Canada Common School Act, *sixty-fourth* chapter of the Consolidated Statutes for Upper Canada, shall be amended so as to read as follows: No person shall be entitled to vote in any school section for the election of trustee, or on any school question whatsoever, unless he shall have been assessed, and shall have paid school-rates as a freeholder or householder in such section: and in case an objection be made to the right of any person to vote in a school section, the chairman or presiding officer at the meeting shall,† at the request of any ratepayer, require the person whose right of voting is objected to, to make the following declaration:

[Form of Declaration required from School Electors.

“I do declare and affirm that I have been rated on the assessment roll of this school section as a freeholder (or householder, *as the case may be*) and that I have paid a public school tax due by me in this school section imposed within the last *twelve* months,‡ and that “I am legally qualified to vote at this meeting.”

[Penalty for making a False Declaration,

[Whereupon the person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person

such expenses shall be provided for, whether (1) by voluntary subscription; (2) rate bill, in advance, of twenty-five cents (or less) per calendar month, on each pupil attending the school; (3) rate on property. But as the trustees *alone*, as authorized by the fourth, fifth, sixth, eighth, and twelfth clauses of the *twenty-seventh* section, pages 28—31, and 36, determine the amount required for the support of the school, which they are required to keep open at least six months of the year, they are authorized by the tenth clause of the same section, page 34, to provide the balance, including all *deficiencies*, by a rate upon the property of the section, should the vote of the annual meeting not cover *all the expenses of the school* (over and above the cheques for the school fund), or should the annual meeting *omit or refuse* to provide a sufficient sum. But for all the moneys received and expended by them, the trustees must account annually to the school section auditors, as prescribed in the *eightth* section of the School Law Amendment Act of 1860, page 43.

* The *nineteenth* section of the Consolidated School Act, page 15, and the *twenty-fifth* section of the Roman Catholic Separate School Act of 1863, exclude supporters of the separate schools from the right of voting at common school meetings.

† This word “*shall*” is construed as imperative. See note * on page 11.

‡ *i.e.*, Either by the county or township council, or by the school trustees.

refuses to make such declaration, his vote shall be rejected; and if any person wilfully make a false declaration of his right to vote, he shall be guilty of a misdemeanor, and upon conviction, upon the complaint of any person, shall be punishable by fine or imprisonment, in the manner provided for in the [following *eighteenth*, and the *one hundred and fortieth* sections of the] said Upper Canada [Consolidated] Common School Act.]

18. If any person wilfully makes a false declaration of his right to vote, he shall be guilty of a misdemeanor, and be punishable by fine or imprisonment, at the discretion of the Court of Quarter Sessions; or by a penalty of not less than *five* dollars, or more than *ten* dollars, to be sued for and recovered with costs before a Justice of the Peace, by the trustees of the school section, for its use.

Separate School Supporters not to vote at Common School Meetings.

19. No person subscribing towards the support of a separate school established under the Act respecting separate schools and belonging to the religious persuasion thereof, and sending a child or children thereto, shall be allowed to vote at the election of any trustee for a common school in the city, town, village, or township in which such separate school is established.*

Place of Annual School Meeting to be appointed by the Trustees.

20. The trustees of each school section shall appoint the place of each annual school meeting† of the [assessed] freeholders and householders of the section, or of a special meeting for the filling up of any vacancy

* *Protestants cannot be supporters of Roman Catholic Separate Schools.*

The Court of Queen's Bench has decided the following case: A rate having been imposed for the purpose of building a new school-house in the town of Amherstburgh, certain persons who were not Roman Catholics, but Protestants, signed a notice to the clerk—he himself being one of them—that as subscribers to the Roman Catholic separate school they claimed to be exempted from all rates for common schools for the year 1861; and the clerk thereupon, in making up the collector's roll, omitted this rate opposite to their names. *Held*, that the clerk, who had been notified before making up the roll that it would be illegal to exempt these persons, had done wrong, and might be punished under the Consolidated Statutes of Upper Canada, c. 55, ss. 171, 173, but that the court could not in the following year interfere by mandamus to compel him to correct the roll.—*In the matter of Ridsdale and Brush, Clerk of the Corporation of the Town of Amherstburgh.* 22 Q. B. R. 122.

† *Form of Notice for an ordinary Annual School Section Meeting:*

ANNUAL COMMON SCHOOL NOTICE.

The undersigned, Trustees of School Section No. —, in the Township of —, hereby give notice to the assessed Freeholders and Householdors, of the said School Section, that the Annual Meeting will be held at —, on the second Wednesday in January, 186—, at 10 o'clock in the forenoon, for the purpose: 1st. Of receiving and deciding upon the Annual Report of the Trustees; 2nd. Of appointing an Auditor of the School Section accounts; 3rd. Of electing a fit and proper person as a School Trustee for the said Section; 4th. Of receiving and disposing of the report of the Auditors of School Section accounts; 5th.

in the trustee corporation occasioned by death, removal, or other cause, or of a special meeting for the selection of a new school site; and shall cause notices of the time and place to be posted in *three* or more public places of such section, at least *six* days before the time of holding such meeting, and shall specify in such notices the object of such meeting. They may also call and give like notices of any special meeting,* for any other school purpose, which they think proper; and each such meeting shall be organized, and its proceedings recorded, in the same manner as in the case of a first school meeting. [See the *seventh* to the *twelfth* sections of this Act, pages 9—11.]

Penalty on Trustees for not calling certain School Meetings.

21. In case any annual or other school section meeting has not been held for want of the proper notice, each trustee or other person whose

Of deciding upon the manner in which the salary of the teacher, and 6th. How the other expenses of the school, shall be provided.

[Should there be any other business to bring before the meeting, it must be distinctly mentioned in the notice, otherwise it cannot be entertained.]

Dated this — day of —, 186—.

A. B. } Trustees of
C. D. } School Section No. —,
E. F. } Township of —.

NOTE.—1. The manner of proceeding at the annual meeting is prescribed in the *sixteenth* section of this Act, page 13.

2. Should the Trustees neglect to give the prescribed notice of the Annual School Section Meeting until it is too late to give *six days'* notice, they forfeit each the sum of *five* dollars, recoverable for the purposes of the School Section, under the authority of this *twenty-first* section; and then any two qualified electors of the School Section are authorized, within twenty days, to call such meeting. The form of notice is appended in note † to the *twenty-second* section, page 17.

3. The foregoing notice should be signed by a majority of the existing or surviving trustees, and posted in at least three public places of the School Section, at least six days before the time of holding the meeting.

4. *The object or objects of each school meeting should be invariably stated in the notices calling it;* and the notices calling any school meeting should, in all cases, be put up six days before holding such meeting. One form is sufficient for calling a special school meeting of any kind, and such form is given in note * to this section.

5. The *second* clause of the *twenty-fifth* section of the Consolidated Common School Act, page 19, authorizes Local Superintendents to call special school meetings under certain circumstances. The *twenty-sixth* section, on page 19, also authorizes certain other persons to call special meetings, in case of the death, removal, &c., of all the trustees.

* *Form of Notice for Trustees calling Special School Section Meetings:*

SPECIAL COMMON SCHOOL NOTICE.

Notice is hereby given to the assessed Freeholders and Householdors of School Section No. —, in the Township of —, that a public meeting will be held at —, on the — day of —, at the hour of — of the clock in —, for the purpose [Here distinctly state the object or objects of the meeting]

Dated this — day of —, 186—.

A. B. } Trustees of School
C. D. } Section No. —,
E. F. } Township of —.

duty it was to give such notice, shall forfeit the sum of *five* dollars, to be sued for and recovered before a Justice of the Peace, by any resident inhabitant in the section for the use thereof. [See the *one hundred and fortieth* section of this Act.]

Meetings to be called in default of first or Annual Meetings.

22. In case, from the want of proper notice, any first* or annual† school section meeting, required to be held for the election of trustees was not held at the proper period, any *two* [assessed] freeholders or householders in such section may, within *twenty* days after the time at which such meeting should have been held, call a meeting, by giving *six* days' notice, to be posted in at least *three* public places in such school section; and the meeting thus called shall possess all the powers

* *Such a form of Notice for a first school section meeting should be as follows:*

NEW SCHOOL SECTION NOTICE.

The Municipal Council of this Township, having formed a part of the township into a School Section, and designated it "School Section No.—," its boundaries and limits are as follows:—[*Here insert the description.*] And the person appointed to call the first School Section Meeting having neglected to do so,—We the undersigned qualified electors of the School Section above described, in conformity with the *twenty-second* section of the Upper Canada Consolidated Common School Act, hereby give notice to the assessed freeholders and householders of said School Section, that a public meeting will be held at —, on —day, the — of —, at the hour of *ten* o'clock in the forenoon, for the purpose of electing three fit and proper persons from among the resident assessed freeholders and householders as School Trustees for the said Section.

A. B. } *Qualified Electors, School Section,*
C. D. } *No. —, Township of —.*

Dated this — day of — 186—.

NOTE.—The same notice can be given, in case the Municipal Council neglects to appoint a person to call the first annual school meeting. Care should, however, be taken to insert the description of the section, as embodied in the resolution or by-law of the Municipal Council,—a certified copy of which should be obtained from the Township Clerk for this purpose. A local Superintendent may also call this meeting in case of any neglect or omission to do so. See "Remarks" on page 10.

† *Form of Notice for an Annual School Meeting to be given by two qualified electors.*

ANNUAL COMMON SCHOOL NOTICE.

The Trustees of School Section, No. —, in the Township of —, having neglected to give notice of the Annual School Section Meeting, as prescribed by the *twentieth* section of the Upper Canada Consolidated Common School Act, the undersigned hereby give notice to the assessed freeholders and householders of the said School Section, that a public meeting will be held at —, on —day, the — day of —, at ten o'clock in the forenoon, for the purpose of electing a fit and proper person as trustee, as directed by law.

Dated this — day of —, 186—.

A. B. } *Qualified Electors*
C. D. } *School Section, No. —.*

NOTE.—The mode of proceeding at a School Meeting thus called, is prescribed in this Act, page 13. This meeting may also be called by the Local Superintendent. See second clause of the *twenty-fifth* section of this Act, page 19.

For the Form of Notice to be given by any two qualified electors, for a first School Section Meeting, see note above.

and perform all the duties of the meeting in the place of which it is called.

Penalty for refusing to serve as Trustee.*

23. If any person chosen as trustee refuses to serve, he shall forfeit the sum of *five* dollars; and every person so chosen who has not refused to accept the office, and who at any time refuses or neglects to perform its duties, shall forfeit the sum of *twenty* dollars, to be sued for and recovered before a Justice of the Peace, by the trustees of the school section for its use [as authorized by the *one hundred and fortieth* section of this Act.]

Trustees must make a Declaration of Office.

[23]. *The School Law Amendment Act of 1860 further enacts*: 18. Every person elected as trustee, and who is eligible and liable to serve as such, shall make the following declaration of office before the Chairman of the school meeting:

“I will truly and faithfully, to the best of my judgment and ability, discharge the duties of the office of School Trustee, to which I have been elected”]

Fine for default, or in case of neglect to make declaration.

And if any person elected as trustee shall not make the declaration within two weeks after notice of his election, his neglect to do so shall be sufficient evidence of his refusing to serve, and of his liability to pay the fine, as provided for in the [preceding] *twenty-third* section of the said Upper Canada [Consolidated] Common School Act. [NOTE.—By acting as trustee, and by making the declaration here required of a trustee, at any time previously to his being summoned before a magistrate, the “*evidence of his refusing to serve*” may be effectually rebutted.]

Trustees may resign—Absence, a forfeiture of Office.

24. Any person chosen as trustee may resign with the consent, expressed in writing, of his colleagues in office and of the local superintendent.

[24]. *The School Law Amendment Act of 1860 further enacts*: 11. * * * a continuous non-residence of *six* months from his school section by any trustee, shall cause the vacation of his office.]

Mode of proceeding in contested Elections in School Sections.

25. Each Local Superintendent of Schools—

(1) Shall, within *twenty* days after any meeting for the election of common school section trustees within the limits of his charge, receive and investigate any complaint respecting the mode of conducting the election, and according to the best of his judgment confirm it or set it aside,† and appoint the time and place for a new election; and may—

* For other penalties imposed on delinquent trustees, see pages 16, 17, 41, 42, 43, and 48.

† See decisions of the Court of Queen’s Bench, in note* to the *fortieth* section of this Act, page 54.

(2) In his discretion, at any time for any lawful purpose, appoint the time and place for a special school section meeting.

[(3) *The School Law Amendment Act of 1860 further enacts*: 13. It shall be the duty of a local superintendent of schools to receive, investigate, and decide upon any complaints which may be made in regard to the election of school trustees, or in regard to any proceedings at school meetings; *Provided* always, that no complaint in regard to any election or proceeding at a school meeting shall be entertained unless made in writing within *twenty* days after the holding of such election or meeting.]

Trustees to be a School Corporation—Its powers.

26. The trustees in each school section shall be a corporation,* under the name of "*The Trustees of School Section No. —, in the Township of —, in the County of —.*" [The Provincial Statutes General Interpretation Consolidated Act further adds in regard to Corporations, 22 Vict. chap. 5: Sec. 6. * * * "*Twenty-fourthly*. Words making any association or number of persons a corporation, or body politic and corporate, shall vest in such corporation power to sue and be sued, contract and be contracted with, by their corporate name to *have a common seal*,† and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation, the power to bind the others by their acts; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them;—But no corporation shall carry on the business of banking [*i.e.* taking or issuing promissory notes, &c.], unless when such power is expressly conferred on them by the Act creating such corporation."‡]—And no such corporation shall cease by reason of

* *A Corporation aggregate is not bound to appear as witnesses in Court, but its individual members may be subpoenaed.*

The Court of Common Pleas has decided that a corporation aggregate is not bound to appear at the trial as witnesses, under a notice served on its attorney under the Consolidated Statute 22 Vict., chap. 32, sec. 15. If the individual members are required to appear, they must be individually subpoenaed.—*Trustees No. 2, Dunwich v. McBeath*, 4 C. P. R. 228.

† The Trustees, being a corporation, must, by the Common School Act of 1860, pages 22, 32, use a *corporate seal* in their official acts, otherwise they may become personally liable for contracts and agreements. These Seals can be procured through the Educational Department, Toronto, for about \$2 each. The acts of the majority are binding upon the Corporation. Notice of all Trustee Meetings for the transaction of business should be given to all the members of the Corporation. See *seventh* section of the School Law Amendment Act of 1860, as [26‡] on page 20; also decision of the Courts, in note † on the same page; and No. 2, on page 29.

‡ *Circulation of School Orders on Treasurer, an act of banking contrary to law.*

Chief Justice Draper thus condemns unauthorized acts of banking on the part of corporations. He says: The evidence given at this trial shows that a practice

the want of trustees; but in case of such want, any two [assessed] freeholders or householders of the section may, by giving *six* days' notice, to be posted in at least three public places in the section, call a meeting* of the [assessed] freeholders or householders, who shall proceed to elect *three* trustees, in the manner prescribed in the *ninth, tenth, eleventh, twelfth, and thirteenth* sections of this Act [pages 10 and 11], and the trustees thus elected shall hold and retire from office in the manner prescribed for trustees.

Corporate Acts must be performed at lawful Trustee Meetings.

[26½. *The School Law Amendment Act of 1860 further enacts that:—*7. No act or proceeding of a school corporation shall be deemed valid or binding on any party which is not adopted at a regular or special meeting, of which notice shall be given by the Secretary to all the Trustees, by notifying them personally, or by sending a written notice to their residences,† and the proceedings of such trustee meetings shall be entered in a book of the corporation kept for that purpose, and signed by the senior or presiding trustee [see clause *b*, on page 22]; *Provided* always, that a majority of the trustees, at a meeting thus called, shall have full authority to perform any lawful business]‡

had grown up for the defendants to give orders on their treasurer, which, when he had accepted them, got into circulation, and at last found their way into the collector's hands, in payment of taxes. Such a practice seems to me at variance with the spirit, if not the intention, of the Upper Canada Consolidated Municipal Act [and also of the foregoing extract], which enacts that no council shall act as a banker, or issue any bond, bill, note, debenture, or other undertaking of any kind or in any form in the nature of a bank-bill or note, or intended to form a circulating medium, or to pass as money; and any bond, bill, note, debenture, or other undertaking issued in contravention of this section shall be void.—*Chief Justice Draper, in re Munson v. The Municipality of Collingwood.* 9 C. P. R. 497.

* For form of notice of such a meeting, see page 17. The local superintendent also may call this meeting if desired. See the *twenty-fifth* section of this Act, page 18.

† *This notice should be in the following form:*

School Section No. —, Township of —, — —, 186—.

SIR,—A meeting of the trustees of the common school in this section, will be held in the common school-house [or other place to be named], on Monday [or Tuesday, &c.], the 10th inst. [or other date, as the case may be], to take into consideration certain school business of this section. You are respectfully requested to attend.—I am, sir, your obedient servant,

To C. D.,
Trustee of School Section No. —,
Township of —.

A. B.,
Secretary.

The notice should be in writing, and delivered to each trustee, or to some adult member of his family, at his residence.

‡ Decisions of the Superior Courts in regard to Trustees.

1. *Two School Trustees can enter into a contract against the wishes of the third.*

The Court of Common Pleas has decided that a contract entered into by two trustees under the School Acts, with the corporate seal attached, is sufficient; and a plea that it was signed by the two subscribing trustees without the consent or

27. It shall be the duty of the trustees of each school section, and they are hereby empowered:*

Appointment and Duties of Secretary-Treasurer.

(1) To appoint one of themselves, or some other person, to be secretary-treasurer to the corporation; who shall give such security as may be required by a majority of the trustees;†

approbation of the third, was held to be bad.—*Forbes v. Trustees No. 8, Plympton*. 8 C. P. R. 74.

2. But two Trustees cannot act without consulting a third.

* The Court of Queen's Bench has decided that two of the trustees of a school are not competent to act in all cases without consulting the third, and giving him an opportunity of uniting in, or opposing, the acts of his colleagues.—*Orr v. Ranney et al. No. 15, Westminster*. 12 Q. B. R. 377.

3. A Trustee, when sued for a corporate act, entitled to notice of action.

The Court of Common Pleas has decided, in a case of alleged trespass under a warrant, that a school trustee who is sued for any act done in his corporate capacity, is entitled to notice of action, and that the action must be brought within six months; and that a school trustee, acting in the discharge of his duty as such, is entitled to the protection of, and comes within, the consolidated statute 22 Vict. ch. 26, notwithstanding he should have signed a warrant individually instead of in his corporate capacity.—*Spry v. Mumby et al. No. 15, Rawdon*. 11 C. P. R. 285. See notes * and † on page 19, and also the following note.

4. Protection of Trustees and other lawful School Officers.

NOTE.—The following are the provisions of the Act for the protection of magistrates and others, to which the judge in the foregoing decisions refers:

Sec. 1. Every action brought against any Justice of the Peace for any act done by him in the execution of his duty as such Justice, with respect to any matter within his jurisdiction as such Justice, or against any other officer or person fulfilling any public duty, for any thing by him done in the performance of such public duty [interpreted by the court in the foregoing case (11 C. P. R. 285) to apply to school trustees and to collectors of school rates, when acting under the trustees' lawful warrant], whether any of such duties arise out of the common law or be imposed by act of parliament, either Imperial or Provincial, shall be an action on the case as for a tort, and in the declaration it shall be expressly alleged that such act was done maliciously and without reasonable and probable cause; and if at the trial of any such action, upon the general issue pleaded, the plaintiff fails to prove such allegation, he shall be non-suited, or a verdict shall be given for the defendant. * *

Sec. 20. So far as applicable, the whole of this act shall apply for the protection of every officer and person mentioned in the first section hereof, for anything done in the execution of his office, as therein expressed.

* The twentieth section of the School Law Amendment Act of 1860, also provides that "Trustees shall not be liable to any prosecution, or the payment of any damages, for acting under any by-law of a municipal council before it has been quashed."

* Other duties of the trustees are enumerated in the twentieth section of this Act, pages 15, 16; and the eighth section of the School Act of 1860, pages 43, 44. See also note † on the next page.

† For personal responsibility of trustees, in case they neglect to take this security, see the one hundred and thirty-seventh section of this Act. For form of security to be taken, see page 22.

a. For the correct and safe keeping and forthcoming (when called for) of the papers and moneys belonging to the corporation ;*

b. And for the correct keeping of a record of all their proceedings, in a book procured for that purpose ;†

c. And for the receiving and accounting for all school moneys collected by rate-bill, subscription, or otherwise, from the inhabitants of such school section ;‡

d. And for the disbursing of such moneys in the manner directed by the majority of the trustees ;||

Certain Trustee contracts between themselves unlawful.

[(1½) *The School Law Amendment Act of 1860 further enacts:* 6. It shall not be lawful for any Common School Trustee to enter into a contract with the corporation of which he is a member, or have any pecuniary claim on such corporation, except for a school site, or as collector of school rates, and then only when he shall be appointed, and the warrant to him signed by the other two members of the corporation, with the seal of the same.]

Appointment and duty of School Collector.

(2) To appoint if they think it expedient, one of themselves or some other person a collector (who may also be secretary-treasurer), to collect the rates imposed by them upon the inhabitants of their school section, or the sums which the said inhabitants have subscribed ; and may pay such collector, at the rate of not less than *five* nor more than *ten* per cent. on the moneys collected by him ; and every such collector shall give security satisfactory to the trustees,|| and shall have

* See the *eighth* section of the School Law Amendment Act of 1860 (as section *twenty-nine*), on pages 43 and 44.

† The *one hundred and thirtieth* and following sections of the Consolidated Common School Act provides a remedy against a defaulting Secretary-Treasurer. Should the Trustees neglect to take security, they become personally responsible should any loss be sustained thereby, as provided in the *one hundred and thirty-seventh* section of the Consolidated Common School Act.

‡ *Embezzlement.*—A Trustee, not being Secretary-Treasurer, cannot receive or retain school moneys.

The Court of Common Pleas has decided that a school trustee having money in his hands, not as secretary and treasurer of a Board, or in any official capacity, cannot embezzle such money, *has duty as trustee not requiring or authorizing him to receive it.*—*Ferris v. Irwin* No. 16, *Darlington*, 10 C. P. R. 116.

|| The security referred to may be given in the following form :

Bond of Collector of School-rates, or Secretary-Treasurer.

Know all men by these presents. That A. B., of C., Collector of school-rates, [or Secretary-Treasurer, or both, as the case may be], for School Section No. —, in the Township of —, in the County of —, and Province of Canada, and F. G., of H., in the said Province, are held and firmly bound to I. J., K. L., [and M. N.,] Trustees of the School Section aforesaid, in the sum of — Dollars of lawful money, to be well and truly paid to the said Trustees, or their successors in office, for which payment well and truly to be made to the said Trustees, we bind our-

the same powers by virtue of a warrant,* signed by a majority of the trustees, in collecting the school-rate or subscription, and shall proceed in the same manner as ordinary collectors of county and township rates and assessments; †

selves jointly and severally, our heirs, executors and administrators firmly by these presents.

Sealed with our seals, and dated at O., this — day of —, in the year of our Lord one thousand eight hundred and sixty —.

The condition of this bond is such, that if the above bounden A. B., shall use all diligence and employ all the powers vested in him to collect (a) all school-rates and assessments of the said Section for which he has been appointed collector, (or in case of non-residents shall make oath of his inability after diligent search to collect the rates due.) and shall pay or cause to be paid over, all moneys which he may collect (except his own per centage) to the [Trustees' Secretary-Treasurer] of the said School Section, within — days from the receipt by him of such sum collected, and shall make a full return within — days from the date of these presents, then this obligation shall be null and void, otherwise it shall remain in full force and virtue.

| | | |
|---|--------------------|-------------------------------------|
| Signed, sealed, and delivered) in presence of | J. L. } R. S. } | A. B., Collector [Seal.] |
| | | F. G., Surety for Collector [Seal.] |
| | | |

* For form of trustees' warrant see page 34. See also the following decisions regarding sureties.

† Decisions of the Superior Courts in regard to School-rates and Collectors.

1. *Collector's Sureties not responsible for uncollected Rates, nor for Collector's default, unless they so bind themselves as per foregoing bond.*

The Court of Common Pleas has decided the following case: A person having been duly appointed collector by the trustees of a school section, signed the following contract at the foot of the instrument appointing him: "I agree, &c., to collect, &c., according to the said Act, and bind myself, by my securities, in the sum of £250;" and immediately under, his sureties signed the following undertaking: "We hereby agree to become security for the due fulfilment of the above contract." The collector paid over a portion of the amount collected by him, leaving a certain sum remaining uncollected. An action was brought by the trustees against the collector and his sureties, *Held*, that the sureties, under their contract, were not jointly liable with their principal for moneys uncollected by him; also that they were not jointly liable on their guaranty as sureties on default of the principal—the contract only extending to the collection of the rate.—*Trustees No. 6, York, v. William Hunter et al.* 10 C. P. R. 359.

2. *Note of Hand no legal payment of School Rate.*

The Court of Queen's Bench has decided the following case on a *replevin* [see *f*, page 34] for horses: *Plea*,—justifying the taking under a warrant for school-taxes, and alleging that they were delivered by the collector to defendant, an innkeeper, to take care of until the sale. *Replication*,—setting out facts to shew the rate illegal, and averring that plaintiff, after seizure of the goods, at the request of the collec-

(a) NOTE.—If the bond be for a Secretary-Treasurer alone, insert the following instead of "shall use," &c.: "shall correctly keep all the papers belonging to the school corporation, and shall receive and safely keep, and faithfully disburse, upon the order of the majority of the aforesaid Trustees alone, all moneys collected by rate bill, subscription, or otherwise, by the authority of the said Trustees, and shall deliver up to the lawful order in writing of the aforesaid Trustees, when called for, all such papers in his custody and all such moneys, not paid out as aforesaid."

[(24.) *The School Law Amendment Act of 1860 further enacts: 21. Collectors of school rates shall have the same powers, and be under the same liability and obligations in their respective school municipalities, as township collectors have and are liable in their respective municipalities;* and shall give such security as may be satisfactory to the trustees.*] See note † on page 22.

tor and trustees, gave his note for a sum named (not saying that it was the amount due by him), payable to bearer, which was accepted in satisfaction of the taxes; that the collector released the property seized, and said note is still outstanding, and the plaintiff liable upon it, and that the seizure in the plea mentioned was made afterwards. *Held*, on demurrer, replication bad; for, 1st. The collector acting under a warrant legal on the face of it, would not be liable in trespass or trover, and therefore not in this action, nor the defendant for taking the horses from him to keep; and, 2nd. Even if the note had been alleged to be for a sufficient amount to pay the rate, yet the improper acceptance of it by the trustees would not prevent them from afterwards distraining.—*Spry v. McKenzie*. 18 Q. B. R. 161.

3. *Extension of time for collecting School Rates.—Duration of Collector's authority.*

The Court of Queen's Bench has decided the following case: The time for levying a school-tax in the city of Kingston, imposed by by-law in December, 1855, was extended by resolutions of the city council, under 18 Vic. c. 21, s. 3, until the 1st of August, 1856; and again, on the 22nd of December, 1856, to the 1st of March, 1857. *Held*, that the collector, who was the same person for both years, might distrain between the 1st of August and the 22nd of December, 1856, although no resolution extending the time was then in force. *McLean, J.*, dissenting.—*Newberry v. Stephens et al. City of Kingston*.—16 Q. B. R. 65.

4. *Right to collect School Taxes after the expiration of the Year.*

The Court of Queen's Bench has decided on an appeal by the Chief Superintendent of Education, that a collector of school taxes might, in 1861, collect by distress the taxes for 1859 and 1860, not having made his final return of such taxes as in arrear, and being still collector; and *semble*, that in this case the plaintiff, who complained of the seizure, having led to it by his own conduct, the proceeding should have been upheld in the Division Court at all events.—*The Chief Superintendent of Education, appellant, from the Judge of the Division Court in the County of Elgin, in the matter of McLean v. Farrell*. 21 Q. B. R. 441.

5. *Collector committing Trespass is entitled to Notice of Action.—Limit.*

The Court of Common Pleas has decided that a collector who committed a trespass while acting under a warrant issued by a competent authority, was entitled to notice of action, and that the action should be brought within six months.—*Spry v. Mumby et al. No. 15, Rawdon*. 11 C. P. R. 285. (See 4. "Note," page 21.)

* *Powers, Duties, and Liabilities of Collectors of School Rates.*(b)

These "powers" of, and the mode of "proceeding" observed by, township and county collectors, are prescribed in the Upper Canada Consolidated Assessment Act, 22 Victoria, chap. 55. They may be adapted to collectors of school-rates as follows:

1. *Shall call for the rate.*

The collector, on receiving or making out the roll [see pages 34 and 35], shall proceed to collect the rates. He shall call once on the party rated, if residing within or near the section, and demand payment; if a non-resident, he shall send

(b) For liabilities and obligations of school collectors, see pages 27, 28; and for protection of collectors when acting under a lawful warrant, see decisions of the Court of Common Pleas, on pages 23 and 24.

Trustees to acquire and hold School Property.*

(3) To take possession and have the custody and safe keeping of all common school property which has been acquired or given for common

by post a statement of his demand. He shall not receive rates for property not set down on his roll. See Consolidated Assessment Act, sections 93, 94, and 95.]

2. Shall seize Goods and Chattels of defaulters.

He shall collect the rate within *ten* days from the date of the warrant; but in case any person refuse payment, he shall, *fourteen* days after having made a demand, levy for the amount due, by distress and sale of goods and chattels, if found within the municipality, of the person who ought to pay the same. Section 96.

3. How to proceed against non-residents.

If the party be a non-resident, the collector shall, *one* month after delivering to him the roll and warrant, and *fourteen* days after having transmitted by post a statement and demand, make distress of any goods and chattels found on the *non-resident's land*, "and no claim of property, lien, or privilege shall be available to prevent the sale, or the payment of the taxes and costs out of the proceeds thereof." Section 97. If there be no goods and chattels, the collector shall

*This clause, and especially the *tenth* section of the School Law Amendment Act, of 1860, as (3 $\frac{1}{2}$) on page 27, vest all school property in the Trustee Corporation. Trustees should, whenever practicable, obtain a deed, a bond for a deed, a lease, or other legal instrument, granting quiet possession to them of the property in their section, in case they have no sufficient title to it. Objection is frequently made to the right of Trustees to assess the section for the repairs or building of the school house, where no full legal title to the school premises is vested in them. To remove this objection (although it is only a technical one), Trustees should obtain the legal instrument referred to. Every public school house and site are exempt from taxation, as provided in the *fifth* clause of the *ninth* section of the Upper Canada Consolidated Assessment Act, 22 Viet. chap. 55.

The following is the form of deed:

Form of Deed for the Site of the School House, Teacher's Residence, &c.

This Indenture, made the — day of —, in the year of our Lord one thousand eight hundred and —, in pursuance of the School Acts of Upper Canada, and of the Act respecting the transfer of real property, between —, of the Township [*Village, Town, or City*] of —, in the County of —, and Province of Canada, — [*business or calling*], of the first part; —, wife of the said party of the first part, of the second part; and the Trustees of the Common School Section No. —, in the Township of —, [*City, Town, &c., of,*] in the County of — and Province aforesaid, of the third part:

Witnesseth; that in consideration of — dollars of lawful money of Canada, now paid by the said Trustees to the said party of the first part (the receipt whereof is hereby by him acknowledged), he the said party of the first part, doth grant unto the said Trustees of the School aforesaid, their successors and assigns for ever, all and singular that parcel of land, &c., [*describing it in full*]:

As have and to hold the same, in trust to and for the use of a common school [and Teacher's Residence], in and for School Section No. —, in the Township [*City, Town, &c.*] of —, and in the County and Province aforesaid, according to the provisions of the School Acts of Upper Canada, and for the education of the resident youth of said School Section.

THE said party of the first part **Covenants** with the said Trustees, that he hath the right to convey the said lands to the said Trustees, notwithstanding any act of

school purposes in such section, and to acquire and hold as a Corporation, by any title whatsoever, any land, movable property, moneys or

make oath of his inability, after diligent inquiry, to discover the goods and chattels of the defaulter, or to collect the rate, and shall then proceed as directed in the *one hundred and twenty-seventh* section of this Act. Sections 105 and 106. In regard to the property of railway companies, see No. 6 following.

4. *Shall give written notice, and Sell by Auction.*

He shall give a written or printed notice of the day of sale and the name of the defaulter, or the number and description of his lot if his name be not known, in not less than *three* public places in the place where the sale is to be held, at least *six* days before the day of sale, and shall sell by public auction the property so seized. Section 98. Any person wilfully tearing down, injuring, or defacing such notice, or the assessment roll, shall be liable to a fine, before a magistrate, of *twenty dollars*. Section 197.

5. *How to dispose of Surplus.*

If the proceeds of the property amount to more than the rate and costs, he shall return the surplus to the party who was in possession when it was seized, or to the rightful owner, as admitted by the party for whose taxes the property was distrained. If there be a dispute as to the ownership of the pro-

the said party of the first part: And that the said Trustees shall have quiet possession of the said lands, FREE FROM ALL INCUMBRANCES: And the said party of the first part Covenants with the said Trustees, that he will execute such further assurances of the said lands as may be requisite: And the said party of the first part Covenants with the said Trustees, that he has done no act to encumber the said lands: And the said party of the first part releases to the said Trustees all his claims upon the said lands: And the said party of the second part hereby bars her dower in the said lands.

In witness whereof, the said parties hereto have hereunto set their hands and seals, in the day and year before mentioned,

Signed, sealed, and delivered, in
presence of
H. T. }
C. T. } *Witnesses.*

J. G. [*Seller's Seal.*]
F. R. [*Seller's wife's seal.*]
T. H. }
M. B. } [*Trustees*]
I. B. } [*corporate seal.*]

REMARKS—When the land has descended to the wife in her own right, she must, besides joining with her husband in the Conveyance, appear before two Justices of the Peace, to declare that she has parted with her estate in the land intended to be conveyed without any coercion or fear of coercion by or on the part of her husband; and the certificates of such Justices must appear on the back of the conveyance on the day of its execution. The form of the certificate is as follows: "We [*inserting the names*] Justices of the Peace for the County of —, do hereby certify that on this — day of —, 186—, at —, the within deed was duly executed in our presence, by —, wife of —, one of the grantors therein named; and that the said wife of said —, at the said time and place, being examined by us, apart from her husband, did appear to give her consent to convey with her estate in the lands mentioned in the said deed, freely and voluntarily, and without coercion or fear of coercion on the part of her husband, or of any other person or persons whatsoever.

Dated this — day of —, 186—.

"R. W—, J. P.
"A. M—, J. P.

income for common school purposes, and to apply the same according to the terms on which the same were acquired or received ;

Trustees may Sell School Site or other Property.

[(34) *The School Law Amendment Act of 1860 further enacts that:* 10. It shall be lawful for any School Trustee Corporation to dispose, by sale or otherwise, of any school site or school property not required by them in consequence of a change of school site, and to convey the same under their corporate seal, and to apply the proceeds thereof for their lawful school purposes. And all sites and other property given or acquired, or which may be given or acquired, for common school purposes, shall vest absolutely in the Trustee Corporation for this purpose.] In regard to new school site, see the *thirtieth* section of the Consolidated Common School Act, on page 45]

perty sold, the surplus shall be paid over to the municipal treasurer until the dispute be settled. Sections 99, 100, and 101.

6 Liabilities of Railway Companies in School Sections

By the *seventh* section of the Consolidated Assessment Act, the real estate of a railway company which may be situated in a school section, "*is not to be considered as land of non-residents.*" The *thirtieth* section of that Act requires the company to transmit annually to the clerk of the municipality, a statement of the value of all their real property, except the roadway, in the municipality ; the clerk shall communicate the same to the assessor, and the trustees shall copy it from the assessor's roll and place it upon the collector's roll, with the amount of tax thereon. The collector shall notify the company, and collect the tax at any station or office of the company. See also the *one hundred and twenty-seventh* section of the Consolidated Common School Act.

7. Omitted Assessments and Mistakes.

The Consolidated Assessment Act authorizes the county treasurer to report to the township clerk any land to assessment, but which has not yet been assessed ; and the clerk shall enter such land on the collector's roll of the following year. The treasurer is also authorized to collect any palpable error as certified by the township clerk. Sections 116—119.

8 Collector to make return at the time specified in the warrant, &c.

The collector shall return his roll to the trustees, and pay over the proceeds, within the time fixed in the bond to the trustees, or their warrant to him, otherwise another person may be employed to collect the taxes which the collector does not collect within the time specified. Sections 103 and 104.

9. Taxes to be a special lien upon land.

The taxes accrued or to accrue on any land, shall be a special lien on such land, having preference over any claim, lien, privilege, or incumbrance, of any party except the Crown, and shall not require registration to preserve it. Section 107. See also the *twelfth* clause of this *twenty-seventh* section of the Consolidated Common School Act, and notes, on pages 36 and 37.

10 Punishment of Clerks, Assessors or Collectors, making fraudulent assessments, Collections, &c.

The *one hundred and seventy-third* section of the Upper Canada Consolidated Assessment Law enacts that if any clerk, assessor, or collector, acting under this Act, makes any unjust or fraudulent assessment, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts therein the name of any person

Building, or otherwise providing School Premises.

(4) To do whatever they may judge expedient with regard to building, repairing, renting, warming,* furnishing, and keeping in order†

who should not be entered, or omits the name of any person who should be entered, or wilfully omits any duty required of him by this Act, he shall be guilty of a misdemeanor, and upon conviction thereof before a court of competent jurisdiction, shall be liable to a fine not exceeding two hundred dollars, and to imprisonment until the fine be paid, or to imprisonment in the common gaol of the county or city for a period not exceeding six months, or to both such fine and imprisonment, at the discretion of the court. Section 173.

11. *Proceedings for compelling Collectors to account for or pay over Moneys in their hands by Warrants from Treasurers to Sheriff or High Bailiff.*

The one hundred and seventy seventh section of the Upper Canada Consolidated Assessment Law further enacts that if a collector refuses or neglects to pay to the proper treasurer or chamberlain, or other person legally authorized to receive the same, the sums contained on his roll, or duly to account for the same as uncollected, the treasurer or chamberlain shall, within twenty days after the time when the payment ought to have been made, issue a warrant under his hand and seal, directed to the sheriff of the county, or to the high bailiff of the city (as the case may be), commanding him to levy of the goods, chattels, lands and tenements of the collector and his sureties, such sum as remains unpaid and unaccounted for, and to return the Warrant within forty days after the date thereof.

* The following are the general regulations, which have the force of law, in regard to warming and keeping in order the school house, as prescribed by the Council of Public Instruction for Upper Canada :

13. The trustees having made such provisions relative to the school-house and its appendages, as are required by the fourth clause of the twenty-seventh section, and the seventh clause of the seventy-ninth section of the Upper Canada Consolidated Common School Act, it shall be the duty of the master to give strict attention to the proper ventilation and temperature, as well as to the cleanliness of the school house; he shall also prescribe such rules for the use of the yard and outbuildings connected with the school-house, as will insure their being kept in a neat and proper condition; and he shall be held responsible for any want of neatness or cleanliness about the premises.

14. Care shall be taken to have the school-house ready for the reception of the pupils at least fifteen minutes before the time prescribed for opening the school, in order to afford shelter to those who may arrive before the appointed hour.

NOTE.—It is not the duty, however, either of the teacher or pupils to make the school-house fires, or to sweep the house itself. The teacher is employed to teach the school; but he is not employed to make the fires or to clean the school-house, any more than to repair it. It is the duty of the trustees to provide for warming and cleaning the school-house; and it is the duty of the teacher to see that the provision thus made by trustees for those purposes, is duly carried into effect by the parties concerned. If the teacher undertakes to see these things done, for a certain remuneration, or for what he may have to pay to get them done, very well; but it is clearly the duty of the trustees to make provision for having them done at the expense of the section.

† Decisions of the Superior Courts in regard to the School-House.

1. *Trustees can levy a rate for the erection of a School-house.*

The Court of Queen's Bench has decided that, under the School Act, school trustees are authorized to levy a rate for the erection of a school-house in their

the section school-house, and its furniture and appendages, and the school lands and enclosures held by them; and for procuring apparatus* and text-books for their school;

(5) And when there is no suitable school house belonging to such section, or when a *second* school-house is required,† then to rent,

section.—*The Chief Superintendent of Education, appellant from the Judge of the Division Court of the County of Brant, in re John A. Kelly v. Charles Hedges et al. Union Section No. 20, Burford, and 13, Windham.* 12 Q. B. R 581.

2. *School Trustee contracts not valid without their corporate Seal.*

The Court of Common Pleas has decided that the Trustees of a School Section being a corporation under the School Act, are not liable as such to pay for a school house erected for and accepted by them, not having contracted under seal for the erection of the same. The seal is required as authenticating the concurrence of the whole body corporate. (c)—*Marshall v. Trustees No. 4, Kitley*, 4 C. P. R. 375.

3. *Contract under Seal, signed by a majority of the Corporation, binding.*

The same Court has also decided the following case:—A contract was entered into by two of the Trustees of a Section under their corporate seal for building a school house, after the house was built the Trustees refused to pay, on the plea that the contract was not legal, a jury having given a verdict in favour of the Trustees, a new trial was ordered, and the former verdict in favour of the trustees was set aside.—The court held that a contract entered into by two trustees under the School Act, with the corporate seal attached, is sufficient; and a plea that the contract was signed by the two subscribing trustees, without the consent or approbation of the third, was held bad.—*Forbes v. Trustees, No. 8, Plympton*, 8 C. P. R. 73, 74.

4. *School-house and site in use not liable to be sold on judgment against Trustee Corporation, s-not they but the inhabitants of the Section are the cestuis que trust (i. e. persons for whose benefit the trust is held.)*

The Court of Queen's Bench has given judgment as follows: In a case in which a school site had been given to the trustees for the purposes of a school (with the condition that it should revert to the giver in case it should cease to be used for school purposes), and on which they had erected a school-house, judgment was obtained against the corporation for the money due on the building contract. The school-house and site were actually sold and deeded by the sheriff; but the Court held, that the house and land could not lawfully be sold,—it being contrary to public policy that a school-house in daily use (any more than a court-house or jail) should be held liable upon writ of execution. The plaintiff should have re-

* Apparatus, maps, library and prize-books, may be obtained from the Educational Depository, Toronto. See "Departmental Notices" on the subject, at the end.

† i. e. For a female school, as authorized by the next clause of this section.

(c) "A corporation being an invisible body, cannot manifest its will by oral communication: a peculiar mode has therefore been devised for the authentic expression of its intention,—namely, the affixing of its common seal; and it is held that though the particular members may express their private consent by words, or signing their names, yet this does not bind the corporation, it is the fixing of the seal, and that only, which unites the several assents of the individuals composing it; and makes one joint assent of the whole.—*Smith's Mercantile Law, B. I. Chap. 4.*

repair, furnish, warm and keep in order a house, and its appendages, to be used as a school-house. [See note * on page 28.]

May establish a Second, or Female School.

(6) To establish, if they deem it expedient, with the consent of the local superintendent of schools, both a female and male school in the section, each of which schools shall be subject to the same regulations and obligations as common schools generally ;

May unite with Grammar School.

(7) To take such steps as they may judge expedient to unite their school with any public grammar school, which may be within or adjacent to the limits of their section ;*

United Board of Trustees may Sell School Site.

[(7 $\frac{1}{2}$) *The School Law Amendment Act of 1860 further enacts, that: 10. * * It shall be lawful for any united Board of grammar and common school trustees to dispose, by sale or otherwise, of any school site or school property belonging to the united Board, or to the grammar school or common school trustees respectively.]*

sorted to his other remedies against the trustees for neglect of duty, &c., [as provided in the *twentieth* clause of the *twenty-seventh* section of the Upper Canada Consolidated Common School Act, page 41]—*Scott v. Trustees of Union Section No. 1, Burgess and 2 Bathurst.* 19 Q. B. R. 28.

5. *The Trustees (and not the Teacher) the proper parties to sue for a trespass on the school house.*

The Court of Queen's Bench has decided that the trustees of the school, and not the teacher, should sue for a trespass on the school-house ; unless it can be shown that the trustees have given the teacher a particular interest in the building, beyond the mere liberty of occupying it during the day for the purpose of teaching.—*Monaghan v. Ferguson et al. No. —, London.* 3 Q. B. R. 484.

