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1st Session, 4th Parliament, 16 Victoria, 1852-3.

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**BILL.**

**An Act supplementary to the Common  
School Act for Upper Canada.**

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Received and read First time, Tuesday, 22d  
March, 1853.

Second reading, Thursday, 24th March, 1853.

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(500 Copies.)

**HON. MR. Atty. Genl. RICHARDS.**

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S. Derbishire & G. Desbarats, Queen's Printer.

An Act supplementary to the Common School Act for  
Upper Canada.

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

Preamble.

13 & 14 Vict.  
c. 48.Boards of  
School Trust-  
tees in Cities  
&c, to have  
the powers of  
Trustees of  
School Sec-  
tions.Proviso: as to  
Chairmen of  
such Boards.

II. And be it enacted, That in any Village in Upper Canada,  
which shall become incorporated according to Law, an Election  
of a Board of School Trustees for such Village shall take place  
at the time specified in the second section of the said Upper  
Canada School Act of 1850 ; Provided always, that the first  
Election of such Board of School Trustees shall be called by  
the Returning Officer appointed to hold the first Municipal  
Election in such Village, or in case of his neglecting to do so  
for one month, by any two Freeholders in such Village, on  
giving six days' notice in at least three public places in such  
Village ; Provided also, that all Elections of School Trustees  
that have taken place in Villages and Towns not divided into  
Wards, which have been incorporated since one thousand eight  
hundred and fifty, shall be and are hereby confirmed, and the  
acts of Boards of School Trustees so elected in such Villages  
and Towns, are hereby made as valid as if such Boards had  
been elected for Villages and Towns incorporated before one

Elections of  
Boards of  
Trustees in  
Villages.Proviso: as to  
the calling of  
meeting for  
such Elec-  
tions.Proviso :  
Elections in  
certain places  
confirmed.

Proviso : amendment to proviso 2, of Sect. 25, 13 & 14 Vict. c. 48.

thousand eight hundred and fifty : Provided likewise, that in the words " two years " which occur in the second proviso of the twenty-fifth section of the said Act, the word "three" shall be substituted for the word " two " and the said proviso shall be held to have and to have had effect as if the word " three " had been originally inserted therein instead of the word " two " ; Provided nevertheless, that the twenty-fifth and twenty-sixth sections of the said Act, shall be construed to apply to all such Boards of School Trustees.

Declaration to be made by any person offering to vote at Election of Trustees, if his vote be objected to.

Form.

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

" I do declare and affirm that I have been rated on the Assessment-Roll of this City (Town or Village, as the case may be) as a Freeholder (or householder as the case may be) and that I have paid a public School tax in this ward, (or Village, as the case may be,) within the last twelve months, and that I am legally qualified to vote at this Election." 20

Proviso : punishment for false declaration.

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

Persons sending their children to Separate Schools or subscribing an amount thereto equal to what they would otherwise have to pay for Common Schools exempted from payment of rates imposed for Common Schools. Separate Schools to share in Legislative Grant only, and in what proportion.

IV. And be it enacted, That in all Cities, Towns and incorporated Villages and School Sections, in which separate Schools do or shall exist according to the provisions of the Common School Acts of Upper Canada, persons of the religious persuasion of each such separate School, sending children to it, or supporting such School by subscribing thereto annually an amount equal to the sum which each such person would be liable to pay (if such separate School did not exist) on assessment to obtain the annual Common School grant for each such City, Town, Incorporated Village or Township shall be exempted from the payment of all Rates imposed for the support of the common public Schools of each such City, Town, incorporated Village or School Section and of all rates imposed for the purpose of obtaining the Legislative Common School Grant for such City, Town, incorporated Village or Township ; and each such separate School shall share in such Legislative Common School Grant, only (and not in any School money raised by Local Municipal assessment) according to the average attendance of pupils attending each such separate School, (the mean attendance of pupils for winter and summer being taken) as

compared with the whole average attendance of pupils at- **Qualification**  
 tending the Common Schools in each such City, Town, **of Teachers**  
 incorporated Village or Township; and a certificate of  
 qualification signed by any one of the Trustees of such  
 5 separate School shall be sufficient for any Teacher of such  
 School: Provided always, firstly, that the exemption from **Proviso.**  
 the payment of such School Rates, as herein provided, shall  
 not extend beyond the period of such persons sending children  
 to or subscribing as aforesaid for the support of such separate  
 10 School; Provided secondly, that the Trustees of each such sepa- **Proviso:**  
 rate School shall, on or before the thirtieth day of June, and **Returns from**  
 thirty-first day of December of each year, transmit to the local **Separate**  
 Superintendent, a correct return of the names of all persons of the **Schools.**  
 religious persuasion of such separate School, who shall have  
 15 sent children to or subscribed as aforesaid for the support of  
 such separate School during the six months previous, and the  
 names of the children sent, and amounts subscribed by them  
 respectively, together with the average attendance of pupils in  
 such separate School during such period; Provided thirdly, that **Proviso.**  
 20 the provisions of the thirteenth section of the said Upper Canada **Sect. 13, of 13**  
 School Act of 1850, shall apply to the Trustees and Teachers **& 14 Vict.**  
 of separate Schools, the same as to Trustees and Tea- **c. 48, to ap-**  
 chers of other Common Schools: Provided fourthly, that **ply.**  
 the Trustees of each such separate School shall be a corporation **Proviso:**  
 25 and shall have the same power to levy and collect School Rates **Trustees of**  
 or subscriptions from persons sending children to or subscrib- **Separate**  
 ing towards the support of such separate School, as the **Schools may**  
 Trustees of a School Section have to levy and collect School **levy Rates.**  
 Rates or subscriptions from persons sending to or subscribing  
 30 towards the support of the Common School of such section:  
 Provided fifthly, that the foregoing provisions in this clause  
 shall take effect from the first day of January 1853, and shall  
 extend to the separate Schools established or intended to be  
 established under the provisions of the Upper Canada Common  
 35 Schools Acts: Provided sixthly, that no person belonging to  
 the religious persuasion of such separate School and sending a  
 child or children thereto or subscribing towards the support  
 thereof, shall be allowed to vote at the Election of any Trustee  
 for a public Common School in the City, Town, incorporated  
 40 Village or School Section within the limits of which such  
 separate School shall be situate.

V. And be it enacted, That the Trustees of each School **Trustees of**  
 Section shall, on or before the thirtieth day of June, and the **each School**  
 thirty-first day of December in each year, transmit, to the local **Section to**  
 45 Superintendent, a correct return of the average attendance of pu- **transmit a**  
 pils in the School or Schools under their charge during the six **certain report**  
 months then immediately preceding; nor shall any School Sec- **half yearly.**  
 tion be entitled to the apportionment from the School fund for the  
 said six months, the Trustees and Teacher of which shall neglect  
 50 to transmit a verified statement of such average attendance of pu-

**Proviso.** pils in their School or Schools ; Provided always, that nothing herein contained shall be construed to repeal the provisions of the thirty-first section of the said Upper Canada School Act of 1850.

**Trustees may assess for School Houses and sites therefor.** VI. And be it enacted, That the Trustees of each School Section shall have the same authority to assess and collect rates for the purpose of purchasing School sites and the erection of School Houses, as they are now or may be invested with by law to assess and collect rates for other School purposes : Provided always, that they shall take no steps for procuring a School site on which to erect a new School House, or changing the site of a School House established, or that