Note.—Trustees have no legal power under the School Act to permit their school-house to be used for other than school purposes. Usage, however, has invested them with a sort of discretion in this respect. If they should abuse their trust, an application can be made by any dissatisfied party to the Court of Chancery for an injunction to compel the trustees to confine the use of their school-house to school purposes ; but no mandamus from the Court of Queen's Bench would probably be granted to compel the trustees to allow it to be used for other than school purposes, unless there was any express provision in the deed, requiring the trustees to open it for religious or other public meetings. The teacher has the charge of the school-house on behalf of the trustees. He has no authority to use the school-house otherwise than as directed by the trustees ; nor to make use (or prevent the use) of it at any other time than during school-hours, without the sanction of the trustees. At the request of the trustees he must at once deliver up the school-house key to them. See the *first* section of the School Law Amendment Act of 1860, quoted in Part V.

* In case of a union, the grammar and common school departments of the school should be kept quite distinct. See separate *Manual* for union grammar and common schools in cities, towns, and incorporated villages.

Employ Teachers—Certain Agreements therewith invalid.

(8) To contract with and employ teachers for such school section,* and determine the amount of their salaries; but no agreement† between trustees and a teacher in any school section, made between the first of *October* in any year and the second Wednesday in *January* then next, shall be valid or binding on either party after the last mentioned day, unless such agreement has been signed by the *two* trustees of such school section whose period of office extends to one year beyond such second Wednesday; ‡

* All agreements between Trustees and a Teacher must be signed by at least two of the trustees and a teacher, and must have the *corporate seal* of the section attached to it, (see *twelfth* section of the School Law Amendment Act for 1860 on next page), otherwise the trustees may be made *personally responsible* for the fulfilment of their agreement, and can then be sued by the teacher. It should also be entered in the trustees' book, and a copy of it given to the teacher. (See form of agreement between trustees and teacher, as given below.) The trustees being a corporation, their agreement with their teacher is binding on their successors in office, if made in accordance with the foregoing section; and should they refuse or wilfully neglect to exercise the corporate powers vested in them, they would be personally liable for the amount due a teacher. (See *twentieth* clause of the *twenty-seventh* section of this Act, page 41.) As to the mode of settling disputes between trustees and a teacher, see the *eighty-fourth* section of this Act, in Part V.

† *The following is the Form of Agreement between Trustees and Teacher :*

We, the undersigned, Trustees of School Section No. —, in the Township [City, Town, &c.] of —, in the County of —, by virtue of the authority vested in us by the Upper Canada Consolidated Common School Act, have chosen [*here insert the Teacher's name*] who holds a — class certificate of qualification, to be a Teacher in said School; and we do hereby contract with and employ such Teacher, at the rate of [*here insert the sum in words,*] per annum, from and after the date hereof; and we further bind and oblige ourselves, and our successors in office, faithfully to employ the powers with which we are legally invested by the said Act, to collect and pay the said Teacher, during the continuance of this agreement, the sum for which we hereby become bound—the said sum to be paid to the said Teacher, [*quarterly, &c., as the case may be.*] And the said Teacher hereby contracts with the Trustees herein named, and binds himself [*or herself*] to teach and conduct the common school, in said school section, according to the school law and the regulations which are in force under its authority. This agreement shall continue in force [*here insert the period of agreement,*] from the date hereof (unless the certificate of the said Teacher should in the meantime be revoked or annulled (*d*) according to law), and shall not include any teaching on Saturdays, or on other lawful holidays and vacations, prescribed under the authority of the School Law; but all such holidays and vacations shall be at the absolute disposal of the teacher, without any deduction from his salary whatsoever.

Given under our hands and seals of office,
this — day of —, 186—.

K. L., *Witness.*

| | | |
|--------|-------------|-------------------|
| A. B. | } Trustees' | |
| C. D. | | |
| E. F. | | } corporate seal. |
| G. H., | Teacher. | [Seal.] |

NOTE.—Agreements between Trustees and a Teacher must be signed by at least two of the Trustees and the Teacher, and must have the corporate seal of the section attached.—See the *twenty-sixth* section of the Consolidated Common School Act, pages 19, 20; also the *twelfth* section of the School Act of 1860, page 32.

‡ The spirit and intention of the School Law in this matter was, that no agree-

† (*d*) i.e. By the Chief or Local Superintendent. See the *one hundred and seventh* section, and the *ninth* clause of the *ninety-first* section of the Consolidated Common School Act of Upper Canada.

Agreements between Trustees and Teacher must be in Writing.*

[(8 $\frac{1}{2}$) *The School Law Amendment Act of 1860 further enacts that: 12 All agreements between trustees and teachers, to be valid and binding, shall be in writing, signed by the parties thereto, and sealed with the corporate seal, and may lawfully include any stipulation to provide the teacher with board and lodging.]*

To give Orders to qualified Teachers for School Fund.

(9) To give the teachers employed by them the necessary orders upon the local superintendent for the school fund apportioned and

ment with a teacher should be made or signed by any trustee for a period longer than his own term of office. An agreement, therefore, made by a trustee to extend beyond his own term of office, is an evasion rather than a compliance with the law; and although such an agreement would be legally binding upon his successor if signed (not dated merely) before the first of October; still no teacher should seek to obtain employment in a school on such terms, or in such direct violation of the spirit or intention of the Act. Should the agreement be cancelled by the trustees, after the ensuing January election, the claims of the teacher for compensation must be submitted to arbitration, as provided in the *eighty-fourth* section of this Act.

* Decisions of the Superior Courts in regard to Teachers. (See Part V.)

1. *A Local Superintendent signing an agreement with a Teacher is a mere approval of the appointment*

The Court of Queen's Bench has decided, that a Local Superintendent signing, together with trustees, a contract with a teacher, will be considered as having signed the same only as approving of the appointment, and not as contracting with the teacher.—*Campbell v. Elliott et al. County Model School, Middlesex.* 3 Q. B. R. 167.

2. *Trustees agreeing to furnish a Teacher with fuel, must be applied to for it.*

The Court of Queen's Bench has decided that when a teacher charged the trustees upon a special agreement stated to have been made by them, to furnish the said teacher with fuel when required, they could not be charged with a breach of covenant, as a request with time and place had not been stated in the teacher's declaration.—*Anderson v. Vansittart et al.,* 5 Q. B. R. 335. *Quere* by the Court, whether such an agreement could be enforced.

3. *Trustees cannot be sued for money due.*

The Court of Queen's Bench has decided, that trustees refusing to give an order to a teacher for the school fund, according to their agreement with him, cannot be sued for money due, but for the refusal to give the order.—*Quinn v. Trustees, 4, Seymour.* 7 Q. B. R. 130. [In regard to disputes between the trustees and teacher, see the *eighty-fourth* section of this Act.]

4. *Trustee and Teacher are not Master and Servant.*

The Court of Queen's Bench has decided that the Master and Servant Act, (10 and 11 Vict. c. 23) does not apply to school trustees and school teachers. Where a trustee, therefore, had been convicted under it as a master, the conviction was quashed.—*In re Lawrence Joice, No. —, Pittsburg, convicted by Robert Anglin, J. P.* 19 Q. B. R. 197.

5. *No rate can be imposed for the payment of an Unqualified Teacher.*

The Court of Queen's Bench has decided that no rate can legally be imposed by trustees for the salary of an unqualified teacher.—*Chief Superintendent of Education appellant from the Judge of the Division Court of the Counties of Lincoln and Welland, in re Stark v. Montague et al.* 14 Q. B. R. 473.

payable to their school section;* but they shall not give such order in behalf of any teacher who does not, at the time of giving such order, hold a legal certificate of qualification. [See *second* clause of the *ninety-first* section of this Act.]

Provide for Salaries and Expenses authorized by Electors.

(10) To provide for the salaries of teachers and all other expenses† of the school, in such manner as may be desired‡ by a majority of the [assessed] freeholders and householders of such section, at the annual

* 1. *Form of Trustees' Order upon the Local Superintendent.* See section 91. To the Local Superintendent of Schools for the Township [or County] of ———.

Pay to [here insert the teacher's name] or order, out of the School Fund apportioned to School Section No. —, in the Township of —, the sum of [here write the sum in words.]

Dated this — day of —, 186—.

A. B. } Trustees'
C. D. } Corporate Seal.
E. F. }

2. *Form of a Receipt from Teacher to Trustees.*

Received from the Trustees of School Section No. —, in the township of —, the sum of [here write the sum in words] in payment of my salary in part [or in full], for the [month or quarter] ending the — day of —, 186—.

A. B., Teacher.

† These "expenses" may be "for any lawful purpose whatsoever" (see *twenty-first* clause of this section, page 42.) and may therefore include collector's fees, law costs incurred in maintaining or defending *successful* suits,(e) postages, or any other incidentals connected with the office of trustees. While trustees are bound to carry out the lawful decision of their constituents, as explained in note-§, page 19, no public meeting can limit, or deprive them of the authority conferred upon them by the latter part of this (*tenth*) clause.

‡ 1. *Expenses of the School must be defrayed by the authority of the Trustees, in the manner provided by law, and not by the inhabitants themselves.*

The Court of Queen's Bench has decided that the freeholders and householders of a school section cannot substitute a voluntary subscription among themselves, and a rate upon the parents and guardians of children alone, for the whole expenses of the school, instead of the provisions made by law; and a resolution to have such private subscription, which the trustees neglected to collect, is therefore no answer to an avowry by the trustees for a rate levied by them in the usual way.—*McMillan v. Rankin et al. No. 14, Kingston.* 19 Q. B. R. 356.

2. *School-tax upon Parents and Guardians unlawful.*

The Court of Common Pleas has also decided a similar case: A general school meeting passed the following resolution,—“That the expenses of the school section be paid by voluntary subscription, and the balance to be raised from a tax to be levied upon the parents and guardians of those sending children to school,” the school trustees, after the failure of the voluntary subscription, levied

(e) *No rate can be imposed by Trustees for the re-imbusement of costs in defending illegal acts.*

The Court of Queen's Bench has decided that school trustees cannot impose a rate to reimburse themselves for costs incurred in defending unsuccessfully a suit brought against them for levying an unauthorized rate, or for travelling expenses incurred in order to consult with the Superintendent; but a rate may be levied to reimburse school trustees for the costs of defending a *grundless* action brought against them—*Chief Superintendent of Education appellant from the Judge of the Division Court, in re Stark v. Montague.* 14 Q. B. R. 473. See also *In re Terman and Municipality of the County of Nepean,* 15 Q. B. R. 87.

school meeting, or at a special* meeting called for that purpose, and to employ all lawful means to collect the sums required for such salaries and other expenses;

Deficiencies to be made up by Rate on Property.

And should the sums thus provided be insufficient to defray all the expenses of such school, the trustees may assess and cause to be collected an additional rate, in order to pay the balance of the teacher's salary, and other expenses of such school;

Make out Rate-bill and Collector's Warrant. †

(11) To make out a list of the names of all persons rated by them for the school purposes of such section, ‡ and the amount payable by each, and to annex to such list a warrant § directed to the collector of

a general rate, upon which this replevin (f) arose—the plaintiff contending that he was not liable, as *not being a parent or guardian* of a child attending the school. *Held*, that the trustees had no authority to tax the parents or guardians of those sending children, or to alter or annul the resolutions; and that the *tenth* clause of the *twenty-seventh* section of the Consolidated Common School Act authorized the levy as made.—*Craig v. Rankin et al. No. 14, Kingston. 10 C. P. R. 186.* See decisions of the Court of Queen's Bench, (‡ 1.) on page 33.

* See decisions of the Court of Common Pleas as to the power of a special meeting in this matter, in note ‡. page 13.

† Form of, and number of, Signatures to Trustees' Warrant.

The Court of Queen's Bench has decided that the warrant may be signed by two trustees [but see the *seventh* section of the School Law Amendment Act of 1860, as 26‡, on page 20]. In making cognizance under such warrant, it is sufficient to state that the plaintiff was duly assessed, and that the collector was duly appointed. It is not necessary to state therein that the rate was decided upon at a meeting, as required by statute, or how the appointment of collector was made.—*Gillies v. Wood, No. 6, Pilkington. 13 Q. B. R. 357.*

‡ Mode of collecting School Rates from Residents and non-Residents.

1. The Court of Queen's Bench has decided that trustees are bound to collect by warrant from the *residents* of the school section; and to sue for and recover by their name of office from persons residing without the limits of the section and making default of payment.—*Chief Superintendent of Education appellant, from Judge, County of Lambton, in re Trustees, 2 Moore v. Wm. McRae. 12 Q. B. R. 525.* [See also "Powers, Duties, and Obligations of Collectors," on pages 24, 25, 26.]

Trustees' Warrant to collect School Rates only legal within their own Section. They must sue non-residents.

2. The Court of Queen's Bench has also decided that school trustees can only issue a warrant to collect school-rates within the limits of the section for which they are appointed.—*Gillies v. Wood, No. 6, Pilkington. 13 Q. B. R. 357.* [For Form of Warrant, see note § below.]

§ 3. Form of Warrant for the collection of Rate Bill or School Rate: (g)

We, the undersigned, Trustees of School Section No. —, in the Township [City, Town, &c.] of —, in the County of —, by virtue of the authority vested in

(f) *Replevin*: the name of an action for the recovery of goods and chattels. *Replevy*: to re-deliver goods, which have been distrained, to the original possessor of them, on his giving pledges in an action of replevin.

(g) Where arbitrators, acting under the authority of the *eighty-sixth* section of this Act, are compelled to issue a warrant to enforce their award, they can modify this form of warrant for that purpose.

the school section, for the collection of the several sums mentioned in such list; and any school-rate imposed by trustees, according to this Act,

us by the Upper Canada Common School Acts, hereby authorize and require you [here insert the name and residence of the person appointed to collect the rate-bill or school-rate.] after ten days from the date hereof, to collect from the several individuals in the annexed rate-bill [or school-rate roll,] (h) the sum of money opposite their respective names, and to pay within — days from the receipt thereof, the amount so collected, after retaining your own fees, to our Secretary-Treasurer, whose discharge shall be your acquittance for the sum so paid. And in default of payment on demand by any person so rated, you are hereby authorized and required to levy the amount by distress and sale of the goods and chattels of the person or persons making default.

Given under our hands and seals of office, this — A. B. }
day of —, 186—. C. D. } Trustees'
E. F. } corporate seal.

REMARKS.—The Trustees being a corporation, the law requires that all warrants and documents issued by them in that capacity, should be signed personally by at least a majority of the Trustees, and should have the corporate seal of the school attached, otherwise they may be resisted, and the Trustees made personally responsible for such neglect. (See extract on this subject from *Smith's Mercantile Law*, on page 29.)

4. Form of Rate Bill for School Fees, to be annexed to the foregoing Warrant, as authorized by the eleventh clause of this section, page 34, and the one hundred and twenty-fifth section of this Act.

Rate Bill of persons liable for School Tuition Fees, and the expenses at the Common School, in Section No. —, in the Township of —, for the [month or quarter, &c.] commencing the — day of —, and ending the — day of —, 186—.

| NAMES OF PARENTS OR GUARDIANS. | No. of Pupils attending School. | Rate per Pupil per calendar Month, Quarter, &c. | Amount of Monthly [or Quarterly] Rate Bill for TUITION, FUEL, RENT, &c. | |
|---|---------------------------------|---|---|----|
| [See especially remarks 1 and 2 below. See also form of receipt to parents, &c., on page 36.] | | | \$ | c. |

Given under our hands and seal of office this — day of —, 186—.

A. B. }
C. D. } Trustees'
E. F. } corporate seal.

1. Remarks on the Rate Bill.—The Trustees should make the charge for fuel in money as one item in the rate bill, and then exercise their own discretion as to whether the item for fuel should be paid in money or wood—fixing the price per cord to be allowed for the wood, describing the kind of wood, and the manner in which it should be prepared for the school. As no rate bill can exceed 25 cts. per Calendar month, the price of fuel and the school fees must be

(h) The Collector's roll for the school rate must be taken from the Township assessor's roll so far as it relates to the school section. See clause 12, and notes on pages 37 and 38.

may be made payable monthly, quarterly, half-yearly, or yearly, as they may think expedient.*

Apply to Municipality, or may levy Rate themselves. †

(12) To apply to the township council at or before its meeting in August, ‡ or to employ their own lawful authority, as they may judge

included in this amount. The Collector's fees must also be paid by the Trustees out of the amount collected, or from the general funds of the section.

2. Rate bills being now payable in advance [see note * below], Trustees can always make arrangements to pay their teachers punctually.

3. The Collector should take a receipt from the Secretary-Treasurer of the Section for all moneys paid him. The Secretary-Treasurer should also take a receipt from the Teacher for all moneys paid him. (See form of receipt on page 33.) The taking and giving receipts for moneys paid and received will prevent errors and misunderstandings.

4. As the school accounts of each year must be kept separate by the Chief Superintendent of Education, so must the rate-bill and school rates. These bills and the warrants can be made out for a month, or for one or more quarters of a year, at the same time, as the Trustees may think expedient.

5. *Form of a Receipt to Parents or Guardians on the payment of their Rate Bill.*

Received from [here write the name of the Pupil or Person paying] the sum of [here write the sum in words] in payment of the Rate Bill due from [here write the name of the person in whose behalf payment is made] to the Trustees of School Section No. —, in the Township of — for the [month or quarter] ending the — day of —, 186—.

Dated this — day of —, 186—.

A. B.,

Collector of Common School Moneys (or Teacher).

REMARKS.—When the payment of the rate bill is made by the parent or guardian concerned, the receipt should state it accordingly. If payment of the rate-bill be made to the teacher, it should be authorized by the trustees. The teacher should, of course, apprise the collector of all payments made to him, so that the collector may not be at the trouble of calling upon such persons. Rate bills are payable in advance. See below.

* By the general regulations for the government of common schools, prescribed by the Council of Public Instruction, under the authority of the *one hundred and nineteenth* section of this Act, and which have the force of law, the rate-bill fees for tuition in any common school are made by the *sixth* clause of the *fifth* section, payable in advance. The tuition fees, as fixed by the trustees, whether monthly or quarterly, shall be payable in advance; and no pupil shall have a right to enter or continue in the school until he shall have paid the appointed fee. See page 39. The fees must be charged for each *calendar month*, and not per day. They cannot exceed *twenty-five* cents per month, or *seventy-five* cents per quarter. No additional charge can be made *in the rate bill* for fire-wood, collector's fees, or for any other of the contingent expenses of the school. These, with the balance for teacher's salary, must be collected by a general rate upon the property of the school section. See the *one hundred and twenty-fifth* section of this Act.

† The *second* clause of the *two hundred and sixty-sixth* section of the Upper Canada Consolidated Municipal Institutions Act, 22 Vict. chap. 54, authorizes Township Councils to pass by-laws "for obtaining such real property as may be required for the erection of common school-houses thereon, and for other common school purposes, and for the disposal thereof when no longer required, and for providing for the establishment and support of common schools according to law." See the *thirty-fourth*, *thirty-fifth*, and *thirty-sixth* sections of this Act, pages 50-53

‡ See the *thirty-fourth* section of this Act, page 50.

expedient, for the levying and collecting by rate, according to the valuation of taxable property as expressed in the assessor's or collector's roll,* all sums for the support of their school, for the purchase of school sites† and the erection of school houses, and for any other school purpose authorized by this Act to be collected from the freeholders and householders of such section ;‡

* *All taxes shall be levied equally upon the whole rateable property.*

The eighth section of the Upper Canada Consolidated Assessment Act provides that "all municipal, local, or direct taxes or rates, shall, when no other express provision has been made in this respect, be levied equally upon the whole rateable property, real and personal, of the municipality or other locality, according to the assessed value of such property, and not upon any one or more kinds of property in particular or in different proportions." See provisions of the assessment law, in regard to non-resident and unpatented land, in a note to section one hundred and twenty-seven of the Consolidated School Act. Property rates must be levied equally on all taxable property of the rate-payers in the section, whether residents or non-residents. See the two following decisions. For definition of non-residents' land, see note to the one hundred and twenty-seventh section of this Act. See decision on this point on page 52.

† Before procuring a new or changing the old site of a school house, Trustees must first obtain the sanction of a public meeting for a new site, or proceed to arbitration on the subject. See the thirtieth section of the Consolidated Common School Act, page 45.

‡ Decisions of the Superior Courts on School Rates.

1. *Executors, equally with the Testator, liable for school-rate on non-resident land.*

The Court of Common Pleas has decided that a resolution of the freeholders and householders of a school section, passed at their annual meeting, that the trustees should tax the property in such section to pay the teacher's salary and the expenses of the school, followed by a resolution of the trustees directing a rate to be levied on the rateable property of such section, to raise the sum required, and the preparation of a rate bill and warrant, are sufficient to render a non-resident, having real estate within the section, liable for the sum rated by the trustees, according to the assessed value of his real property; and that being so liable, an executor representing the estate is liable in an action of the same nature to which the testator might have been subjected.—*Trustees No. 2, Dunwich v. McBeath.* 4 C. P. R. 228. See decisions of the courts and provisions of the law in regard to the lands of non-residents, on pages 25 and 34.

2. *Testator's estate liable for School rate in the hands of devisees and executors.*

The Court of Common Pleas decided as follows:—An action of replevin may be brought upon a distress for school rates, and notice of action is not necessary, where several devisees and executors were rated for a school rate in respect to the property of their testator as "John Applegarth and brothers," which entry appeared to have been made at the instance of some of them; but two of them only had slept on the premises occasionally, although such was not their ordinary place of residence, and they had received the usual notice of assessment in the form without appealing, and the same two had paid taxes on an assessment on the township roll in their individual names. *Held* by the Court:—1st. That the facts afforded sufficient evidence to show that the plaintiffs were "inhabitants" for the purposes of the rate; 2nd. That the parties were sufficiently named on the roll to render the rate lawful; 3rd. That a demand

Township Roll to be furnished to the Trustees.

and the township clerk or other officer having possession of such roll is hereby required to allow any one of the trustees, or their authorized collector, to make a copy of such roll,* as far as it relates to their school section;†

Trustees may exempt Indigent Persons.

(13) In their discretion to exempt from the payment of school rates, wholly or in part, any indigent persons, and to charge the amount of such exemption upon the other rateable inhabitants of the school section, but the same shall not be deducted from the salary of a teacher;

Sue defaulting Non-residents.

(14) To sue for and recover by their name of office, the amounts of school rates or subscriptions due from persons residing without the limits of their school section who make default in payment.‡

Make Return of Uncollected Rates to Township Clerk.

(15) To make a return to the clerk of the municipality of the amount of any rate imposed by them for school purposes whenever so imposed, and also, before the end of the then current year, to make a return of the rates on the property of non-residents of their section [as provided in the *one hundred and twenty-seventh* section of this Act, and which they have been unable to collect.]

made by the collector on "John Applegarth," named on the roll, was sufficient to bind all the plaintiffs.—*Applegarth et al. v. Graham, No. 3, Flamborough East, 7 C. P. R. 171.*

* *Mandamus against Clerk of a Township to permit Trustees to examine the Assessment Roll.*

The Court of Queen's Bench has decided that where on an application for a mandamus a demand and refusal were sworn to, and defendant in answer denied the refusal, and alleged that he had always been willing to do what was required, the court nevertheless granted the writ.—*In re Trustees of Union School Section Nos. 15, Otonabee, 10, Douro, and 11, Asphodel v. Casement.* 17 Q. B. R. 275.

NOTE—A *mandamus* is a command issuing in the name of the Sovereign from a superior court having jurisdiction, and is directed to some person, corporation, or inferior court, within the jurisdiction of such superior court, requiring them to do some particular thing therein specified, which appertains to their office and duty, or to show cause why he has not done it. This writ was introduced to prevent disorders from a failure of justice; therefore it ought to be used upon all occasions where the law has established no specific remedy, and where, in justice and good government, there ought to be one.

† School trustees are responsible for making a correct copy of the township assessor's or collector's roll, "as far as it relates to their section." The township assessor is required by the *thirty-third* section of this Act (page 49) to assess and return separately the lands lying within the boundaries of each school section, and in all cases determine when an "undivided occupied lot" may extend into or out of a section. This he can do with the aid of the school-map, which the township clerk is required, by the *forty-ninth* section of this Act to prepare. See page 61. The trustees should therefore verify the copy of any roll which they may use.

‡ See note † No. 2, to the *eleventh* clause of this section, page 34.

Admit to School, residents between the ages of five and twenty-one.

(16) To permit all residents* in such section between the ages of five and twenty-one years to attend the school, so long as they conduct themselves in conformity with the rules of such school, and the fees or rates required to be paid on their behalf are fully discharged, but such permission shall not extend to the children of persons in whose behalf a separate school has been established, according to the Act respecting the establishment of separate schools.†

Visit Schools—and for what.

(17) To visit, from time to time, each school under their charge, and see that it is conducted according to the authorized regulations, and that each such school is, at all times, duly provided with a Register‡ and Visitors' Book, in the form prepared according to law.

* Boarders, until after *twelve* months' residence in a section, are non-residents in the sense of the Act, and cannot therefore claim admission to the school. They must make special arrangements with the trustees, and their attendance must be returned as non-residents. Apprentices may, however, be considered as residents.

† *Right of Coloured Children to attend School.*

1. The Court of Queen's Bench has decided, that where no separate school is established for the children of the coloured inhabitants, such children have the same right to attend the common school as the other children of the section.—*Washington v. Trustees No. 14, Charlotteville.* 11 Q. B. R. 569.

2. The same Court has also decided that the coloured residents of a school section, in which a [coloured] separate school has been established, are not entitled to send their children to the general common school of such section.—*In re Denis Hill v. Trustees, Camden and Zone* 11 Q. B. R. 573. (See copy of Separate School Act for Coloured People, &c., further on.)

Uncertain Boundaries of School Sections for Coloured People.

3. The same Court has decided the following case:—A by-law recited that certain coloured inhabitants had petitioned for an alteration of school section No. 9, and for the establishing of two separate schools for coloured people in the township, and that it was expedient to grant their request, by defining the boundaries of said sections so as to include the coloured inhabitants of the township; and it set out the limits of each section to be established, the last boundary of No. 1 being "thence to include all and singular each and every lot or parcel of land occupied, or which shall or may be occupied, by any coloured person or persons in the front part of the said township of Chatham," and the last boundary of No. 2 thence to include all and singular each and every lot or parcel of land occupied, or which shall or may be occupied, by any coloured person or persons in that part of the said township not included in the section No. 1, as described in the first section of this by-law."—*Held*, that these boundaries were indefinite and fluctuating, and that the by-laws were therefore bad. Remarks as to how far the court are bound to quash by-laws, even when moved against properly and found bad. *In the matter of Simmons and the Corporation of the Township of Chatham.* 21 Q. B. R. 75.

See also Decisions of the Superior Courts appended to the fortieth section of the Consolidated Common School Act on page 54.

‡ Registers are furnished gratuitously to the County Clerk, for distribution, through the local superintendents, among the schools, by the Educational Department. Trustees, however, must provide a visitors' book (which may be any ordinary blank book), at the cost of the section.

Proper Text-Books to be used in Schools.

(18) To see that no unauthorized books are used in the school, and that the pupils are duly supplied with a uniform series of authorized text-books, sanctioned and recommended by the Council of Public Instruction,* and to procure annually, for the benefit of their school section, some periodical devoted to education.†

* Provisions of the Law in Regard to Text-Books.

1. Summary of the Law.

A summary of the provisions of the Upper Canada Consolidated Common School Act on this subject is as follows:

The one hundred and twenty eighth section of this Act, enacts that no person shall use any foreign books in the branches of English education, in any model or common school, without the express permission of the Council of Public Instruction.

The eighteenth clause of the twenty-seventh section above, and the fifteenth clause of the seventy-ninth section, requires school trustees to see that all the pupils in the schools are duly supplied with a uniform series of authorized text-books, and that no unauthorized text books are used.

2. Unauthorized Text-books—Penalty for their use in schools.

If teachers employ text-books not authorized to be used in the schools, such schools are not entitled to the school fund apportioned to them, as they are not conducted according to law; nor can any foreign book be used in a school, without such school forfeiting its right to share in the school fund. The great evil in the schools is the multiplication of text-books, according to the fancy of each teacher, or his agreement with some bookseller,—parents being called upon to buy new books as often as they get new teachers,—an evil which we should studiously guard against in Upper Canada.

3. American School Geographies.

The Council of Public Instruction has permitted the use of Morse's *American Geography* until one expressly prepared for Canada should be provided.

4. List of National and other School Books sanctioned by the Council of Public Instruction for use in the Common Schools of Upper Canada.

First Book of Lessons.
Second ditto.
Sequel to Second Book.
Third Book of Lessons.
Fourth ditto.
Fifth ditto, for boys.
Sixth, or Reading Book for girls' school.
Introduction to the Art of Reading.
Spelling Book Superseded (Sullivan's.)
English Grammar.
Key to English Grammar.
Robertson's Principles of Grammar.
Lennie's English Grammar
Kirkham's English Grammar.
Epitome of Geographical Knowledge.
Compendium of ditto ditto.
Geography Generalized (Sullivan's.)
Introduction to Geography and History (Sullivan's.)
Hodgin's Geography and History of the British Colonies.
Sangster's First National Arithmetic.

Key to Sangster's First Nat. Arithmetic.
National Arithmetic, in Theory and Practice.
Sangster's National Arithmetic in the Decimal Currency.
Sangster's Natural Philosophy.
National Book-Keeping.
Key to ditto.
Colenso's Algebra, Part I.
National Elements of Geometry.
National Mensuration.
Appendix to ditto.
Scripture Lessons—Old and New Testament.
Sacred Poetry.
Lessons on the Truth of Christianity.
Hullah's Vocal Music.
Set of Tablet Lessons—Arithmetic.
Ditto —Spelling & Reading.
Ditto —Copy Lines.
Also the National Maps, Maps of Canada and of British America, &c.

† The Legislature having authorized the Educational Department to furnish a copy of the Upper Canada *Journal of Education* to each school section, trustees

Establish School Section Library.

(19) To appoint a librarian, and to take such steps authorized by law as they may judge expedient for the establishment, safe keeping, and proper management of a school library in their section, whenever provision has been made and carried into effect for the establishment of school libraries.*

Personal Responsibility in case of neglect to exercise Corporate Powers.

(20) To exercise all the corporate powers vested in them by this Act, for the fulfilment of any contract or agreement made by them; and in case they or any of them wilfully neglect or refuse to exercise such powers,† the trustee or trustees so neglecting or refusing shall

should see that the *Journal* is regularly received by them; and if not received, by them, to report the fact to the Educational Department, without delay. Missing numbers can also be obtained on application.

* The property of every public library is exempt from taxation. One hundred per cent. is allowed by the Chief Superintendent on all sums over \$5, remitted to the Department for library books, maps, apparatus and prize books. See Departmental Regulations appended; and also printed on the cover of each Register.

† Decisions of the Superior Courts as to the Personal Liability of Trustees.

Personal Liability on neglect or refusal to exercise their Corporate powers.

1. The Court of Queen's Bench has decided as follows in a case where a *mandamus nisi* having been issued to school trustees to levy the amount of a judgment obtained against them, no return was made, and a rule *nisi* for an attachment issued. In answer to this rule one trustee swore that he had always been and still was desirous to obey the writ, and had repeatedly asked the others to join him in levying the rate, but that they had refused. Another swore that owing to ill-health, with the consent of his co-trustees and the local superintendent, he had resigned his office before the writ was granted. The court, under these circumstances, discharged the rule *nisi* as against these two, on payment of costs of the application, and granted an attachment against the other trustee, who had taken no notice either of the *mandamus* or rule.—*Regina v. Trustees of School Section No. 27, Tyendinaga*. 20 Q. B. R. 528.

2. The Court of Queen's Bench has decided, that, as by the [twentieth] clause of the [twenty-seventh] section of the Upper Canada [Consolidated] Common School Act, the trustees can only be personally liable when they have wilfully neglected or refused to exercise their corporate powers, such neglect or refusal should have been alleged and shown in the award, to warrant its directions to levy on the trustees personally.—*Kennedy v. Burness et al, No. 5, Oneida*. 15 Q. B. R. 473.

3. *Neglect of Trustees to exercise their corporate powers must be proved.*

3. The Court of Common Pleas also decided another similar case, as follows:—In an action of replevin for goods of school trustees distrained under an award for the salary of a school teacher, declaring the trustees individually liable on the ground "that the trustees did not exercise all the corporate powers vested in them by the school acts for the due fulfilment of the contract" made by them with such teacher. *Held*, that the award as evidence did not support pleas which averred as required by the [twentieth] clause of the [twenty seventh] section of the Upper Canada Consolidated Common School Act, a wilful neglect or refusal by the trustees to exercise their corporate powers as the ground for making them personally liable. 2. That, on the facts, the defendants as trustees were not per-

be personally responsible for the fulfilment of such contract or agreement.*

Prepare and read Report at Annual Meeting.

(21) To cause to be prepared and read at the annual meeting of their section, their annual school report for the year then terminating, which report shall include, among other things, a full and detailed account of the receipt and expenditure of all school moneys received and expended in behalf of such section, for any purpose whatever, during such year, and in case of dispute [between the school auditors] the matter shall be referred to [the annual meeting and then, if necessary, to the Chief Superintendent] in the manner provided in the [eighth] section of [the Common School Law Amendment Act of 1860, on pages 43 and 44.]

Make Half-Yearly Report to Local Superintendent.

(22) To transmit to the local superintendent, on or before the *thirtieth day of June*, and the *thirty first day of December* in each year, a correct return of the average attendance of pupils in each of the schools under their charge during the *six* months then immediately preceding.*

Penalty for neglecting to do so.

And in case such trustees neglect to transmit a verified statement of such average attendance, then such school section shall not be entitled to the apportionment from the school fund for the said *six* months.

(23) To ascertain the number of children between the ages of five and sixteen years residing in their section on the *thirty-first day of December* in each year;† and to prepare and transmit annually, on or before the *fifteenth day of January*, a report to the local superintendent, signed by a majority of the trustees, and made according to a form provided by the Chief Superintendent of Education, and shall specify therein :

sonally liable, the award ascertaining for the first time the exact amount due to the teacher, and declaring the trustees personally liable without giving them any opportunity to exercise their corporate powers to raise the money to pay it.—*Kennedy v. Hall et al., No. 5. Oneida.* 7 C. P. R., 218. See 86th sec. of Act.

4. When Personal Liability of Trustees arises.

The Court of Queen's Bench has decided that trustees cannot be held liable unless they wilfully neglect to do their duty : not where they decline in good faith to exercise their corporate powers, on account of any doubt or legal difficulty which they suppose to exist—*Vanburen v. Bull et al. No. 2; Rawdon.* 19 Q. B. R. 633. See also decisions of the courts in regard to arbitrators, on page 45.

* By the *thirty-first* section of the Consolidated Common School Act, trustees are also made personally responsible for moneys lost to the section by their neglect of duty, including their neglect to sign and transmit their report to the local superintendent, who can always estimate (taking the best evidence within his reach) the sums thus forfeited. See page 48.

† See next section of this Act.

(1) The whole time the school in their section was kept by a qualified teacher, during the year ending on the *thirty-first* day of the previous *December*.

(2) The amount of moneys received for the school fund, from local rates or contributions, and from other sources distinguishing the same; and the manner in which all such moneys were expended.

(3) The whole number of children residing in the school section, over the age of *five* years, and under the age of *sixteen*; the number of children and young persons taught in the school in winter and summer, distinguishing the sexes, and those who were over and under *sixteen* years of age; and the average attendance of pupils in both winter and summer; but the trustees of the common school sections within the limits of which one or more separate school sections are established as hereinafter provided, shall not, in their return of children of school age residing in their school sections, include the children attending such separate school or schools.

(4) The branches of education taught in the school; the numbers of pupils in each branch; the text books used;* the numbers of public school examinations; visits and lectures, and by whom made or delivered, and such other information respecting the school premises and library as may be required.

Penalty for delaying Yearly Report.

28. In case the trustees of any school section neglect to prepare and forward the aforesaid annual report to their local superintendent by the *thirty-first* day of *January* in each year, each of them shall, for each week after such *thirty-first* day of *January*, and until such report has been prepared and presented, forfeit the sum of *five dollars*, to be sued for by such local superintendent, and collected and applied in the manner provided by the *twenty-first* section of this Act [page 16.]

[The *twenty-ninth* section has been superseded by the *eighth* section of the *Common School Law Amendment Act* of 1860, as follows:]

Annual Appointment of Auditors of School Section Accounts. †

[8. In order that there may be accuracy and satisfaction in regard to the school accounts of school sections, the majority of the [assessed] freeholders and householders present at the annual school meeting shall appoint a fit and proper person to be auditor of the school accounts of the section for the then current year, and the trustees shall before

* See list of authorised text books on page 40.

† The object of this clause is to prevent the suspicion that trustees pervert any part of the school fund to private purposes, and not to limit the exercise of the power conferred upon them by the preceding section of the act. [See the definition of the term "other expenses," given in note † to the *tenth* clause of the *twenty-seventh* section, page 33. Auditors should be guided by that note in auditing the accounts of the school section. See also note § to the *fourth* clause of the *sixteenth* section of the Consolidated Common School Act, page 13.]

the *first* day of *December* in each year, appoint another auditor ; and the auditor thus chosen, or either of them, shall forthwith appoint a time before the day of the next ensuing annual school meeting, for examining the accounts of the school section ;

Trustees to submit their School Accounts to the Auditors.

[And it shall be the duty of the trustees, or their secretary-treasurer in their behalf, to lay all their accounts before the auditors or either of them, together with the agreements, vouchers, &c., in their possession, and to afford to the auditors or either of them all the information in their power as to their receipts and expenditures of school moneys in behalf of their school section ;

Powers and duties of School Section Auditors.

[And it shall be the duty of the auditors to examine into and decide upon the accuracy of the accounts of such section, and whether the trustees have truly accounted for and expended for school purposes the moneys received by them, and to submit the said accounts, with a full report thereon, at the next annual school meeting ; and if the auditors or either of them object to the lawfulness of any expenditures made by the trustees, they shall submit the matters in difference* to such meeting, which may either determine the same or submit them to the Chief Superintendent of Education, whose decision shall be final, and the auditors shall remain in office until their audit is completed ; The auditors or either of them shall have the same authority to call for persons and papers and require evidence on oath and to enforce their decisions, as have arbitrators appointed under the authority of the *eighty-fourth*, *eighty-fifth*, and *eighty-sixth* sections of the said Upper Canada [Consolidated] Common School Act ; and it shall be their duty or that of either of them to report the result of their examination of the accounts of the year to the annual school meeting next after their appointment, when the annual report of the trustees shall be presented, and the vacancy or vacancies in the trustee corporation be filled up, as provided by law ;

[Remedy in case the Trustees fail to appoint an Auditor.

[And if the trustees neglect to appoint an auditor, or appoint one who refuses to act, the local superintendent shall appoint one for them ;

[Penalty on Trustees refusing Information, &c., to Auditors.

[And if the Trustees, or their Secretary in their behalf, refuse to furnish the Auditors or either of them with the papers or information

* That is, as to the *lawfulness*, and not the expediency, of the expenditure. The trustees are the sole judges of the *expediency* of any expenditure. See page 13, note. The report of the auditors is final. - It is only matters of difference between the auditors themselves as to the *lawfulness* of any expenditure (that is, whether the expenditure is authorized by the school law), which it is necessary to submit for the decision of the school meeting.

in their power and which may be required of them relative to their School accounts, the party refusing shall be guilty of a misdemeanor, and upon prosecution by either of the Auditors, or any rate-payer, be punished by fine or imprisonment, as provided by the *one hundred and fortieth* section of the said Upper Canada [Consolidated] Common School Act.

New School Site to be authorized by Special Meeting.

30. No steps shall be taken by the trustees of any school section for procuring a school site on which to erect a new school house, or for changing the site* of an established school house, without calling a special meeting of the [assessed] freeholders and householders of their section to consider the matter.†

Differences between Trustees and People to be referred to Arbitration.‡

And in case of a difference as to the site of a school house between the majority of the trustees and a majority of the [assessed] freeholders

* See the *sixth* section of the School Law Amendment Act of 1860, page 22.

† The Local Superintendent may call this meeting if desired, see page 19.

‡ Decisions of the Courts in regard to School Sites.

In selecting a Site, Trustees cannot act without consulting their constituents.

1. The Court of Queen's Bench has decided that the Trustees cannot, without any reference to the [assessed] freeholders and householders of the section, determine upon a site for the school house, and impose a rate to meet the expense of its purchase.—*Orr v. Ranney et al., No. 15 Westminster.* 12 Q B. R. 377.

2. The Court of Chancery has decided that the three arbitrators must meet to determine the question of site. At any lawful meeting of the arbitrators, a majority of them shall finally decide the matter.—*In re John Sweetman et al., No. 10 Toronto.*

3. *Arbitration, before award made, may be superseded by mutual concurrence.*

Chief Justice Robinson thus laid down the law on this subject:—As a general rule, we take it that where two parties have a difference upon any matter of business, and refer it to arbitration, they may afterwards agree upon the matter on which they had differed, and so may render it unnecessary that any award should be made. By the common law either party might, before the award made, revoke the submission.—There have been restrictions lately placed by statute upon this right of one party to revoke without the concurrence of the other, but it would be most unreasonable and inconvenient to hold that both the parties may not come to a settlement of their dispute, and so dispense with the necessity for the arbitrators proceeding.—*Chief Justice Robinson, in re Vance vs. King, et al, No. 1 Hallowell.* 21 Q. B. R., 187.

4. *First arbitration in regard to a School Site cannot be set aside by a subsequent Special Meeting.*

The Court of Common Pleas has decided the following case: When a meeting was held to change the site of a school house, and arbitrators appointed, who met and decided the question, but their decision was not acted upon; subsequently another meeting was called, and their decision and proceedings were acted upon, and the site changed. *Held,* that the proceedings were irregular, and that the trustees had not authority to change the site of the school house without the sanc-

and householders at such special meeting, each party shall* choose an arbitrator, and the local superintendent, or in case of his inability to

tion of a special meeting of the [assessed] freeholders and householders, and that the second meeting had no authority to alter the determination previously made. — *Williams v. Trustees, No. 8, Plympton.* 7 C. P. R. 559.

5. *Replevin—Arbitration in regard to school site—Blanks filled in after execution—Award rendered invalid thereby.*

The Court of Common Pleas decided the following case: *Replevin*—Two defendants avowed [*i. e.* maintained and justified the act done by them]; the third pleaded the convening of a special meeting of the freeholders and householders of a certain school section to procure a school site, when it was agreed to procure a certain piece of ground and erect a school house thereon, which was done. That plaintiff was a resident freeholder when the meeting was held and when his goods were seized, and was assessed \$80 for building said school house, &c. The plaintiff pleaded that the meeting above set forth was null and void, because, before the said meeting another had been convened according to law, when a difference of opinion existed between a majority of the freeholders and householders as to choosing a school site, and arbitrators were appointed, who decided upon a certain site, which decision remains in force, and the defendants in contravention thereof wrongfully purchased the site mentioned in their plea, and wrongfully distrained, &c. Upon demurrer, *Held*, that the second meeting pleaded by the defendants was a violation of the provisions of the statute, and that the plaintiff was entitled to judgment. The arbitrators to whom a reference in this cause was made under the school act executed an award, the description of the lot not being fully inserted, but a blank being left therefor, which was afterwards filled in and the word lot altered into *gore*. *Held*, that the award was insufficient. *Held*, also, that school trustees who executed a warrant as such trustees under the seal of the trustee corporation were not personally responsible.—*Ryland v. King et al., No. 1, Hallowell.* [See decision of the Queen's Bench below, in effect reversing this one.] 12 C. P. R. 198. For definition of the word "*replevy*," see page 34.

6. *A similar case decided by the Court of Queen's Bench.*

Replevin against two school trustees and one King, a bailiff, for a horse. Defendants pleaded, 1. That they did not take; and 2, an avowry, setting out in substance that on the 30th of October, 1858, a special meeting of the freeholders and householders of the section had been duly called to procure a school site and erect a school house thereon, at which it was agreed to procure a certain site named: that this was procured and the school house built: that the plaintiff was duly assessed for a sum specified: that the trustees by their warrant commanded King to collect it; and that after demand and default made he seized the horse. The plaintiff pleaded to the avowry, 1st, *de injuriâ*; and, 2nd, as to the justification by the

* As the word "*shall*" is here imperative, it is the duty of the majority of the trustees to appoint one arbitrator and of the majority of the ratepayers present at the meeting to appoint another. Should the trustees refuse to appoint an arbitrator, they fail to give the legal evidence required in this section of the act, of a difference of opinion between them and a majority of the ratepayers as to a choice of the school site, and may, by mandamus, be compelled to obey the law. Should the majority of the ratepayers present refuse to comply with the law and appoint their arbitrator, they also fail to give legal evidence of a difference of opinion between them and the trustees. As they cannot, like the trustees, be compelled to obey the law, their neglect to appoint an arbitrator would be legal evidence that no difference of opinion existed between them and the trustees in regard to the site, and would justify the trustees in legally assuming that no such difference actually existed. The courts of law would not uphold any proceeding designed or having a tendency to obstruct the legitimate working of the statute.

attend, any person appointed by him to act on his behalf, shall be a *third arbitrator*, and such *three* arbitrators, or a majority of them, shall finally decide the matter.

[30.] *The School Amendment Act of 1860 further enacts: 15. Arbitrators appointed under the authority of the Upper Canada Consolidated Common School Act, and Local Superintendents, engaged in investigating and deciding upon school complaints and disputes, shall be entitled to the same remuneration per diem for the time thus employed as are members of the Municipal Council of their county for their attendance at Council Meetings;** *Provided* always, that the parties concerned in such disputes shall pay all the expenses incurred in them, according to the award or decision of the Arbitrators and Local Superintendents respectively.]

trustees, that the meeting was void, because before it took place a special meeting of the freeholders was duly held to procure a school site, at which a majority of the trustees differed from a majority of those present with regard to the site, in consequence of which the freeholders and householders, the trustees, and local superintendent, each appointed an arbitrator to decide the question; that the arbitrators determined upon a site specified, different from that mentioned in the avowry, which award remained in force, and that the trustees, contrary to this decision, wrongfully purchased the site mentioned in the avowry. The defendants replied that there was no such award. As to the issue taken upon the first plea of the defendants, it appeared that the horse was seized by King under a warrant signed by two trustees, commencing: "We, the undersigned trustees of school section," &c., and sealed with the corporate seal. *Held*, that the trustees were liable personally, not in their corporate capacities only. With regard to the second and third issues, raised by the plea of *de injuria* to the avowry, and replication denying the award, the evidence showed that in 1857 the inhabitants were divided as to the choice of a school site, and an award was made but not acted upon: that in 1858 the same difference existed, and one of the trustees also differed from his co-trustees: that in March the two trustees, defendants, obtained a conveyance of half an acre, part of lot 15. and in May a meeting was held at which arbitrators were named and an award made, but the inhabitants being still dissatisfied another meeting was held in July, when the arbitrators mentioned in the plea to the avowry were chosen. In the meantime the building was commenced upon the land conveyed. On the 4th of September an award was drawn up [in which a blank was left for a description of the site.] On the 30th of October, 1858, a meeting was held, having been regularly called by the two trustees, to settle the question finally, and a resolution passed adopting [as the site] the land conveyed. In April, 1859, the two trustees, defendants, met, the third being absent from the county, and resolved upon the rate, which was inserted by the clerk in the roll, and the warrant was issued to King, who seized the plaintiff's horse. The plaintiff, after that, set about getting the award of September, 1858, which was afterwards filed up by two of the arbitrators, who stated that it had been left blank because they did not know the precise description of Landon's land. *Held*, that upon the second issue raised by plaintiff, defendants were entitled to succeed, for the evidence sustained the avowry. And that upon the third issue raised by the plaintiff they were also entitled to the verdict, for there was in fact no award made, and even as it was altered after execution the description was too uncertain. *Ryland v. The same defendants*, in the Court of Common Pleas, commented upon. [See page 46] *Held*, that under the circumstances proved, the reference did not

* The two hundred and sixty-ninth section of the Municipal Institutions Act, provides that "The council of every township and county, may pass by-laws for paying the members of the council for their attendance in council, at a rate not exceeding one dollar and fifty cents per diem."

Trustees personally responsible for Moneys lost.

31. The trustees of each school section shall be personally responsible for the amount of any school moneys forfeited by or lost to such school section in consequence of their neglect of duty during their continuance in office;* and the amount thus forfeited or lost shall be collected and applied in the manner provided by the *twenty-first* section of this Act, page 16.†

PART II.—DUTIES OF TOWNSHIP COUNCILS.

All the Sections of a Township may be United, and a Township Board Elected.

32. In case a majority of the resident [assessed] freeholders and householders of *each* section, at a public meeting for that purpose, separately called by the trustees of each such section, express a desire that local school sections should be abolished, and that all their schools should be conducted under one system and one management, like the schools in cities and towns,‡ the municipal council of such township shall comply with the request so expressed, by passing a by-law to give effect thereto;§ in which event all the common schools of such township shall be managed by one board of *five* trustees, one of which trustees shall be chosen in and for each ward, if the town-

make the subsequent meeting illegal. *Held*, also, upon demurrer, that the avowry was good, the omission of any averment essential to the validity of the rate being cured by the second plea of the plaintiff to it, which relied wholly upon the award: that the second plea of the plaintiff was bad, for not shewing that before the award the trustees and inhabitants had not duly selected the site built upon, as they might do notwithstanding the reference; and that the replication to it denying the award was a good answer.—*Vance v. King, et al*, No. 1, *Hallowell*. 21 Q. B. R. 187.

* See also the *twentieth* clause of the *twenty-seventh* section of this Act, pages 41 and 42; also the decision of the Court of Common Pleas, given in a note to the *eighty-sixth* section.

† While Trustees are thus made personally responsible for refusal to exercise their corporate powers, and while the acts of a majority are binding upon the Corporation, yet no majority of the trustees can act without notifying their colleague or colleagues, and giving him or them an opportunity of joining in, or dissenting from their acts. See the *seventh* section of the School Act for 1860, on page 20, and also note † to the *twentieth* clause of the *twenty-seventh* section of the Consolidated Common School Act, page 41.

‡ In case of such a union in a city, town, or village, see page 59; and also the "Manual for Grammar and Common Schools in Cities, Towns, and Villages," &c.

§ *i.e.* Being satisfied that due notice has been given to all parties concerned. The alteration does not, however, take effect until the 25th of *December* next after having been made.

ship be divided into wards, and if not so divided, then the whole number of such trustees shall be chosen in and for the whole township, and the election of such trustees shall be held at the time and in the manner prescribed in the *third, seventh, eighth, and twenty-second* sections of this Act [pages 8, 9, 10, and 17]; and such trustees shall be a corporation, under the name of "*The Board of School Trustees of the Township of —, in the County of —,*"* and shall be invested with the same powers, and be subject to the same obligations, as trustees in cities and towns, by the *seventy-ninth* section of this Act [pages 69–75.]

Assessors to value Lands situated in each Section.

33. Whenever the lands or property of any individual or company are situated within the limits of *two* or more school sections, each assessor appointed by any municipality, shall 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; ‡ but 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 [*i.e.* has a legal domicile or place of business.]]

* See definition of trustees' corporate powers, on page 19.

† This roll being the sole guide of the trustees, which they must follow in each case, and under all circumstances, the provisions of this section should be carefully complied with on the part of the assessor. See note (g) to trustees' form of warrant, on page 34; and also note † to the *twelfth* clause of the *twenty-seventh* section of this Act, page 37.

‡ In order to enable the township assessor to make a correct roll, so far as it relates to the several school sections, the *forty-ninth* section of this Act requires the township clerk to make a school-map of the township, to which the assessor and trustees may have access. See page 61.

§ A "*lot,*" as here spoken of, must be held to contain two hundred acres, more or less, according to the original survey, and to be owned or occupied by a single individual or company. "*Part of a lot,*" is part of these original two hundred acres, owned or occupied by a single individual or company. If two or more such parts of a lot should become, at any future time, the property of a single owner, they must then be held to form but one lot in the sense of the Act.

|| *An undivided Lot must be in the same Municipality.—Municipal Boundaries divide Lots.*

The Court of Queen's Bench has decided the following case: Certain property, through which ran a municipal division-line between a town and a township, was assessed by the trustees of a school section in the township, according to the value of that portion of it lying in their section and outside the town. The owner refused to pay, and was sued by the trustees as a non-resident, in accordance with the provisions of the school law. The Judge of the Division Court decided against the trustees, on the ground that the [*thirty third*] section of the Upper Canada Consolidated Common School Act referred to undivided lots within different municipalities, as well as within one municipality. The Chief Superintendent appealed the case, and it was held by the court that the trustees acted rightly,—they being guided by the assessment-roll of their municipality; and that the proviso referred to applies only to the case of an undivided property extend-

Council to impose certain School Assessments, as required by Trustees.

34. For the purchase of a school-site; the erection, repair, rent, and furniture of a school-house; the purchase of apparatus and text-books for the school, books for the library, and salary of the teacher,—each township council shall* levy, by assessment† upon the taxable property in any school section, such sum as may be required by majority of the [assessed] freeholders and householders,‡ expressed the trustees of such school section, in accordance with the desire of the

ing into more than one school section of the same municipality, and not where the land lies in different municipalities. Hence municipal boundaries divide lots.—*Chief Superintendent of Education, appellant from the Judge of the Division Court, County of Prince Edward, in re Trustees No. 4, Hollowell v. Storm.* 14 Q. B. R. 541.¹

* In the eighteenth section of the Provincial Statutes General Interpretation Act, it is declared that in the Consolidated statutes: Sec. 2. The word "shall" is to be considered as *imperative*, and the word "may" as *permissive*.

† By this section of the Act, it is *imperative* on township councils to levy and collect, by a general rate upon the property of the section, such sums as may be desired by the school trustees, according to an estimate prepared and laid before such council. In case of refusal, application can be made to the Court of Queen's Bench for the issue of a mandamus to enforce compliance. See decisions of the Superior Courts in regard to city and town councils, on page 72.

‡ **Decisions of the Superior Courts in regard to Township Rates.**

1. *In replevy* [see note (f) on page 34], the defendant must show that the consent of a public meeting was obtained.

The Court of Common Pleas has decided that a party avowing [*i.e.* the collector, in a case of replevy, justifying or maintaining the act of distraint] for distress in the levying of a school-rate, the by-law for sanctioning such levy, which requires to be passed upon the request or with the consent of certain persons, must show such request to have been made, or such concurrence or consent obtained. *Held*, also, that upon such avowry, the avowant must set forth the conditions precedent required by law to be complied with before the passing a by-law to levy a rate for school purposes.—*Haucke v. Marr, School Section No. 11, Markham.* 8 C. P. R. 441.

2. *School Trustees' order necessary for School Money collected by Township.*

The same court has also held, that a demand or order from a majority of the school trustees of a school section, is necessary to sustain an action for money collected under a by-law passed under the authority of [the *thirty-fourth* section of the Consolidated School Act.]—*Trustees No. 3, Caledon v. Corporation of the Township of Caledon.* 12 C. P. R. 301.

3. *How the desire of the Rate-payers must be expressed—By-law to levy Rate for School House.*

The Court of Queen's Bench has also decided the following case: The Scarborough township council, by resolution, agreed to lend to the school trustees, out of the clergy reserve fund, a sufficient sum to build a school-house, taking as security their debentures. This arrangement was made by the trustees, without any reference to the rate-payers; but at the next annual school meeting, at which the applicant was present, the matter was discussed, and the contract and plans for the building examined. The council subsequently, on the requisition of the trustees, passed a by-law to raise a sum for school purposes, which was required to pay the interest of these debentures, and to redeem one of them. The appli-

at a public meeting called for that purpose, as authorized by the tenth clause of the *twenty-seventh* section of this Act, [page 33.]

Council may purchase School-site and build School-house.

[34]. The *second* clause of the *two hundred and sixty-sixth* section of the Upper Canada Consolidated Municipal Institutions Act (22 Vict. chap. 54) also enacts that the council of each township may pass by-laws * * * "for obtaining such real property as may be required for the erection of common school houses thereon, and for other common school purposes, and for the disposal thereof when no longer required, and for providing for the establishment and support of common schools, according to law."]

cant moved to quash this by-law, objecting that the loan effected by the trustees without the consent of the rate-payers was illegal; but it appeared that the school-house had been finished and occupied, many of the rate payers swore that they were satisfied with what had been done, and the affidavits were contradictory as to how far the applicant had acquiesced in the proceedings. The by-law not being illegal on the face of it, the court under these circumstances refused to interfere.—*Quære*, whether under the Upper Canada Consolidated School Act, chap. 64, section *twenty-seven*, sub-section *ten*, and section *thirty-four*, the concurrence of the freeholders and householders required to enable the trustees to call upon the council to levy money for the purchase of a school-site, &c., can be expressed at the annual school meeting, without notice that the question will then be brought up.—*In re Taber and the Corporation of the Township of Scarborough*.—20 Q. B. R. 549.

4. Township Council cannot raise School rate for County purposes.

By a decision of the Court of Queen's Bench, given in a note § to the *fiftieth* section, page 61, it will be seen that a township council has no power to levy a school-rate for county purposes. See also the following note.

5. Township Council cannot interfere with the established School System.

The Court of Queen's Bench has decided the following case: The by-law of the 1st of October, 1855, enacted that for the purpose of remedying unequal taxation for the support of common schools, there should annually be appropriated out of the general funds of the township, so much as to the municipality for the time being might seem reasonable, not being more than would be sufficient, if added to the common school fund for the year, and equally divided amongst the sections, to pay the average wages of a third-class teacher for twelve months; that on or before the *second* Wednesday in January in each year, the treasurer should apportion such money according to the time that a school should have been in operation in each section under a legally qualified teacher; and that the sum assigned to each section should be paid on the order of the majority of the trustees, on certain conditions mentioned in the by-law. * * * *Chief Justice Robinson* delivered the following judgment of the court: With respect to the by-law passed in 1855, if it had gone no further than to appropriate a sum for that year, out of the funds of the township, to be applied to the support of common schools, we should not have interfered so long after its operation had been wholly spent, and apparently acquiesced in; but it is, on the face of it, permanent in its character, and it seems to have been passed altogether in disregard of the provision of the Common School Act. * * * It is plain, from the recital in this by-law, that that it professes to substitute a system devised by the municipal council for that laid down by the legislature, for the support of common schools. It is evident that that by law was not intended to co-exist with the method of raising funds in the township laid down in the School Act. * * * We think we are bound to say that this is wholly beyond the authority given to the township councils, and

Council may authorise Trustees to borrow Money for special purposes, and provide for repayment.*

35. Each township council may grant to the trustees of any school section, on their application, authority to borrow any sums of money necessary for the purposes above mentioned, in respect to school-sites, school-houses and their appendages, or for the purchase or erection of a teacher's residence, and in that event shall cause to be levied in each year upon the taxable property in the section,† a

that we cannot forbear quashing a by-law which is not shown to have been repealed, and which professes to establish a system for raising money *annually* for the support of common schools, in a manner decidedly at variance with the statutes of the province, and without that reference to the judgment of the school trustees, and to the wishes of the inhabitants, which the legislature intends shall form part of the system. However convenient or good the system provided by the by-law might prove in itself, the township council had no authority to adopt it. We therefore make absolute the rule for quashing that by law.—18 Q. B. R. 227.

** Municipalities may lend money to School Trustees.*

The Municipal Investment Act of 1863, also provides that municipalities may loan surplus moneys to school trustees, as follows: "4. Any municipal corporation having surplus moneys derived from the Upper Canada Municipalities Fund shall have power, by by-law, to set such surplus apart for educational purposes, and to invest the same in a loan or loans to any board or boards of school trustees within the limits of the municipality, for such term or terms, and at such rate or rates of interest as may be agreed upon by and between the parties to such loan or loans respectively, and set forth in such by-law.

School Trustees may borrow the same for certain purposes—Conditions.

"5. Any board of school trustees may, with the consent of the freeholders and householders of their school section first had and obtained at a special meeting duly called for that purpose, by by-law, authorize the borrowing from any municipal corporation of any such surplus moneys as aforesaid, for such term and at such rate of interest as may be set forth in such by-law, for the purpose of purchasing a school site or school-sites, or erecting a school house or school houses; and any sum or sums so borrowed shall be applied to that purpose, and to that only.

Liability of Municipal Councillors or School Trustees, in contravening the Act

"6. Any member of any municipal corporation or board of school trustees, who shall take part in, or in any way be a party to, the investment of any such moneys as are mentioned in this Act, by or on behalf of the corporation of which he is a member, otherwise than as is authorized by this Act, or by the *eleventh* section of the Act respecting Clergy Reserves, or by any other law in that behalf made and provided, shall be held personally liable for any loss sustained by such corporation, and shall also be guilty of a misdemeanor, and be liable to conviction in any court of competent jurisdiction in Upper Canada, and upon conviction may be sentenced to fine or imprisonment, or both, in the discretion of such Court."—For *third* section of this Act, see page 70.

† *School Rates must be levied equally on all taxable property.*

The Court of Common Pleas has decided, that when the municipal council of a township, intending to act under the (preceding) *thirty-fifth* section of the [Upper Canada Consolidated Common] School Act, levied a rate for common school purposes upon the *resident* inhabitants of a school section only, it was held that, under the School Act as well as the Municipal and Assessment Acts, the by-law was invalid, because the rate should be levied on all taxable property, whether real or

sufficient sum for the payment of the interest* on the sum so borrowed, and a sum sufficient to pay off the principal within *ten* years.†

Council not to levy more than one rate except in certain cases.

36. No township council shall 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; and no such council shall give effect to any application of trustees for the levying or collecting of rates for school purposes, unless the trustees of the school section make the application to such council at or before its meeting in *August* of the year in which such application is made.

Council may establish Libraries.

37. Each township council may levy such sums as it judges expedient for purchasing books for a township library, under such regulations as may be provided in that behalf; ‡

Council may establish, and be Trustees of, Model School.

and for procuring the site, and for the erection and support of a township model school; and in such event the members of such township

personal, of the inhabitants, resident as well as non-resident.—*In re De la Haye v. Municipality of the Gore of Toronto*. 2 C. P. R. 317. (See decision *In re De la Haye, &c.*, 3 C. P. R. 23, below. See also decision as to rates in city of Ottawa (note to the *seventh* clause of the *seventy-ninth* section of the Consolidated School Act on page 73), and other decisions on page 37. For extracts from the Consolidated Assessment Law on this and kindred subjects, see page 37.

* *Maximum rate of Interest to be paid by Municipal Councils.*

‡ The Court of Queen's Bench has decided that municipal corporations cannot, by by-law, provide for money at a rate of interest exceeding that authorized by the statute.—*Wilson v. Municipality of the County of Elgin*. 13 Q. B. R. 129.

† *Authority to raise a rate to pay off a Loan for School Section purposes.*

The Court of Common Pleas has decided as follows:—A by-law of a township council authorizing the levy of certain rates in a school section having been quashed, the council then, without a second school section meeting having been called, passed another by-law for the same purpose, it was held by the Court: 1. That the discretion to raise the sum within any number of years, not more than ten, rests as much with the council as with the school meeting or trustees. 2. That a second meeting of the inhabitants, after the former by-law had been quashed, was not necessary. 3. That the rate was not declared on the property assessed in a previous year; but only the amount to be raised was determined by reference to the assessed value of property in that year. 4. That the rate not being complained of as excessive, its being calculated to realize more than the precise sum required, did not render the by-law invalid. 5. That the duty imposed on the clerk in making out the assessment list of the section, in accordance with the township by-law, was in accordance with the statute. 6. That a proviso of the by-law sanctioning receipts, *pro tanto*, given to those who had paid under the invalid by-law, did not render the second by-law void,—because such parties, although entitled to restitution, would have to pay *de novo*.—*In re De la Haye v. Municipality of Toronto*. 3 C. P. R. 23.

‡ One hundred per cent. is added by the Chief Superintendent of Education on all local appropriations for library and prize books, maps, and apparatus. See departmental notices appended.

council shall be the trustees of such model school, and shall possess the powers of common school trustees in respect to all matters affecting such model school.

Common Schools may be united with Township Model School.

38. The trustees of any one or more common schools may at their discretion, and with the consent of such council, merge their schools into such model school; and tuition to student teachers in such model school shall be free.

Council to form new School Sections.

39. Each township council shall* form portions of the township where no schools have been established, into school sections; and shall appoint a person in each new school section to call the first school section meeting; and shall cause such person to be notified in the manner prescribed in the *seventh* section of this Act, [page 9.]

[39½. *The School Law Amendment Act of 1860 further enacts:—*20. Trustees shall not be liable to any prosecution, or the payment of any damages, for acting under any by-law of a Municipal Council before it has been quashed. [The *two hundred and second* section of the Consolidated Upper Canada Municipal Institutions Act also enacts that in case a By-law, Order, or Resolution be illegal, in whole or in part, and in case anything has been done under it which, by reason of such illegality, gives any person a right of action * * * every such action shall be brought against the Corporation alone, and not against any person acting under the By-law, Order, or Resolution. See also decision of the Court of Common Pleas on the protection to which trustees are entitled in the discharge of their duties, and *note*, on page 21.]

Alteration of existing sections; † Notice to be given.

40. In case it clearly appears that all parties to be affected by a proposed alteration in the boundaries of a school section have been duly notified of the intended step or application, the township council may alter such boundaries;

* See note * in regard to the word "shall," on page 50. No township council can leave any part of the township without school section organization.

† **Decisions of the Superior Courts, in regard to School Sections.**

1. *Notice of Alteration necessary before forming or altering School Section.*

The Court of Queen's Bench has decided the following case: On the 19th of December, 1857, a township council passed a by-law creating a new school section, called No. 9, out of sections 13 and 8, and defining what should thereafter constitute section 13. Notice was given of the intention to pass this by-law, but it was not done at the request of the freeholders and householders, expressed at a public meeting. On the contrary, the change made appeared to be opposed to the wishes of a majority of the inhabitants. On the 8th of May, 1858, a by-law repealing it was passed, of which no notice had been given to the parties interested, thus restoring the sections to their former position; and on the 10th of September, 1859, another by-law was passed, assessing the Section 13 as it originally stood, for the expenses of building a school house, &c. *Held*, that the by-law of May, 1858, must be quashed, for the previous by-law was legal, and a by-law

Alteration to take effect 25th December.

But no such-alteration* in the boundaries of a school section shall take effect before the *twenty-fifth* day of *December* next after the alteration has been made.

repealing it, which would in effect make an alteration of school sections, could not be passed without notice to those interested; and that the by-law levying a rate on Section 13, as it stood before 1857, must necessarily be quashed also, for that would include part of what was Section 9.—*Shaw et al. and the Corporation of the Township of Manvers.* 12 Q. B. R. 288.

2. Boundaries of new or altered Sections must be defined with certainty.

The Court of Queen's Bench has decided that the by-law set out in this case was bad, for not describing or defining with sufficient certainty the limits of the school sections intended to be established by it.—*Haacke v the Municipality of Markham.* 17 Q. B. R. 562. [See also decision of the Court of Queen's Bench, in the case of school section for coloured people, on page 39.]

3. Notice only and not consent necessary in altering School Section.

Any alteration in the boundaries of a section may be effected *after* due notice to all parties interested, and independently of the consent or request of its Trustees or inhabitants. But the *union* of two or more sections into one, cannot be effected without the concurrence of the inhabitants of each of the sections concerned. The Court of Queen's Bench in confirming the decision of the Chief Superintendent on this subject, holds that an *alteration* in the boundaries of a school section under the [*fortieth*] section of the [Upper Canada Consolidated Common] School Act, does not constitute it a new section, or make it necessary to call a school meeting to elect new trustees. Such an alteration only involves a change of parties, from being members of one school section, and becoming members of another school section, and takes effect the 25th December next after. Nor is it necessary to show that the people desire an alteration of the boundaries to authorize the Council to make it — *Chief Superintendent, appellant from Judge of the Division Court, in re Trustees No. 2, Moore v. Wm. McRae.* 12 Q. B. R. 525.

4. Dividing a School Section makes only one new section.

The Court of Queen's Bench has decided the following case.—On application of the resident inhabitants of a section, the Municipality of a township, in 1853, passed a resolution to divide the section, by taking away a part to constitute a new section (but no by-law was passed until 1855, when one was adopted confirming the resolution.) A meeting was called for the 16th January, 1854, to elect three new trustees for the section. In the meantime, on the 10th of January

*** Form of intimating to Trustees the alteration of their School Section.**

Township Clerk's Office, _____ 186 .

SIR,—In conformity with the *fortieth* section of the Upper Canada Consolidated Common School Act, I have to acquaint you that the Municipal Council of this Township has altered the School Section of which you are Trustee, in the following manner: [*Here insert the changes which have been made, and a full description of the new School Section.*] These changes will go into effect from and after the *twenty fifth* day of next *December*, according to the foregoing section of the Act.

You will please communicate this notice to the other Trustees of your School Section.

I am, Sir, your obedient servant,

A. B, Township Clerk.

To D. E.,

Trustee of School Section, No. —, Township of _____.

REMARK.—In giving notice of the formation of Union School Sections, see the remarks at the end of the form.

Union of existing Sections; Meetings to be called.

41. In case at a public meeting of each of two or more sections called by the trustees for that purpose, a majority of the [assessed]

the ordinary annual meeting was held, and a dispute arose as to whether trustees should not then be elected for the ensuing year? Some thought not, and left the meeting; while others remained, and proceeded with the election. The Local Superintendent being appealed to, declared the election illegal, considering the section had become a new section; and appointed another election to take place on the 16th, when the three defendants were appointed trustees. In January, 1855, the dispute was renewed and elections held so that there were two sets of trustees claiming the office. The first elected trustees in 1854, abstained from acting; and the defendants imposed a rate, which the plaintiff resisted. *Held* by the Court, (affirming (No. 14, page 57,) *Chief Superintendent of Education, Appellant, from the Judge of the Division Court of the County of Lambton, in re Trustees, No. 2 Moore v. McRae*, 12 Q. B. R. 525,) that the alteration did not constitute the section a new one; but the rate was legal being imposed by trustees *de facto*, who had not been removed.—*Quære*, whether such alteration could be made by resolution only. *Quære*, also, whether the decision of the local superintendent can be thus incidentally reviewed in an action to recover back the rate.—*Chief Superintendent of Education, Appellant, from the Judge of the Division Court of the County of Haldimand, in re Trustees, No. 7, Oneida, Gill & Jackson et al.* 14 Q. B. R. 119.

5. Notice should be given before the alteration of School Section be made.

The Court of Common Pleas has decided that before any alteration can be made in the limits of a school section, notice must be given to the parties interested in the proposed alteration, before the passing of the by-law authorizing the same.—*Griffiths v. Municipality of Grantham.* 6 C. P. R. 274.

6. Preliminaries to be observed in forming or altering School Section.

In effecting alterations, the Municipal Council may take the initiatory, and can act without any previous request from a public meeting; but if they enter upon such a measure of their own accord, they must see that all parties affected by the alteration have been duly notified of the intended step; and if they have been applied to on the subject, they are not required to entertain the application until they see that such notice has been given, of which they must be the judges.—(*Chief Justice Robinson; In re Nesa v. Saltfleet Municipality.* 13 Q. B. R. 408.

7. By-laws for the alteration of School Sections can only be quashed within a reasonable time.

The Court of Common Pleas in a case where a great length of time (fourteen months) had elapsed before motion was made, refused to quash a by-law altering school sections, it being on its face legal, and having been acted upon, although it was doubtful whether sufficient notice had been given to interested parties.—*Hill v. Municipality of Tecumseth.* 6 C. P. R. 297.

8. Time when alteration in School Section takes effect—Sufficient notice must appear.

The Court of Queen's Bench, affirming *Ness and the Municipality of Saltfleet*, 13 Q. B. R. 408, has decided, that to alter the boundaries of a school section within a township, not being a union section, it is only necessary that the alteration shall not go into effect before the 25th of December following, and that it must appear to the municipality that all parties affected have had due notice.—*Held*, also, that notice in this case was sufficiently shown.—*In re Isaac and the Municipality of Euphrasia.* 17 Q. B. R. 205.

9. Alteration of School Section by County Council illegal.

The Court of Common Pleas has decided that, under the School Law, the township council and not the [county] council, have authority to sanction any altera-

freeholders and householders of each of the sections to be affected, request to be united, then the council shall unite such school sections into one.

tion made in school [sections]. A proposed alteration being submitted by the [local] superintendent of schools to the [county] council, was held not to legalize the alteration thereby proposed.—*McFee v. Dunbar*. 10 C. P. R. 94.

10. *Township Councils cannot alter Union School Sections.—By law, to levy School Rate after alteration, also bad.*

The Municipality of Vespra and Sunnidale [before the passing of the Supplementary School Act of 1853] passed a by-law re-modelling the school sections of those townships, which transferred to Union School Section No. 3, created by the by-law, a part of Vespra, which had formerly belonged to Union School Section No. 4 of Vespra, Flos, Oro, and Medonte. *Held*, that this was beyond the power of the municipality, and that the by-law was bad. It appeared also that no notice had been given of the intended alteration, and that on this ground as well the by-law was illegal. *Held*, also, that as Union Section No. 3 was illegally constituted, a by-law passed to raise money for a school-house erected there was also bad; and the by-law in this case passed for that purpose was bad too, for omitting to comply with the requisites [under the two hundred and twenty-third section of the Municipal Institutions Act] of all by-laws creating a debt or contracting a loan—*Hart and the Municipality of Vespra and Sunnidale*. 16 Q. B. R. 32.

11. *The Act determines when by-law takes effect.—Lapse of time.—Quashing.*

The Court of Common Pleas on a motion to quash a by-law passed on the 1st of October, 1859, by defendants, doing away with school section No. 7, in the township of Darlington, and attaching a portion thereof to school section No. 6, and another part to No. 8. *Held*, 1st, that it is unnecessary that a by-law should state on its face that the alteration shall not go into effect till the 25th December following the passing thereof. 2nd, that no step having been taken to quash a by-law for a year and more from the passing thereof, the decision in *Hill v. Municipality of Tecumseth*, 6 C. P. R. 297, [quoted above,] was adhered to, and the motion refused on account of delay in making the application.—*Cotter v. Municipality of Darlington*. 11 C. P. R. 265.

12. *See decisions in regard to uncertain boundaries of school sections for coloured people, on page 39.*

13. *If two sections be united, in re-arranging the School Sections of a Township, an election of Three Trustees is necessary.*

The Court of Common Pleas has decided the following case: In the township of Harwich, prior to February, 1854, School Section No. 1 consisted of the town of Chatham and a part of the township. There was also a school section in operation, known as Section No. 2½. In February, 1854, the township council passed a resolution dividing the township into sixteen school sections. No. 1 (of the new sections) was formed of that part of the township of Harwich which, together with the town of Chatham, had previously been No. 1, added to the whole of No. 2½ as it existed previously. In January, 1855, an election for the new Section No. 1 (as created by the resolution in 1854) was held, at which one trustee only was elected, and the two other trustees elected the previous year for the then section, gave defendant the warrant under which he acted. *Held* by the Court, that there should have been three trustees elected for Section No. 1 at the election in January, and that a warrant signed by the other two was inoperative.—*MacGregor v. Pratt*, No. 1, *Harwich*. 5 C. P. R. 173.

1. The Court of Queen's Bench has also decided that the union of two or more sections into one, is equivalent to the formation of a new section, and goes into operation (unless especially deferred to a fixed date) immediately after the action

First Election in such united Sections.

42. The first election in such united section shall be appointed and held in the same manner as is provided for in the *seventh* to the *twelfth* sections of this Act, in respect to a new school section [pages 9, 10, and 11.]

Share of School Fund not affected.

43. The several parts of any altered or united school sections shall have respectively the same right to a share of the common school fund for the year of the alteration or union, as if they had not been altered or united.

Disposal of School Property when not wanted.

44. In case a school site, or school house, or other school property be no longer required in consequence of the alteration or the union of school sections,* the same shall be disposed of by sale or otherwise, in such manner as a majority of the [assessed] freeholders and householders in the altered or united school sections decide at a public meeting called for that purpose.†

Separated part to Share in proceeds.

And the inhabitants transferred from one school section to another, shall be entitled, for the common school purposes of the section to which they are attached, to such a proportion of the proceeds of the sale of such school house or other common school property, as the assessed value of their property bears to that of the other inhabitants of the school section from which they have been so separated; and the residue of such proceeds shall be applied to the erection of a new school house, or to other common school purposes of such altered or united sections.

[The forty-fifth and forty-sixth sections of this Act have been superseded by the fifth section of the School Law Amendment Act of 1860, as follows:]

of the township council; and the same court has decided that the union of two or more school sections in the same township into one, may take place at any period of the year, and would then require a new election of trustees.—*Chief Superintendent, Appellant, in re Trustees No. 2 Moore v. William McRae.* 12 Q. B. R. 525. But the union of parts of adjoining townships, and an alteration in the boundaries of union sections, have no effect until after the 25th December following the act. In all cases, an altered or united section has no legal existence, as such, until after the date fixed for the coming into effect of such alteration or union.

* As the site, school-house, and other school property of an altered school section can be "no longer required" by the parties who, by such alteration, have been separated from the original section, they are in equity entitled to the proportion of the estimated value of the site, school house, and other school property mentioned in the Act; although they be not actually sold, as contemplated by the Act.

† See authority for the sale of school premises: (1) By the trustees, in the *tenth* section of the School Law Amendment Act of 1860, on page 30; and (2) By the township council in the Municipal Institutions Act, as [34], page 51.

[Formation and alteration of Union School Sections.*

45. [5. The *forty-fifth* and *forty-sixth* sections of the said Upper Canada [Consolidated] Common School Act, shall be amended so as to read as follows: "Under the conditions prescribed in the *fortieth* section (pages 54, 55), in respect to alterations of other school sections, union school sections, consisting of parts of two or more townships or parts of a township and any town or incorporated village, may be formed and altered by the reeves and local superintendent or superintendents, of the townships out of parts of which such sections are proposed to be formed; † or in the case of a union section of parts of a township or townships and a town or incorporated village, by the reeve and local superintendent of the township, and the Board of Common School Trustees of the town or village, at a meeting appointed for that purpose by any *two* of such reeves, or by the Board of Common School Trustees of such town or village, of which meeting the other parties authorized to act with them shall be duly notified;

[Effect of such Union in Township, Town, or Village.

46. [And each union school section, composed of portions of adjoining townships or portions of a township or townships, and a town or incorporated village, shall, for the purposes of the election of trustees under their control be deemed *one* school section, and shall be considered in respect to superintendence and taxation for the erection of a school house, as belonging to the township, town, or village in which the same [*i.e.* the school-house] is situated." ‡

[46]. The *School Law Amendment Act of 1860* also enacts: 2. On the incorporation of a part of any school section within the limits of a village, the municipal council of the township within the limits of which such school section is in whole or in part situated, shall have authority forthwith to attach the part or parts of such school section not included within the limits of the village corporation, to an adjacent school section or school sections, or form them into a separate and distinct section or sections.]

* *Formation and alteration of Union School Sections can only be made by Reeves and Local Superintendents.*

The Court of Queen's Bench has decided that a township municipality may alter the boundaries of school sections within the township, by taking from one section and adding to another, without any previous request of the [assessed] freeholders and householders, and notwithstanding their disapprobation of the change provided that those affected by the alteration have due notice of the intention to make it. But the municipality has no power to alter the boundaries of a union school section consisting of parts of different townships—such power pertaining only to the reeves and local superintendents of the townships concerned.—*In re Ley v. Municipality of Clarke*. 13 Q. B. R. 433.

† This union can be dissolved by either of the township councils concerned, on giving due notice to all parties concerned. See *forty-seventh* section of this Act, page 69.

‡ See *ninety-second* section of this Act.

Union Section may be dissolved by either Township Council.

47. Each township council may, under the restrictions imposed by law in regard to the alteration of school sections,* separate such part of any union school section as is situated within the limits of its jurisdiction, from the union of sections, and may form the part so separated into a distinct school section, or attach it to one or more existing school sections or parts of sections within its jurisdiction, as such council judge expedient.†

Township Clerk to furnish information to Local Superintendent.

48. Each township council shall cause the clerk of the township to furnish the local superintendent of schools with a copy of all the proceedings of the council relating to the formation or alteration of school sections,‡ school assessments,§ and other educational matters.

* See note § on page 48.

† *Township Councils in altering Sections are not required to give notice to parties residing out of their township. What is due notice.*

The Court of Queen's Bench has decided the following case:—The municipal council of a township passed a by-law, disuniting a union section with another township, and uniting such part section and two distinct sections in its own township into one, after a petition from certain inhabitants of the section concerned. Held by the Court, that the council was not bound to give notice to the inhabitants of that part of the union section belonging to the other township—it being out of its jurisdiction; but in regard to the parties within its authority, it was required to be satisfied that *due notice* had been given. It is made the judge of such "due notice." The intention of the [*forty-seventh*] section of the [Upper Canada Consolidated Common] School Act, is that the township council may pass a by-law for bringing back exclusively to its own jurisdiction, any part of the township united to another; and that it may make what arrangement it thinks most convenient for giving the inhabitants the benefit of the common school laws; but it cannot do so unless it clearly appears that all parties have had due notice.—*In re Ness v. Municipality of Saltfleet*, 13 Q. B. R. 408.

‡ *The form of this notice should be as follows :*

Township Clerk's Office, _____ 186 .

SIR,—In conformity with the *forty-eighth* section of the Upper Canada Consolidated Common School Act, I have to acquaint you that the Municipal Council of this township has altered school section No.—, in the following manner: [*Here insert the changes which have been made and a full description of the new school section.*] These changes go into effect from and after the *twenty-fifth* day of next December, according to the *fortieth* section of the Act.

I am, sir, your obedient servant,

The Local Superintendent of School
for the County or Township of _____

A. B., Township Clerk.

N.B.—When the union school section is formed, dissolved, or altered, as authorized by the *fifth* section of the School Law Amendment Act of 1860, page 59, and the *forty-seventh* section of the Upper Canada Consolidated Common School Act, above, the clerk of the township in which the school-house of such union section is situated, should communicate the requisite notices to the parties concerned; and alter the township school map, which the *forty-ninth* section of the Consolidated School Act (page 61) requires him to prepare.

§ The notices of school assessments, and assessments for the erection and furnishing of school-houses, for the purchasing of school sites, &c., may be given in

Township Clerk to prepare Maps of School Sections.

49. The township clerk shall* prepare in duplicate, a map of the township, shewing the divisions of the township into school sections and parts of union school sections, and shall furnish one copy of such map to the county clerk, for the use of the county council, and he shall retain the other in the township clerk's office, for the use of the township corporation.†

[Township Clerk to make School Returns to County Clerk.‡

[The *one hundred and fifty fourth* section of the Consolidated Municipal Institutions Act (22 Vict. chap. 55), makes it the duty of the township clerk, in each year, within one week after the *first* day of *January*, to make a return to the clerk of the county in which the municipality is situate, of the following particulars respecting his municipality for the year then last past, namely : 24. Total expenditure on account of schools and education, exclusive of school trustees' rates.]

PART III.—DUTIES OF COUNTY MUNICIPAL COUNCILS.

To raise equivalent to Legislative School Grant.

50. Each county§ council shall cause to be levied yearly upon the several townships of the county, such sums of money, for the pay-

such a manner as the council shall direct. See note * to the *seventh* section of this Act, page 9. For form of deed for a school site, &c., see page 25.

* The word "*shall*" is here imperative; see note * on page 50.

† As the township assessor is required, by the *thirty-third* section of this Act, to make a correct assessment roll (so far as it relates to each school section) for the use of the trustees, the necessity for this map, which the law makes it the duty of the township clerk to prepare, is the more imperative. See page 49.

‡ For other duties of the township clerk, see the *twelfth* clause of the *twenty-seventh* section of this Act, pages 36, 37; also the *fifteenth* clause of the same section, page 38.

§ *Townships have no power to levy a school rate for county purposes.*

The Court of Queen's Bench has decided as follows:—A township by-law was quashed in so much of it as related to the raising of a sum of money, to defray the demands of the county council on the township, and as an equivalent to the legislative school grant; it not appearing in the face of the by-law that it was directed to the purpose of meeting a deficiency. It follows therefore that a township council has not power to pass a rate in aid of any county rate as the [Municipal Act] authorizes the county councils to pass by laws to raise money for county purposes, and the township council for township purposes; and the [*fortieth*] section of the Upper Canada [Consolidated Common] School Act, expressly makes it a duty of county council (and not the township council) to cause to be levied each year upon the several townships of the county, such sums of money as shall at least be equal,

ment of the salaries of legally qualified common school teachers, as at least equal (clear of all charges of collection) the amount of school money apportioned by the Chief Superintendent of Education to the several townships thereof for the year, and notified by him to such council through the county clerk;*

Such equivalent may be increased for poor Schools, &c.

And the sums so levied may be increased at the discretion of the council, either in aid of the county school fund, or on the recommendation of one or more local superintendents, to give special or additional aid to new or needy school sections.

Such County-rate to be collected by 14th December.

51. The sum annually required to be levied in each county, for the salaries of legally qualified teachers, shall be collected and paid into the hands of the county treasurer, on or before the *fourteenth day of December* in each year;†

Teachers not to be refused payment.

But notwithstanding the non-payment of any part thereof to such treasurer in due time, no teacher shall be refused the payment of the sum to which he may be entitled from such year's county school fund, but the county treasurer shall pay the local superintendent's lawful order in behalf of such teacher, in anticipation of the payment of the county school assessment;‡ and the county council shall

clear of all charges of collection, to the amount of school money apportioned to the several townships out of the government grant.—*Fletcher v. Municipality of Euphrasia, &c.*, 13 Q. B. R. 129.

* In case of refusal on the part of a county council to levy a rate for the support of common schools in the county, it is very doubtful whether the courts would interpose, by mandamus, to compel the county to levy and collect the rate. The only penalty attached to such a neglect or omission on the part of the county council (*i. e.* the withholding of the legislative grant) is contained in the *one hundred and twenty-fourth* section of the Consolidated School Act.

† The great difficulty hitherto experienced in collecting the county school rate in sufficient time to pay the Teacher punctually at the end of the year, might be easily obviated, were the county councils to avail themselves of the provisions of the *two hundred and twenty-third* and the *two hundred and thirty-fifth* sections of the Upper Canada Consolidated Municipal Institutions Act, and anticipate the school assessment for one year. The council could, under the authority of the two sections referred to, contract a loan equal in amount to one year's assessment; and then provide for the repayment of such loan by slightly increasing each subsequent year's school assessment, until the whole of the loan and interest would be paid. No doubt the county concerned would heartily concur in such a step in advance, knowing that it would be a yearly boon to the teachers, involving no additional cost to the county.

‡ In case the treasurer refuses to honor the lawful order of the local superintendent, for the school assessment, after the *fourteenth of December*, he is liable to be sued for the amount of the order dishonored.—See also decision in the Court of Queen's Bench, in note 9 to the *thirteenth* clause of the *seventy-ninth* section, page 74.

["shall" is here imperative. See note * on page 50] make the necessary provision to enable the county treasurer to pay the amount of such order.

Council may establish County Library.

52. Each county shall raise by assessment such sums of money as it may judge expedient, for the establishment and maintenance of a county common school library.*]

County to appoint Local Superintendents.

53. Each county council shall appoint annually a local superintendent† of schools for the whole county, or for any one or more townships in the county, as it may judge expedient;‡ and shall fix (within the limits prescribed by the *eighty-eighth* section of this Act) and provide for the salary of such local superintendent.

54. No local superintendent shall have the oversight of more than one hundred schools.

Clerk to report appointments and proceedings to Chief Superintendent.

55. The county clerk shall forthwith notify the Chief Superintendent of Education of the appointment and address of each such local superintendent, and of the county treasurer; and shall likewise furnish him with a copy of all proceedings of the council relating to school assessments and other educational matters.§

To obtain security from all persons entrusted with School Moneys.

56. Each county council shall see that sufficient security is given by all officers of the council to whom school moneys are to be en-

* The Educational Department will grant one hundred per cent. on all remittances sent to it from the county council for the purchase of books not only for a county common school library, but also for a county teachers' association library, or for a county jail library, &c. See departmental notices on this subject at the end.

† Local Superintendents remain in office until the *first* of April next after their appointment. See the *eighty-eighth* section of this Act. In case of resignation, &c, the Warden may appoint a Superintendent *pro tem*. See the *eighty-ninth* section of this Act. No trustee or teacher can be a local superintendent. See the *ninetieth* section of this Act. For duties of local superintendents, see the *ninety-first* section.

‡ See the *ninety-first* section of this Act.

§ This information should be promptly transmitted to the Chief Superintendent. See also the *fifty-ninth* section of this Act, page 70. By the *thirteenth* section of the Upper Canada Consolidated Municipal Statistical Returns Act, 22 Vict. chap. 33, a penalty of *twenty* dollars is imposed on clerks of counties for delaying to make the returns required by that law; and the Receiver General is authorized to retain moneys which would otherwise be payable to the municipality. See also the section of the Municipal Institutions Act, quoted on page 61; and also note * to the *one hundred and twenty-fourth* section of this Act.

trusted,* and shall also see that no deduction is made from the school fund by the county treasurer or sub-treasurer for the receipt and payment of school moneys.†

Municipal accountability for School Moneys.

[The Upper Canada Consolidated Assessment Act, (22 Vict. chap. 55.) enacts as follows: 193. Every county and city shall be responsible to Her Majesty, and to all other parties interested, that all moneys coming into the hands of the treasurer or chamberlain of the county or city in virtue of his office, shall be by him duly paid over and accounted for according to law.

Treasurers to be responsible in Counties and Cities.

[194. The treasurer or chamberlain and his sureties shall be responsible and accountable for such moneys in like manner to the county or city, and any bond or security given by them for the duly accounting for and paying over moneys coming into his hands belonging to the county or city, shall be taken to apply to all such [Provincial] moneys as are mentioned in the *one hundred and eighty-sixth* section, and may be enforced against the treasurer or chamberlain in case of default on his part.

School Moneys may be retained by the Crown.

[195. If the default relates to school moneys or other public moneys of the Province, Her Majesty may enforce the responsibility of the county or city, by stopping or retaining a like amount out of any public moneys which would otherwise be payable to the county or city,‡ or to the treasurer or chamberlain thereof, or by suit or action against the corporation.

Remedy to persons aggrieved by default of Treasurer.

[196. Any person aggrieved by the default of the chamberlain or treasurer, may recover from the corporation of the city or county, the amount due or payable to such person, as money had and received to his use.]

School Sub-Treasurers for Townships may be appointed.

57. If deemed expedient, the county council shall appoint one or more sub-treasurers of school moneys for one or more townships of the county; in which event each such sub-treasurer shall be subject to the same responsibilities and obligations in respect to the accounting for school moneys and the payment of lawful orders for such moneys given by any local superintendent within the parts of the county for which he is appointed sub-treasurer, as are imposed by this Act upon each county treasurer in respect to the paying and account-

* The *one hundred and thirty-seventh* section of this Act, makes the person or persons whose duty it is to take this security, but who neglect to do so, responsible, should any loss accrue to the school fund in consequence. See also the sections of the Consolidated Assessment Act, quoted above.

† See the *one hundred and twenty-third* and the *one hundred and twenty-fourth* sections of this Act.

‡ See the *one hundred and twenty-fourth* section of this Act.

ing for school moneys.* [i.e. By the *fifty-first* section on page 67, and the following *fifty-eighth* section of this Act.]

Auditors of School Moneys to be appointed.

58. Each county council shall annually, or oftener, appoint auditors, who shall audit the accounts of the county treasurer and other officers to whom school moneys have been entrusted, and who shall report to such council.

Clerk to transmit audited Accounts to Chief Superintendent.†

59. The county clerk shall transmit to the Chief Superintendent of Education, on or before the *first* day of *March* in each year, a certified copy of the abstract of the report of the auditors, and shall also give any explanation relating thereto, as far as he is able, which may be required by the Chief Superintendent.‡

PART VI.—THE CONSOLIDATED COMMON SCHOOL ACT,

RELATING TO CITIES, TOWNS, AND INCORPORATED VILLAGES.

Powers of Councils, in Cities, Towns and Villages.

60. The municipal council of each city, town, and village in Upper Canada is hereby invested, within its limits, with the same powers and shall be subject to the same obligations as the municipal council of each county and township by the *thirty-fourth*, *thirty-fifth*, and the *fiftieth*, *fifty-first*, *fifty-fifth*, *fifty-sixth*, *fifty-eighth*, and *fifth-ninth* sections of this Act, pages 50, 52, 61, 62, 63, and 65.

Board to appoint Local Superintendent.

61. The Board of School Trustees for every such city, town, and village respectively, shall appoint the local superintendent of schools for the city, town, and village. [See the *eighth* clause (c) of the *seventy-ninth* section of this Act, page 71].

* See the *one hundred and thirty-seventh* section of this Act.

† See also the *fifty-fifth* section of this Act, page 63.

‡ Printed forms for this abstract, and also for the school accounts of each of the county sub-treasurers of school moneys are furnished by the Educational Department, for convenience and uniformity, although it is not required to do so by law. See note * to the *one hundred and twenty-fourth* section of this Act.

ELECTION OF TRUSTEES IN CITIES AND TOWNS DIVIDED INTO WARDS.*

Two Trustees to be annually Elected in each Ward.

62. For each ward into which any city or town is divided, there shall be *two* school trustees, each of whom after the first election of trustees, shall continue in office *two* years, and until his successor has been elected, and *one* of such trustees shall retire on the *second Wednesday in January* yearly in rotation.

First elections of School Trustees in Cities and Towns.

63. On the incorporation of any city or town and the division thereof into wards, *two* fit and proper persons shall, at the first election of school trustees, be elected school trustees of each such ward by a majority of the votes of the [assessed] freeholders and householders thereof.†

City and Town Trustees' Term of Office.

And one of such trustees, to be determined by lot at the first meeting of trustees after their election, shall retire from office at the time appointed for the next annual school election, and the other shall continue in office *one* year longer, and then retire; but each such trustee shall continue in office until his successor has been elected.

64. In every city and town at the time prescribed by the *third* section of this Act, [*i. e., the second Wednesday in January*] an election shall be held in each ward at the place of the last municipal election, and under the direction of the same Returning Officer, and conducted in the [same] manner as an ordinary municipal ward election;‡ but in case of the default of such Returning Officer, then under the direction of such person as the electors present may choose; and at such election, *one* fit and proper person to be a Trustee shall be elected by a majority of the votes of the [assessed] freeholders and householders in and for each such ward respectively, and such trustee shall continue in office for *two* years, and until his successor has been elected.

Time and Hours for School Elections in Rural Sections, Town, &c.

[64½. The School Law Amendment Act of 1860 fixes the hour for closing the poll as follows: 4. The poll at every election of a school trustee or trustees shall not close before *eleven* of the clock in the forenoon, and shall not be kept open later than *four* of the clock in the afternoon: In [rural] school sections the poll shall close on the same day the election is commenced; in cities, towns, and incorporated villages, the same time shall be allowed for the election of school trustees which is allowed for the election of municipal councillors in such municipalities.]

* See *fifth* section of the School Law Amendment Act for 1860, page 59.

† As defined in the *seventieth* section of this Act, page 68.

‡ The following is the law which governs municipal elections and to which reference is made above, taken from the Consolidated Municipal Institutions Act, 22 Vict, ch. 55: "The Returning Officer may close the election in *one* hour after commencing the same if within that time no more [than one candidate is] proposed. * * * But in case there are more candidates, and a poll is demanded,

ELECTION OF TRUSTEES IN VILLAGES AND TOWNS NOT DIVIDED INTO WARDS.

65. In each town, not divided into wards, and in each village, there shall be *six* school trustees, *two* of whom, after the first election, shall retire yearly on the *second Wednesday in January*.*

First Election of School Trustees in a Village or Town,*

66. On the incorporation of any such town or village, the Returning Officer appointed to hold the first municipal election in such town or village shall call a meeting for the election of school trustees, to take place at the time prescribed in the *third* section of this Act, [*second Wednesday in January*] or in case of his neglect for *one* month, any *two* freeholders in such town or village, on giving *six days'* notice in at least *three* public places in the town or village, may call a meeting for such purpose, and at such meeting *six* trustees shall be elected, who shall hold office during the periods hereinafter expressed, and from thence until their successors respectively have been elected.

Trustees when first elected to be classified.

67. The trustees of every such town and village shall be divided by lot into *three* classes of *two* individuals each, to be numbered *one, two, three*; the first of which classes shall hold office *one* year, the second *two* years, and the third *three* years, and until their successors respectively be elected.

Such Trustees to retire yearly by rotation.

68. The trustees composing one of such classes shall retire yearly in rotation, the order of such rotation of the trustees first elected being determined by lot at the first meeting after their election, and, except the trustees elected at the first election, the trustees so to retire shall be those who have held the office for the then next preceding *three* years, or who have been elected to supply any vacancy in the retiring class.

Annual Election of two Trustees in Towns and Villages.

69. A school meeting shall be held annually on the *second Wednesday in January*, in each such town and village, at the place of the

he shall keep open the election until *four* of the clock in the afternoon of the first day, and then adjourn the same until *ten* of the clock in the forenoon of the next day, not being a Sunday or a legal holiday, and continue the same till *four* of the clock in the afternoon thereof, and no longer; but if in the meantime he sees that all the electors intending to vote have had a fair opportunity of being polled, and if no qualified elector gives or tenders his vote between three and four o'clock of the first day, free access having been allowed to electors for the purpose, the Returning Officer may close the election at four o'clock on that day, and the Returning Officer may, in like manner, close the election before four o'clock on the second day, if for the hour next before he does so no qualified elector gives or tenders his vote, free access having been allowed to electors for the purpose."

* For union of a school section or part of a township with a village or town, for school purposes, see section (45) and (46) on page 59.

then last annual election of councillors, at which meeting the [assessed] freeholders and householders of the town or village shall elect two persons to be trustees in the place of the two retiring from office, which trustees elect shall continue in office three years, and until their successors have been elected.

Challenging Voters at School Elections.

70. In case an objection be made to the right of any person to vote at an election in any city, town, or village, or upon any other subject connected with school purposes therein, the Returning Officer presiding at the election shall require the person whose right of voting is 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 (town or village, as the case may be), within the last twelve months, and that I am legally qualified to vote at this election.”

Effect of such Declaration.

Whereupon the person making such declaration shall be permitted to vote.†

71. If any person wilfully makes a false declaration of his right to vote, he shall be guilty of a misdemeanor, and upon conviction, upon the complaint of any other person, shall be punishable by fine and imprisonment, in the manner provided for in the eighteenth section of this Act [page 15.]

Contested Elections in Cities, Towns, and Villages.

72. The Judge of the County Court shall, within twenty days after the election of a common school trustee in any city, town, or incorporated village within his county, receive and investigate any complaint respecting the mode of conducting the election, and confirm it or set it aside, and appoint the time and place of holding a new election, as he may judge right.

Penalty on Returning Officer for wrong doing.

73. If the returning officer at any election of a common school trustee be convicted before the County Judge, of disregarding the requirements of the law,‡ or acting partially in the execution of his office, he shall be fined a sum of not less than twenty dollars, nor

* It will be quite sufficient if the electors shall have paid within the year a school tax imposed either by the municipality or by the Board of School Trustees.

† By the nineteenth section of this Act, and twenty-fifth section of the Roman Catholic Separate School Act of 1863, supporters of separate schools are not allowed to vote at the election of common school trustees. See page 15.

‡ See note * appended to section sixty-four and a half, on page 66.¶

more than *one hundred* dollars, at the discretion of such County Judge.

Costs of Contested Elections.

74. The expenses of any school election contest shall be paid by the parties concerned in it, as may be decided by the County Judge.

Terms for which persons are Elected to fill Vacancies.

75. Any trustee elected to fill an occasional vacancy in a Board of School Trustees, shall hold office only for the unexpired term of the person in whose place he is elected to serve.

Re-Election of any Trustee lawful

76. Any retiring trustee may be re-elected with his own consent, otherwise he shall be exempted from serving for *four years next* after leaving office.

Trustees to be a Corporation.

77. The school trustees for each city, town, and incorporated village, shall be a corporation,* under the name of "The Board of School Trustees of the City [Town or Village] of —: in the county of —," and shall succeed to all the corporate rights and powers, and be subject to all the corporate obligations and liabilities of the preceding trustees.†

The First Meeting of the Board of Trustees.

78. The first meeting of the Board may be called by any trustee, to take place in the city, town, or village council-room.

Duties of the Board.

79. It shall be the duty of the Board of School Trustees of every city, town, and village respectively, and they are hereby authorized :

Election of Chairman, and his Vote.

(1) To elect annually, or oftener, from among their own members, a chairman, who shall have a right to vote at all times; and in case of an equality of votes, the question shall be held to be decided in the negative.

Appointment of Secretary, Superintendent, Collector, and Treasurer.

(2) To appoint a secretary, local superintendent of schools, and, if requisite, one or more collectors of school-rates, which collector or collectors may be of their own number; and one of whom may also be secretary-treasurer,‡ who shall be subject to the same duties,

* See extract from the Interpretation Act, quoted in the *twenty-sixth* section of this Act, page 19.

† See note to decisions of the Court of Common Pleas, appended to the *fourth* clause of the *twenty-seventh* section of this Act, page 19.

‡ Trustees are, by the *one hundred and thirtieth* and following sections of the Act, authorized to proceed against any secretary-treasurer withholding papers, or refusing to account to them.

obligations, and penalties as secretary-treasurers in school sections. [See pages 21, 22.]

Time and Place of Meetings of Board.

(3) To appoint the times and places of their meetings and the mode of calling them; and of conducting* and recording their proceedings, and of keeping all their school accounts.

Board to take Possession of School Property.

(4) To take possession of all common school property, and to accept and hold as a corporation all property acquired or given for common school purposes, in the city, town, or village, by any title whatsoever.†

To Manage and Dispose of School Property.

(5) To manage or dispose‡ of such property, and all moneys§ or income for common school purposes.

* For mode of conducting public meetings, see pages 10 and 11.

† See notes appended to the *third* clause of the *twenty-seventh* section of this Act, page 27.

‡ See the *tenth* section of the School Law Amendment Act of 1860, page 27.

§ The Municipal Investments Act, passed in October, 1863, to legalize the investment of surplus Clergy Reserve-moneys, gives the following authority to boards of school trustees in cities and towns:

Boards of School Trustees in Cities and Towns may invest surplus school moneys.

3. The board of school trustees of any city or town in Upper Canada, having surplus moneys for educational purposes, may invest the same in the purchase of Provincial Consolidated Loan Fund, or Municipal Debentures, or [in first mortgages secured on real estate, held and used for farming purposes, and to be the first lien on or against such real estate, and from time to time, as such securities mature to invest in other like securities or in the securities already mentioned by law, as may be directed by such by-law, or by other by-laws passed for that purpose: Provided always, that no [school trustee] corporation shall invest in such real estate securities within the limits of its own municipality, nor shall any sum so invested exceed one third of the value of the real estate on which it is secured, according to the last revised and corrected assessment-roll at the time it is so invested; and any by-law or resolution of any such corporation heretofore made, for authorizing any such investment, under which any such money has been so invested, shall be held to be a good and valid by-law or resolution.

Municipalities may loan such surplus to School Trustees.

4 Any municipal corporation, having surplus moneys derived from the Upper Canada Municipalities Fund, shall have power, by by-law, to set such surplus apart for educational purposes, and to invest the same in a loan or loans to any board or boards of school trustees within the limits of the municipality, for such term or terms, and at such rate or rates of interest, as may be agreed upon by and between the parties to such loan or loans respectively, and set forth in such by-law.

Liability of School Trustees investing otherwise than as authorized by law.

6. Any member of any board of school trustees, who shall take part in, or in any way be a party to the investment of any such moneys as are mentioned in this Act, by or on behalf of the corporation of which he is a member, otherwise than as is authorized by this Act, or by * * * any other law in that behalf

To apply Proceeds of School Property.

(6) To apply the same, or the proceeds, to the objects for which they have been given or acquired.

To Provide School Premises, Apparatus, Text-Books, and Library.

(7) To do whatever they may judge expedient with regard to purchasing or renting school-sites and premises; building, repairing, furnishing, warming,* and keeping in order the school-houses and appendages, lands, enclosures, and movable property; for procuring suitable apparatus and text-books, and for establishing and maintaining school libraries.†

(8) To determine (a) the number, sites, kind and description of schools‡ to be established and maintained in the City, Town or Village; also—

(b) The Teacher or Teachers to be employed; the terms of employing them; the amount of their remuneration, and the duties which they are to perform; also—

(c) The salary of the Local Superintendent of Schools appointed by them, and his duty. [See note * on page 82.]

To unite with Grammar School, if expedient,

(9) To adopt, at their discretion, such measures as they judge expedient, in concurrence with the trustees of the county grammar school, for uniting one or more of the common schools of the city, town, or village with such grammar school.§

To appoint a Committee for each School.

(10) To appoint annually, or oftener, if they judge it expedient, and under such regulations as they think proper, a Committee of not more than *three* persons for the special charge, oversight, and management of each school within the City, Town or Village.

made and provided, shall be held personally liable for any loss sustained by such corporation, and shall also be guilty of a misdemeanor, and be liable to conviction in any court of competent jurisdiction in Upper Canada; and upon conviction may be sentenced to fine or imprisonment, or both, in the discretion of such court. [See page 52.]

* See notes appended to the *fourth* clause of the *twenty-seventh* section of this Act, pages 28 and 29.

† See notes appended to the *eighteenth* and *nineteenth* clauses of the *twenty-seventh* section of the Consolidated School Act, on pages 40 and 41.

‡ This permission includes schools for boys, girls, &c., &c. The Court of Queen's Bench has also decided that: The school trustees in cities, towns, and incorporated villages, have unlimited discretion, under the [*eight* clause of the *seventy-ninth*] section of the Upper Canada [Consolidated Common] School Act, as to the number of schools to be kept up, and are not subjected to the restrictions in this respect imposed upon school section trustees in townships.—*Board of School Trustees v. Municipality of Brockville*. 9 Q. B. R. 302.

§ See the *tenth* section of the School Law Amendment Act of 1860, page 27.

To prepare and lay before Municipal Council estimate for moneys required.

(11) To prepare from time to time, and lay before the Municipal Council of the city, town or village, an estimate of the sums which they think requisite :

For Salaries of Teachers—Procuring School Premises.

- (a) For paying the whole or part of the salaries of teachers ;
- (b) For purchasing or renting school premises ;

For Building, Repairing, and keeping in order School Houses.

(c) For building, renting, repairing, warming,* furnishing and keeping in order the school houses and their appendages and grounds ;

For procuring Apparatus, Text-Books, and Libraries, &c.

- (d) For procuring suitable apparatus and text-books for the schools ;
- (e) For the establishment and maintenance of school libraries ; and
- (f) For all other necessary expenses of the schools under their charge.

Council required to provide necessary Funds.

And the council of the city, town or village, shall† provide such sums in the manner desired by the said Board of School Trustees.‡

* See note * on page 28.

† In the *eighteenth* section of the Provincial Statutes General Interpretation Act, it is declared that in those statutes: 2 The word "shall" is to be considered as *imperative*; and the word "may" as *permissive*.

‡ Decisions of the Superior Courts in regard to City, Town, and Village Councils.

1. *Payment by the Town Council of a part of the Trustees' Estimate a recognition of the whole.*

The Court of Queen's Bench has decided that when an estimate of the sum required for school purposes was sent to the municipal council, by the board of school trustees, and the council, recognized the presentation of such estimate by paying a portion of the amount, and submitted to court their reasons for refusing to pay the balance. *Held*, by the court, that by such recognition of the trustees' estimate, they were precluded from pleading that it had not been laid before them as the law required—*In re Board of School Trustees v. Municipality of Brockville.* 9 Q B R 302.

2. *A resolution of a Board of School Trustees is not the estimate required by law.*

The Court of Common Pleas has decided that the communication by a board of school trustees to the municipal council of a town, of a resolution of the board, that the chairman do order the town council to furnish the board with a sum of money immediately, for the purpose of purchasing a site and erecting a school house—a copy of which resolution was sent to the town council—is not a compliance with the *eleventh* clause of the *twenty-ninth* section of the [Upper Canada Consolidated Common] School Act, requiring the board to prepare an *estimate* of the sums it may require; and consequently does not render the town council liable

Trustees to levy rates upon Parents.

(12) To levy at their discretion any rates upon the parents or guardians of children attending any school under their charge,* and

to be compelled to pay the amount by mandamus.—*In re Board of School Trustees v. Municipality of Port Hope.* 4 C. P. R. 418.

3. A City Council has no discretion as to raising the sum required by the Board of School Trustees.

The Court of Queen's Bench granted a mandamus to compel a city council to levy a sum required for school purposes for the year, according to the estimate furnished to them by the school trustees. It appeared in this case that the corporation having received the estimate did not object to it, but passed a by-law to provide the sum required, which they afterwards repealed, and substituted another, imposing a smaller and insufficient rate; and no reason was given for refusing to provide the sum called for. *School Trustees of the City of Toronto v. The Corporation of the City.* 20 Q. B. R. 302.

4. City and Town Councils required to raise the amount desired by the Board of School Trustees.

The Court of Queen's Bench has decided the following case: The *eleventh* clause of the *seventy-ninth* section of the Consolidated School Act which requires municipal corporations to provide the sums required by school trustees "in the manner desired" by them, authorizes the trustees to direct at what times the money shall be paid, but not how it is to be procured. The court therefore refused a mandamus to levy a rate, but granted it to provide the money as desired. Where it appeared on affidavit that steps had been taken to provide the sum required, a mandamus nisi was nevertheless granted. They declined, on the motion for the writ, to consider objections to certain items in the trustees estimate, as these could form no reason for withholding the whole.—*School Trustees of the City of Toronto v. The Corporation of the City.* 23 Q. B. R. 203

5. A vote of the school rate-payers not necessary in Cities, Towns, and Villages, as in school sections.

A vote of the rate-payers is not necessary in cities, towns, and villages—although it is in school sections—to authorize an application to the town council, or a rate by the board.—*In re Board of School Trustees v. Municipality of Port Hope.* 4 C. P. R. 418.

6. Ward School Assessments of a City or Town illegal.

The Court of Queen's Bench has decided, that an assessment for school purposes must be levied equally on the rate-payers of the municipality, in proportion to their ratable property, and cannot be levied by an unequal rate in the different wards of such municipality.—*In re Scott v. Municipality of Ottawa.* 18 Q. B. R. 346. (See decision of the Court of Common Pleas, in note § to the *thirty-fifth* section of this Act, page 52.) See the *eleventh* and the *fourteenth* clauses of the *twenty-seventh* section of this Act, pages 34, 38.

7. Order on Treasurer must precede an application for Writ of Mandamus to compel payment.

The Court of Queen's Bench has decided the following case: The Board of School Trustees of a village applied to the village municipality to levy a sum of money required to pay for a school site which they had contracted to purchase. The municipality refused to do so, and the board applied for a mandamus. It did not appear that the trustees had appointed a secretary-treasurer. Held, by the court, that the board should first have given an order, to the person from whom

* See decisions of the superior courts, given on pages 23—38.

to employ the same means for collecting such rates, as trustees of common school sections in townships: and all moneys thus collected shall be paid into the hands of the *Chamberlain* or *Treasurer* of the city, town or village, or of the *Secretary-Treasurer*, for the common school purposes of the same, subject to the order of the Board of School Trustees.

Trustees to give orders for sums due to Creditors.

(13) To give orders to Teachers and other school officers and creditors for the sums due to them, on the Chamberlain or Treasurer of the city, town or village, or on their own Secretary-Treasurer. [See sections *fifty-one* and *sixty*, pages 62, 65; and section *one hundred and ninety-six*, of the Consolidated Assessment Act, page 64.]

Trustees to give notice of annual and special meetings.

(14) To call and give notice of annual and special school meetings of the [assessed] freeholders and householders of the city, town or village, or of any ward therein, in the manner and under the regulations prescribed in the *twentieth* section of this Act, for the appointment of annual and special school meetings in the school sections of Townships [pages 15, 16.]

they had agreed to purchase, upon the treasurer of the municipality.—*In re Board of School Trustees v. Municipality of Galt* 13 Q. B. R. 511.

8 Demand and refusal must be shown before mandamus would issue against a City or Town Council to levy school rate.

The Court of Queen's Bench refused a mandamus against a municipality to levy a rate for school purposes, because the demand and refusal of a certain sum was not sufficiently shown. *Quære*, however, whether a mandamus would lie in such a case, the trustees having power themselves to raise the money. *School Trustees of Collingwood v. The Municipality of Collingwood*. 17 Q. B. R. 133.

9 Treasurer must honour Trustees' Orders for School Moneys.

The Court of Queen's Bench has decided:—That portion of the rate which, by the enactment of law, goes into the hands of the treasurer, is subject to the order of the trustees. He may not have received the money, or he may refuse to pay their order, but in neither case can they be liable to an action for not paying the money. They are public officers, who have only to discharge their proper duty. If they refused to make an order, a mandamus would lie against them, or perhaps a special action for not making the order; but not an action for the money, for that is not in their hands. If the treasurer fails in his duty he is liable to indictment, and might be found liable also to a remedy by action.—*Quin v. Trustees, No. 4, Seymour*. 7 Q. B. R. 130. See also note † on pages 19 and 62,

10. Right of action against a City or Town Council does not belong to the Teacher.

The Court of Queen's Bench has decided that an action would not be against a municipal corporation by a school teacher, upon an order made upon and accepted by the treasurer in the plaintiff's favour for his salary; the treasurer having no power to bind the corporation by such acceptance. *Held*, also, that the teacher could not maintain an action against the corporation for refusing to levy a rate for his salary, upon an estimate furnished to them for that purpose by the trustees. *Smith v. The Corporation of the Village of Collingwood*. 19 Q. B. R. 259.

To see that authorized books are used, and appoint Librarian.

(15) To see that all the pupils in the schools are duly supplied with a uniform series of authorized text-books,* and to appoint a Librarian and take charge of the school library or libraries when established.

To see that regulations are observed—to publish Report.

(16) To see that all the schools under their charge are conducted according to the authorized regulations; and, at the close of each year, to prepare and publish, in one or more of the public papers, or otherwise, for the information of the inhabitants of the City, Town or Village, an annual report of their proceedings, and of the progress and state of the schools under their charge, and of the receipts and expenditure of all school moneys.

To prepare Annual Report for Chief Superintendent.

(17) To prepare and transmit annually, before the *fifteenth of January*, to the Chief Superintendent of Education, in the form by him provided for that purpose, a report, signed by a majority of the Trustees, containing all the information required in the reports of Common School Trustees, and any additional items of information which may be required.

May exercise same Powers as Rural Trustees.

(18) To exercise as far as they judge expedient, in regard to their City, Town or Village, all the powers vested in the trustees of each school section in regard to such school section. [See pages 21-43.]

PART V.—COMMON SCHOOL TEACHERS AND THEIR DUTIES.†

80. No [male or female] teacher shall be deemed a qualified teacher who does not at the time of his [or her] engaging with the trustees, and applying for payment from the school fund, hold a certificate of qualification, as in this Act provided.‡

* See provisions of the law in regard to unauthorized text-books on page 40, and also in the *one hundred and twenty-eighth* section of this Act.

† Remarks on the duties of school teachers are appended.

‡ The Certificates granted under the Upper Canada Consolidated Common School Act are: 1st. Provincial Certificates of two classes only, granted by the Chief Superintendent, to teachers who attend the Normal School; 2nd. County Certificates, of three classes, granted by the County Boards of Public Instruction; 3rd. Temporary Certificates granted by Local Superintendents, until the next meeting of the County Board. See the *tenth* clause of the *ninety-first* section of the Consolidated Common School Act, on page 89.

Teacher not to hold certain Offices.

81. No teacher shall hold the office of school trustee or of local superintendent.

Duties of Common School Teachers.*

82. It shall be the duty of every teacher of a common school:—

To Teach according to Law and Regulations.

(1) To teach diligently and faithfully all the branches required to be taught in the school,† according to the terms of his engagement with the trustees, and according to the provisions of this Act.

* The *twenty fifth* clause of the *seventh* section of the Upper Canada Consolidated Jurers' Act, 22 Vic. chap. 31, exempts Masters and Teachers of Grammar and Common Schools, actually engaged in teaching, from service as Jurors; and the *seventy-fourth* section of the Upper Canada Consolidated Municipal Institutions Act, 22 Vic. chap. 54, exempts them "from being elected or appointed Councilors, or to any other corporate office."

† The following table includes all the branches required to be taught in the school. (The authorized list of text-books will be found on page 40):—

ORDER AND CLASSIFICATION OF STUDIES PRESCRIBED FOR THE COMMON SCHOOLS IN UPPER CANADA,

As observed in the Upper Canada Model School, Toronto.

(Adopted by the Council of Public Instruction, on the 31st of December, 1858.)

(1) *Table defining the course to be completed in the first, or lowest division.*

Enunciation.—To be able to enunciate clearly and distinctly the elementary sounds of the English language.

Spelling and Definition.—To be able to spell any word in the First and Second Book of Lessons, and to give the meaning in familiar terms.

Reading.—To be able to read fluently and well any passage contained in the First and Second Books of Lessons, and to know the substance of such lessons.

Writing.—To be able to form, correct and legibly, all the letters of the alphabet, and to combine them into simple words.

Arithmetic.—To be able to read and write any combination of not more than FIVE Arabic numerals, and the Roman numerals to the sign for 500, to know the multiplication table, and tables of money, weights, length, and time; to be familiarly acquainted with simple addition, subtraction, multiplication, and division by factors.

Grammar.—To be able to point out the nouns, pronouns, adjectives, verbs, and adverbs, in any common reading lesson; to know the number, gender, and person of the nouns and pronouns.

Geography.—To know the map of the World, map of America, map of Canada, and other parts of British America.

Natural History: Object Lessons.—To have a familiar acquaintance with the habits, uses, instincts, &c., of the most important animals of each class. Other object lessons may be used.

Needlework (for grrls.)—Under the direction of the female teacher.

(2) *Table defining the course of study to be completed in the Second Division.*

Reading.—To be able to read fluently and well any passage contained in the Sequel to the Second Book, or in the Third Book of Lessons, and to know the substance of such reading lessons.

Spelling and Definition.—To be able to spell and define any word contained in the Sequel to the Second Book and in the Third Book of Lessons.

To keep the Register of the School.

(2) To keep the daily, weekly, and monthly or quarterly registers of the school.*

Writing.—To be able to write legibly and correctly.

Arithmetic.—To be able to read and write legibly any combination of not more than TEN Arabic numerals to the *left*, and six to the *right*, of the decimal point, and the Roman numerals to the sign for 1000; to be acquainted with the principles of Arabic and Roman notation; to be thoroughly acquainted with the arithmetical tables, and to be familiar and practically acquainted with the simple and compound rules, reduction, greatest common measure, least common multiple, vulgar fractions, and simple proportion, including, addition, subtraction, multiplication, and division of decimals and decimal currency.

Grammar.—To be thoroughly acquainted with the grammatical forms, and to be able to analyse and parse any easy sentences; and, as an exercise in slate composition, to be able to write short descriptions of any natural objects.

Geography.—In addition to former limit table, to know the political and physical geography of Europe, Asia, Africa, America, and Oceanica; the different countries in each, with their capitals; and to know the position and chief cities of the states of the American Union bordering on British America, from the Pacific to the Atlantic Ocean.

History.—To have a general knowledge of the History of the World, as given in the Fifth Book.

Human Physiology.—As contained in the Fifth Book.

Needlework (for girls).—Under the direction of the female teacher.

(3) Table defining the course of study to be completed in the Third Division.

Reading.—Fourth and Fifth Books, in same manner as other books are used in lower division.

Derivation.—Reading Books and Spelling Book superseded.

Writing.—Text, and a bold running hand.

Arithmetic.—Second Book of Arithmetic (National Series.)

Grammar.—Analysis and parsing of compound sentences in prose and verse; changes in construction, &c.; composition

Geography.—Mathematical, physical, and political, with map sketching on the blackboard.

Algebra.—Colenso's, Part I

Euclid.—First six books.

Mensuration.—Of surfaces and solids.

Drawing.—Linear and Map.

English Literature.—Spalding.

Book keeping.—Elements.

Human Physiology.—To possess a familiar acquaintance with the anatomy of the bones and skin. a general knowledge of the structure and uses of the muscles and organs of digestion; and to be familiar with the general principles upon

* As the first clause of the *ninety-first* section of the Consolidated School Act, page 84, contemplates the distribution of the school money to the several sections, according to the average attendance of pupils at school, and not according to school population, the teacher who fails to keep a full and accurate account of the attendance of pupils at his school, lessens the resources of the whole school section. Nor is any teacher entitled to his salary who neglects to keep a full and accurate school register. On the other hand, according to the *one hundred and thirty eighth* section of this Act, any teacher who shall keep a false school register, or make a false school return, will render himself liable to a fine of *twenty* dollars. See also clause *five and a half* of the *eighty second* section of this Act, on page 79.

NOTE.—School Registers are supplied gratuitously, from the Department, to Common School Trustees in Townships by the County Clerks—through the Local Superintendents. Applications should therefore be made direct to the Local Superintendents for them, and not to the Department.

To maintain proper Order and Discipline.

(3) To maintain proper order and discipline in his school according to the authorized forms and regulations.*

To keep a Visitors' Book.

(4) To keep a visitors' book (which the trustees shall provide) and enter therein the visits made to his school, and to present such book to each visitor, and request him to make therein any remarks suggested by his visit.†

To give access to the Register and Visitors' Book.

(5) At all times, when desired by them, to give the trustees and visitors access to the registers and visitors' book appertaining to the school, and upon his leaving the school to deliver up the same to the order of the trustees.

which the healthy action and development of these various organs depend; circulation, respiration, nervous systems, senses, &c.

History.—General, English, and Canadian.

Singing.—Hullah's vocal music.

Natural Philosophy.—In the Fifth Book of Lessons.

Needlework (for girls.)—Under the direction of the female teacher.

| BOYS. (i) | GIRLS. (i) |
|---------------------------|-----------------------------|
| Trigonometry. | Science of things familiar. |
| Elements of Geology. | Elements of Geology. |
| ditto Zoology. | ditto Zoology. |
| ditto Botany. | ditto Botany. |
| ditto Natural Philosophy. | Domestic Economy. |

NOTE—The list of text-books prescribed for use in the common schools will be found on page 40.

* These forms and regulations are appended. In regard to lighting the fires and cleaning the school-house, see note to clause *four* of the *twenty-seventh* section of the Consolidated School Act, on page 28.

† *Representation as to the character of a teacher by a rate-payer, with a view to obtain redress, is a privileged communication.*

The Court of Queen's Bench has decided that a representation by the assessed inhabitants of a school section as to the character of a teacher, made with a view of obtaining redress, is a privileged communication, which it is of importance to the public to protect; and such a statement would not be the less privileged if made by mistake to the wrong quarter. Where the libel complained of is clearly a privileged communication, the inference of malice cannot be raised upon the face of the libel itself, as in other cases it might be, but the plaintiff must give extrinsic evidence of actual express malice, he must also prove the statement to be false as well as malicious; and the defendant may still make out a good defence by showing that he had good ground to believe the statement true, and acted honestly under that persuasion. *Quere* by the Court, whether a communication of this nature made by an inhabitant of any other part of the Province, would not be privileged.—*McIntyre v. McBean et al.* 13 Q. B. R. 534.

(i) Extra subjects, to be taken up at the discretion of the school authorities,—no two, however, during the same school term.

[(5‡) *The Common School Law Amendment Act of 1860, enacts that: 1. Any teacher wilfully refusing, on the demand of the majority of the trustees of the school corporation employing him, to deliver up any school register or school house key,* or other school property in his possession, shall be deemed guilty of a misdemeanor, and shall not be deemed a qualified teacher until restitution be made; and shall also forfeit any claim which he may have against the said trustees.*]

To hold Public Quarterly Examinations.

(6) To have at the end of each quarter a public examination of his school, of which he shall give due notice to the trustees of the school, to any school visitors who reside in or adjacent to such school section, and through the pupils to their parents and guardians.†

To furnish Information to the Chief or Local Superintendent.

(7) To furnish to the chief or local superintendent of schools when desired, any information which it may be in his power to give respecting any thing connected with the operations of his school, or in any-wise affecting its interests or character.

Protection of Teachers in regard to Salary.‡

83. Any teacher shall be entitled to be paid at the same rate men-

* As to the control of the teacher over the school-house, see decision No. 5 of the Court of Queen's Bench, on page 30.

† It will be seen by this clause of the Act, in connection with the first part of the eighty-second section, that "it shall (k) be the duty of every teacher of a school: (6) To have at the end of each quarter a public examination of his school." Teachers cannot, therefore, lawfully omit this part of their duty.

Form of Teacher's Circular Notice of the Quarterly Examination of his School.

School House of Section No. —,

186—.

SIR,—As required by law the quarterly examination of my school will be held on — day, the — of —, when the pupils of the school will be publicly examined in the several subjects which they have been taught during the quarter now closing. The exercises will commence at 9 o'clock, a.m., and you are respectfully requested to attend them.

I am, Sir, your obedient servant,

A. B., *Teacher.*

To C D., School Trustee, or Visitor.

REMARKS.—A copy of the above notice ought to be sent to each of the Trustees, and to as many visitors of the school as possible. [For list of visitors see section one hundred of the Consolidated School Act, page 96.] The teacher should address a circular notice to those of them who reside within three miles of his school. He is also required to give notice, through his pupils, to their parents and guardians and to the neighbourhood, of the examination.

For holidays and vacations, see "General Regulations" of, and "Remarks on the Duties of Teachers," appended.

‡ The Assessment Law does not exempt a school teacher either from the payment of a tax upon his salary (if over \$200 per annum), or from the performance of two days of statute labour, if his salary be under \$200.

(k) 'Shall' here is imperative. See note * on page 50.

tioned in his agreement with the trustees,* even after the expiration of the period of his agreement, until the trustees pay him the whole of his salary, as teacher of the school,† according to their engagement with him.‡

Arbitration in case of Difference between Teacher and Trustees.

84. In case of any difference between trustees and a teacher, in regard to his salary, the sum due to him, or any other matter in dispute between them, the same shall be submitted to arbitration,|| in which case:

(1) Each party shall choose an arbitrator.

(2) In case either party in the first instance neglects or refuses to appoint an arbitrator on his behalf, the party requiring the arbitration may, by a notice in writing to be served upon the party so neglecting or refusing, require the last-mentioned party within *three* days, inclusive of the day of the service of such notice, to appoint an arbitrator on his behalf, and such notice shall name the arbitrator of the party requiring the arbitration; and in case the party served with such notice does not within the *three* days mentioned therein, name and appoint an arbitrator, then the party requiring the arbitration may appoint the second arbitrator.

Local Superintendent to be an Arbitrator.

And, (3) The local superintendent, or in case of his inability to attend any person appointed by him to act on his behalf, shall be a third arbitrator, and such *three* arbitrators, or a majority of them, shall finally decide the matter.

Powers of Arbitrators to Examine.

85. The arbitrators may require the attendance of all or any of the parties interested in the reference, and of their witnesses, with all such books, papers, and writings, as such arbitrators may direct them or either of them to produce, and the arbitrators may administer oaths to such parties and witnesses.

* For form of agreement with the trustees, see page 33.

† No deduction whatever can be lawfully made from any Teachers' salary for any allowed holidays or vacations; or for the exemption of indigent persons, authorized in the *thirteenth* clause of the *twenty-seventh* section of the Consolidated Common School Act, page 38. When non-resident pupils are admitted, *i. e.* those referred to in the first part of the *one hundred and twenty-sixth* section of the Consolidated School Act, and not those provided for in the latter part of that section, the trustees and teacher must mutually agree as to the extra remuneration (if any) to be paid to the teacher for teaching such pupils.

‡ It is illegal for teachers to retain forcible possession of either the key of the school house or of the school register. See the *first* section of the School Law Amendment Act of 1860, on preceding page.

|| See the *fifteenth* section of the School Law Amendment Act, page 47.

Warrant of Arbitrators—Equivalent to Execution of Division Court.

86. The said arbitrators, or any two of them, may issue their warrant* to any person named therein, to enforce the collection of any moneys 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 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 has issued, as any bailiff of a Division Court has in enforcing a judgment and execution issued out of such court.

Arbitration must be complied with within a Month.

[86]. *The School Law Amendment Act of 1860 further enacts:—*9. If the trustees wilfully refuse or neglect, for one month after publication of award, to comply with or give effect to an award of arbitrators appointed as provided by the *eighty fourth* section of the said Upper Canada [Consolidated] Common School Act, the trustees so refusing or neglecting shall be held to be personally responsible for the amount of such award, which may be enforced against them individually by warrant of such arbitrators, within one month after publication of their award; and no want of form shall invalidate the award or proceedings of arbitrators under the School Acts.]

No such Dispute to be brought into any Court.

87. No action shall be brought in any court of law or equity, to enforce any claim or demand between trustees and teachers which can be referred to arbitration as aforesaid.†

* For form of warrant see note on pages 34, 35. See also No 3 on page 45.

† Decisions of the Superior Courts as to these Arbitrations.

1. *Arbitration is the only mode of settling disputes between trustees and teacher.*—The Court of Queen's Bench has decided that no action in law or equity can be sustained by a school teacher against trustees for his salary arbitration is the only remedy.—*Therman v. Trustees No —, Nepean.* 14 Q. B. R. 15.

2. *No appeal from decision of an arbitrator, referred by order of county judge, between trustees and teacher.*

The Court of Queen's Bench in a case where an action in the division court by a school teacher against the trustees was referred to arbitration by order of the judge, with the consent of the parties, *Held*, that the decision of the arbitrator could not be appealed from under the *one hundred and eighth* section of the Upper Canada Consolidated Common School Act. Remarks as to defendant's remedy by prohibition—*The Chief Superintendent of Education, Appellant, from Judge of the Division Court of the Counties of York and Peel, in re Mulne v. Sylvester et al, Union School Section No 2, Whitchurch, and No. 7, Markham.*

3. *The arbitrator's award is final as to teacher's claim for further salary.*

The Court of Queen's Bench has decided, that the non-payment of the first award is not a non payment of the teacher's salary under his agreement, so as to entitle him to such salary after the award; nor was it a matter in difference, within the meaning of the act, which could authorize a second reference.—*Kennedy v. Burgess et al.* 15 Q. B. R. 473

4. The Court of Common Pleas has also decided a similar case: A school teacher, after an award had been made in his favour on a dispute as to salary with the

PART VI.—DUTIES OF COUNTY OR TOWNSHIP LOCAL SUPERINTENDENTS OF SCHOOLS.*

Local Superintendents' Yearly Calendar. †

(Compiled from the Upper Canada Common and Separate School Acts.)

| | | |
|-------|----|--|
| JAN. | .. | Second Wednesday: The Annual School Elections take place. Page 8. Within twenty days after election, can investigate complaints, and order a new election if necessary. Page 18. |
| ' | 12 | Municipal Assessments to be distributed according to average attendance among the schools from which half-yearly returns have been received. Page 84. |
| " | 15 | Trustees' School Section Annual Report due. Page 42. |
| " | 31 | Can have Common and Separate School Trustees fined five dollars for every week which they delay their report after this date. Page 43. |
| MARCH | 1 | Annual Report to be sent to the Chief Superintendent. Page 90. |
| APRIL | 1 | Termination of annual period of office. Page 83. |
| JUNE | 30 | Trustees' first half-yearly returns due. Page 42. Protestant or coloured separate school returns to be notified to the clerk of the municipality. Page 90. |
| JULY | 12 | Legislative school grant to be distributed among the schools from which returns have been received, according to average attendance. Page 84. (See back of half yearly returns.) |
| AUG. | .. | Report on application for aid to poor schools to be sent to Chief Superintendent. To appoint a school section auditor on behalf of the trustees in case they refuse or neglect to do so. Page 44. |
| DEC. | 31 | Trustees' second half-yearly returns due. Page 42. Protestants or coloured separate school returns to be notified to the clerk of municipality. Page 90. N.B.—Local Superintendents are responsible for the transmission to the trustees of these blank forms of reports, after they have been received from the department. ‡ |

trustees, afterwards made a claim in a second arbitration for the amount payable under the first award, together with his salary for the further period which had elapsed since such award, and sought under an award obtained *ex parte*, and a warrant thereon, to recover the amount by a seizure of the trustees' goods. Held by the Court on replevin by the trustees, that such a course was illegal, and

* The law provides that the entire duties of local superintendents of common schools in cities, towns, and incorporated villages, should be prescribed by the board of common school trustees. See page 71. Local Superintendents have no supervision or control over grammar schools. In union-grammar and common schools their supervision and control extends only to the common school department of the united school. In this they should see that due provision is made for giving instruction in the English branches by a competent master or masters.

† Other "duties" of the local superintendent are enumerated in the *twenty-fifth* section of this Act, page 25; and in the *eighth* section of the School Act of 1860, page 44.

‡ See *Educational Calendar*, page 5.

In addition to the foregoing calendar, local superintendents are required to attend the regular half-yearly meetings of the board of public instruction (page

Term of Office of Local Superintendent.—Salary.

83. Each local superintendent shall, unless he resigns or is removed from office for neglect of duty, improper conduct, or incompetency, continue in office, until the *first day of April* of the year following

not contemplated by the School Acts.—*Kennedy v. Burness et al.*; *Murray v. Burness et al.* 7 C. P. R. 227.

5. Arbitrator's warrant against Trustees must be for wilful neglect.

The Court of Common Pleas has decided the following point: upon trover brought for a seizure of goods upon authority of a warrant issued by arbitrators under the school acts. *Held*, that a plea which stated that the trustees neglected or refused (without the word *wilfully*) to exercise their corporate powers for the payment of money awarded to the school teacher was bad on demurrer.—*Weaver v. Bull et al.*, No. 2, Rawdon. 10 C. P. R. 369.

6. Wilful neglect of Trustees to give effect to award must be adjudicated upon.

The Court of Common Pleas has decided that where school trustees become personally responsible under the *twentieth* clause of the *twenty-seventh* section of the Upper Canada Consolidated Common School Act, for wilfully neglecting or refusing to exercise the corporate powers vested in them for the fulfilment of any contract or agreement made by them, before such liability can be enforced by the warrant of arbitration under the [*ninth* section of the Common School Amendment Act of 1860] by levying *de bonis propriis* the money awarded to be paid by the school trustees as a corporation, it is necessary to show that there has been some adjudication of the fact of wilful neglect or refusal to justify the issuing of such a warrant.—*Ranny v. Macklem et al.* 9 C. P. R. 192.

7. Mandamus against Trustees to enforce award not the proper remedy.

The Court of Queen's Bench refused a mandamus to compel school trustees to pay a sum awarded to be due to a teacher for arrears of salary, observing that under the statute the arbitrators could levy the sum by warrant, which was *prima facie* the proper course, or that the municipality could collect it by rate if requested. Upon the facts also, which are stated in the case, the legality of the award appeared doubtful.—*O'Leary v. Trustees*, No. 2, Blandford. 19 Q. B. R. 556.

92); to make two or more official visits to the schools in the year.—one to be made "some time between the *1st of April* and the *1st of October*, and the other between the *1st of October* and the *1st of April*, and any others as directed by the county council;" and also deliver an annual lecture in each school section (page 87); besides attending to various arbitrations and references.

The arbitrations (for which local superintendents are to receive a per diem allowance, see page 47) are:

1. Regarding School Site. Pages 45, 46.
2. Disputes between Trustees and Teachers. Page 80.

The References or acts for which no extra remuneration is authorised by the Act(s), are:—

1. Appoint School Section Meetings. Page 19.
2. Appoint a School Auditor. Page 44.
3. Boundaries of Union Schools. Page 59.
4. Decide questions of difference. Page 88.

(c) See note †, on page 88.

that of his appointment,* and he shall be entitled annually, to not less than *four* dollars per school [*i. e.* Common and Separate† School] placed under his charge, together with any additional remuneration [per school] or allowance [for postages and contingencies] which the council appointing him may grant, and the county treasurer shall pay him the same by quarterly instalments

Warden may supply Vacancies in the Office.

89. In the event of any local superintendent resigning his office, the Warden of the county within which such superintendent held office, may appoint a fit and proper person to the office vacated, until the next ensuing meeting of the county council.

Local Superintendent not to hold certain Offices.

90. No local superintendent shall be a teacher or trustee of any common [or separate] school while he holds the office of superintendent.

Duties of Local Superintendents.‡

91. It shall be the duty of each local superintendent, and he is hereby empowered—

To Apportion School Fund according to Average Attendance.

(1) Unless otherwise instructed by the Chief Superintendent of Education—to apportion among the several school-sections§ their respective portions of the common school fund money apportioned to the townships within the limits of his charge, as soon as notified by the county clerk of the amount so apportioned to such townships, and such apportionment among the said school sections shall be according to the rates of the average attendance of pupils at each common school, (the mean attendance of pupils for each half year being taken) as compared with the whole average number of pupils attending the common schools of each such township.||

* See the *fifty-third*, *fifty-fourth* and *fifty-fifth* sections of this Act, page 63.

† This allowance includes a sum “not less than *four* dollars per” Common and *Separate* School which may be in operation in the rural sections within the jurisdiction of each local superintendent during any part of the year of his incumbency. The law requires the local superintendent to visit, to superintend and to report annually upon the *Separate* as well as the Common Schools under his charge, and he is therefore legally entitled to the same remuneration for them as for the common schools. The local superintendent, while acting as arbitrator, or while engaged in settling school section disputes, or while attending the half yearly meetings of the county or circuit board of public instruction, is entitled to an extra per diem allowance. See *fifteenth* and *sixteenth* sections of the *School Law Amendment Act of 1860*, on pages 47 and 93.

‡ See remarks on the duties of local superintendents, appended.

§ In respect to the apportionment to Union School Sections, see the *ninety-second* and *ninety-third* sections of this Act, page 91.

|| Instructions on the point here mentioned, will be found printed on the back of the trustees' half-yearly returns to local superintendents.

Not to Apportion unless Trustees make Average Return.

But he shall apportion no money to any school section whose trustees have neglected to transmit their return of average attendance for the last preceding half year.

Give Cheques to none but Qualified Teachers.*

(2) To give to any qualified teacher, (but to no other,) on the order† of the trustees of any school section, a cheque upon the county treasurer or sub-treasurer, for any sum of money apportioned and due to such section.‡

Conditions of giving Orders to Teachers.

But except in the case of a new school section, he shall not give a cheque upon such order, unless a satisfactory annual school report for the year ending the *last day of December* preceding has been received from the trustees; nor unless it appears by such report, that a school has been kept by a qualified teacher in such section, for at least *six* months during the year ending at the date of such report.§

Make Two Visits a Year to each School.

(3) To visit each common [and separate] school within his jurisdiction twice in each year, unless oftener required by the County Council or the Board which appointed him, or for the adjustment of disputes; and one of such half-yearly visits shall be made between the *first of April* and the *first of October*, and the other between the *first of October* and the *first of April*.||

* Cheques must be payable to the teacher, or his order. No cheques can be given to any person but a teacher holding a certificate of qualification, and presenting an order signed by a majority of his trustees, and sealed with their corporate seal. See page 32.

† For form of trustees' order upon local superintendent, see page 33.

‡ The form of this cheque may be as follows:

Local Superintendent's Office,
County [or Township] of _____, 186-.

Pay to _____, a duly qualified Common School Teacher of School Section No. _____, in the township of _____, the sum of _____ dollars and _____ cents, which has been duly apportioned to the foregoing section.

To the County Treasurer [or Sub-Treasurer] of
School Moneys for the _____.

A. B.,
Local Superintendent of Common Schools,
Township [or County] of _____.

§ See also the *twenty-second* clause of the *twenty-seventh* section, and the *twenty-eighth* section of this Act, pages 42 and 43.

|| Notes should be taken at these official visitations of the schools; but no notice of the time of holding them should be given to the parties concerned. See note on next page.

Examine the state of the School.*

(4) To examine at each half-yearly visit the state and condition of the school, as respects the progress of the pupils in learning,—the

* In the inspection of schools, the following should be the order and subjects of inquiry and examination on the part of the local superintendent:—

"I. *Mechanical arrangements.*—The tenure of the property; the materials, dimensions and plan of the building; its condition; when erected; with what funds built; neighbourhood; how lighted, warmed, and ventilated; if any classrooms are provided for the separate instruction of part of the children; if there is a lobby, or closet, for hats, cloaks, bonnets, book-presses, &c.; how the desks and seats are arranged and constructed, and with what conveniences; what arrangements for the teacher; what play-ground is provided; what gymnastic apparatus, if any; whether there be a well, and proper conveniences for private purposes.

"II. *Means of instruction.*—The books used in the several classes, under the heads of Reading, Arithmetic, Geography, &c.; the Apparatus provided, as Tablets, Maps, Globes, Blackboards, Models, Cabinets, &c.

"III. *Organisation.*—Arrangement of classes; whether each child is taught by the same teacher, if any assistant or assistants are employed, to what extent, how remunerated, and how qualified.

"IV. *Discipline.*—Hours of attendance; usual ages of pupils; if the pupils change places in their several classes, or whether they are marked at each lesson, or exercise, according to their respective merit; if distinction depends on intellectual proficiency, or on a mixed estimate of intellectual proficiency and moral conduct, or on moral conduct only; what rewards, if any; whether corporal punishments are employed—[See No. 10 of "Duties of Masters"]—if so, their nature, and whether inflicted publicly or privately; what other punishments are used; whether attendance is regular; is school opened and closed with reading and prayer, as provided in the regulations; and what religious instruction is given, if any.

"V. *Method of instruction.*—Whether mutual or simultaneous, or individual or mixed; if mutual, the number of monitors, of what attainments, how appointed, how employed; if simultaneous, that is, by classes, in what subjects of instruction; whether the simultaneous method is not more or less mingled with individual teaching, and on what subjects; to what extent the intellectual, or the mere rote method is pursued, and on what subjects; how far the interrogative method only is used; whether the suggestive method is employed; whether the elliptical method is resorted to; how the attainments in the lessons are variously tested—by individual oral interrogation—by requiring written answers to written questions—or by requiring an abstract of the lesson to be written from memory

"VI. *Attainments of pupils.*—1. *In Reading;* whether they can read with ordinary facility, or with ease and expression 2 *In Writing;* whether they can write with ordinary correctness, or with ease and elegance. 3. *In Arithmetic;* Whether acquainted with notation and numeration, addition, subtraction, multiplication, division, and skilful in them; whether acquainted with the tables of moneys, weights, measures, and skilful in them; whether acquainted with the compound rules, and skilful in them; whether acquainted with the higher rules, and skilful in them; whether acquainted with the exercises in mental arithmetic, and skilful in them 4. *In Grammar;* whether acquainted with its divisions, rules of orthography, parts of speech, their nature and modifications, parsing, composition, &c. *In Geography, History, Book-keeping, Vocal Music, &c.;* the order of questions, suggested by the nature of the subject. The extent and degree of minuteness with which the inspection will be prosecuted, in respect to any, or all of the foregoing and kindred subjects, must, of course, depend on circumstances

"VII. *Miscellaneous.*—How many pupils have been sent to the Grammar School; whether a visitors' book and register be kept as required; is the *Journal*

order and discipline observed,—the system of instruction pursued,—the mode of keeping the school registers,—the average attendance of pupils—the character and condition of the building and premises,—and to give such advice as he may judge proper.

Deliver Annual Lecture in each Section.

(5) To deliver in each of his school sections, at least once a year, a public lecture on some subject connected with the objects, principles, and means of practical education; and to do all in his power to persuade and animate parents, guardians, trustees, and teachers, to improve the character and efficiency of the common [and separate] schools, and to secure the sound education of the young generally.*

of Education regularly received by the trustees; are the Quarterly Examinations regularly held; are Prizes given in the school. *Library*.—Is a Library maintained in the section; number of volumes taken out during the year; are books covered and labelled as required; are books kept in library case; is catalogue kept for reference by applicants; are fines duly collected, and books kept in good order are library regulations observed."

* A most important duty required of each local superintendent is, " *To deliver in each of his school sections at least once a year, a public lecture on some subject connected with the objects, principles, and means of practical education.* The education of a free people is, to a great extent, a system of voluntary exertion. There may be a good school law, and there may be a large school fund; and yet education may decline. * * * The onward progress of the education of a country does not depend, primarily or chiefly, upon a school fund or school law, but upon the *spirit and action of the people*; and the great object of public school lectures is, to awaken that spirit and arouse this action. The law requires that a voice should be lifted up on this subject in every school section in Upper Canada; the commanding authority of that voice will depend upon the ability, the industry, the heart, of each local superintendent. No man ought to aspire to the office, or retain it a week, who has not the heart and ability to prepare and deliver public lectures in a spirit and manner worthy, in a good degree, of a cause interwoven with every vital interest of our country's civilization and happiness. We cannot be too strongly impressed with the fact, that the administration of the school system is not like that of any other department of the public service—a vigilant and effective oversight of the execution of the law, the protection and development of the country's resources; the due administration of the school system—and indeed, properly speaking, the great object of it, besides the ordinary administration of the law—is to excite and maintain, as widely and in as high a degree as possible, among all classes of the community, a correct appreciation of the nature and importance of popular education, and a spirit of intelligence, philanthropy and patriotism in the adoption of the diversified means necessary for the attainment of that end. From the office of the Chief Superintendent, down to the desk of the humblest teacher, a moral influence, an energy, a vitality should be sent forth in behalf of the education of youth and the diffusion of useful knowledge among the people. If the right spirit glow in the bosom of every Superintendent, it will appear in every public lecture, in every school visit, on every proper occasion in the intercourse of private and public life, and the results will soon be manifest in every municipality of Upper Canada. On the other hand, great must be the responsibility, and deep the disgrace, of any Superintendent who shall suffer the interests of schools to droop and die, or linger on in a sickly condition, under his oversight.

See to Observance of lawful Regulations.

(6) To see that all the schools are managed and conducted according to law—to prevent the use of unauthorized, and to recommend the use of authorized books in each school,*—and to acquire and give information as to the manner in which such authorized books can be obtained, and the economy and advantage of using them.

Attend certain Meetings.

(7) To attend the meetings of the Board of Public Instruction,† and to meet and confer with the Chief Superintendent of Education at such time and place as he may appoint when making official visits to the county.

Aid in forming Union Sections—Decide Disputes.

(8) To attend * * * the meetings of Town Reeves provided for in the * * * *forty-fifth* section of this Act‡ [page 59]; to decide upon any questions submitted to him which arise between interested parties under the operation of this or of any former Act; or, if he deems it advisable, to refer any such question to the Chief Superintendent of Education.

Any person may Appeal to Chief Superintendent.

And any aggrieved or dissatisfied party in any case not otherwise provided for, shall have the right of appeal to the Chief Superintendent of Education.§

Special Allowance to Local Superintendents and Arbitrators.

[8‡ *The School Law Amendment Act of 1860 further enacts: 15. Arbitrators appointed under the authority of the School Acts and Local Superintendents engaged in investigating and deciding upon school complaints and disputes, shall be entitled to the same remuneration per diem for the time thus employed as are members of the Municipal Council of their county for their attendance at council meetings;*

Parties liable for Arbitrators' Expenses.

Provided always, that the parties concerned in such disputes shall pay all the expenses incurred in them, according to the award or decision of the arbitrators and local superintendents respectively.]

[8‡. *The Common School Law Amendment Act of 1860 further enacts: 14. The Chief Superintendent shall have authority to decide upon all disputes and com-*

* See list of authorized text-books, on page 40.

† See *ninety-fourth* section of the Consolidated School Act, on page 92.

‡ The law authorizes no extra allowances to be made to local superintendents for this duty, as it is prescribed by the Act, and is *pro bono publico*; but arbitrations and disputes arise between parties chiefly from personal causes, and should be paid for by such persons.

§ See regulations relating to appeals and correspondence with the Department, appended to the *seventh* clause of the *one hundred and sixth* section of this Act.

plaints laid before him, the settlement of which is not otherwise provided for by law, and upon all appeals made to him from the decision of any local superintendent or other school officer. [In regard to these appeals, see regulations in regard to communications with the Educational Department.]

May Suspend Teacher's Certificate.

(9) To suspend the certificate of qualification of any teacher, [of a common or separate school] granted by the Board of Public Instruction, for any cause which may appear to him to require it, until the next ensuing meeting of the County Board, of which meeting due notice shall be given to the teacher suspended,* and such Board shall dispose of the case as a majority of the members present think proper; and the cancelling or suspension of a teacher's certificate of qualification shall release his school-trustees from any obligation to continue him in their employment.

[9‡ *The Common School Law Amendment Act of 1860 further enacts that:*—22. A local superintendent shall have the same authority to suspend, for the time being, a Provincial Certificate of a teacher's qualifications, and report the same forthwith to the Chief Superintendent, as he has to suspend a County Certificate,—notifying in writing to the teacher whose certificate is suspended,* the reasons of it; and the Chief Superintendent shall finally decide upon the case.]

May give Temporary Certificates to Teachers.†

(10) To give any candidate, on due examination, according to the programme authorized for the examination of teachers,‡ a certificate of qualification to teach a [common or separate] school within the limits of the charge of the superintendent until (but no longer than) the next ensuing meeting of the Board of Public Instruction of which such local superintendent is a member; but*no such certificate shall be given a second time, or be valid if given a second time, to the same person in the same county.§

* In all cases the local superintendent should furnish the teacher whose certificate he may have occasion to suspend, with "the reasons of" such suspension, as required by the *twenty-second* section of the Common School Law Amendment Act, given on this page. See page 93, and the *one hundred and seventh* section of the Consolidated Common School Act.

† This temporary certificate cannot be lawfully given to any teacher in the same county by *any* local superintendent a *second* time. See note * on page 95. For form of certificate, see page 94.

‡ The authorized programme for the examination of teachers, and by which the local superintendent must be guided in his examination, will be found on page 93.

§ All contracts between teachers and trustees are void from the date of this suspension only; and trustees cannot legally continue a teacher whose certificate is thus suspended, in their employment; nor can they pay him any part of the school fund for services rendered after the suspension of his certificate. The suspension deprives the teacher of his legal title, and of the protection afforded by the *eighty-fourth* section of this Act, page 80. The term "teacher" in the School Act, means a person holding the legal certificate from the parties authorized to grant the same, as defined in the *eightieth* section of this Act, page 75. See also the *eighth* clause of the *twenty-seventh* section of this Act, page 31.

Half-Yearly Returns to the Local Superintendent.

[10 $\frac{1}{2}$ *The Consolidated Act for Protestant and Coloured Separate Schools also provides that* : 12. The trustees of each [Protestant or Coloured] separate school shall on or before the *thirtieth* day of *June* and the *thirty-first* day of *December* of each year, transmit to the local superintendent of schools a correct return of the names of all Protestant or coloured persons (as the case may be), who have sent children to, or subscribed as aforesaid for the support of such separate school during the then last preceding *six* months, and the names of the children sent, and the amounts subscribed by them respectively, together with the average attendance of pupils in such separate school during such period.]

Local Superintendents to Report to Clerk and Trustees.

[10 $\frac{1}{2}$ *The same Act also provides that* : 13. The local superintendent shall, upon the receipt of such return, forthwith make a return to the clerk of the municipality, and to the trustees of the common school section or municipality in which such separate school is established, stating the names of all the persons who, being Protestants or coloured persons (as the case may be), contribute or send children to such separate school.]

Observing Regulations—Giving Information to the Chief Superintendent, and County Auditors.

(11) To act in accordance with the regulations and instructions provided for his guidance ; to give any information in his power (when desired) to the Chief Superintendent of Education respecting any common school matter within his jurisdiction ; to furnish the county auditors, when required, with the trustees' orders as the authority for his cheques upon the county or sub-treasurer for school moneys.

Hand over Papers on retiring from Office.

And on retiring from office, to deliver [over to his successor] copies of his official correspondence, and all school papers* in his custody, to the order of the county council.

Transmit Annual Report to the Chief Superintendent.

(12) To prepare and transmit to the Chief Superintendent of Education, on or before the *first day of March*, an annual report,† in the form provided by the said Chief Superintendent, and which shall state—

(a) The whole number of schools and school sections, or parts of sections in each township within his jurisdiction ;

(b) The number of pupils taught in each school over the age of *five* and under the age of *sixteen* ; the number between the ages of *sixteen* and *twenty-one* years ; the whole number of children residing in each

* This includes the local superintendent's copy of the school manual, and of the Chief Superintendent's annual report, and all other school documents and papers which have come into his hands as local superintendent.

† For means to enable local superintendents to perform this duty at the time specified, see the *twenty-eighth* section of this Act, page 43.

section, or part of a section, over the age of *five* and under the age of *sixteen* years ;

(c) The length of time a school has been kept by a qualified teacher in each of such sections or parts of sections ; the branches taught ; the number of pupils in each branch, the books used ; and the average attendance of pupils, both male and female, in each half year ;

(d) The amount of moneys received and collected in each section or part of a section—distinguishing the amount apportioned by the Chief Superintendent of Education, the amount received from county assessment, the amount raised by trustees, and the amount from any other and what sources ; also how such moneys have been expended, or whether any part remains unexpended, and from what causes ; and the annual salary of teachers, male and female, with and without board ;

(e) The number of school visits made by himself and others during the year ; the number of school lectures delivered ; the whole number of school houses, their sizes, description, furniture and appendages, the number rented, the number erected during the year, of what description, and by what means ;

(f) The number of qualified teachers ; their standing, sex, and religious persuasion ; the number, so far as he can ascertain, of private schools, the number of pupils and subjects taught therein ; the number of libraries, their extent, and how established and supported ; also, any other information which he may possess respecting the educational state, wants and advantages in each township of his charge, and any suggestions which he thinks proper to make with a view to the improvement of schools and diffusion of useful knowledge.

How Union Sections shall be Paid.

92. The local superintendents of adjoining townships, shall determine the sums to be paid from the common school fund of each township in support of the schools of union school sections consisting of portions of such townships ; and shall also determine the manner in which such sums shall be paid : but in the event of one person being local superintendent of the townships concerned, he shall act in behalf of such townships.*

Warden to decide in case of Dispute.

93. In the event of the local superintendents of townships thus concerned not being able to agree as to the sum to be paid to each such township, the matter shall be referred to the Warden of the county for final decision.

* See the *fifth* section of the School Act of 1860, page 59.

PART VII.—DUTIES OF THE COUNTY BOARDS OF PUBLIC INSTRUCTION.

County Boards of Public Instruction constituted.

94. Where there is only *one* county grammar school in a county, the board of trustees for such school and the local superintendent or superintendents of schools in the county, shall constitute a Board of Public Instruction for the county.

Circuit Board may be constituted.

95. Where there is more than *one* grammar school in a county, the county council shall* [have authority to] divide the county into as many circuits as there are county grammar schools, and for each such circuit the trustees of the county grammar school therein, and the local superintendent, or superintendents of schools therein, shall be a board of public instruction for the circuit.†

Three Members to form a Quorum of Board.

96. At any lawful meeting of the Board of Public Instruction, *three* members, including a local superintendent of schools, shall constitute a *quorum*, for examining and giving certificates of qualification to common school teachers, and *five* members shall constitute a *quorum* for the transaction of any other business.‡

County Council to defray Expenses.

97. The county council shall§ provide for the incidental expenses connected with the meeting and proceedings of each board of public instruction.

Duties of Boards of Public Instruction—Remuneration.¶

98. It shall be the duty of each county and circuit board of public instruction—and each such board is hereby empowered :

* *The School Law Amendment Act of 1860 authorizes this alteration as follows:*
24. * * * in the second line of the *ninety-fifth* section of the said Upper Canada [Consolidated] Common School Act, the phrase "The County Council shall divide," shall read, "The County Council shall have authority to divide," &c.

† A circuit board thus constituted, is a distinct and independent body from the county board, and is in no way subject to it. Certificates granted by the county or circuit board are valid only within the jurisdiction of the board which grants them, and are of no force or value beyond it, and within the boundaries of another county or circuit board.

‡ Although the law constitutes *three* members of the board a quorum for the examination of teachers, and *five* for other purposes, care should be taken to give due notice to all the members of the board. No meeting is lawful where this notice has been omitted.

§ The word "shall" is here imperative. See note * on page 50.

¶ See remarks on these duties, appended.

(1) To meet [half-yearly], and to determine the time and places of its own meetings, and the order of its proceedings, and the manner of recording them.

[*1½ The School Law Amendment Act of 1860 further enacts that: 16. Each county or circuit board of public instruction shall meet half-yearly, and each of its members shall be entitled to the same recompense for his time and expenses as are members of the county corporation for their attendance at county council meetings; and the incidental expenses attending the meeting of such county or circuit board, shall include the recompense to its members, the stationery, room, fuel, light, printing of notices, examination papers, and certificates, and such remuneration to the secretary of such board as the board may deem just and expedient.*]

Promote the Establishment of Libraries, &c.

(2) To adopt all lawful means in their power, as they may judge expedient, to advance the interests and usefulness of common schools, to promote the establishment of school libraries, and to diffuse useful knowledge in the county or circuit.

Select Text-Books for the use of Schools.

(3) To select (if deemed expedient) from a list of text-books recommended or authorized by the council of public instruction, such books as they may think best adapted for use in the common schools of the county or circuit, and to ascertain and recommend the best facilities for procuring such books.*

To examine Teachers, and give Certificates.

(4) To examine and give certificates of qualification to teachers of common schools, arranging such teachers into three classes, according to their attainments and abilities, as prescribed in a programme of examination and instructions provided for that purpose,† and any such

* See list of authorized text-books, on page 40.

† The following is the Programme for the Examination and Classification of Teachers of Common Schools, by the County Boards.

(Prescribed by the Council of Public Instruction for Upper Canada.)

N.B.—Candidates are not eligible to be admitted to examination until they shall have furnished the examiners with satisfactory evidence of their strictly temperate habits and good moral character.

(1) Minimum Qualifications of Third Class Teachers.

Candidates for certificates are required:—

1. To be able to read intelligibly and correctly any passage from any common reading book.

2. To be able to spell correctly the words of an ordinary sentence dictated by the examiners.

3. To be able to write a plain hand.

4. To be able to work readily questions in the simple and compound rules of arithmetic, and in reduction and proportion, and to be familiar with the principles on which these rules depend.

5. To know the elements of English grammar, and to be able to parse any easy sentence in prose.

6. In regard to teachers in French and German settlements, a knowledge of the

certificate may be general, as regards the county, or limited as to time or place, at the pleasure of the majority of the members of the board of public instruction present at such examination.

French or German grammar may be substituted for a knowledge of the English grammar, and the certificates to the teachers expressly limited accordingly.

7. To be acquainted with the relative positions of the principal countries in the world, with the principal cities, physical features, boundaries of continents, &c.

8. To have some knowledge of school organization and the classification of pupils.

(2) *Minimum Qualifications of Second Class Teachers.*

Candidates for certificates as second class teachers, in addition to what is required of candidates for third class certificates, are required:

1. To be able to read with ease, intelligence, and expression, and to be familiar with the principles of reading and pronunciation.

2. To write a bold free hand, and to be acquainted with the rules of teaching writing.

3. To know fractions, vulgar and decimal, involution, evolution, and commercial and mental arithmetic, and to be familiar with the principles on which the rules depend.

4. To be acquainted with the elements of book-keeping.

5. To know the common rules of orthography, and to be able to parse any sentence in prose or poetry which may be submitted; to write grammatically, with correct spelling and punctuation, the substance of any passages which may be read, or any topics which may be suggested.

6. To be familiar with the elements of mathematical and physical geography, and the particular geography of Canada.

7. To be familiar with the outlines of general history.

Minimum Qualifications of First Class Teachers.

Candidates for certificates as first class teachers, in addition to what is required of candidates for third and second class certificates, are required:

1. To be familiar with the remaining rules of common arithmetic.

2. To be acquainted with the rules for the mensuration of superficies and solids.

3. To be familiar with the simple rules of algebra, and to be able to solve problems in simple and quadratic equations. (Colenso's.)

4. To know the first four books of (Pott's) Euclid.

5. To be familiar with the outlines of Canadian and English history.

6. To have some acquaintance with the elements of vegetable and animal physiology and natural philosophy, as far as taught in the fifth book of national readers.

7. To understand the proper organization and management of schools, and the improved method of teaching.

8. To be acquainted with the principal Greek and Latin roots in the English language, with the prefixes and affixes; to be able to describe and exemplify the principal changes of construction.

Female candidates for first class certificates need not be examined in the subjects mentioned in the second, third, and fourth paragraphs under this head.

Originally adopted the *third day of October*, 1850, and revised by the Council on the *seventeenth day of December*, 1858.

2. **General Form of Certificate of Qualification.**

For Common School Teachers in Upper Canada, to be granted by County or Circuit Boards of Public Instruction, in accordance with the foregoing Programme of Examination.

This is to Certify that _____ of the _____ faith, having applied to the Board of Public Instruction for the [County, School Circuit,

Annulling Certificates.

(5) To annul any such certificate as the board may judge expedient.

Conditions of Certificates.

99. Every such certificate of qualification shall have the signature of at least one local superintendent of schools;*

Teachers to be moral, and to be Subjects of Her Majesty.

But no such certificate shall be given to any person as a teacher, who does not furnish satisfactory proof of good moral character, or who, at the time of applying for such certificate, is not a natural born or naturalized subject of Her Majesty, or who does not produce a certificate of having taken the oath of allegiance to Her Majesty, before a Justice of the Peace for the county in which such person resides.†

or United Counties] of _____ for a certificate of qualification to teach a common school, and having produced "satisfactory proof of good moral character," the Board has carefully examined [*him or her*] in the several branches of study enumerated in the "qualification of [*first, second, or third, as the case may be*] class teachers," contained in the "programme" of the examination and classification of teachers of common schools, adopted by the Council of Public Instruction for Upper Canada, on the *third day of October, 1850*; and revised on the *seventeenth day of December, 1858*; and having found the said _____ well qualified to teach the several branches named therein, the Board, as authorized by the *ninety-eighth* section of the Upper Canada Consolidated Common School Act, hereby licenses [*him or her*] to teach any common school in the

[*If a first class certificate, here insert the name of the county, school circuit, united counties, or city; if a second class certificate, the name of the township; and if a third class certificate, the name of the school section in which the candidate is authorized to teach—all to be determined at the discretion of the Board.*]

This certificate of qualification to remain in force [*for one year from the date thereof, or until annulled according to law—the period and the class of the certificate granted, to be determined by circumstances.*]

Dated this _____ day of _____, *one thousand eight hundred and sixty _____*

N.B.—The *ninety-ninth* section of the Upper Canada Consolidated Common School Act, requires each certificate to have the signature of at least one Local Superintendent of Schools. (See above.) It should also be signed by the Chairman of the Board of Public Instruction.

* The *tenth* clause of the *ninety-first* section of this Act, page 89, authorizes local superintendents to grant special certificates of qualification in certain cases, until the next meeting of the county board. But no local superintendent can lawfully grant a special certificate to any person who has been rejected by the circuit or county board.

† The following is the form of the oath of allegiance prescribed by the Act 22 Vict. chap. 8, sec. 2, of the Consolidated Statutes of Canada:

I, A. B., do sincerely promise and swear (*or, being one of the persons allowed by law to affirm in judicial cases*; § do. affirm) that I will be faithful and bear true

§ By the Act 22 Vict. chap. 32, sec. 1, of the Consolidated Statutes of Upper Canada, it is enacted that a Quaker, Menonist, or Tunker, or a member of the Church known as the 'Unitas Fratrum,' or the United Brethren, sometimes called the Moravian Church, having first made the following declaration or affirmation, viz., "I, A. B., do solemnly, sincerely, and truly declare and affirm that I am one of the Society called" Quakers, Menonists, &c. (*as the case may be*), may make his affirmation or declaration, and such affirmation or declaration shall have the same force and effect as an oath taken in the usual form.

PART VIII.—SCHOOL VISITORS AND THEIR DUTIES.

School Visitors Defined.

100. All Clergymen recognized by law, of whatever denomination, all Judges, Members of the Legislature, Magistrates, Members of County Councils, and Aldermen, shall be school visitors in the townships, cities, towns, and villages where they respectively reside; but persons holding the commission of the peace for the county only, shall not be school visitors within towns and cities; and each clergyman shall be a school visitor only in the township, town, or city where he has pastoral charge.

Who are Visitors of Roman Catholic Separate Schools.

[100]. *The Roman Catholic Separate School Act of 1863, declares that: 23. "All Judges, members of the Legislature, the heads of the municipal bodies in their respective localities, the Chief Superintendent and Local Superintendent of Common Schools, and clergymen of the Roman Catholic Church, shall be visitors of Separate Schools."*

Their authority to visit the Common Schools.

101. Each of the school visitors may visit the public school in the township, city, town, or village; and may attend the quarterly examination of schools, and, at the time of any such visit, may examine the progress of the pupils, and the state and management of the school, and give such advice to the teacher and pupils, and any others present, as he thinks advisable, in accordance with the regulations and instructions provided in regard to school visitors.*

General Meeting of School Visitors.

102. A general meeting of the Visitors may be held at any time or place appointed by any two Visitors, on sufficient notice being given to the other Visitors in the township, city, town, or village; and the Visitors, thus assembled, may devise such means as they deem expe-

allegiance to Her Majesty Queen Victoria as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Province of Canada, dependent on and belonging to the said United Kingdom; and that I will defend Her to the utmost of my power against all traitorous conspiracies and attempts whatever which shall be made against Her Person, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear, without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary. So help me God.

* Teachers are required to give Visitors notice of these examinations. See page 79.

dient for the efficient visitation of the schools, and for promoting the establishment of Libraries and the diffusion of useful knowledge.*

PART IX.—DUTIES OF THE CHIEF SUPERINTENDENT OF EDUCATION.

A Chief Superintendent to be appointed.

103. The Governor may, from time to time, by Letters Patent under the Great Seal of the Province, appoint a fit and proper person to be Chief Superintendent of Education for Upper Canada, who shall hold the office during pleasure, and shall receive a salary

* 1. The foregoing sections of the Upper Canada Consolidated Common School Act prescribes who shall be school visitors, and also their lawful duties.

2. The parties thus authorized to act as visitors, have it in their power to exert an immense influence in elevating the character and promoting the efficiency of the schools, by identifying themselves with them, by visiting them, by encouraging the pupils, aiding and counselling teachers, and impressing upon parents their interests and duties in the education of their offspring. In visiting schools, however, visitors should, in no instance, speak disparagingly of the instructions or management of the teacher in the presence of the pupils; but if they think it necessary to give any advice to the teacher, they should do it privately. They are also desired to communicate to the local or Chief Superintendent anything which they shall think important to the interests of any school visited by them. The law recommends visitors "to attend the Quarterly Examinations of the schools." It is hoped that all visitors will feel it both a duty and a privilege to aid, on such occasions, by their presence and influence. While it is competent to a visitor to engage in any exercises which shall not be objected to by the authorities of the school, it is expected that no visitor will introduce on any such occasion any thing calculated to wound or give offence to the feelings of any class of his fellow Christians.

3. The local superintendents are school visitors by virtue of their office, and their comprehensive duties, as such, are stated with sufficient minuteness in the ninety-first section of the Upper Canada Consolidated Common School Act, (pages 84-91). While each local superintendent makes the careful enquiries and examinations required by law, and gives privately to the teacher and trustees such advice as he may deem expedient, and such counsel and encouragement to the pupils, as circumstances may suggest, he will exhibit a courteous and conciliatory conduct towards all persons with whom he is to communicate, and pursue such a line of conduct as will tend to uphold the just influence and authority both of trustees and teachers.

4. Too strong a recommendation can not be given to the establishment of circulating libraries in the various townships and school sections. A township library, with auxiliaries in each school section, might, by means of a comparatively small sum, supply popular and useful, reading for the young people of a whole township. It is submitted to the serious attention of all school visitors, as well as trustees, and other friends of the diffusion of useful knowledge. See the Departmental notices appended.

of the same amount as the Superintendent of Education in Lower Canada.

His responsibility to the Government.

104. The Chief Superintendent shall be responsible to, and subject to the direction of the Governor, communicated through any department of the Provincial Government.

He is allowed Clerks.

105. The Chief Superintendent shall be allowed two clerks, who shall receive the same salaries as are attached to similar offices in Lower Canada, and he shall account for the contingent expenses of his office, as provided in respect of other public offices.

Duties of the Chief Superintendent.

106. It shall be the duty of the Chief Superintendent of Education, and he is hereby empowered,—

Apportioning Legislative Grant.

(1) To apportion annually, on or before the *first day of May*, all moneys granted or provided by the Legislature for the support of Common Schools in Upper Canada, and not otherwise appropriated by law to the several counties, townships, cities, towns, and incorporated villages, according to the ratio of population in each, as compared with the whole population of Upper Canada; but when the census or returns upon which such an apportionment is to be made, are so far defective in respect of any county, township, city, town, or village, as to render it impracticable for the Chief Superintendent to ascertain therefrom the share of school moneys which ought to be so apportioned, he shall make the apportionment according to the ratio in which by the best evidence in his power, the same can be most fairly and equitably made;

Notice to the Finance Minister and County Clerks.

(2) To certify to the Minister of Finance the apportionments made by him, so far as they relate to the several counties, cities, towns, and incorporated villages in Upper Canada, and to give immediate notice thereof to the clerk of each county, city, town, and village interested therein, stating the time when the amount of moneys so apportioned will be payable to the treasurer of the county, city, town, or village;

Distribution by Local Superintendents.

(3) 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 same, according to the length of time in each year during which a school has been kept open by a legally qualified teacher in each of such sections or parts of sections;

Apportioning Library Grant.

(4) To apportion the moneys provided by the Legislature for the establishment and support of school libraries; but no aid shall be

given towards the establishment or support of any school library unless an equal amount be contributed and expended from local sources for the same object ;

Preparing Forms and Regulations.

(5) To prepare suitable forms, and to give such instructions as he may judge necessary and proper, for making all reports and conducting all proceedings under this act, and to cause the same, with such general regulations as may be approved of by the Council of Public Instruction for the better organization and government of common schools, to be transmitted to the officers required to execute the provisions of this act ;

Distributing of Act and Forms.

(6) To cause to be printed from time to time, in a convenient form so many copies of this Act, with the necessary forms, instructions, and regulations to be observed in executing its provisions, as he may deem sufficient for the information of all officers of Common schools, and to cause the same to be distributed for that purpose ;

Protecting School Moneys—Deciding Complaints.

(7) To see that all moneys apportioned by him, are applied to the objects for which they were granted ; and for that purpose, and when not otherwise provided for by law to decide upon all matters and complaints submitted to him which involve the expenditure* of any part of the school fund ; †

* See Regulations relating to communication with the Department, among the Forms, &c.

† *The following opinion as to the legal construction of this clause has been expressed by the late Chief Justice Robinson :*

"I have some doubt whether the [seventh clause of the one hundred and sixth section] does not make the Chief Superintendent the proper tribunal for determining all claims upon any part of the school fund : Unless what the present applicants desire to share in forms part of the 'school fund,' it is quite clear they can have no right under [a section of the Act of 1850, since repealed], to share in it. If it does form part of the 'school fund,' then the [above seventh clause of the one hundred and sixth] section, provides that the Chief Superintendent is 'to decide upon all matters and complaints submitted to him which involve the expenditure of any part of the school fund ;' and the applicants, before they come to this court with any complaint, should at least be 'able to show that they have submitted their complaint to him, and that he has refused to entertain it ; for a *mandamus* is the proper remedy in those cases only 'in which a party hath a clear right to have a thing done and hath no other specific means of compelling its performance.'" (o) (8 East, 219.) *In re Separate School Trustees v. Common School Trustees, Town of Belleville.* 10 Q. B. R. 472.

The Hon. Mr. Justice Burns also expressed the following opinion on the same case : "The duties imposed upon the Chief Superintendent and the several Local Superintendents by the School Acts, show that the Legislature intended to provide a domestic forum for the settlement of school questions ; and the reference of several other matters involving legal considerations to arbitration, answers the objections

(o) For further explanation of the Writ of *Mandamus*, see "Note," on page 38.

[71. *The School Law Amendment Act of 1860 further enacts that: 14. The Chief Superintendent shall have authority to decide upon all disputes and complaints laid before him, the settlement of which is not otherwise provided for by law, and upon all appeals made to him from the decision of any Local Superintendent or other school officer.]*

Disagreement between Roman Catholic School Trustees and Officials.

[72. *The Roman Catholic Separate School Act of 1863, enacts that: 27. In the event of any disagreement between trustees of Roman Catholic Separate Schools and Local Superintendents of Common Schools, or other municipal authorities, the case in dispute shall be referred to the equitable arbitrament of the Chief Superintendent of Education in Upper Canada; subject, nevertheless, to appeal to the Governor in Council, whose award shall be final in all cases.*]*

sometimes urged that the Legislature did not mean legal questions to be determined by an officer who, perhaps, might not be versed in legal distinctions. It appears, therefore, looking at the whole scope of the acts, that it was supposed the affairs of the schools could be managed by means of arbitration and references to the Local and Chief Superintendents, without troubling the Courts."

* The following are the Departmental regulations in regard to these appeal cases, &c. :—

1. *Appeals to the Chief Superintendent of Education.*—All parties concerned in the operations of the school laws, have the right of appeal to the Chief Superintendent of Education, and he is authorized to decide such questions as are not otherwise provided for by law. But for the ends of justice, to prevent delay, and save expense, it will be necessary for any party thus appealing: 1. To furnish the party against whom he may appeal, with a correct copy of his communication to the Chief Superintendent, in order that such party may have an opportunity of transmitting any explanation or answer deemed expedient. 2. To state expressly in the appeal that the opposite party has been thus notified, as it must not be supposed that the Chief Superintendent will decide or form an opinion on any point affecting different parties, without hearing both sides,—whatever delay may at any time be occasioned in order to secure such hearing. Application for advice in school matters, should in all cases be first made to the Local Superintendent having jurisdiction in the municipality.

2. *Communications with the Government relating to Schools,* should be made through the Educational Department, Toronto, as all such communications not so made, are referred to the Chief Superintendent of Education, to be brought before His Excellency through the proper department,—which occasions unnecessary delay and expense.

3. *Communications generally*—The parties concerned are left to their own discretion as to the form of all communications relating to schools, for which specific instructions are not furnished by the Department; but they are requested to use large sized or foolscap paper. In all communications, however, the number of the School Section, and the name of the Township and Post Office, with the official title of the writer should be given; and also the number and dates of any previous correspondence on the same subject.

4. *The Journal of Education* having been constituted by His Excellency the Governor General in Council, the official medium of communicating all departmental intelligence and information, parties should refer to its pages on matters relating to the appointment, blank reports, Depository, Normal School, &c.

5. Communications relating to the *Journal of Education*, to the *Educational Depository*, to *Public Libraries*, or to the *Superannuated Teachers' Fund, School*

Application of Balances of the School Fund.

(8) To direct the application of the balances of the school fund apportioned for any year which may be forfeited according to the provisions of this Act, towards making up the salaries of teachers in the county to which the same has been apportioned.

Appointing a Deputy, and Special Inspectors.

(9) To appoint one of his clerks to be his Deputy,* to perform the duties of his office in his absence; and to appoint one or more persons, as he, from time to time, deems necessary, to inspect any school or examine into and report to him upon any school matter in the county where such person or persons reside; but no allowance or compensation shall be made to such special inspector or inspectors for any services performed by him or them;

To have the supervision of the Normal School.

(10) To take the general superintendence of the Normal school; and use his best endeavours to provide for and recommend the use of uniform and approved text-books in the schools generally;

Establishing school libraries.

(11) To employ all lawful means in his power to procure and promote the establishment of school libraries for general reading, in the several counties, townships, cities, towns, and villages;

To provide plans for School-Houses, and to disseminate useful information.

(12) To provide and recommend the adoption of suitable plans of school-houses, with the proper furniture and appendages; and to

Accounts, Poor Schools, &c. &c., should be written on *separate sheets* from letters of appeal or on legal questions, in order that they may be separated and classified.

6. *Postage Regulations in regard to Grammar and Common School Returns.*—All official returns which are required by law to be forwarded to the Chief Superintendent, or a Local Superintendent, and which are made upon the printed blank forms furnished by the Educational Department, *must be pre-paid*, at the rate of one cent, *and be open to inspection*, so as to entitle them to pass through the post as printed papers. No letters should be enclosed with such returns. A neglect to observe this regulation has repeatedly subjected this Department to an unnecessary charge of *fourteen and twenty-one cents* on each package, including the post-office fine for non-payment.

7. *School Registers supplied through Local Superintendents.*—School Registers are supplied gratuitously from the Department, to Common and Separate School Trustees in cities, towns, villages, and townships, by the County Clerk, through the Local Superintendents. Application should therefore be made direct to the Local Superintendent for them, and not to the Department. Those for Grammar Schools are also to be obtained through the County Clerk.

* *The Consolidated Provincial Statutes General Interpretation Act, 22 Vict. chap. 5, enacts as follows:* 6. * * * *Twenty-thirdly.* Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his name of office, shall include his successors in such office, and his or their lawful Deputy.

collect and diffuse among the people of Upper Canada useful information on the subject of education generally;

To submit Books, Manuscripts, and General Regulations to the Council of Public Instruction.

(13) To submit to the Council of Public Instruction, all books or manuscripts which with the view of obtaining the recommendation or sanction of such council for their introduction as text-books or library books, are placed in his hands; and to prepare and lay before the Council of Public Instruction, for its consideration, such general regulations for the organization and government of Common schools, and the management of school libraries, as he may deem necessary and proper.

Appoint Conductors of Teachers' Institute.

(14) To appoint proper persons to conduct county teachers' institutes, and to furnish such rules and instructions as he may judge advisable in regard to the proceedings of such institutes, and the best means of promoting and elevating the profession of school teaching, and increasing its usefulness;

Responsibility for Mcneys.

(15) To be responsible for all moneys paid through him in behalf of the Normal and Model schools, and to give such security for the same as the Governor may require;

Correspondence of the Council of Public Instruction.

(16) To prepare and transmit all correspondence directed or authorized by the Council of Public Instruction for Upper Canada;

To make Annual Report to the Governor.

(17) To make annually to the Governor, on or before the *first day of July*, a report of the actual state of the Normal, Model, and Common schools throughout Upper Canada, showing the amount of moneys expended in connection with each, and from what sources derived, with such statements and suggestions for improving the Common schools and the Common school laws, and promoting education generally as he may deem useful and expedient;

To make Financial Report to Parliament.

(18) To lay before the Legislature, at each sitting thereof, a correct and full account of the disposition and expenditure of all moneys which come into his hands as Chief Superintendent; and annually on or before the *thirtieth of January* in each year, to make the report required by the Act for the more efficient auditing of public accounts.

Provincial Certificates to be given to Normal School Students.

107. The Chief Superintendent of Education, on the recommendation of the teachers in the Normal School, may give to any teacher

of common schools a certificate of qualification which shall be valid in any part of Upper Canada until revoked;* but no such certificate shall be given to any person who has not been a student in the Normal School.†

Uniformity of Decisions in Division Courts.

108. It being highly desirable that uniformity of decision should exist in cases within the cognizance of the Division Courts and tried in such courts, in which the superintendents, trustees,‡ teachers, and others acting under the provisions of this Act are parties, the judge of any Division Court wherein any such action may be tried, may, at the request of either party, order the entering of judgment to be delayed for a sufficient time to enable such party to apply to the Chief Superintendent of Education to appeal the case, and after notice of appeal has been served as hereinafter provided, no further proceedings shall be had in such case until the matter of the appeal has been decided by a Superior Court.§

Chief Superintendent may appeal from such Court to the Superior Courts of Law.

109. The Chief Superintendent may, within one month after the rendering of judgment in any such case, appeal from the decision of the Division Court Judge to either of the Superior Courts of Law at Toronto, by serving notice in writing of such appeal upon the clerk of the Division Court appealed from, which appeal shall be entitled "The Chief Superintendent of Education for Upper Canada, Appellant, in the matter between (A. B. and C. D.)"

Judge to send Papers to Superior Court.

110. The Judge whose decision is appealed from shall thereupon certify under his hand, to the Superior Court appealed to, the summons and statement of claim and other proceedings in the case, to-

* See the *twenty second* section of the School Law Amendment Act of 1860, on page 89.

† See note to the *eightieth* section of this Act, page 75. The sessions of the Normal School commence on the *eighth* of January, and the *eighth* of August in each year.

‡ The Trustees, being a corporation, and the school representatives of their section, can include the costs of any lawful suit in which they may be involved, as Trustees, if they succeed in it, in the "other expenses" of their school, as authorized by the *tenth* clause of the *twenty seventh* section of this Act. See note (e) on page 33. In suits against trustees the corporate property of the trustees alone is liable in execution, and not their individual property. Trustees need not appear in court as witnesses, unless individually subpoenaed. See note * on page 19.

§ Parties seeking an appeal, in terms of this section, must, without delay furnish the Chief Superintendent with a copy of the statement and ground of the decision of the Judge, so as to enable him to determine, in sufficient time, whether or not such decision warrants an appeal to the higher courts. They should also furnish him with the name and post office address of the Clerk of the Division Court from the Judge of which an appeal is desired.

gether with the evidence and his own judgment thereon, and all objections made thereto.

Superior Court to give such Order as Law and Equity require.

111. The matter shall be set down for argument at the next term of such Superior Court, and such Court shall give such order or direction to the Court below, touching the judgment to be given in the matter, as law and equity require, and shall also in its discretion award costs against the appellant, which costs shall be certified to and form part of the judgment of the Court below.

Proceedings in Division Court thereon.

112. Upon receipt of such order, direction and certificate, the judge of the Division Court shall forthwith proceed in accordance therewith.

Costs of Appeal

113. All costs awarded against an appellant, and all costs incurred by him, shall be paid by the Chief Superintendent, and charged as contingent expenses of his office.

[1134. *The School Law Amendment Act of 1860 further enacts that:—*23. It shall be competent for the Chief Superintendent of Education, should he deem it expedient, to submit a case on any question arising under the Grammar or Common School Acts, to any Judge of either of the Superior Courts for his opinion and decision, or, with the consent of such Judge, to either of the Superior Courts, for their opinion and decision]

PART X.—DUTIES OF THE COUNCIL OF PUBLIC INSTRUCTION.

Council of Public Instruction to be Appointed.

114. The Governor may appoint a Council of Public Instruction for Upper Canada, to consist of not more than *nine** persons (of whom the Chief Superintendent of Education shall be one), to hold office respectively during pleasure, and such council shall, in the exercise of its duties, be subject to all lawful orders and directions from time to time issued by the Governor.

Chief Superintendent to provide place, and call meetings.

115. The Chief Superintendent shall provide a place for the meetings of the Council of Public Instruction, and may call a special meeting at any time by giving due notice to the other members.

* Increased for Grammar School purposes by the Grammar School Act.

Contingent Expenses of Council provided for.

116. The expenses attending the proceedings of the said council shall be accounted for by the Chief Superintendent as part of the contingent expenses of the Education Office.

Recording Clerk, and his duties.

117. The senior clerk in the Education Office shall be Recording clerk to the said council,—he shall enter all its proceedings in a book kept for that purpose,—and shall, as may be directed, procure the books and stationery for the Normal and Model schools, and keep all the accounts of the said council.

Quorum of Three, and Casting Vote of Chairman.

118. At any lawful meeting of the Council of Public Instruction, three members shall form a *quorum* for the transaction of business, and in case of an equality of votes on any question, the chairman shall be entitled to a second or casting vote.

Duties of the Council.

119. It shall be the duty of such Council and they are hereby empowered—

To appoint Chairman, &c.

(1) To appoint a chairman, and determine the times of its meetings, and the mode of conducting its proceedings ;

Establishment of Normal and Model Schools.

(2) To adopt all needful measures for the permanent establishment and efficiency of the Normal School for Upper Canada, containing one or more Model Schools, for the instruction and training of teachers of Common schools in the science of education and the art of teaching ;

Regulations for Normal and Model Schools.

(3) To make from time to time the rules and regulations necessary for the management and government of such Normal School ; to prescribe the terms and conditions on which students will be received and instructed therein ;* to select the location of such school, and erect or procure and furnish the buildings therefor ; to determine the number and compensation of teachers, and of all others who may be employed therein ; and to do all lawful things which such council may deem expedient to promote the objects and interests of such school ;

To make Regulations for Common School Teachers and Libraries.

(4) To make such regulations from time to time, as it deems expedient, for the organization, government and discipline of common

* See Normal School regulations appended.

schools, for the classification of schools and teachers, and for school libraries throughout Upper Canada.

To recommend Text and Library Books.

(5) To examine, and at its discretion, recommend or disapprove of text-books for the use of schools,* or books for school libraries.

To make Regulations for granting Pensions to Superannuated Teachers.

(6) To prescribe such regulations, with the approbation of the Governor in Council as it, from time to time, deems expedient, for granting pensions to superannuated or worn out teachers of common schools; but no annual allowance to any superannuated or worn out teacher shall exceed the rate of *six* dollars for each year that such teacher has taught a common school in Upper Canada; and no teacher shall be entitled to share in the said fund unless he has contributed to such fund the sum of *four* dollars or more per annum, for the period of his teaching school, or of his receiving aid from such fund, nor unless he furnishes satisfactory proof to the Council of Public Instruction, of inability, from age or loss of health in teaching, to pursue that profession any longer.†

Annual Report to the Governor.

(7) And to transmit annually, through the Chief Superintendent of Education to the Governor, to be laid before the Legislature, a true account of the receipt and expenditure of all moneys granted for the establishment and support of the Normal school.

[The one hundred and twentieth and the one hundred and twenty-first sections refer to the distribution of the various grants for educational purposes; and the one hundred and twenty-second section is now obsolete.]

Grant payable on the 1st of July in each Year.

123. The sum of money apportioned annually by the Chief Superintendent of Education to each county, township, city, town or village, in aid of common schools therein respectively, shall be payable on or before the *first day of July*, in each year, to the treasurer of each county, city, town, and village, in such way as the Governor in Council from time to time directs.‡

* See authorised list on page 40.

† See Regulations for Superannuated Teachers appended.

‡ At present all school moneys for Upper Canada, granted by the Legislature, are payable at the Educational Department, Toronto. It is necessary, therefore, that each Local Treasurer should have an Agent or Attorney in Toronto, authorized to receive it. Each Treasurer, before applying through his Agent for the Legislative School Grant, should assure himself, by communication with the clerk of the Municipality, that all the school moneys of the preceding year have been properly accounted for to the Educational Department, and that his name has been reported to the Department, as required by law. See page 63.

Common School Fund defined.

And such sum, together with at least an equal sum raised annually by local assessment, shall constitute and be called the common school fund of such county, township, city, town, or village; and no part of the salaries of the chief or local superintendents, nor of any other persons except teachers employed, or of any expenses incurred in the execution of this act, shall be paid out of the said common school fund, but such fund shall wholly and without diminution, be expended in the payment of teachers' salaries as herein provided.*

Conditions of receiving Share of Grant.

124. No county, city, town, or village shall be entitled to a share of the Legislative School Grant without raising by assessment a sum at least equal (clear of all charges for collection) to the share of the said school grant apportioned to it; and should the municipal corporation of any county, city, town, or village, raise in any one year a less sum than that apportioned to it out of the Legislative School Grant, the Chief Superintendent of Education shall deduct a sum equal to the deficiency, † from the apportionment to such county, city, town or village in the following year.

PART XI.—SPECIAL PROVISIONS.

How School may be Supported.

125. All the school expenses of each section shall be provided for by any or all of the *three* following methods :

- (1) Voluntary subscription ;
- (2) Rate-bill for each pupil attending the school : or
- (3) Rate upon property ;

But no rate-bill shall be imposed exceeding twenty-five cents per month ‡ for each pupil attending the school §

* The restriction in this section refers also to the county school assessment, the collector's fees, and to the per centage usually allowed to Treasurers—none of which can be lawfully borne by the school fund.

† The *fifty-ninth* section of this Act, page 65, requires the clerk of the Municipality to transmit an abstract of the Auditors' accounts to the Chief Superintendent by the *first of March*. Unless this abstract be sent, the Chief Superintendent cannot learn whether the conditions of the law have been complied with. The apportionment must therefore be withheld until the abstract be sent in. See note to that section of the Act, page 65, and also the section of the Upper Canada Consolidated Assessment Act, quoted on page 64.

‡ The *eleventh* clause of the *sixth* section of the Consolidated Provincial Statutes General Interpretation Act, 22 Vict. chap. 5, enacts that "the word month," in any Provincial Statute, "shall mean a calendar month."

§ A child attending only a few days of a month or quarter is liable for the whole month or quarter. By the Common School Regulations, all school fees are payable in advance. See note * on page 36.

A Resident in one Section sending his Children to another Section.

126. Any person residing in one school section, and sending a child or children to the school of a neighbouring school section, shall nevertheless be liable for the payment of all rates assessed for the school purposes of the section in which he resides, 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;*

Exception as to Separate Schools.

But this clause shall not apply to persons sending children to or supporting separate schools, or 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 favourable terms as if he resided in such section.

Rates on Lands of Non-Residents† to be returned to the Clerk of the Municipality.

127. If the collector appointed by the trustees of any school section, be unable to collect that portion of any school rate which has been charged on any parcel of land liable to assessment, by reason of there being no person resident thereon,‡ or no goods and chattels to

* Persons sending their children to the school of a neighbouring section, are liable for the property rates levied in their section, and for a rate bill in the section to which they send. Trustees cannot admit the children of non-residents (except such as are defined in the latter part of the above *one hundred and twenty-sixth* section) even to a Free School without payment of certain fees, at their discretion. Boarders who have resided in a section for less than a year are not "residents" in the sense of the Act. Apprentices may, however, be considered as residents. See note * on page 39.

† The real estate of a Railway Company situated in a school section is not non-residents' land: See No. 6, of the *Powers and Duties of Collectors* on page 27.

‡ Non-Residents' Lands, as per Assessment Act.

The following are the provisions of the Upper Canada Consolidated Assessment Act on the subject of the lands of non-residents, &c.: [See note * on page 24.]

1. *Definition of the "Lands of Non-Residents."*

"Unoccupied land, owned by a person not resident and not having a legal domicile or place of business in the township, village, town, or city where the same is situate, or whose residence or domicile or place of business therein cannot, upon diligent inquiry by the assessor, be found, and who has not signified to the assessor personally or in writing, that he owns such land and desires to be assessed therefor, shall be denominated 'lands of non-residents.'"—Section 6.

2. *If land not occupied by owner, but owner is known.*

"As to land not occupied by the owner, but of which the owner is known, and who, at the time of the assessment being made, resides, or has a legal domicile or

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

place of business in the township, village, town or city, or who has signified personally, or by writing, to the assessor, that he owns the land and desires to be assessed therefor, the same shall be assessed against such owner alone, if the land is unoccupied, or against the owner and occupant if such occupant be any other person than the owner.—Section 22.

3. *If owner non-resident and unknown.*

“ If the owner of the land be not resident, or be unknown, and has not requested to be assessed therefor, in the manner in the last section mentioned, then if the land is occupied, it shall be assessed in the name of and against the occupant; but if the land be not occupied, then it shall be assessed as land of a non-resident.—Section 23.

4. *If land assessed against owner and occupant, taxes may be recovered from any future owner or occupant.*

“ When the land is assessed against both the owner and occupant, the assessor shall, on the roll, add to the name of the owner the word “ owner,” and to the name of the occupant the word “ occupant,” and the taxes may be recovered from either, or from any future owner or occupant, saving his recourse against any other person.—Section 24.

5. *If land occupied by more owners than one.*

“ When land is owned or occupied by more persons than one, and all their names are known to the assessor, they shall be assessed therefor; but if the names of all are not so known, those of them whose names are known shall be assessed for the whole, saving their recourse against the others and the names of all known owners and occupants shall be mentioned.—Section 25.

6. *In what cases unpatented lands shall be liable to taxes.*

The Consolidated Assessment Amendment Act of 1863 further provides for levying taxes on unpatented Crown lands, as follows:

“ Unpatented land, vested in or held by Her Majesty, which shall hereafter be sold or agreed to be sold to any person, or which shall be located as a free grant, shall be liable to taxation from the date of such sale or grant, and any such land which has been already sold, or agreed to be sold to any person or has been located as a free grant, shall be held to have been liable to taxation since the first day of January, one thousand eight hundred and sixty-three, and all such lands shall be liable to taxation thenceforward, under the act respecting the assessment of property in Upper Canada, in the same way as other land, whether any license of occupation, location ticket, certificate of sale, or receipt for money paid on such sale, has or has not been, or shall or shall not be issued, and (in case of sale or agreement of sale by the Crown) whether any payment has or has not been, or shall or shall not be made thereon, and whether any part of the purchase money is or is not overdue and unpaid; but such taxation shall not in any way effect the rights of Her Majesty in such land.—Section 9 of 27 Vic., cap. 19. See also page 49.

* See the *twenty-first* section of the School Law Amendment Act of 1860, on page 24.

† School fees being by law payable in advance (see *note* on page 36), the school-rate can be levied in sufficient time to allow this return to be made.

NOTE.—The *one hundred and tenth* section of the Upper Canada Consolidated Assessment Act, 22 Vict. chap. 55, makes it the duty of the Treasurer of each Municipality to furnish the County Treasurer “with an account of all arrears remaining due upon lands on account of any rate imposed by School Trustees.”

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 uncollected rates on lands liable to assessment, out of the general funds of the municipality.*

Foreign Books not to be used without the Permission of the Council of Public Instruction.

128. No person shall use any foreign books in the English branches of education, in any model or common school, without the express permission of the Council of Public Instruction; † and no portion of the Legislative School Grant shall be applied in aid of any common [or separate] school in which any book is used that has been disapproved of by the Council of Public Instruction, and public notice given of such disapproval.

*** Decisions in the Court of Common Pleas on non-resident taxes.**

1. *Return of uncollected rates of past years may be made by Trustees. Such rates are payable immediately out of the general funds of the township.*

The Court of Common Pleas has decided that, by the School Law, it is made the duty of the local municipality to make up and supply any deficiency arising to the school fund which arises from the inability of the collector of school rates to collect the same by reason of their being no resident on such land, or no goods and chattels thereon which can be distrained; and that the legislature intended that such deficiency should be made up out of the general funds of the municipality, immediately after the return made to the clerk of the municipality of what school rates are so in arrear. It was also held that trustees may, before the end of each current year, return all school rates upon lands not collected for the reasons stated in the Act, and of which no prior return has been made to the clerk of the municipality.—*School Trustees No. 1, Arthur v. Township Council of Arthur and Luther.* 9 C. P. R. 532.

2. *Mandamus † not granted when other remedy can be had.*

The Court of Common Pleas has decided that, as a general rule, a mandamus will not be granted unless the party making the application has no other specific legal remedy [i.e., by suit (as in the case under review) of the trustees to recover imposed school rates on lands of non-residents]. Upon an application by school trustees for a mandamus to obtain money from a municipal corporation, the affidavits being contradictory, and this court having decided in the case of *School Trustees of Arthur v. The Municipality of Arthur*, 9 C. P. R. 532. [quoted above], that an action for a balance due in a case such as this would lie, the mandamus was refused.—*School Trustees No. 7 Elzevir v. The Municipality of Elzevir.* 12 C. P. R. 548.

Note.—In case of refusal on the part of the Township Council to pay the amount of these uncollected rates, duly returned to its clerk before the end of the year in which the rate was levied, the trustees can enter an action against the Township Council for such amount. See Decisions above, also the sections of the Upper Canada Consolidated Assessment Act, on pages 108, 109.

† See authorised list of school text-books on page 40. § See Note on page 38.

Pupils not to be required to observe Religious Exercises objected to by their Parents.

129. No person shall require any pupil in any such school to read or study in or from any religious book, or to join in any exercise of devotion or religion objected to by his or her parents or guardians; but within this limitation, pupils shall be allowed to receive such religious instruction as their parents and guardians desire, according to any general regulations provided for the government of Common Schools.*

PART XII.—VARIOUS PENAL CLAUSES.

Penalty on Secretary-Treasurer for refusing to account.

130. If any secretary-treasurer appointed by the [Common or separate] school trustees of any school section or any person having been such secretary-treasurer, has in his possession any books, papers, chattels, or moneys, which came into his possession, as such secretary-treasurer, and wrongfully withholds or refuses to deliver up, or to account for and pay over the same or any part thereof to the person, and in the manner directed by a majority of the school trustees for the school section then in office, such withholding or refusal shall be a misdemeanor.

Mode of proceeding in the case.

131. Upon application to the Judge† of the County Court, by a majority of such trustees, supported by their affidavit made before some justice of the peace, of such wrongful withholding or refusal, such judge shall make an order that such secretary-treasurer or person having been such, do appear before him at a time and place to be appointed in the order.

132. Any bailiff of a division court, upon being required by such judge, shall serve such order personally on the party complained against, or leave the same with a grown-up person at his residence.

133. At the time and place so appointed, the judge being satisfied that such service has been made, shall, in a summary manner, and

* These regulations are appended.

† *Jurisdiction of a County Judge in the case of a Secretary-Treasurer.*

The Court of Common Pleas has decided: That under the *one hundred and thirtieth* section of the Upper Canada Consolidated Common School Act, the judge of the County Court has no jurisdiction, except when a secretary-treasurer "has in his possession, books, moneys, &c., which came into his possession as secretary-treasurer, and which he wrongfully holds and refuses to deliver up, &c." and such secretary treasurer must be guilty of a misdemeanor, contemplated by the *one hundred and thirtieth* clause, before the judge can interfere.—*Ferris v. Chesterfield et al.*, No. 16 *Darlington*. 10 C. P. R., 272.

whether the party complained of does or does not appear, hear the complaint, and if he is of opinion that the complaint is well founded such judge shall order the party complained of to deliver up, account for and pay over the books, papers, chattels or moneys as aforesaid by a certain day to be named by the judge in the order together with such reasonable costs incurred in making the application as the judge may tax.

134. In the event of a non-compliance with the terms specified in such order or any or either of them, the judge shall order the said party to be forthwith arrested by the sheriff of any county in which he may be found, and to be committed to the common gaol of his county, there to remain without bail until such judge be satisfied that such party has delivered up, accounted for or paid over the books, papers, chattels, or moneys in question, in the manner directed by the majority of the trustees as aforesaid.

135. Upon proof of his having so done, such judge shall make an order for his discharge, and he shall be discharged accordingly.

136. No such proceeding shall impair or affect any other remedy which the said trustees may have against such secretary-treasurer, or person having been such, or his sureties.

Certain Parties personally Responsible in case of lost School Fund.

137. If any part of the common school fund [or moneys] be embezzled or lost, through the dishonesty or faithlessness of any party to whom it has been entrusted, and proper security against such loss has not been taken, the person whose duty it was to have exacted such security shall be *personally responsible* for the sums so embezzled or lost; and the same may be recovered from him by the party entitled to receive the same, by action at law in any court having jurisdiction to the amount, or by information at the suit of the Crown.*

Penalty for False Reports and Registers.

138. If any trustee of a common school knowingly signs a false report, or if any teacher of a common school keeps a false school register, or makes a false return, with the view of obtaining a larger sum than the just proportion of school moneys coming to such school, such trustee or teacher shall, for each offence, forfeit to the common school fund of the township, the sum of *twenty* dollars, for which any person whatever may prosecute him before a Justice of the Peace, and for which he may be convicted on the oath of one credible witness other than the prosecutor; and if upon conviction the penalty is not forthwith paid, the same shall, under the warrant of such Justice, be levied with costs by distress and sale of the goods and chattels of the offender; and such penalty, when so paid or col-

* See note † on page 22, and note * to the *fifty-sixth* section, page 64.

lected, shall by such Justice be paid over to the said common school fund; or the said offender may be prosecuted and punished for the misdemeanor.*

Penalty for Disturbing a School or School Meeting.

139. Any person who wilfully disturbs, interrupts, or disquiets the proceedings of any school meeting authorized to be held by this act, or any school established and conducted under its authority, or wilfully interrupts or disquiets any grammar, 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, shall, for each offence, on conviction thereof before a Justice of the Peace, on the oath of one credible witness, forfeit and pay for common school purposes to the school section, city, town, or village, within which the offence was committed, such sum not exceeding twenty dollars, together with the costs of the conviction, as the said justice may think fit; or the offender may be indicted and punished for any of the offences hereinbefore mentioned as a misdemeanor.

How Penalties shall be Recoverable.

140. Unless it is in this Act otherwise provided, all fines, penalties, and forfeitures recoverable by summary proceeding, may be sued for, recovered, and enforced, with costs, by and before any Justice of the Peace having jurisdiction within the School Section, City, Town, or Village in which such fine or penalty has been incurred; and if any such fine or penalty and costs be not forthwith paid, the same shall, by and under the warrant of the convicting Justice, be enforced, levied, and collected, with costs, by distress and sale of the goods and chattels of the offender, and shall be by such Justice paid over to the school treasurer of the school section, city, town, or village, or other party entitled thereto; and in default of such distress, such Justice shall, by his warrant, cause the offender to be imprisoned for any time not exceeding thirty days, unless the fine and costs, and the reasonable expenses of endeavoring to collect the same, be sooner paid.

Interpretation clause.

141. The word "teacher" shall include female as well as male teachers; the word "county" shall include unions of counties, and the word "townships" shall include unions of townships made for municipal purposes

Short Title to School Acts.

142. In citing or otherwise referring to this Act, it shall be sufficient to designate it as "the Upper Canada Common School Act," and in citing or otherwise referring to this act, or 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."

* The term *misdemeanor* is applied to all those crimes and offences inferior to felony, for which the law has not provided a particular name.

DIVISION II.

PART I.—AN ACT TO AMEND THE UPPER CANADA COMMON SCHOOL ACT.

23 Vict., Chap 49]

[Assented to 19th May, 1860.

WHEREAS it is expedient to amend the Law respecting Common Schools in Upper Canada; Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Penalty on Teacher refusing to deliver up School Register, &c.

1. Any teacher wilfully refusing, on the demand of the majority of the trustees of the school corporation employing him, to deliver up any school register or school house key or other school property in his possession, shall be deemed guilty of a misdemeanor and shall not be deemed a qualified teacher until restitution be made, and shall also forfeit any claim which he may have against the said trustees.

Remainder of School Section may be attached to adjacent Section.

2. On the incorporation of a part of any school section within the limits of a village, the municipal council of the township, within the limits of which such school section is in whole or in part situated, shall have authority forthwith to attach the part or parts of such school section not included within the limits of the village corporation, to an adjacent school section or school sections, or form them into a separate and distinct section or sections.

Who are Legal Voters at School Meetings.

3. The *seventeenth* section of the Upper Canada Common School Act, chapter *sixty-four*, of the Consolidated Statutes for Upper Canada, shall be amended so as to read as follows:—No person shall be entitled to vote in any school section for the election of trustee or on any school question whatsoever, unless he shall have been assessed and shall have paid school rates as a freeholder or householder in such section; and in case an objection be made to the right of any person to vote in a school section, the chairman or presiding officer at the meeting shall, at the request of any rate payer, require the person whose right of voting is objected to, to make the following declaration:

Form of Declaration required from School Electors.

“I do declare and affirm that I have been rated on the assessment roll of this school section as a freeholder (or householder, *as the case may be*) and that I have paid a public school tax due by me in this school section imposed within the last twelve months, and that I am legally qualified to vote at this meeting.”

Penalty for making False Declaration.

Whereupon the person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person refuses to make such declaration his vote shall be rejected; and if any person wilfully makes a false declaration of his right to vote, he shall be guilty of misdemeanor, and upon conviction, upon the complaint of any person, shall be punishable by fine or imprisonment in the manner provided for in the said Upper Canada [Consolidated] Common School Act. [Pages 15, 113]

Time and hours for School Elections in Rural Sections, Towns, &c.

4. The poll at every election of a school trustee or trustees shall not close before *eleven* of the clock in the forenoon, and shall not be kept open later than *four* of the clock in the afternoon; In school sections the poll shall close on the same day the election is commenced; in cities, towns and incorporated villages the same

time shall be allowed for the election of school trustees which is allowed for the election of municipal councillors in such municipalities.

Formation of Union School Sections in Townships, Towns, &c.

5. The *forty-fifth* and *forty-sixth* sections of the said Upper Canada [Consolidated] Common School Act, shall be amended so as to read as follows: "Under the conditions prescribed in the *fortieth* section in respect to alteration of other school sections, union school sections, consisting of parts of two or more townships or parts of a township and any town or incorporated village, may be formed and altered by the reeves and local superintendent or superintendents of the townships out of parts of which such sections are proposed to be formed,—or in a case of a union section of parts of a township or townships and a town or incorporated village, by the reeve and local superintendent of the township, and the board of common school trustees of the town or village, at a meeting appointed for that purpose by any two of such reeves, or by the board of common school trustees of such town or village, of which meeting the other parties authorized to act with them shall be duly notified;

Effect of such union in Township, Town, or Village.

And each union school section, composed of portions of adjoining townships or portions of a township or townships and a town or incorporated village, shall, for the purposes of the election of trustees under their control be deemed one school section, and shall be considered in respect to superintendence and taxation for the erection of a school house, as belonging to the township, town or village in which the same is situated."

Certain Trustee Contracts unlawful

6. It shall not be lawful for any common school trustee to enter into a contract with the corporation of which he is a member or have any pecuniary claim on such corporation, except for a school site, or as collector of school rates, and then only when he shall be appointed and the warrant to him signed by the other two members of the corporation, with the seal of the same.

Proceedings of School Corporation not valid unless adopted at regular Trustee Meetings.

7. No Act or proceeding of a school corporation shall be deemed valid or binding on any party which is not adopted at a regular or special meeting, of which notice shall be given by the secretary to all the trustees by notifying them personally or by sending a written notice to their residences, and the proceedings of such trustee meetings shall be entered in a book of the corporation kept for that purpose, and signed by the senior or presiding trustee; *Provided* always, that a majority of the trustees, at a meeting thus called, shall have full authority to perform any lawful business.

Annual Appointment of Auditors of School Section Accounts.

8. In order that there may be accuracy and satisfaction in regard to the school accounts of school sections, the majority of the freeholders and householders present at the annual school meeting shall appoint a fit and proper person to be auditor of the school accounts of the section for the then current year, and the trustees shall before the *first day of December* in each year, appoint another auditor; and the auditors thus chosen or either of them shall forthwith appoint a time before the day of the next ensuing annual school meeting for examining the accounts of the school section;

Trustees to submit their School Accounts to the Auditors.

And it shall be the duty of the trustees or their secretary-treasurer in their behalf to lay all their accounts before the auditors or either of them together with the agreements, vouchers, &c., in their possession, and to afford to the auditors or either of them all the information in their power as to their receipts and expenditures of school moneys in behalf of their school section;

Powers and duties of School Section Auditors, &c.

And it shall be the duty of the auditors to examine into and decide upon the accuracy of the accounts of such section and whether the trustees have truly accounted for and expended for school purposes the moneys received by them, and to submit the said accounts with a full report thereon at the next annual school meeting; and if the auditors or either of them object to the lawfulness of any expenditures made by the trustees, they shall submit the matters in difference to such meeting, which may either determine the same or submit them to the Chief Superintendent of Education, whose decision shall be final, and the auditors shall remain in office until their audit is completed; the auditors or either of them shall have the same authority to call for persons and papers and require evidence on oath and to enforce their decisions as have arbitrators appointed under the authority of the *eighty-fourth*, *eighty-fifth*, and *eighty-sixth* sections of the said Upper Canada [Consolidated] Common School Act [pages 80, 81]; and it shall be their duty or that of either of them to report the result of their examination of the accounts of the year to the annual school meeting next after their appointment, when the annual report of the trustees shall be presented, and the vacancy or vacancies in the trustee corporation be filled up, as provided by the law.

Remedy in case the Trustees fail to call the Meeting for Auditors.

And if the trustees omit to call such public meeting by notice issued not later than the *twenty-second day of December*, the same may be called by any two qualified electors, and if the trustees neglect to appoint an auditor or appoint one who refuses to act, the local superintendent shall appoint one for them;

Penalty on Trustees refusing information, &c., to Auditors.

And if the Trustees, or their Secretary in their behalf, refuse to furnish the Auditors or either of them with the papers or information in their power and which may be required of them relative to their school accounts, the party refusing shall be guilty of a misdemeanor, and upon prosecution by either of the auditors or any ratepayer, be punished by fine or imprisonment, as provided by the *one hundred and fortieth* section of the said Upper Canada [Consolidated] Common School Act [page 113];

Accounts of 1860 to be audited in this manner:

Provided that the auditors, appointed for the year *one thousand eight hundred and sixty-one*, shall also audit the accounts for the year *one thousand eight hundred and sixty*.

Penalty on Trustees refusing to comply with the award of the Arbitrators.

9. If the trustees wilfully refuse or neglect for *one month* after publication of award, to comply with or give effect to an award of arbitrators appointed as provided by the *eighty-fourth* section of the said Upper Canada [Consolidated] Common School Act [page 80], the trustees so refusing or neglecting shall be held to be personally responsible for the amount of such award, which may be enforced against them individually by warrant of such arbitrators within one month after publication of their award; and no want of form shall invalidate the award or proceedings of arbitrators under the School Acts.

School Trustees may dispose of school sites not required.

10. It shall be lawful for any school trustee corporation to dispose by sale or otherwise of any school site or school property not required by them in consequence of a change of school site, and to convey the same under their corporate seal and to apply the proceeds thereof for their lawful school purposes; and all sites and other property given or acquired, or which may be given or acquired for common school purposes, shall vest absolutely in the trustee corporation for this purpose.

United Board of Grammar and Common School Trustees to have the same power to sell School Property.

And in like manner and for like purpose, it shall be lawful for any united board of grammar and common school trustees to dispose by sale or otherwise of any school site or school property, belonging to the united board, or to the grammar school or common school trustees respectively.

Who shall be disqualified to act as School Trustee—Absence.

11. No person shall be eligible to be elected or serve as school trustee who is not a resident assessed freeholder or householder in the school section for which he is elected, —nor shall any teacher, or local superintendent, hold the office of trustee; and a continuous non-residence of *six months* from his school section by any trustee shall cause the vacation of his office.

Agreements with Teachers must be in writing, and under seal.

12. All agreements between trustees and teachers to be valid and binding shall be in writing, signed by the parties thereto, and sealed with the corporate seal, and may lawfully include any stipulation to provide the teacher with board and lodging.

Local Superintendent to decide complaints relating to School Elections.

13. It shall be the duty of a local superintendent of schools to receive, investigate and decide upon any complaints which may be made in regard to the election of school trustees or in regard to any proceedings at school meetings; *Provided* always, that no complaint, in regard to any election or proceeding at a school meeting, shall be entertained unless made in writing, within *twenty days* after the holding of such election or meeting.

Chief Superintendent to decide all Complaints, Appeals, and other questions not otherwise provided for.

14. The Chief Superintendent shall have authority to decide upon all disputes and complaints laid before him, the settlement of which is not otherwise provided for by law, and upon all appeals made to him from the decision of any local superintendent or other school officer.

Special Allowance to Local Superintendents and Arbitrators.

15. Arbitrators appointed under the authority of the School Acts, and local superintendents engaged in investigating and deciding upon school complaints and disputes, shall be entitled to the same remuneration *per diem* for the time thus employed as are members of the municipal council of their county for their attendance at council meetings;

Proviso. Who shall pay Arbitrators' Expenses.

Provided always, that the parties concerned in such disputes shall pay all the expenses incurred in them, according to the award or decision of the arbitrators and local superintendents respectively.

Meetings of, and Allowance to, Members of the County Board of Public Instruction—Provision for expense.

16. Each County or Circuit Board of Public Instruction shall meet half yearly and each of its members shall be entitled to the same recompense for his time and expenses as are members of the county corporation for their attendance at county council meetings; and the incidental expenses, attending the meeting of such county or circuit board, shall include the recompense to its members, the stationery, room, fuel, light, printing of notices, examination papers and certificates, and such remuneration to the secretary of such board as the board may deem just and expedient.

Every Saturday to be a Holiday.

17. Every Saturday shall be a holiday in all the public schools.

School-Trustees must make a Declaration of Office, or be fined

18. Every person elected as trustee, and who is eligible and liable to serve as such, shall make the following declaration of office before the chairman of the school meeting:

"I will truly and faithfully, to the best of my judgment and ability, discharge the duties of the office of school trustee to which I have been elected."

Fine for default or in case of neglect.

And if any person elected as trustee shall not make such a declaration within *two weeks* after notice of his election, his neglect to do so shall be sufficient evidence of his refusing to serve and of his liability to pay the fine as provided for in the *twenty-third* section of the said Upper Canada [Consolidated] Common School Act. [Page 18]

Fine on Chairman of School Meeting for not transmitting Proceedings to the Local Superintendent.

19. Any chairman who neglects to transmit to the local superintendent a copy of the proceedings of an annual or other school section meeting over which he may preside, within *ten days* after the holding of such meeting, shall be liable, on the complaint of any rate payer, to a fine of not more than *five dollars*, to be recovered as provided in the *one hundred and fortieth* section of the Upper Canada [Consolidated] Common School Act aforesaid. [Page 113]

Trustees not liable for acting under a Municipal By-law, &c.

20. Trustees shall not be liable to any prosecution, or the payment of any damages for acting under any by-law of a municipal council before it has been quashed.

Powers and Liabilities of Collectors of School Rates.

21. Collectors of school rates shall have the same powers, and be under the same liability and obligations in their respective school municipalities as township collectors have and are liable to in their respective municipalities, and shall give such security as may be satisfactory to the trustees.

Local Superintendent may suspend a Teacher's Provincial Certificate.

22. A local superintendent shall have the same authority to suspend for the time being a Provincial Certificate of teacher's qualifications, and report the same forthwith to the Chief Superintendent, as he has to suspend a County Certificate, notifying in writing to the teacher, whose certificate is suspended, the reasons of it; and the Chief Superintendent shall finally decide upon the case.

Chief Superintendent may refer certain questions to the Superior Courts.

23. It shall be competent for the Chief Superintendent of Education, should he deem it expedient, to submit a case on any question arising under the Grammar or Common School Acts, to any judge of either of the superior courts for his opinion and decision, or, with the consent of such judge, to either of the superior courts for their opinion and decision.

Enactments inconsistent with this Act repealed.

24. So much of the said Upper Canada [Consolidated] Common School Act as is inconsistent with the provisions of this Act, is hereby repealed;

The Ninety-Fifth Section of the Upper Canada Consolidated Common School Act amended

And in the second line of the *ninety-fifth* section of the said Upper Canada Common School Act, the phrase "The County Council shall divide" shall read "The County Council shall have authority to divide," &c

PART II—AN ACT RESPECTING PROTESTANT AND COLOURED
SEPARATE SCHOOLS.

[Upper Canada Consolidated Statutes, 22 Vict. chap. 65]

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada enacts as follows :

Conditions on which Separate Schools for Protestant, or Coloured People may be established — Limits.

1. Upon the application in writing of twelve or more heads of families resident in any township, city, town or incorporated village, being Protestants, the Municipal Council of the said township, or the board of school trustees of any such city, town, or Incorporated village, shall authorize the establishment therein of one or more separate schools for Protestants; and upon the application in writing of twelve or more heads of families resident in any township, city, town, or incorporated village, being coloured people, the council of such township, or the board of school trustees of any such city, town, or incorporated village, shall authorize the establishment therein, of one or more separate schools for coloured people, and in every such case, such council or board, as the case may be, shall prescribe the limits of the section or sections of such schools.

Three Trustees, Election same as in Common School.

2. There shall be three trustees for each separate school, and the first meeting for the election of such trustees, shall be held and conducted in the manner, and according to the rules provided in the sixth to the eleventh sections of the Act respecting common schools for holding the first school meeting in a new school section.

Commencement of Separate School, and Regulations.

3. Each such separate school shall go into operation at the same time as is provided in the case of altered school sections of Common Schools, and shall, with respect to the persons for whom any school has been established, be under the same regulations as Common Schools generally.

Separate School Voters defined.

4. None but coloured people shall vote at the election of trustees of any separate school established for coloured people, and none but the parties petitioning for the establishment of, or sending children to a separate Protestant school, shall vote at the election of Trustees of such school.

Union of Wards in Cities and Towns.

5. In any city or town the persons who make application, according to the provisions of the first section of this Act, may have a separate school in each ward, or in two or more wards united, as the said persons may judge expedient.

Special Conditions.

6. No Protestant separate school shall be allowed in any school section, except where the teacher of the common school in such section is a Roman Catholic.

Exemption from Common School Rates.

7. In all cities, towns, incorporated villages, and township common school sections in which such separate schools exist, each Protestant or coloured person (as the case may be) sending children to any such school or supporting the same by subscribing thereto annually an amount equal to the sum at which such person, if such separate school did not exist, must have been rated in order to the obtain-

ing the annual Legislative Common School Grant, shall be exempt from the payment of all rates imposed for the support of the common schools of such city, town, incorporated village, and school section respectively, and of all rates imposed for the purpose of obtaining such common school grant.

Exemption from Common School Rates Conditional.

8. The exemption from the payment of school rates, as herein provided, shall not extend beyond the period during which such persons send children to, or subscribe 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.

Not to share in Municipal Assessment.

9. Such separate schools shall not share in any school money raised by local municipal assessment.

Share of Legislative School Grant determined.

10. Each such separate school shall share in such Legislative Common School Grant according to the yearly average number of pupils attending such separate school, as compared with the average number of pupils attending the common schools in each such city, town, incorporated village, or township; the mean attendance of pupils for winter and summer being taken.

Certificate of Teachers to be signed by Trustees.

11. A certificate of qualification, signed by the majority of the Trustees of such separate school, shall be sufficient for any Teacher of such school.

Half yearly returns to be sent to the Local Superintendent.

12. 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 of schools a correct return of the names of all Protestant or colored persons (as the case may be) who have sent children to, or subscribed as aforesaid for the support of such separate school during the then last preceding six months, and the names of the children sent, and the amount subscribed by them respectively, together with the average attendance of pupils in such separate school during such period.

Local Superintendent to report to Clerk and Trustees.

13. The Local Superintendent shall, upon the receipt of such return, forthwith make a return to the clerk of the municipality and to the Trustees of the common school section or municipality in which such separate school is established, stating the names of all the persons, who, being Protestants or coloured persons (as the case may be), contribute or send children to such separate school.

Clerks and Trustees to exempt from Rates supporters of Separate Schools.

14. Except for any rate for building school houses, undertaken before the establishment of such separate school, 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 any person whose name appears upon such last mentioned return.

Township Clerk to allow use of Assessor's Roll.

15. 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, shall allow any one of the said trustees, or their authorized collector, to make a copy of such roll as far as it relates to their school section.

Common School Act to apply to Separate Schools.

16. The provisions of the *one hundred and thirty-eighth* section of the Act respecting Common Schools shall apply to the trustees and teachers of such separate schools.

Separate School Trustees to have same power as Common School Trustees.

17. The trustees of each such separate school shall be a body corporate, under the name of the "Trustees of the Separate School of ——— (as the case may be) in the Township, City, or Town, (as the case may be) of ———," 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 the separate school, as the trustees of a common school section have to impose, levy and collect school rates or subscriptions from persons having property in the section, or sending children to or subscribing towards the support of the common school of such section.

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DIVISION III.

PART I.—GENERAL REGULATIONS FOR THE ORGANIZATION, GOVERNMENT AND DISCIPLINE OF COMMON SCHOOLS.

(Prescribed by the Council of Public Instruction for Upper Canada.)

Authority to prescribe these Forms and Regulations.

1. *The Council of Public Instruction for Upper Canada* is required by the fourth clause of the one hundred and nineteenth section of the Upper Canada Consolidated Common School Act, "To make such regulations, from time to time, as it deems expedient, for the organization, government and discipline of common schools, for the classification of schools and teachers and for school libraries throughout Upper Canada." The sixth clause of the same section requires the Council "to prescribe such regulations, with the approbation of the Governor in Council, as it from time to time deems expedient, for granting pensions to superannuated or worn out teachers of Common Schools. See pages 105, 106.

2. *The Chief Superintendent of Education for Upper Canada* is required by the fifth clause of the one hundred and sixth section of the same Act, "To prepare

suitable forms and to give such instructions as he may judge necessary and proper, for making all reports, and conducting all proceedings under this Act."

Duties of all parties concerned to observe these Regulations.

1. *The Common School Trustees in rural sections* are required, by the *seventeenth* clause of the *twenty-seventh* section of the Upper Canada Consolidated Common School Act, "To visit, from time to time, each school under their charge, and see that it is conducted according to the authorized regulations." See page 39.

2. *The Common School Trustees in cities, towns and incorporated villages*, are required, by the *sixteenth* clause of the *seventy-ninth* section of the same Act, "To see that all the schools under their charge are conducted according to the authorized regulations." See page 75.

3. *Common School Teachers* are required by the third clause of the *eighty-second* section of the same Act, "To maintain proper order and discipline in their schools according to the authorized forms and regulations." The *first* clause of the same section further requires teachers "To teach * * * all the branches required to be taught in the school * * * according to the provisions of this Act." See pages 76, 78.

4. *Local Superintendents of schools in rural sections* are required, by the *sixth* clause of the *ninety-first* section of the same Act, "To see that all the schools are managed and conducted according to law." The *eleventh* clause of the same section also requires him "To act in accordance with the regulations and instructions provided for his guidance." See pages 88, 90.

5. *County or Circuit Boards of Public Instruction* are required, by the *fourth* clause of the *ninety-eighth* section of the same Act, "To examine and give certificates of qualification to teachers of common schools * * * as prescribed in a programme of examination and instructions provided for that purpose." See page 93.

6. *Superannuated Common School Teachers* in Upper Canada, as per clause *six* of the *one hundred and nineteenth* section of the Act, page 106, and the regulations on pages 158, 159.

7. *The Roman Catholic Separate School Act* declares that, "The Roman Catholic Separate Schools shall be subject to such regulations as may be imposed, from time to time, by the Council of Public Instruction for Upper Canada."

1. Hours of Daily Teaching, Holidays, and Vacations.*

1. The hours of teaching each day shall not exceed *six*, exclusive of all the time allowed at noon for recreation. Nevertheless, a less number of hours for daily teaching may be determined upon in any school, at the option of the trustees.

2. Good Friday, and every Saturday shall be a holiday as directed by the statute.

3. There shall be *two* vacations in each year; the first, or summer vacation, shall continue for *two* weeks from the *first Monday in August*; the second, for *eight* days, at *Christmas*.

NOTE—In *cities, towns, and incorporated villages*, the summer vacation shall continue *four* weeks, from the *first Monday in August*.

*The number of teaching days in the rural common and separate schools, in each month of 1864, (Leap Year), omitting the allowed holidays and vacations, is as follows:

| <i>(First half of the year.)</i> | | <i>(Second half of the year.)</i> | |
|----------------------------------|------------|--------------------------------------|------------|
| January | 20 | July | 21 |
| February | 21 | August (cities, towns, &c., 2) | 13 |
| March | 22 | September | 22 |
| April | 21 | October | 21 |
| May | 22 | November | 22 |
| June | 22 | December | 17 |
| Total | 128 | Total | 116 |

4. All agreements between trustees and teachers shall be subject to the foregoing regulations; and no teacher shall be deprived of any part of his salary on account of observing allowed holidays and vacations. †

5. Union grammar and common schools are subject to the regulations affecting holidays and vacations in grammar schools: ‡

6. In order to enable the Educational Department to make an equitable apportionment to Roman Catholic Separate Schools in cities, towns, and villages where union Grammar and Common Schools exist, it is necessary that both the Common and Separate Schools should observe the regulations affecting holidays and vacations in grammar schools, as follows:

Terms, Vacations, Daily Exercises, and Holidays in the Grammar Schools of Upper Canada.

1. There shall be four terms each year, to be designated the winter, spring, summer and autumn terms. The winter term shall begin the *seventh of January*, and end the *Tuesday next before Easter*; the spring term shall begin the *Wednesday after Easter*, and close the *last Friday in June*, the summer term shall begin the *second Monday in August*, and end the *Friday next before the fifteenth of October*; the autumn term shall begin the *Monday following* the close of the summer term, and shall end the *twenty-second of December*.

2. The exercises of the day shall not commence later than *nine o'clock a.m.*, and shall not exceed *six* hours in duration, exclusive of all the time allowed at noon for recreation, and of not more than *ten* minutes during each forenoon and each afternoon. Nevertheless, a less number of hours of daily teaching may be determined upon in any grammar school, at the option of the board of trustees. †

3. Every Saturday shall be a holiday; or, if preferred by the board of trustees and head master of any grammar school, the afternoons of Wednesday and Saturday in each week shall be half holidays. All days declared by law to be public holidays, shall be holidays in each grammar school.

4. The public half-yearly examinations required to be held in each grammar school, [by the *eighth* clause of the *twenty-fifth* section of the Upper Canada Consolidated Grammar School Act, 22 Vict., ch. 63], shall take place, the one immediately before the Christmas holidays, and the other immediately before the summer vacation.

Adopted by the Council of Public Instruction for Upper Canada, on the *twenty-sixth* day of December, 1854.

Approved by the Governor General in Council as intimated to the Chief Superintendent of Education, on the *fifteenth* day of February, 1855.

† No deduction whatever can be lawfully made from any teacher's salary for any allowed holidays or vacations: or for the exemption of payment of rates by indigent persons, authorized by law. See page 31.

‡ (1) This regulation applies to union grammar and common schools, as the law provides for the union of common schools with grammar schools—not the union of the latter with the former. In all cases, therefore, in which common schools are united with the grammar schools, the union schools are subjected to the regulations which are here prescribed in respect to grammar schools.

(2) It should be observed, that the *twenty-fourth* and *twenty-fifth* sections of the Upper Canada Consolidated Grammar School Act, empower Boards of Trustees to prescribe any duties, or make regulations, in connection with their respective schools, which are not provided for by, or are not inconsistent with, the general regulations prescribed by the Council of Public Instruction, and approved of by the Governor General in Council.

Number of teaching days in County Grammar Schools, in 1864—Leap Year :

| | | | |
|-------------------------------------|------|----------------|----|
| January..... | 17 | July..... | — |
| February..... | 21 | August..... | 18 |
| March } as Easter is movable, these | { 15 | September..... | 22 |
| April } will vary. | { 23 | October..... | 21 |
| May..... | 20 | November..... | 21 |
| June..... | 18 | December..... | 16 |
| Total..... | 114 | Total..... | 98 |

2. Religious and Moral Instruction.

As Christianity is the basis of our whole system of elementary education, that principle should pervade it throughout. The Upper Canada Consolidated Common School Act, sec. 129, securing individual rights, as well as recognizing Christianity, provides that in any model or common school established under this act, "No person shall require any pupil in any such school to read or study in or from any religious book, or to join in any exercise of devotion or religion, objected to, by his or her parents or guardians; but within this limitation, pupils shall be allowed to receive such religious instruction as their parents or guardians desire, according to any general regulations provided for the government of common schools." Page 111.

In the section of the Act thus quoted, the principle of religious instruction in the schools is recognized, the restrictions with which it is to be given are stated, and the exclusive right of each parent and guardian on the subject is secured.

The common school being a *day* and not a *boarding* school, rules arising from domestic relations and duties are not required, and as the pupils are under the care of their parents and guardians on Sabbaths, no regulations are called for in respect to their attendance at public worship.

3. Opening and Closing Exercises of each Day.

Minute adopted by the Council of Public Instruction, 13th February, 1855.

The following regulations in regard to the opening and closing exercises of the day, apply to all Common Schools in Upper Canada:—

With a view to secure the Divine blessing, and to impress upon the pupils the importance of religious duties, and their entire dependence on their Maker, the Council of Public Instruction recommends that the daily exercises of each common school be opened and closed by reading a portion of Scripture and by Prayer. The Lord's Prayer alone, or the Forms of Prayer hereto annexed, may be used, or any other prayer preferred by the trustees and master of each school. But the Lord's Prayer should form part of the opening exercises, and the Ten Commandments be taught to all the pupils, and be repeated at least once a week. But no pupil should be compelled to be present at these exercises against the wish of his parent or guardian, expressed in writing to the master of the school.

Forms of Prayer:

(BEFORE ENTERING UPON THE BUSINESS OF THE DAY).

Let us Pray.

O Lord, our Heavenly Father, Almighty and Everlasting God, Who hast safely brought us to the beginning of this day, defend us in the same by Thy mighty power; and grant that this day we fall into no sin, neither run into any kind of danger, but that all our doings may be ordered by Thy governance, to do always that is righteous in Thy sight, through Jesus Christ our Lord. *Amen.*

O Almighty God, the Giver of every good and perfect gift, the Fountain of all wisdom, enlighten, we beseech Thee, our understandings by Thy Holy Spirit, and grant, that, whilst with all diligence and sincerity we apply ourselves to the attainment of human knowledge, we fail not constantly to strive after that wisdom which maketh wise unto salvation; that so through Thy mercy we may daily

be advanced, both in learning and godliness, to the honour and praise of Thy Name, through Jesus Christ our Lord. *Amen.*

Our Father, which art in Heaven, hallowed be Thy name, Thy kingdom come, Thy will be done in Earth, as it is in Heaven; give us this day our daily bread; And forgive us our trespasses, as we forgive them that trespass against us; and lead us not into temptation; but deliver us from evil; for Thine is the kingdom, the power, and the glory, for ever and ever. *Amen.*

The Grace of our Lord Jesus Christ, and the Love of God, and the Fellowship of the Holy Ghost, be with us all evermore. *Amen.*

(AT THE CLOSE OF THE BUSINESS OF THE DAY).

Let us Pray.

Most merciful God, we yield Thee our humble and hearty thanks for Thy fatherly care and preservation of us this day, and for the progress which Thou hast enabled us to make in useful learning; we pray Thee to imprint upon our minds whatever good instructions we have received, and to bless them to the advancement of our temporal and eternal welfare; and pardon, we implore Thee, all that Thou hast seen amiss in our thoughts, words, and actions. May Thy good Providence still guide and keep us during the approaching interval of rest and relaxation, so that we may be prepared to enter on the duties of the morrow, with renewed vigour, both of body and mind; and preserve us, we beseech Thee, now and forever, both outwardly in our bodies, and inwardly in our souls, for the sake of Jesus Christ, Thy Son, our Lord. *Amen.*

Lighten our darkness, we beseech Thee, O Lord; and by Thy great mercy, defend us from all perils and dangers of this night, for the love of Thy only Son, our Saviour, Jesus Christ. *Amen.*

Our Father, which art in Heaven, hallowed be Thy name, Thy kingdom come, Thy will be done in Earth as it is in Heaven; give us this day our daily bread; and forgive us our trespasses as we forgive them that trespass against us; and lead us not into temptation; but deliver us from evil; for Thine is the kingdom, the power, and the glory, for ever and ever. *Amen.*

The Grace of our Lord Jesus Christ, and the Love of God, and the Fellowship of the Holy Ghost, be with us all evermore. *Amen.*

4. Weekly Religious Instruction by the Clergy of each Persuasion.

Minute adopted by the Council of Public Instruction, 22nd April, 1857.

That in order to correct misapprehensions and define more clearly the rights and duties of trustees and other parties in regard to religious instruction in connection with the common schools, it is decided by the Council of Public Instruction that the clergy of any persuasion, or their authorized representatives, shall have the right to give religious instruction to the pupils of their own church, in each common school house, at least once a week, after the hour of four o'clock in the afternoon; and if the clergy of more than one persuasion apply to give religious instruction in the same school house, the trustees shall decide on what day of the week the school house shall be at the disposal of the clergymen of each persuasion; at the time above stated. But it shall be lawful for the trustees and clergyman of any denomination to agree upon any hour of the day at which such clergyman or his authorized representative may give religious instruction to the pupils of his own church, provided it be not during the regular hours of the school.

5. Duties of Masters.*—(See pages 75-79.)

The *eightieth* and the *seven* following sections of the Upper Canada Consolidated Common School Act, prescribe, in explicit and comprehensive terms, the duties

* Teachers, in order to avail themselves of the Superannuation Fund provided in part by the Legislature, must become annual subscribers to the fund from the year 1854. The subscription is *five dollars* per annum for past years and *four dollars* per annum for the cur-

of teachers; and no teacher can legally claim his salary who disregards the requirements of the law. Among other things, the act requires each teacher to "maintain proper order and discipline in his school, according to the authorized forms and regulations." Page 78. The law makes it the duty of the *Chief Superintendent of Education* to provide the forms; and the *Council of Public Instruction* prescribes the following regulations for the guidance of teachers in the conduct and discipline of their schools. See pages 99 and 105.

It shall be the duty of each master of a common and separate school:

1. To receive courteously the visitors appointed by law, page 78, and to afford them every facility for inspecting the books used, and to examine into the state of the school; to have the visitor's book open, that the visitors may, if they choose, enter remarks in it. The frequency of visits to the school by intelligent persons, animates the pupils, and greatly aids the faithful teacher.

2. To keep the registers accurately and neatly, according to the prescribed forms,* which is the more important under the Common and Separate School Acts, as they authorize the distribution of the school grants according to the average attendance of pupils attending each school.

3. To classify the children according to the books used; to study those books himself and to teach according to the improved method recommended in their prefaces.

4. To observe himself, and to impress upon the minds of the pupils, the great rule of regularity and order,—A TIME AND A PLACE FOR EVERYTHING, AND EVERYTHING IN ITS PROPER TIME AND PLACE.

5. To promote, both by precept and example, CLEANLINESS, NEATNESS, and DECENCY. To effect this the teacher should set an example of cleanliness in his own person, and in the state and general appearance of the school. He should also satisfy himself by personal inspection every morning, that the children have had their hands and faces washed, their hair combed, and clothes cleaned, and when necessary, mended. The school apartments, too, should be swept and dusted every evening. See No. 13, page 28.

6. To pay the strictest attention to the morals and general conduct of his pupils, to omit no opportunity of inculcating the principles of TRUTH and HONESTY; the duties of respect to superiors, and obedience to all persons placed in authority over them.

7. To evince a regard for the improvement and general welfare of his pupils, to treat them with kindness combined with firmness; and to aim at governing them by their affections and reason, rather than by harshness and severity.

8. To cultivate kindly and affectionate feelings among his pupils; to discountenance quarrelling, cruelty to animals, and every approach to vice.

9. Punctually to observe the hours for opening and dismissing the school. Shall, also, during the school hours, faithfully devote himself to the public service; shall see that the exercises of the school be opened and closed each morning and evening as stated in the preceding part of this section; shall daily exert his best endeavours, by example and precept, to impress upon the minds of the pupils the principles and morals of the Christian religion, especially those vir-

rent year, which should be transmitted, early in the year, to the Chief Superintendent of Education. No teachers now engaged in teaching will be entitled to share in this fund, unless they punctually pay their annual subscriptions beginning with the year 1854. This regulation will be strictly enforced in all cases

* The fifth clause of the eighty-second section of the Upper Canada Consolidated Common School Act, page 78, makes it the duty of the teacher, at the time of his leaving a school, "to deliver up to the (written) order of the trustees, the Register and Visitors' Book appertaining to the school," besides giving access to them at all times when desired. The first section of the Common School Law Amendment Act of 1860, imposes a penalty on teachers who refuse to comply with the order of their trustees in this respect. See page 79. In regard to procuring Registers, &c., see NOTE on page 77.

tues of piety, truth, patriotism and humanity, which are the basis of law and freedom, and the cement and ornament of society.

10. To practise such discipline in his school as would be exercised by a judicious parent in his family; avoiding corporal punishment, except when it shall appear to him to be imperatively necessary; and in all such cases he shall keep a record of the offences and punishments, for the inspection of the trustees, at or before the next public examination, when said record shall be destroyed.

11. For gross misconduct, or a violent or wilful opposition to his authority, the master may suspend a pupil from attending at the school, forthwith informing the parent or guardian of the fact, and the reason of it, and communicating the same to the trustees, through the chairman or secretary. But no pupil shall be expelled without the authority of the trustees.

12. When the example of any pupil is very hurtful to the school, and in all cases where reformation appears hopeless, it shall be the duty of the master, with the approbation of the trustees, to expel such pupil from the school. But any pupil under the public censure, who shall express to the master his regret for such a course of conduct; as openly and explicitly as the case may require, shall, with the approbation of the trustees and master, be re-admitted to the school.

13. The trustees having made such provisions relative to the school-house and its appendages, as are required by the *fourth* clause of the *twenty-seventh* section, and the *seventh* clause of the *seventy-ninth* section of the Upper Canada Consolidated Common School Act, pages 28 and 72, it shall be the duty of the master to give strict attention to the proper ventilation and temperature, as well as to the cleanliness of the school-house; he shall also prescribe such rules for the use of the yard and out-buildings connected with the school-house, as will insure their being kept in a neat and proper condition; and he shall be held responsible for any want of neatness and cleanliness about the premises.

14. Care shall be taken to have the school-house ready for the reception of pupils at least *fifteen* minutes before the time prescribed for opening the school, in order to afford shelter to those who may arrive before the appointed hour.

3. Duties of Pupils.

1. Pupils must come to the school clean in their persons and clothes.

2. Tardiness on the part of pupils shall be considered a violation of the rules of the school, and shall subject the delinquents to such penalty as the nature of the case may require, at the discretion of the master.

3. No pupil shall be allowed to depart before the hour appointed for closing school, except in case of sickness, or some pressing emergency; and then the master's consent must first be obtained.

4. A pupil absenting himself from school, except on account of sickness, or other urgent reasons satisfactory to the master, forfeits his standing in his class, and his right to attend the school for the remainder of the quarter.

5. No pupil shall be allowed to remain in the school unless he is furnished with the books and requisites required to be used by him in the school; but in case of a pupil being in danger of losing the advantages of the school, by reason of his inability to obtain the necessary books or requisites, through the poverty of his parent or guardian, the trustees have power to procure and supply such pupil with the books and requisites needed.

6. The tuition fees, as fixed by the trustees, whether monthly or quarterly, shall be payable in advance; and no pupil shall have a right to enter or continue in the school until he shall have paid the appointed fee. See pages 35 and 36.

PART II.—REMARKS ON THE DUTIES OF SCHOOL OFFICIALS, BY
THE CHIEF SUPERINTENDENT OF EDUCATION.

1. Suggestions to Teachers on the Duties of their Profession.

(See pages 75—79.)

(From the Chief Superintendent's Circular of August, 1850.)

The Upper Canada Consolidated Common School Act, provides trustees with greater facilities for raising the salaries of teachers and furnishing the schools with all needful maps, apparatus and text books [pages 29, 50 and 72], than I know of in any other country; while, at the same time, it makes corresponding provision for the punctual payment of Teachers, both from the school fund and school rates [pages 32 and .] You have only to study carefully the provisions of the Act to be impressed with the conviction, that they have been conceived in the spirit of the warmest regard for the interests and efficiency of the teacher's profession; and contain all that can be secured by law to a teacher, under a system of local self-government, where the patronage and emoluments of each school (beyond the amount of the school fund apportioned to each school section) are in the hands of a local elective corporation, and not of a central executive, as in other systems of government. The facilities for Normal School instruction to all teachers who wish to avail themselves of it, are also greater, under the liberal provisions of the new Act, than in any other country in America. A valuable series of uniform text books [page 40], coming so generally into use, and the trustees being authorized to supply all the pupils with them, cannot fail greatly to relieve and facilitate the labours of the teacher. * * *

Such being your position, relations and prospects under the provisions of the new school act, I am desirous of making a few general remarks and suggestions relative to your future conduct.

* * * * *
Permit me first to say, value your profession. If you do not value it, others will not. But do not show your estimate of it, by assuming lofty airs, or making lofty pretensions; but by making yourself thoroughly master of it, by devoting your energies to it, by becoming imbued with its spirit. Let your actions speak, and let your heart feel. If an orator would have his audience feel, he must first feel himself; and if a teacher does not feel, and does not give proof that he feels, the value and importance of his work, can he reasonably expect others to do so? We often hear it said, "Teachers are not respected." But is it not almost as often true, that teachers do not respect themselves—that they do not act respectably,—that they themselves provoke the disrespect of which they complain. A teacher cannot be made respectable by Act of Parliament. He must make himself so. In every ordinary employment of life, a man who acts upon high principles, and shows that he understands and values his business, will invariably command respect. Nor are the teacher and his work an exception to the general rule. Nay, wherever a teacher has shown himself the possessor of noble principles, and that he understood and loved his work, has he not commanded respect, and soon acquired commanding influence in the neighborhood of his residence? I am persuaded that the people of Upper Canada do not, to any considerable extent, disrespect teachers worthy of respect. * * *

Then, if you value your profession yourself, employ the proper means to give it a place, not only in the esteem, but in the interests and sympathies of others. The profession of a Teacher is a means to an end; it exists, not for the sake of the teacher himself, but for the interests of society. It is a work indispensable to the progress and well-being of society. What is the teacher's work? It is to develop the mind, to mould the heart, and to form the character of the future citizens, magistrates and rulers of our land! It is to teach and implant that which is the only true guarantee of liberty, order, and social stability—the

essential element of a country's prosperity and happiness. Show that you sympathize with these objects—that your heart is in them—that your thoughts and aims do not terminate in yourself alone, but embrace others,—and especially encircle the rising generation. Such a spirit, like heat in the atmosphere, will be diffusive. Others will imbibe it; the indifferent will become interested, and the selfish will begin to feel the impulses of intelligent generosity; parents will become increasingly anxious for the education of their children, and children will become increasingly anxious to be educated. In any neighbourhood, both in town and country, where any youth are allowed to grow up uneducated, a teacher should be an educational missionary, as well as an educational pastor; and every instance of success will add to his influence and means of support, as well as usefulness. No class of men in the country will derive so large an individual advantage from the progress of society as school-teachers, and they ought to be intent in their efforts to excite every sentiment and feeling, and to procure and circulate every publication, which will tend to diffuse education and knowledge. A teacher who folds his arms in slothful inactivity—neither improving in knowledge himself, nor advancing it among others—and yet complaining that no Hercules comes to his relief, deserves neither respect nor assistance; while the teacher who nobly exerts himself in both acquiring and diffusing knowledge, will receive both emolument and respect, if not admiration and applause.

The mutual intercourse of teachers—mutual visits to each others' schools—forming, and meeting occasionally or periodically in Associations for mutual improvement, and the promotion of professional objects,—which are no other than public interests;—these and kindred measures, in connexion with professional reading* and industry, cannot fail to contribute much to the success, enjoyment, and social standing of teachers. Professional friendships will be formed; professional feeling will be enkindled; professional zeal and emulation will be excited; professional skill and usefulness will be improved; and teachers will be more respected by the community at large, by thus evincing proper respect for each other. Faithful teachers have already on their side the enlightened part of the community, the press the pulpit, and the Legislature. Let them be true to themselves and to their profession. Lord Bacon has said truly—"Every man owes a debt to his profession."

I would also offer a word of caution against discouragement in your work, or disinclination to it, on account of its comparative obscurity. It is true, the circle of your daily labours is narrow, and the results of them are remote; there is little variety in your employment, and the monotony of it is only varied by quarterly examinations and short vacations. It therefore requires more than ordinary patience, perseverance and benevolence to pursue your work, month after month, and year after year, with unabated zeal and energy. Yet your work is now a public profession, recognized by law, and none but a teacher examined and licensed according to law is permitted to receive a farthing of the school fund [pages 33, 85, and 107], any more than a person not examined and admitted by the law society is permitted to practise as a barrister at law. And the results of the work performed in the humble school-house, though remote, will not be uncertain, and may one day appear in the highest position of a free people's gift, or in the most important affairs of a nation's diplomacy, or in the most honored relations of parental and social life. The common school house is the sole educational college for the vast majority of the present youth and future fathers and mothers of our country. That accomplished scholar and elegant writer, Dr. JARED SPARKS, late President of Harvard University, traces his early training, and several years of his apprenticeship in teaching, to the common school; and the great American statesman and orator, the late DANIEL WEBSTER, was accustomed to refer to the common school as his first *alma mater*, in which was laid the foundation of his future character. Through long months, and in retirement and solitude, the Italian

* See "N. B.," in the Library Regulations, on page 146.

painter occupied his brush on a single piece of canvass; but that canvass has, age after age, imparted instruction and delight to hundreds of thousands. For years did the Grecian sculptor, in almost exiled seclusion, employ his chisel on a single block of marble; but that marble has survived the wreck of empires, and still commands the admiration of the refined of all countries. Let the practical philosophy of these facts be engraved upon the hearts of every right-minded teacher, and it will sweeten his toil, and add fresh attractions to every successive year of his increasingly skilful and efficient labours.

2. Duties of Trustees.—(See pages 21–43).

1. The full and explicit manner in which the duties of trustees are enumerated and stated in the Upper Canada Consolidated Common School Act, renders it unnecessary to do more, in this place, than make some expository remarks on the nature of the general duties of trustees, and the relations subsisting between them and the teachers whom they employ. The law invests trustees with most important functions; they are a corporation, and, as such, the ownership and control of the school-site, school house, and all the property attached thereto, is vested in them; they are to provide and furnish the school-house and premises, and apparatus and text-books for the school, and they alone have authority to employ the teacher. Their duties are, therefore, of the greatest importance, and they should be well understood.

2. While the trustees employ the teacher—agree with him as to the period during which he shall teach, and the amount of his remuneration—the *mode of teaching* is at the option of the teacher; and the local superintendent and visitors alone have a right to advise him on the subject. The teacher is not a mere machine, and no trustee or parent should attempt to reduce him to that position. His character and his interest alike prompt him to make his instructions as efficient and popular as possible; and if he does not give satisfaction, he can be dismissed according to the terms of his agreement with his employers. To interfere with him and deprive him of his discretion as a teacher, and then to dismiss him for inefficiency, which is the natural and usual result, is to inflict upon him a double wrong, and frequently injures the pupils themselves and all parties concerned. It should then be distinctly understood, as essential to the teacher's character, position and success, that he judge for himself as to the mode of teaching, in his school, including, of course, the classification of pupils, as well as the manner of instructing them. It is, nevertheless, the duty of the trustees to see that the school is conducted according to the regulations authorized by law.

3. It is, therefore, important that trustees should select a competent teacher. *The best teacher is always the cheapest.* He teaches the most, and inculcates the best habits of learning and mental development in a given time; and time and proper habits are worth more than money, both to pupils and their parents. Trustees who pay a teacher fairly and punctually, and treat him properly, will seldom want a good teacher. To employ an incompetent person, because he offers his incompetent services for a small sum, is a waste of money, and a mockery and injury of the youth of the neighbourhood. We entirely concur in the following estimate of the qualities of a good teacher:—

“A teacher should be a person of Christian sentiment, of calm temper, and discretion; he should be imbued with the spirit of peace, of obedience to the law, and of loyalty to his sovereign; he should not only possess the art of communicating knowledge, but be capable of moulding the mind of youth, and of giving to the power which education confers a useful direction. These are the qualities for which patrons [or trustees] of schools, when making choice of a teacher, should anxiously look”

4. Trustees will always find it the best economy to have a commodious school-house, kept comfortable, and properly furnished. It is as difficult for pupils to learn as it is for the master to teach, in an unfurnished and comfortless school-house.

5. In the selection of books to be used in the school, from the general list authorized according to law, page 40, the trustees should see that but *one* series of reading books, *one* arithmetic, or one for the beginners and another for the more advanced pupils, *one* geography, &c, should be used in any *one* school, in order that the scholars may be classified in the several branches which they are studying. Heterogeneous school books (however good each book may be in itself), render classification impossible, increase the labour and waste the time of the teacher, and retard the progress of the pupils. But the teacher and pupils labour at the greatest disadvantage when they are compelled to use books which are as various as the scholars' names.

(1) *Powers and Responsibilities of Trustees.*

As the representatives of the people in the Legislative Assembly determine the amount of money to be expended for any object, or the salary of any public officer to be employed; so the trustees, as the representatives of the people in a school section, have the sole power of determining the *amount* of the teacher's salary, and of the incidental expenses of the school.* They can also procure such maps, apparatus and text books as they may judge expedient for the use of the pupils in the schools.† But the *manner* in which the salary of a teacher and other actual or estimated expenses of the school shall be raised, is left to a public meeting of the tax-payers, to be called for that purpose [pages 13, 33, 34, and 107]. Then, if the whole of the expenses are not thus provided for, the trustees have authority to raise the balance in such manner as they may think proper, either by voluntary subscription, by rates on parents sending children to the school, or rates on all the ratable property of the school section. Trustees themselves (and not a magistrate) issue the necessary warrants for the collection of all rates levied by them on resident rate-payers [page 34]. * * * *

The Common school property of a section is no longer vested in the Municipal Council, but in the corporation of trustees, and is therefore liable for debts contracted by them.‡ Trustees are, therefore, furnished with every needful security and means to enable them to establish a good school and provide for its efficient support. Faithful trustees are provided with a still further protection and assistance, in the penalties which the act imposes upon those trustees who refuse or wilfully neglect to perform their duties. [See note * on page 18, also page 41].

(2) *Protection of Teachers.*

The *eighty-third* section of the Upper Canada Consolidated Common School Act [page 79] guards also against an injustice and evil, by providing that "any teacher shall be entitled to be paid at the same rate mentioned in his agreement with the Trustees, even after the expiration of the period of his agreement, until the trustees shall have paid him the whole of his salary, according to their engagement with him." This provision will prevent the injurious accumulation of debts to teachers in a section; and it will furnish trustees, desirous of performing their duties, with satisfactory reasons for insisting upon the prompt payment of the rates for the teacher's salary, while it will afford protection to the discharged teacher against any possible attempt to wrong him. * * * *

(3) *Establishment of Free Schools—Their object.*

It will be seen that the Common School Act provides every desirable facility for the establishment of FREE SCHOOLS—schools supported by the property of all, and equally free to the children of all; the only schools which are, in my opinion, based upon the true principles of national education, and adapted to national wants. But I wish every School Municipality to be the judge as to the manner of supporting its own schools; and I think the success of Free Schools will be greatly influenced by the discretion exercised in their first establishment. As the

* See page 13.

† See Departmental Notices, page 147.

‡ See (3) on pages 25—27, and note † on page 103.

very object of a Free School, and the principle of supporting it, implies a school for the common education of all the children and youth of a school section, the first requisite towards its accomplishment is to provide a house and teacher adequate to that end. To employ a teacher incompetent to teach all the school-going youth of a section, and yet to tax all the inhabitants to pay the salary of such incompetent teacher, is manifestly unjust. Trustees should, therefore, upon the ground of justice to all school-rate payers, as well as from regard to the interests of their children, employ none but a highly competent teacher, when it is determined to have a free school. A good school and a free school should be convertible terms; as should an able teacher and a teacher of a free school. Then will the quality and character of instruction be as much advanced, as the number of pupils will be multiplied, with the establishment of every free school.—[*Chief Superintendent's Circular, August, 1850.*]

* * * * *

(4) *Maximum Rate-bill.*

By the *one hundred and twenty-fifth* section of the Upper Canada Consolidated Common School Act [page 107], no rate-bill can be imposed exceeding *one shilling and three pence* per month for each pupil attending school.* All other expenses of each school must be provided for by voluntary subscription, or rate on property. Reducing the maximum of all school rate-bills to *one shilling and three pence* per month for each pupil, is the next thing to establishing free schools throughout Upper Canada; and all the hitherto agitating questions at school meetings, as to the mode of providing for the support of schools, are now narrowed down to the simple question as to whether a rate-bill of *one shilling and three pence*—or less, or nothing—per month for each pupil shall be imposed. This provision will largely increase the attendance of pupils at school, as no parent will now keep his children from school for fear of a heavy rate-bill; it will vastly lessen the topics and causes of differences and disputes at school meetings; it will render the duties of trustees more simple and easy to discharge, and the salaries of school teachers more uniform and secure. The real design of this noble provision of the law, and the legitimate inference from it, ought never to be forgotten by trustees. A law providing that a school should be supported wholly or mostly by the property of all, could not have been exacted, except with a design that a teacher should be employed who is qualified to teach the children of all—that is, the several branches of an English education to all persons of school age residing in the section. If each man contributes, according to his property, to support a school, each man's child has a right to be taught in such school. Should trustees employ a teacher (for the sake of getting a "cheap" one) who is not qualified to teach all the children of their section the subjects required to be taught in common schools, they would virtually exclude a portion of the children of their section from the benefits of the school, they would abuse the principles and pervert the great objects of the free school system:—they would, I am inclined to think, render themselves liable to a fine for neglect of duty, and to a prosecution for damages on the part of parents of children deprived of the advantages of the school in consequence of the incompetence of the teacher employed. All trustees should bear in mind, that the principle of free schools aims as much to improve the quality of teaching and to elevate the character of the school, as it does to render them accessible, without let or hindrance, to all the children of the land. * * *

(5) *Rates on the Lands of Absentees.*

While the *thirty-third* section of the Upper Canada Consolidated Common School Act [page 49] secures to each school section the benefit of all the taxable property situated within its limits, the *one hundred and twenty-seventh* section [page 108] provides a prompt and easy mode of securing the payment of all school-rates on the lands of absentees. These two provisions will be of great advantage to a large proportion of the school sections throughout Upper Canada.

*Payable in advance, see page 36.

(6) *Rates for Sites and School-houses.*

The *twelfth* clause of the *twenty-seventh* section of the Upper Canada Consolidated Common School Act [page 36], invests the trustees of each school section with the same authority to assess and collect rates for the purpose of purchasing school sites and the erection of school-houses, as they are invested with by law to assess and collect for other school purposes; so that the trustees need not, unless they choose to do so, apply to a municipal council for any purpose whatever, except in reference to the boundaries of their school section; nor has any municipal council a right to interfere in the affairs of a school section (except in altering its boundaries), unless at the request of such section, made through its trustees.

(7) *Limitation in the powers of Trustees.*

There are but two particulars in which the powers of trustees are limited. 1. They cannot change the present school site, or select a new one, without calling a public meeting of their section to consider it. [See the *thirtieth* section of the School Act, page 45.] 2. They must also consult the annual or a special meeting of their section, as to whether a rate bill (of *twenty-five cents*, or less, per month, for each pupil) should be imposed or not [pages 13 and 33]. The selection of a new school site does not often occur: the decision as to the rate-bill is annual, and should be made at the annual school section meeting. With this single exception—and it is reduced to a simple question of a small monthly rate-bill—the management of all the affairs of each school section belongs wholly to the trustees as the elective representatives of such section. They, and they only, are authorized by law to determine the sum or sums that shall be raised, and when and how paid, for all school purposes—whether for the procuring of a school site; the erection, repairs, or furnishing of a school house; the payment of a teacher; the purchase of apparatus, text-books, maps, library-books, or for any other school purpose whatever.

The office of school trustee being now one of great power, as well as of responsibility, I trust that you will earnestly labour to fulfil its high objects, and thus become instruments of unspeakable good to the rising generations of our country.—[Ibid. June, 1852.]

3. *Duties of Local Superintendents.*

Extracts from the Chief Superintendent's Circular to Local Superintendents, dated August, 1850.

(1) *The Local Inspection of Schools.—Pages 85—87.*

To perform this duty with any degree of efficiency, a local superintendent should be acquainted with the best modes of teaching every department of an English school, and be able to explain and exemplify them. It is, of course, the local superintendent's duty to witness the modes of teaching adopted by the teacher, but he should do something more. He should, some part of the time, be an actor as well as spectator. To do so he must keep pace with the progress of the science of teaching. Every man who has to do with schools, ought to make himself master of the best modes of conducting them in all the details of arrangement, instruction, and discipline. A man commits a wrong against teachers, against children, and against the interests of school education, who seeks the office of local superintendent without being qualified and able to fulfil all its functions. In respect to the manner of performing the visitorial part of your duties, I have nothing material to add to the suggestions which I made in my circular to local superintendents of schools in December, 1846. They are as follows:

“Your own inspection of the schools must be chiefly relied upon as the basis of your judgment, and the source of your information, as to the character and methods of school instruction, discipline, management, accommodations, &c.: and on this subject we ought not to content ourselves with exterior and general facts.
* * * But it is not of less importance to know the interior regime of the

schools—the aptitude, the zeal, the deportment of the teachers—their relations with the pupils, the trustees and the neighbourhood—the progress and attainments of the pupils, and, in a word, the whole moral and social character and results of the instruction given, as far as can be ascertained. Such information cannot be acquired from reports and statistical tables; it can only be obtained by special visits, and by personal conversation and observation—by an examination of the several classes, in their different branches of study; so as to enable you to ascertain the degree and efficiency of the instruction imparted.

(2) *Spirit of the Law in regard to the office of Superintendent.*

It remains with each incumbent to say whether the spirit and intentions of the law shall be fulfilled within his jurisdiction, as far as depends on the performance of the duties of his office. The act has been passed by the Legislature in the spirit of a generous nationality; the spirit of patriotism prevailed over the selfishness of party during the parliamentary deliberation on this subject. The Government duly appreciated the wants and interests of the whole country, in the preparation of the measure, and all parties in the Legislature cordially responded to it. In the same non-party and national spirit, I hope to see the law administered * * * In a "*Digest of the Common School System of the State of New York*," published in 1844, by the Député, under the auspices of the State Superintendent of schools, I find the following remarks, which I commend to your serious attention:—

"As the usefulness of local superintendents will depend mainly on the influence they shall be able to exercise upon the officers and teachers of schools, and upon parents and the inhabitants of districts generally, they will endeavour to deserve that influence by their deportment, and studiously to avoid everything which may impair it. Hence it will be indispensable that they should abstain wholly and absolutely from all interference in any local divisions, or in any questions by which the community in any town or district may be agitated; and although they cannot be expected to abandon their political sentiments, yet it is obvious that any participation in measures to promote the success of any political party, will not only diminish their influence and impair their usefulness, by exciting suspicion of the objects of their movements and measures, but will expose the office they hold to a vindictive hostility, that will not cease until it is abolished. The intelligence of our people will not tolerate the idea of the agents of public instruction becoming the emissaries of partizan management."

The conviction expressed in the concluding sentences of this quotation has been painfully realized. As party politics ran high, it was found that the appointments of local superintendents were made, to a considerable extent, in the spirit of political partizanship, and the influence of the office was frequently employed for partizan purposes. A clamour was soon raised against the office itself, which resulted in its abolition in 1847. Great efforts have been subsequently made, by the State Superintendent and other experienced educationists, to restore the office of county (but not of township) superintendent, and place it on a better footing than heretofore. These facts are admonitory. A man's qualifications, irrespective of sect or party, should influence his appointment to the office; but when once appointed, and during his continuance in office, he should act in the spirit of impartiality and kindness towards all persuasions and parties. This has been the avowal of the Government, and the sense of the Legislature in regard to the office and duties of the Chief Superintendent; and I think it was equally understood and intended, that no tinge of partizanship should attach to the supervision of schools, even in the remotest township of the province. The spirit of the vow made by the Prussian school counsellor DINTER, should imbue the heart of every school officer in Upper Canada:—"I promised God that I would look upon every Prussian peasant child as a being who could complain of me before God, if I did not provide him the best education, as a man and a Christian, which it was possible for me to provide."

4. Duties of County Councils.—(Pages 61-65.)

Extracts from the Chief Superintendent's Circular to County Councils dated July, 1850.

(1) *Appointment of Local Superintendents—Page 68.*

A most important duty which the new School Act devolves upon the County Council, is the annual appointment of Local Superintendent of schools. * * *

The School Act gives to each council authority to appoint a school superintendent for each township, or for two, three, or four townships, or for a county, provided it does not contain more than one hundred schools.* In some municipalities, where the duties of the office have been very imperfectly discharged, doubts are entertained by many persons as to the utility of the office at all; but this is not the case where the office is filled with ability, diligence and skill; and school countries are unanimous in their judgment and practice as to the vast importance of an efficient local inspection and supervision of schools. * * *

The School Act imposing upon a local superintendent not only miscellaneous duties which require judgment and knowledge of men and things, but a visitatorial examination of each school and a lecture on education in each school section once a year, and the examination of teachers for the schools [pages 86, 87, 89], the county council should spare no pains to search out and appoint men as local superintendents who will command public attention as lecturers, who understand the true principles of school organization and the improved modes of school teaching, who will do justice to the great interests entrusted to them, by their examinations of teachers, their visitations of schools, and their patriotic exertions to diffuse sound education and knowledge as widely as possible. I doubt not each county council will respond to the spirit of the New York State Superintendent of schools, when he says, "It is fervently hoped that in every election hereafter to be made of a local superintendent the most competent individual, without reference to sect or party, will be selected. On such a subject, where the good of their children is at stake, men should dismiss their narrow prejudices, and tear in sunder the shackles of party. They should consult only the greatest good of the greatest number of the rising generation. They should direct their preferences to those only who are the ardent friends of youthful progress—to those only, the smoke of whose incense offered in this holy cause, daily ascends to heaven; whose lips have been touched with a burning coal from the altar."

(2) *Spirit of the School Law—Non-political.*

As the selection to the office of local superintendent of schools should be made upon the sole ground of personal qualification and character, and irrespective of party considerations, so should the duties of the office be performed in the same spirit. During the recent discussion in the Legislative Assembly on the School Bill, it was averred on all sides that the office of Chief Superintendent of Education was, and should be non political—that whatever might have been the political opinions of the incumbent, or his mode of advocating them, previously to his appointment to office, as in the case of a judge, he should take no part in party political questions during his continuance in office. On this principle I have sacredly acted since my appointment to office, as was admitted in gratifying terms by all parties in the discussion referred to; and I think the same principle should be insisted upon by every county council in respect to each local superintendent of schools, and should be faithfully acted upon by every person filling that important office, thus making it equally confided in by all classes of the community. I am sure every municipal council in Upper Canada will agree with me, that the entire superintendence of the school system, in all its parts and applications,

* In the important States of New York and Pennsylvania, county superintendents have been preferred to township superintendents, and it has been enacted by the Legislature of Pennsylvania that county superintendents alone shall be appointed. [See last paragraph, No. (2), on page 139]

should be perfectly free from the spirit or tinge of political partizanship—that its influence, like the genial light and warmth of the sun, should be employed for the equal benefit of all, without regard to party, sect, or colour. * * * *

The spirit in which the provisions of the new School Act have been, generally speaking, discussed and adopted in the Legislature, I regard as an omen for the good of our country, and worthy of imitation in all municipal and local school proceedings throughout Upper Canada. Party differences were not permitted to mar this great measure for the education of the people; and although there were individual differences of opinion among men of different parties as to some details of the Bill, yet men of all parties united in the support of its general principles, and in an earnest desire and effort to render it as perfect as possible in all its provisions. I hope that no party spirit will be permitted to impair the efficiency of its administration in any municipal council, public meeting or corporation. In the great work of providing for the education of the young, let partizanship and sectarianism be forgotten; and all acting as Christians and patriots, let us each endeavour to leave our country better than we found it, and stamp upon the whole rising and coming generations of Canada, the principles and spirit of an active, a practical, a generous and Christian intelligence.

5. Duties of Township Councils.—(Pages 48-61.)

(*Extracts from the Chief Superintendent's Circular, dated August, 1853.*)

(1) Authority to levy School Section Assessments—Page 50.

The authority and duty of the Township Council to levy assessments on certain conditions for the purchase of school sites, the erection of school houses, and other common school purposes, are so plainly stated in the *thirty-fourth* and the following sections as to require no other remark than this—that the inhabitants of each school section ought certainly to be the judges as to assessments levied upon them for the school purposes of their own section, and their wishes should be carried into effect without regard to the opinions of any person not belonging to their section; and as the councillors are the proper representatives of the township or township affairs, so should the trustees of each school section (or a majority of them) be regarded as the representatives of such section in its school affairs. Such are the true principles involved in this clause of the Act. * * * *

(2) Formation and alteration of School Sections—Pages 54-58.

The formation and alteration of school sections is a duty, on the judicious performance of which the efficiency of the schools greatly depends. The conditions and precautions provided in the new Act relative to the time and manner of making changes in the limits of school sections, will prevent the recurrence of the evils which have been experienced and the complaints which have been frequently made on this subject, and afford due protection to all parties affected by such changes. I know not that I can add anything on this point to the remarks which I made in my first circular addressed to the heads of Municipal Councils, in October, 1846. Subsequent experience has only confirmed me in the correctness and importance of those remarks:—

“ Much—very much—in respect to the efficiency of common schools depends upon the manner in which school sections are formed or altered. The tendency is to form small school sections; each parent is anxious to have the school house as close to his own door as possible. But the evil of forming small school sections is as great as the local tendency is strong. I have been much impressed with the magnitude of this evil by the reports of school Superintendents and Inspectors in the States of Massachusetts and New York—countries similarly situated to our own, and whose experience on this important subject is highly valuable to us. They represent that the efficiency and usefulness of their schools has been greatly retarded by the unwise multiplication of school sections—thus multiplying feeble and inefficient schools, &c., subdividing the resources of the inhabitants, so as to put it out of their power to build proper school-houses, or support competent

teachers without incurring a burden, which they are unwilling, if not unable to bear. The same documents also contain many curious statistics, proving that on an average, the punctual attendance or proficiency of pupils residing from *one to two miles* from the school far exceeds that of those pupils who reside within a less distance. The purport of these statements is to show, that proximity to the school is not essential either to the punctual attendance or to the proficiency of pupils. The managers of common school education in these States have of late years directed their particular attention to prevent and remedy this evil of small school sections; and they detail many examples of beneficial success. Some of the advantages of large school sections are, the lessening of the burden, upon each inhabitant, in establishing and supporting the schools; the erection of better buildings; and the procuring of greater conveniences for instruction; the employment of better teachers, and, therefore, the benefit of better education for youth. The subject is, therefore, submitted to the grave consideration of the Council, whenever the exercise of this part of its powers may be required."

(3) *General Remarks.*

I trust that each township council will do honor to its important position in this great work of the country's education and by the united and individual example of its members speedily succeed in rendering a good school accessible to every child in the municipality. I believe the present School Act furnishes greater facilities than any preceding one for the accomplishment of this object;—a party, a selfish, a slothful spirit alone can defeat it.—The Forms for Township Councils will be found in their proper place.

6. Duties of County Boards of Public Instruction.—(Page 92.)

From the Regulations and the Circular of the Chief Superintendent of Education, October, 1850.

1) *Qualifications of Candidates.*—Page 93.

On the fidelity and ability with which County Boards of Public Instruction fulfil the functions assigned to them in the *ninety-eighth* section of the Upper Canada Common School Act, [page 93,] depend the character and the efficiency of the schools as affected by the character and qualifications of the teachers. Much has been said about incompetent trustees, and their employment of incompetent teachers; but trustees cannot employ *such* teachers by means of the school fund, unless *such* teachers are licensed to teach. It therefore remains with the County Boards (chiefly with the Local Superintendents) to say whether a penny of the school fund shall be misapplied in payment of any intemperate, immoral, or incompetent teacher. In giving certificates of qualification, county boards should not, therefore, regard individual applicants, but the interests of youth—the destinies of the rising and future generations of the country. * * * *

(2) *Moral Character of Candidates.*—Page 95.

But the first, and perhaps most important duty which devolves upon you, is that which precedes an examination into the intellectual qualifications of candidates. The law expressly declares, that "no certificate of qualification shall be given to any person as a teacher who shall not furnish satisfactory proof of good moral character." This is a vital point on which you are called to pass a conscientious and impartial judgment, before you admit any candidate to the examination. The law of the land thus makes you the moral guardian of the children and youth of your respective counties, as far as depends upon the moral character of their teachers, the same as the Divine law makes you the guardians of your own children; and you should certainly license no character to teach the former, whom you would not permit to teach the latter. Many representations have been made to this Department respecting intemperate, and profane, and Sabbath-breaking teachers. To what extent these representations are well founded, is not for me to say. But when so many parties have been *individually* authorized to license

teachers, it were not surprising if isolated *individual* firmness should be overcome by the importunity of a candidate in some instances backed by the request of inconsiderate trustees. Now, however, you meet in council; the candidates come before you on common ground; you judge of the "moral character" of each by a common rule; you are less liable to those plaintive appeals and pleas which have so often been pressed upon the feelings of individual Superintendents and visitors. I cannot but regard it as your special mission to rid the profession of common school teaching of unworthy characters and of wholly incompetent persons, to protect the youth against the poison of a vicious teacher's example, and to lay the foundation for greatly elevating the profession of school teaching, and greatly increasing the efficiency and usefulness of common schools. The moral character of teachers involves the deepest interests of our offspring, and the widest destinies of our country. No lax expediency or false delicacy should be permitted to endorse a person of irregular habits or doubtful morals as a "good moral character," and let him loose upon society, authorized and certified as a duly qualified teacher of its youth. I am sure you will agree with me, that your certificate should state what you believe to be strictly true, and therefore be a guarantee to trustees of schools and parents of children, in regard to the moral character and intellectual qualifications of every teacher whom you shall license.

(3) *General Remarks.*

No branch of a system of public instruction has ever been brought into operation in any country without much anxious toil; and the efficient commencement of this most important and too long neglected department of our school system, will require no inconsiderable labor, and much patient and earnest purpose, to promote the welfare of the rising generation. The more serious and difficult part of the task will soon be accomplished, while the results cannot fail to be extensively beneficial, alike upon the application, the aspirations, and improvement of teachers, the character of the schools, and the progress and interests of the pupils.

[*The programme of Examination and Form of Certificate will be found on pages 93 and 94.*]

7. Duties of School Visitors.—(Page 96)

1. The *one hundredth* section of the Upper Canada Consolidated Common School Act, (page 96,) provides that all clergymen recognized by law, of whatever denomination, judges, members of the Legislature, magistrates, members of county councils, and aldermen, shall be school visitors; and the *one hundred and first* section, (page 96,) prescribes their lawful duties.

2. The parties thus authorized to act as visitors, have it in their power to exert an immense influence in elevating the character and promoting the efficiency of the schools, by identifying themselves with them, by visiting them, encouraging the pupils, aiding and counselling teachers, and impressing upon parents their interests and duties in the education of their offspring. In visiting schools, however, visitors should, in no instance, speak disparagingly of the instructions or management of the teacher in the presence of the pupils; but if they think it necessary to give any advice to the teacher, they should do it privately. They are also desired to communicate to the local or Chief Superintendent anything which they shall think important to the interests of any school visited by them. The law recommends visitors "*to attend the Quarterly Examinations of the schools.*" It is hoped that all visitors will feel it both a duty and a privilege to aid, on such occasions, by their presence and influence. While it is competent to a visitor to engage in any exercises which shall not be objected to by the authorities of the school, it is expected that no visitor will introduce, on any such occasion, anything calculated to wound or give offence to the feelings of any class of his fellow Christians.

3. The local superintendents are school visitors, by virtue of their office, and their comprehensive duties, as such, are stated with sufficient minuteness in the *ninety first* section of the Upper Canada Consolidated Common School Act, (pages

84-91.) While each local superintendent makes the careful inquiries and examinations required by law, and gives privately to the teacher and trustees such advice as he may deem expedient, and such counsel and encouragement to the pupils, as circumstances may suggest, he will exhibit a courteous and conciliatory conduct towards all persons with whom he is to communicate, and pursue such a line of conduct as will tend to uphold the just influence and authority both of trustees and teachers. (See also page 138.)

4. Too strong a recommendation cannot be given to the establishment of circulating libraries in the various townships and school sections. A township library, with auxiliaries in each school section, might, by means of a comparatively small sum, supply popular and useful reading for the young people of a whole township. It is submitted to the serious attention of all school visitors, as well as trustees, and other friends of the diffusion of useful knowledge. See Part III. below, and the departmental notices on page 147.

PART III.—PROVISIONS OF THE LAW RELATING TO PUBLIC SCHOOL LIBRARIES IN UPPER CANADA.*

"Township and County Libraries are becoming the crown and glory of the Institutions of the Province."—*Lord Elgin at the Provincial Exhibition, Sept., 1854.*

It has been thought advisable to collect and arrange the general provisions of the law relating to the establishment of public school libraries. The accompanying selection has therefore been prepared for the information and guidance of all parties concerned or interested in the promotion of libraries in townships and school sections in Upper Canada.

1. City and Town Municipal Councils.

The *sixtieth* section of the Consolidated Common School Act of Upper Canada (page 65), provides that the Municipal Council of each city, town, or village in Upper Canada is hereby invested, within its limits, with the same powers, and shall be subject to the same obligations as are the municipal council of each county and township, [in regard to libraries, as follows]:—

2. County Municipal Councils.

The *fifty second* section (page 63), enacts that each county council shall raise by assessment, such sums of money as it may judge expedient for the establishment and maintenance of a county common school library.

3. Township Municipal Councils.

The *thirty-fourth* section (page 50), enacts that township councils may levy such sums as they judge expedient for purchasing books for a township library, under such regulations as may be provided in that behalf.

4. Trustees of Rural School Sections.

The *twenty-seventh* section of the Consolidated Common School Act, (page 41), makes it the duty of Trustees * * * (19) To appoint a Librarian, and to take such steps authorized by law as they may judge expedient, for the establishment, safe keeping, and proper management of a school library in their section, whenever provision has been made and carried into effect for the establishment of school libraries.

5. Boards of School Trustees in Cities, Towns, and Villages.

The *seventy-ninth* section of the same act, (pages 47, 48), provides that "It shall be the duty of the Board of School Trustees of every city, town and village respectively. * * *

* For Library Regulations, see "Library Manual."

(7) To do whatever they may judge expedient * * * for establishing and maintaining school libraries.

(11) To prepare from time to time and lay before the municipal council of the city, town, or village, an estimate of the sums which they think requisite. * *

(e) For the establishment and maintenance of school libraries.*

(15) * * * to appoint a librarian to take charge of school library or libraries when established.

6. School Visitors.

The *one hundred and second* section (page 96), enacts that school visitors may devise such means as they deem expedient for promoting the establishment of libraries and the diffusion of useful knowledge.

7. Boards of Public Instruction.

The *second* clause of the *ninety eighth* section (page 93), empowers county boards of public instruction to adopt all lawful means in their power, as they may judge expedient, to promote the establishment of school libraries, and to diffuse useful knowledge in the county or circuit.

8. Local Superintendents.

The *twelfth* clause of the *ninety-first* section, sub-clause (*f*), (page 91), enacts that it shall be the duty of each local superintendent to prepare and transmit to the Chief Superintendent of Education an annual report, which shall state the number of libraries under his superintendence; their extent, and how established and supported.

9. Public Bodies which can Establish School Libraries.

From the foregoing extracts from the school law, it will be seen that the following municipalities and school corporations are authorized to provide means for the establishment and support of public school libraries in Upper Canada:†

1. County, City, Town, Township, and Village Councils.
2. Boards of School Trustees in cities, towns, and villages.
3. Trustees of Rural School Sections.

10. Duties of School Authorities in regard to School Libraries.

It will also be seen from the above, that it is the official duty and privilege of local superintendents, school visitors, and boards of public instruction, to aid, with their counsel and advice, in the general establishment of Public School Libraries throughout the country.

Where trustees neglect to comply with the library regulations in maintaining the library provided for their section by the municipality, the local superintendent is authorized to withhold the apportionment of the school fund from their section until the regulations are complied with. They likewise subject themselves to the additional penalties, by the *twenty third* and *thirty first* sections of the Consolidated Common School Act of Upper Canada (See pages 18, 48). The property of every public library is exempt from taxation *One hundred per cent.* is allowed by the Chief Superintendent on all sums over *five dollars* remitted to the Department, for library books, maps, apparatus, and prize books. See page 147.

11. General Principles on which Books have been selected for the Public Libraries.

Extracted from the Minutes of the Council of Public Instruction, 2nd August, 1858.

The Council of Public Instruction for Upper Canada deems it proper to state its principles of proceeding, in performing the important and responsible task of selecting books for these Public School Libraries:

* The Board may also raise this money themselves by a direct tax.

† See Departmental Notices, on page 147.

1. The Council regards it as imperative, that no works of a licentious, vicious, or immoral tendency, and no works hostile to the Christian religion, should be admitted into the libraries.

2. Nor is it, in the opinion of the Council, compatible with the objects of the public school libraries, to introduce into them controversial works on theology, or works of denominational controversy; although it would not be desirable to exclude all historical and other works in which such topics are referred to and discussed; and it is desirable to include a selection of suitable works on the evidences of natural and revealed religion.

3. In regard to books on ecclesiastical history, the Council agrees in a selection from the most approved works on either side.

4. With these exceptions, and within these limitations it is the opinion of the Council that as wide a selection as possible should be made of useful and entertaining books of permanent value, adapted to popular reading, in the various departments of human knowledge—leaving each municipality to consult its own taste and exercise, and use its own discretion in selecting books from the general catalogue.

5. The including of any books in the general catalogue is not to be understood as the expression of any opinion by the Council in regard to any sentiments inculcated or combated in such books, but merely as an acquiescence on the part of the Council in the purchase of such books by any municipality, should it think proper to do so.

6. The general catalogue of books for public school libraries may be modified and enlarged from year to year, as circumstances may suggest, and as suitable new works of value may appear.

N. B.—No book mentioned in the general catalogue will be disposed of to any private individual, or for any other purpose than for that of public libraries in Upper Canada. The only exception which can be made is in favour of teachers and local Superintendents, to whom professional works on teaching and education may be supplied.

12. Remarks on the foregoing, by the Chief Superintendent of Education.

In addition to the recognition of these principles, the Chief Superintendent has deemed it essential, in a national system of public school libraries, to provide for the accomplishment of the following objects:

1. The prevention of the expenditure of any part of the library fund in the purchase and circulation of books having a tendency to subvert public morals or vitiate the public taste.

2. The protection of any local parties from imposition, by interested itinerant book vendors, in regard to both the prices and character of books introduced into their libraries.

3. The placing of the remotest municipalities upon an equal footing with those adjoining the metropolis, in regard to the terms and facilities of procuring books, with the single exception of their transmission—which is now becoming safe and easy to all parts of Upper Canada.

4. The selection, procuring, and rendering equally acceptable to all the school municipalities of the land, a large variety of attractive and instructive reading books, and that upon the most economical and advantageous terms.

5. The removal of restrictions upon local exertion, either as to the sums raised or the manner of raising them, whether in a school section, or township, or county, and the encouragement of such exertions, by proportioning in all cases the amount of public aid to the amount raised by local effort.

PART IV.—DEPARTMENTAL NOTICES.

1. Public Library Books, School Maps, &c. &c.

The Chief Superintendent will add *one hundred per cent.* to any sum or sums *not less than five dollars*, transmitted to the Department by Municipal and School Corporations, on behalf of Grammar, Common, and Separate Schools; and forward Public Library Books, Prize Books, Maps, Apparatus, Charts, and Diagrams, to the value of the amount thus augmented, upon receiving a list of the articles required. In all cases it will be necessary for any person acting on behalf of the Municipal or Trustee Corporation, to enclose or present a written authority to do so, verified by the Corporate seal of the Corporation. A selection of Maps, Apparatus, Library and Prize Books, &c., to be sent, can always be made by the Department, when so desired.

☞ Catalogues and Forms of Application furnished to School authorities on their application.

Form of Application for Public Library Books, Maps, Apparatus, School Prize Books, &c.

_____ [Insert Post Office Address here].

SIR,—The [Trustees, or Board of Trustees, if in Towns, &c.] of the _____ school being anxious to provide [Maps, Library Books, or Prize Books, &c.] for the public schools in the [Section, Town, or Village, &c.] hereby make application for the _____, &c., enumerated in the accompanying list, in terms of the Departmental Notice relating to _____ for public schools. The _____ selected are *bona fide* for the _____; and the CORPORATION HEREBY PLEDGES ITSELF not to give or dispose of them, nor permit them to be given or disposed of, to the teacher or to any private party, OR FOR ANY PRIVATE PURPOSE WHATSOEVER, but to apply them solely to the purposes above specified in the schools of the _____ in terms of the Departmental Regulations granting one hundred per cent. on the present remittance. The parcel is to be sent to the _____ Station of the _____ Railway, addressed to _____.

IN TESTIMONY WHEREOF, the Corporation above named, hereto affixes its corporate seal to this application, by the hand of _____,* this _____ day of _____, 186—.

Amount remitted, \$_____.

| | | | |
|--|---|--|---|
| Trustees must sign their own names. | } | | } Corporate seal to be placed here. |
| | | | |
| | | | |

To the Chief Superintendent of Education, Toronto.

NOTE.—Before the trustees can be supplied, it will be necessary for them to have filled up, signed, and sealed WITH A PROPER CORPORATE SEAL, as directed, a copy of the foregoing Form of Application. On its receipt at the Education Office, the *one hundred per cent.* will be added to the remittance, and the order, so far as the stock in the Depository will permit, made up and despatched. Should the trustees have no proper corporate seal, the Department will, on the receipt of \$2 additional, have one engraved and sent with the articles ordered.

* * If Library and Prize Books be ordered, in addition to Maps and Apparatus, it will be NECESSARY FOR THE TRUSTEES TO SEND NOT LESS THAN *five dollars additional* for each class of books, &c., with the proper forms of application.

The *one hundred per cent.* will not be allowed on any sum less than *five dollars*. Text books cannot be furnished on the terms mentioned above; they must be paid for in full, at the net catalogue prices.

* The Trustees of the Section: Chairman and Secretary of the Board of City, Town, or Village Trustees; Warden, Mayor, or Reeve.

ASSORTED PRIZE BOOKS IN PACKAGES.

Selected by the Department, for Grammar or Common Schools, from the Catalogue, in assorted packages, as follows :

| | | | |
|----------------|------------------|----------------------------|-------|
| Package No. 1. | Books and Cards, | 5cts. to 70cts. each..... | \$10 |
| " No. 2. | Ditto ditto | 5cts. to \$1.00 each..... | \$16 |
| " No. 3. | Ditto ditto | 5cts. to \$1.25 each..... | \$20 |
| " No. 4. | Ditto ditto | 10cts. to \$1.50 each..... | \$26 |
| " No. 5. | Ditto ditto | 10cts. to \$1.75 each..... | \$30 |
| " No. 6. | Ditto ditto | 10cts. to \$2.00 each..... | \$36 |
| " No. 7. | Ditto ditto | 15cts. to \$2.25 each..... | \$40 |
| " No. 8. | Ditto ditto | 15cts. to \$2.50 each..... | \$46 |
| " No. 9. | Ditto ditto | 15cts. to \$2.75 each..... | \$50 |
| " No. 10. | Ditto ditto | 20cts. to \$3.00 each..... | \$56 |
| " No. 11. | Ditto ditto | 20cts. to \$3.25 each..... | \$60 |
| " No. 12. | Ditto ditto | 20cts. to \$3.50 each..... | \$66 |
| " No. 13. | Ditto ditto | 25cts. to \$3.75 each..... | \$70 |
| " No. 14. | Ditto ditto | 55cts. to \$4.00 each..... | \$76 |
| " No. 15. | Ditto ditto | 25cts. to \$4.25 each..... | \$80 |
| " No. 16. | Ditto ditto | 30cts. to \$4.50 each..... | \$86 |
| " No. 17. | Ditto ditto | 30cts. to \$4.75 each..... | \$90 |
| " No. 18. | Ditto ditto | 30cts. to \$5.00 each..... | \$96 |
| " No. 19. | Ditto ditto | 35cts. to \$5.25 each..... | \$100 |
| " No. 20. | Ditto ditto | 35cts. to \$5.50 each..... | \$120 |

Special Prizes, in handsomely bound books, singly at from \$1.05 to \$5.50. In sets of from two to six volumes of Standard Literature, at from \$3.00 to \$10.00 per set. Also Microscopes, Drawing Instruments, Drawing Books, Classical Texts, Atlases, Dictionaries, Small Magic Lanterns, Magnets, Compasses, Cubes, Cones, Blocks, &c.

* * * Trustees are requested to send in their orders for prizes at as early a date as possible, so as to ensure the due despatch of their parcels in time for the examinations, and thus prevent disappointment.

2. School Registers supplied through Local Superintendents.

School Registers are supplied gratuitously, from the Department, to Common and Separate School Trustees in Cities, Towns, Villages, and Townships by the County Clerk—through the local Superintendents. Application should therefore be made direct to the local Superintendents for them, and not to the Department. Those for Grammar Schools have also been sent to the County Clerk, and will be supplied direct to the head Masters, upon application to the Clerk.

3. Postage Regulation in regard to School Returns.

All official returns which are required by law to be forwarded to the Chief Superintendent, or a Local Superintendent, and which are made upon the printed blank forms furnished by the Educational Department, *must be pre-paid*, at the rate of one cent, and be open to inspection, so as to entitle them to pass through the post as printed papers. No letters should be enclosed with such returns. A neglect to observe this regulation, has repeatedly subjected this Department to an unnecessary charge of 14 cts. and 21 cts. on each package, including the Post-office fine of nearly *fifty per cent.* for non-payment.

PART V.—DEPARTMENT OF PUBLIC INSTRUCTION FOR UPPER CANADA.

1. Education Office.

APPOINTED.

HEAD OF THE DEPARTMENT.

1844. The Rev. EGERTON RYERSON, D.D., LL.D., Chief Superintendent of Education

Officers of the Department.

1844. John George Hodgins, LL.B., F.R.G.S., Deputy Superintendent of Education, and Editor of the *Journal of Education* for U.C.

1854. Alexander Marling, LL.B., Senior Clerk and Accountant.

1852. Alexander Johnstone Williamson, M.D., Clerk of Correspondence.

1856. Francis Joseph Taylor, Clerk of Statistics.

1859. John T. R. Stinson, Assistant Clerk of Statistics.

1863. John Widmer Rolph, Extra Assistant Clerk.

1858. James Moore, Messenger.

Map and Library Depositories Branch.

1853. Samuel Passmore May, M.D., Clerk of Libraries.

1863. William H. Atkinson, Depository Salesman.

1861. Edward Bidwell Cope, Assistant ditto.

1857. Christopher Alderson, Packer and Messenger.

2. Council of Public Instruction.

1846. Hon. Samuel Bealy Harrison, Q.C., *Chairman*, (Church of England.)

1846. Rev. Egerton Ryerson, D.D., Chief Superintendent of Education.

1863. Right Rev. John Joseph Lynch, D.D., Roman Catholic Bishop of Toronto.

1846. Rev. Henry James Grasett, B.D., Rector of Toronto.

1846. Hon. Mr. Justice Morrison, Presbyterian Church of Canada.

1846. James Scott Howard, Esq., Church of England.

1850. Rev. John Jennings, D.D., United Presbyterian Church.

1850. Rev. Adam Lillie, D.D., Congregational College of B. N. America.

1857. Rev. John Barclay, D.D., Church of Scotland.

1854. Rev. John McCaul, LL.D., President of University College, and the Presidents of the other Colleges affiliated to the University of Toronto. *Ex-Officio members for Grammar School purposes.*

1846. John George Hodgins, LL.B., *Recording Clerk.*

Inspector of Grammar Schools.

(Vacant.)

Normal School.

1847. Thomas Jaffray Robertson, M.A., Head Master.

1858. John Herbert Sangster, M.A., Second Master.

1861. Henry Gordon Stachan, Teacher of Book-keeping and Writing.

1864. William Armstrong, C.E., Drawing Master.

1858. Henry Francis Sefton, Music Master.

1852. Henry Goodwin, Teacher of Gymnastics and Calisthenics.

Boys' Model Common School.

1858. James Carlyle, Master of the School.

1858. John Clark Disher, First Assistant.

1859. Alexander Campbell, Second Assistant.

Girls' Model Common School,

1852. Dorcas Clark, Mistress of the School.

1862. Mary Adams, First Assistant.

1862. Sarah Clark, Second Assistant.

In the Model Schools, Writing and Book-keeping, Drawing, Music, Gymnastics and Calisthenics are taught by the masters of these branches in the Normal School, which see.

1848. John Murphy, Janitor of Normal and Model Schools.

1852. James Ryan, Messenger and Furnaceman.

1855. James Forsyth, Gardener.

1856. Thomas Gray, Furnaceman and Messenger.

3. Communications to the Department of Public Instruction for Upper Canada.

For Regulation on this subject, see page 100.

4. Documents Furnished Annually by the Educational Department to the School Officers of Upper Canada.

The following are furnished gratuitously by the Educational Department of Upper Canada to various school officers, viz. :—

1. The *Journal of Education for Upper Canada* is sent monthly to each of the Trustee Corporations in the rural school sections; to the Boards of Grammar and Common School Trustees; to the Local Superintendents; to the Trustees of each of the Separate Schools, and to each County Clerk and Treasurer, Exchanges, &c., &c. Total 5,000 copies.

The *Journal* has been constituted the official medium of communicating all Departmental intelligence. (See page 40.) It is regularly sent by the publisher, about the first of each month, to the official address of the parties above enumerated. Should they fail in any case to receive it, immediate notification of the fact should be sent to the Education Office. Missing numbers can generally be supplied. To the public the price is \$1 per annum—payable in advance. Back volumes, since 1848 (the first year of its existence) can be furnished on the same terms.

2. The *School Registers*, for recording the attendance, recitations, and deportment of pupils, are furnished to each of the Grammar and Common Schools, and to the Separate Schools in Upper Canada. Total about 4,500 copies. The Registers are sent annually to the County Clerks, for gratuitous distribution, through the Local Superintendents.—See page 77.

3. The *Trustees' Half yearly Reports* are sent every six months, through the Local Superintendents, to the Trustees of each School Section. (See page 42.) Those for the Grammar Schools and Roman Catholic Separate Schools, are sent direct from the Department. Total sent out annually, 9,500 copies.

4. The *Trustees' Blank Annual Reports* are annually sent through the Local Superintendents, to each of the Trustee Corporations in the rural school sections. (See page 42.) Total about 4,500 copies.

5. The *Blank Annual Reports*, from which the General Annual Report of the Department is compiled, is sent to the Local Superintendents and Boards of Common School Trustees and Boards of Grammar School Trustees. Total number sent out annually, 600 copies.—See pages 75, 90.

6. *Auditors, Treasurers, and Sub-Treasurers' Returns* are sent to about 450 of these officers, to be filled up and returned.

7. The *Chief Superintendent's Annual Report* to His Excellency the Governor General, printed by order of the House of Assembly, is also sent to each of the rural Trustee Corporations; to Boards of Common School Trustees, in Cities,

Towns and Villages; to Boards of Grammar School Trustees; to Boards of Public Instruction; to Local Superintendents; and to Separate School Trustees, besides copies to other parties. Total number sent out annually, about 4,500.

8. *Various Forms.*—Forms are also sent, from time to time, to Superannuated Teachers, Trustees (for Maps, Prizes, &c.) Normal School Students, &c. About 800 copies.

5. Letters received and sent out by the Department.

| | 1852. | 1853. | 1854 | 1855. | 1856. | 1857. | 1858 | 1859. | 1860. | 1861 | 1862. | 1863. |
|---------------------------|-------|-------|------|-------|-------|-------|------|-------|-------|------|-------|-------|
| No. of letters received.. | 2996 | 4015 | 4920 | 5338 | 5739 | 6294 | 6431 | 6468 | 7121 | 7215 | 6495 | 6365 |
| Average No. per week.. | 57 | 77 | 95 | 102 | 110 | 121 | 124 | 125 | 137 | 138 | 126 | 122 |
| No. of letters sent out.. | 1430 | 1936 | 2581 | 3764 | 3966 | 3542 | 4627 | 5823 | 6015 | 5600 | 4955 | 5054 |
| Average No. per week.. | 27 | 37 | 50 | 72 | 77 | 68 | 88 | 112 | 116 | 109 | 95 | 97 |

Recapitulation.—Total number of copies prepared, or printed, and sent out annually from the Educational Department for Upper Canada;

| | Copies. | | Copies. |
|---|---------|---|---------|
| 1. Journal of Education..... | 5,000 | 6. Auditors' and Treasurers' Blank Returns..... | 450 |
| 2. School Registers..... | 4,500 | 7. Chief Superintendent's Report | 4,500 |
| 3. Trustees' Blank Half-yearly Reports..... | 9,500 | 8. Various Forms, about..... | 800 |
| 4. Trustees' Blank Annual Reports | 4,500 | 9. Letters, &c., sent and received | 11,500 |
| 5. Local Superintendents' Blank Annual Reports..... | 600 | 10. Circulars, about..... | 800 |
| | | Grand Total per year..... | 42,150 |

PART VI.—THE EDUCATIONAL MUSEUM FOR UPPER CANADA.

I. Rules for the Admission of Visitors to the Educational Museum, Toronto.

I. The Museum is open daily for Exhibition, Sundays and Holidays excepted, from 9 A.M. until 5 P.M.

II. All persons are freely admitted, upon registering their names in the Visitors' Book at the Education Office.

III. Sticks and Umbrellas to be left in the Visitors' room.

2. Character and Objects of the Museum.

1. This Educational Museum is founded after the example of what is being done by the Imperial Government as a part of the system of popular education—regarding the indirect, as scarcely secondary to the direct, means of training the minds and forming the taste and character of the people. It consists of a collection of school apparatus for Common and Grammar Schools, of Models of Agricultural and other implements, of specimens of the Natural History of the Country, Casts of Antique and Modern Statues and Busts, &c., selected from the principal Museums of Europe, including busts of some of the most celebrated characters in English and French History; also copies of some of the works of the great Masters of the Dutch, Flemish, Spanish, and especially of the Italian Schools of

Painting. These objects of art are *labelled*, for the information of those who are not familiar with the originals, and a descriptive historical catalogue of them can be purchased at the Museum. In the evidence given before the Select Committee of the British House of Commons, it is justly stated that, "the object of a National Gallery is to improve the public taste, and to afford a more refined description of enjoyment to the mass of the people," and the opinion is at the same time strongly expressed, that as "people of taste going to Italy constantly bring home beautiful modern copies of beautiful originals," it is desirable, even in England, that those who have not the opportunity or means of travelling abroad, should be enabled to see, in the form of an accurate copy, some of the celebrated works of Raffaele and other great masters; an object no less desirable in Canada than in England. What has been thus far done in this branch of public instruction, is in part the result of a small annual sum, which, by the liberality of the Legislature, has been placed at the disposal of the Chief Superintendent of Education, out of the Upper Canada share of the School Grants, for the purpose of improving school architecture and appliances, and to promote arts, science and literature by means of models, objects and publications, collected in a museum in connection with this Department.

3. Principal Contents of the Museum.

2. The Museum contains a large selection of objects of art, models, &c., arranged under the following heads, as detailed in the Report of 1856, page 246 :—

I. SCULPTURE :

1. Antiques.
2. Modern.
3. Architectural.

II. PAINTINGS :

1. Italian School.
2. Flemish School.
3. Dutch School.
4. Miscellaneous Dutch and Flemish.
5. German School.
6. French School.
7. Spanish School.

III. ENGRAVINGS :

1. On Steel and Copper.
2. Lithographs.

IV. WORKS ILLUSTRATING THE HISTORY OF ART, &c. :

1. In French and Italian.
2. In English.

OTHER OBJECTS OF INTEREST :

1. Illustrations of Mediæval History, Figures, in Armour, Weapons, &c.
2. Maps and Plans in Relief.
3. Specimens of Natural History.
4. Geological Specimens.
5. Models of Agricultural Implements.
6. Philosophical Models and School Apparatus.

PART VII.—NORMAL SCHOOL FOR UPPER CANADA.

1. APPLICATION FOR ADMISSION TO THE NORMAL SCHOOL, TORONTO.

Register, No. _____ of the _____ Session 18____.
 TORONTO, _____ 18____.
 DATE.

SIR,

I wish respectfully to apply to you for admission to the Normal School for Upper Canada, in accordance with the accompanying Terms of Admission prescribed by the Council of Public Instruction, and to present herewith a certificate of Moral Character, from the Reverend _____ a Clergyman of the _____ Church, dated the _____ day of _____, 18____.

- I have to state that:—1. I am _____ years of age.
 2. I reside in the _____ of _____ County of _____.
 3. I was born in _____.
 4. I have resided _____ years in Upper Canada.
 5. I am connected as a member or hearer with the _____ Church.
 6. I have been a School Teacher for _____ years.
 7. I hold a _____ class Certificate of Qualification from the County Board of Public Instruction for _____.
 8. My last place of teaching was in School Section No _____, Township of _____.
 9. I attended the Normal School during the _____ Session, ending _____ 18____, and obtained a _____ class Provincial Certificate, No. _____.

I have also to state, that it is my intention to devote myself to the profession of School Teaching, and that my object in coming to the Normal School is to qualify myself better for the important duties of that profession.

If admitted to the Normal School, it will be my study to observe the Rules and Regulations of the Institution,—to be diligent in the performance of my duties,—and, at the end of the Session, to return each of the books granted for my use during the Session. Should I leave the Normal School before the expiration of the Session, I hereby engage to return these books in good order.

I have the honour to be,

Sir,

Your very obedient servant,

SIGN THE NAME IN FULL HERE

To

The Chief Superintendent of Education,
 Education Office,
 Toronto.

The applicant will be very particular to fill up *all* the blanks in this application, either affirmatively or negatively; but not to fill up the blanks on the back of the sheet, or to make any entries thereon. The application is to be presented in person at the opening of the Session.

2. TERMS OF ADMISSION INTO THE NORMAL SCHOOL, TORONTO.

Adopted by the Council of Public Instruction for Upper Canada, on the 23rd of July, 1851, and revised on the 24th of August, 1858, and the 18th of July, 1860.

THE COUNCIL OF PUBLIC INSTRUCTION, anxious to adopt such measures as appear best calculated to render the training of the Normal School as thorough as possible, and to diffuse its advantages over every county in Upper Canada as equally and as widely as possible, adopts the following regulations in regard to the duration of the future Sessions of the Normal School, and the mode and terms of admitting and facilitating the attendance of students at that Institution.

ORDERED, I. That the semi-annual Sessions of the Normal School shall be held as follows: (1) The Winter Session shall commence on the 8th day of January and close on the 22nd day of June. (2) The Autumn Session shall commence on the 8th day of August and close on the 22nd day of December of each year; [and if those days fall upon Sunday, the day following,] each Session to be concluded by an examination conducted by means of written questions and answers, and followed by a vacation as prescribed.

II. That no male student shall be admitted under eighteen years of age, nor a female student under the age of sixteen years. (1) Those admitted must produce a certificate of good moral character, dated within at least three months of its presentation, and signed by the clergyman or minister of the religious persuasion with which they are connected; (2) They must be able, for entrance into the Junior Division, to read with ease and fluency; parse a common prose sentence, according to any recognized authority; write legibly, readily and correctly; give the definitions of Geography; have a general knowledge of the relative positions of the principal countries, with their capitals; the oceans, seas, rivers, and islands of the world; be acquainted with the fundamental rules of arithmetic, common or vulgar fractions, and simple proportion. They must sign a declaration of their intention to devote themselves to the profession of School-teaching, and state that their object in coming to the Normal School is to qualify themselves better for the important duties of that profession.

III. That upon these conditions, candidates for school-teaching shall be admitted to the advantages of the Institution without any charge, either for tuition, the use of the Library, or for the books which they may be required to use in the School.

IV. That the Teachers in training shall board and lodge in the city, in such houses and under such regulations as are approved of by the Council of Public Instruction.

V. That all candidates for admission into the Normal School must present themselves during the *first week* of the Session, otherwise they cannot be admitted; and their continuance in the School is conditional upon their diligence, progress, and observance of the General Regulations prescribed by this Council.

VI. That all communications be addressed to the Reverend Dr. RYERSON, Chief Superintendent of Education, Toronto.

By order of the Council of Public Instruction for Upper Canada.

EDUCATION OFFICE,
Toronto, March, 1864.

N.B.—Board and Lodging, for Students, may be obtained, at Houses approved by the Council of Public Instruction, at from \$2.00 to \$3.50 per week.

3. PROGRAMME OF THE ENTRANCE EXAMINATION AND COURSE OF STUDY IN THE NORMAL SCHOOL FOR UPPER CANADA.
 (Approved by the Council of Public Instruction, on the 24th day of August, 1858.)

| SUBJECTS. | FOR ENTRANCE INTO JUNIOR DIVISION. | FOR SECOND CLASS CERTIFICATE IN JUNIOR DIVISION, OR FOR ENTRANCE TO SENIOR DIVISION. | FOR ORDINARY FIRST CLASS CERTIFICATE IN SENIOR DIVISION. |
|---------------|---|---|---|
| ENGLISH..... | Read with ease and fluency. Parse a common prose sentence according to any recognized authority. | Read prose with correct emphasis, intelligence, and inflexion of voice. Rules of Spelling (spelling-book superseded) General principles of the philosophy of Grammar. Analyse and parse any prose sentence. Principal Greek and Latin Roots, Prefixes and Affixes. Prose Composition on any simple subject, with correct punctuation, &c. | Read Poetry and Oratorical Addresses with fluency and expression—Principles of Reading—Science of Language—General Grammar—Analysis and Parsing of Sentences in Prose and Verse—Changes of construction. Structure of Propositions and Sentences. Etymology—Changes effected in Roots. Correct letter-writing, as regards Composition and mechanical arrangement. Composition on any given subject. History of the Origin and Literature of the English Language. |
| WRITING..... | Write legibly, and readily and correctly. | To write a bold rapid running hand. | |
| GEOGRAPHY... | The definitions — General knowledge of the relative positions of the principal countries, with their capitals—the oceans, seas, rivers, and islands of the world. | The relative positions of all the countries of the world, with their principal cities and physical features, the Islands; Hodgins' Geography of Canada; Mathematical and Physical Geography, as taught in Sullivan's "Geography Generalized." | Use of the Globes—(Keith)—Geography of England, Ireland, Scotland, and the United States—British Colonies (Hodgins)—Rudiments of Physical Geography—(Somerville)—Structure of the Crust of the Earth. |
| HISTORY | None | General History of the World, from the Creation to the present time, as sketched in 5th book of lessons. Chronological Chart. | Histories of England and Canada. Philosophy of History. |

PROGRAMME OF ENTRANCE EXAMINATION, ETC.—(Continued.)

| SUBJECTS. | FOR ENTRANCE INTO JUNIOR DIVISION | FOR SECOND CLASS CERTIFICATE IN JUNIOR DIVISION, OR FOR ENTRANCE TO SENIOR DIVISION. | FOR ORDINARY FIRST CLASS CERTIFICATE IN SENIOR DIVISION. |
|--|--|---|--|
| <p>EDUCATION AND THE ART OF TEACHING.</p> | <p>None</p> | <p>The general principles of the science of Education—General plan of School organization—Practice of teaching as exemplified in Junior divisions of the Model School.</p> | <p>The science of Education applied to the Teaching of Common Schools—Methods of teaching the different branches—Practice thereof with Senior division, Model School—Organization of Central Schools—Dimensions and structure of School-houses—Furniture and Apparatus.</p> |
| <p>*MUSIC</p> | <p>None</p> | <p>Hullah's System.....</p> | <p>Hullah's System.</p> |
| <p>DRAWING</p> | <p>None</p> | <p>None</p> | <p>Facility in making perspective outline sketches of common objects.</p> |
| <p>BOOK-KEEPING..</p> | <p>None</p> | <p>The Rudiments.....</p> | <p>Single and Double Entry.</p> |
| <p>ARITHMETIC AND MENSURATION.</p> | <p>Fundamental Rules, Vulgar Fractions, and Simple Proportion.</p> | <p>Notation, Numeration, Fundamental Rules in different scales of Notation, Greatest Common Measure, Least Common Multiple, Prime Numbers, Fractions, (Vulgar and Decimal,) Proportion (Simple and Compound,) Practice, Percentage (including Simple Interest, Insurance, Brokerage, &c.,) Square and Cube Roots, Mensuration of Surfaces, and Mental Arithmetic.</p> | <p>Review past subjects of Junior Division—Discount, Fellowship, Barter, Equation of Payments, Profit and Loss, Alligation, Compound Interest, Annuities, Position, Progression, Logarithms and Applications, Intellectual Arithmetic, Mensuration of Surfaces and Solids.</p> |

* Not required of those who are naturally disqualified.

PROGRAMME OF ENTRANCE EXAMINATION, ETC.—(Continued.)

| SUBJECTS. | FOR ENTRANCE INTO JUNIOR DIVISION. | FOR SECOND CLASS CERTIFICATE IN JUNIOR DIVISION, OR FOR ENTRANCE TO SENIOR DIVISION. | FOR ORDINARY FIRST CLASS CERTIFICATE IN SENIOR DIVISION. |
|---------------------|------------------------------------|--|---|
| ALGEBRA..... | None | Definitions, Addition, Subtraction, Multiplication and Division. Use of Brackets, Decomposition of Trinomials, Resolution into Factors, Involution, Square of Multinomials, Expansion of $(a + b)^n$, Evolution, Greatest Common Measure, Least Common Multiple, Fractions, Interpretation of Symbols $\frac{a}{0}$, $\frac{0}{a}$, $\frac{0}{0}$ and ∞ , Simple Equations. | Review past subjects of Junior Division, Indices, Surds, Quadratic Equations, Indeterminate Equations, Arithmetical, Geometrical and Harmonical Progression, Ratio, Proportion, Variation, Permutations, Combinations, Binomial Theorem, Notation, Decimals, Interest, &c., Properties of Numbers, Continued Fractions, Exponential Theorem, Logarithms, Algebraic Series, Cubic and Biquadratic Equations. |
| EUCLID..... | None..... | Books I and II with Exercises (Potts). | Books III, IV, VI and Definitions of Book V. Exercises on Six Books (Potts.) |
| NATURAL PHILOSOPHY. | None..... | Properties of Matter, Statics, Hydrostatics, Dynamics, and Hydrodynamics, Human Physiology. | Heat, Light, Electricity, Galvanism, Magnetism, Optics and Acoustics, Vegetable Physiology, General View of Geology. |
| CHEMISTRY.... | None..... | None. | Constitution of Matter, Chemical Nomenclature, Symbols, Laws of Combination, Chemical Affinity, Crystallization, Oxygen, Hydrogen, Nitrogen, Carbon, Sulphur, Phosphorus, Chlorine, Calcium, Aluminium, Silicon, Potassium, Sodium, Iodine, Manganese, Magnesium, Iron, Lead, Fluorine and their principal compounds, Nature of Soils, of Organic Bodies, Germination of the Seed, Development of the Plant, Source of Carbon, Hydrogen and Nitrogen, &c., in Plants, Products of Vegetable growth, Woody Fibre, Gum Starch, Sugar, Gluten, &c., Cultivation of Plants, Composition and Formations of Soils, Mineral Constituents of Plants, Action of Manures, &c. |

4. ADDITIONAL QUALIFICATIONS FOR HONOUR FIRST CLASS PROVINCIAL CERTIFICATE.

- I. Each candidate to have held an ordinary First Class Certificate for one year.
 II. To give evidence of having been a successful teacher.
 III. To stand an examination in the following subjects, in addition to those necessary for an ordinary First Class Certificate, viz. :—
1. English History and Literature.
 2. Canadian History and Geography.
 3. Outlines of Ancient and Modern History and Geography.
 4. Latin Grammar ; and Books IV, V, and VI, of Cæsar's Commentaries.
 5. Outlines of Geography and Astronomy.
 6. Science of Teaching/ School Organization, Management, &c.
 7. Logic, and Mental and Moral Philosophy (Whately and Stewart.)
 8. Algebra—General Theory of Equations, Imaginary Quantities.
 9. Euclid—Books XI and XII.
 10. Trigonometry, as far as Solution of Plane Triangles (Colenso.)
 11. Inorganic Chemistry (Gregory's Hand-Book.)
 12. The principles of Book-Keeping, Music, and Drawing.

Education Office,
 Toronto, September, 1858.

5. LIST OF TEXT-BOOKS USED IN THE NORMAL SCHOOL FOR UPPER CANADA.

(The use of which is gratuitously allowed to Teachers in Training during their attendance at the School)

| | |
|-------------------------------------|---|
| First Book of Lessons, | Sangster's National Arithmetic. |
| Second Book of Lessons. | " Natural Philosophy. |
| Third Book of Lessons. | National Book-Keeping. |
| Fourth Book of Lessons. | National Mensuration. |
| Fifth Book of Lessons. | Euclid (Pott's) |
| Spelling Book Superseded. | Algebra (Colenso's.) |
| Robertson's Principles of Language. | Hullah's Manual of Music. |
| Spaulding's English Literature. | Strachan's Writing Models. |
| Art of Reading. | A Slate, |
| Lovell's General Geography. | One Note Book |
| Geography Generalized. | -One Writing Book } Not to be returned. |

PART VIII.—FORMS AND REGULATIONS FOR SUPERANNUATED COMMON SCHOOL TEACHERS.

Special Notice to Common School Teachers.

(1) Public notice is hereby given to all Teachers of Common Schools in Upper Canada, or Teachers of the English Branches in Grammar Schools who are legally qualified Common School Teachers, who may wish to avail themselves at any future time of the advantages of the Superannuated Common School Teachers' Fund, that it will be necessary for them to transmit to the Chief Superintendent if they have not already done so, their annual subscriptions at the rate of *five dollars* per annum, commencing with 1854, if then teaching, and at the rate of *four dollars* per annum for the current year. The law authorizing the establishment of this fund provides—"*That no teacher shall be entitled to share in the said fund unless he has contributed to such fund the sum of four dollars or more per annum.*" No pension will be granted to any Teacher who has not contributed to this fund, while actually engaged in the exercise of his profession, in accordance with the preceding regulations on the subject.

The following are the Regulations adopted by the Council of Public Instruction for Upper Canada, pursuant to the provisions of the law, on the 28th day of April, 1854:

(2) Every teacher engaged in teaching since 1854, in order to be entitled, when he shall have become superannuated, to share in this fund, must contribute towards it at the rate of *five* dollars *per annum*, commencing with 1854, and at the rate of *four* dollars *per annum* for the current year; and no teacher now engaged in teaching shall be entitled to share in this fund who shall not thus contribute to it annually. But the amount of the annual subscriptions for the years during which such teacher may have taught *before the first day of January, 1854*, and for which he may hereafter claim as a superannuated teacher, may be deducted from the first year's pension to which such teacher may be entitled.

(3) Should any teacher, having a wife and children, subscribe to this fund, and die without deriving any benefit from it, the amount of his subscriptions, and whatever may accumulate thereon, shall be paid to his widow or children, as soon as satisfactory proofs of his decease, and the relationship of the claimant or claimants to him, shall have been adduced.

(4) No teacher shall be eligible to receive a pension from this fund who shall not have been disabled from further service while teaching a Common School, or who shall not have been worn out in the work of a Common School Teacher.

(5) All applications, according to the prescribed form, accompanied by the requisite certificates and proofs, must be made before the *first of April*, in order to entitle the applicants to share in the fund for such year.

(6) In case the fund shall at any time not be sufficient to pay the several claimants the highest sum permitted by law, the fund shall be equitably divided among the several claimants, according to their respective periods of service.

(7) The amounts of all subscriptions to this fund, and of any unexpended balances of Legislative Grants made to it, may be invested, from time to time, under the direction of this Council; and the interest accruing thereon shall be expended in aid of Superannuated Teachers of Common Schools in Upper Canada, according to these regulations. All annual subscriptions to this fund must be made before the end of the year for which they are intended; and all—

(8) Communications and Subscriptions in connection with this fund, must be made to the Chief Superintendent of Education for Upper Canada. (Subscriptions to be sent in as early in the year as possible.)

Approved by His Excellency the Administrator of the Governor in Council, as notified to the Chief Superintendent of Education, 20th May, 1854.

REMARKS.—No certificate in favour of an applicant should be signed by any teacher already admitted as a pensioner on the fund; in all cases they should be signed by a clergyman and other official persons. The forms, when properly filled up and signed, must be returned to the Department, accompanied by certificates from Ministers or other official persons known to the Department. These certificates must furnish satisfactory proof [1] of good moral character; [2] of sober, steady habits; and [3] of the number of years of service for which a pension is claimed. These conditions must be strictly complied with, otherwise the application cannot be entertained. The Council meets to consider all applications in *July* and *December* only of each year. As soon, therefore, as each case is decided, due notice will be sent to the applicants, without further application on their part.

The necessary forms can be obtained from the Department.

ANALYTICAL INDEX

TO THE
UPPER CANADA

Consolidated Common School Act,

(Including the School Law Amendment Act of 1860,)

TOGETHER WITH THE DECISIONS OF THE SUPERIOR COURTS,
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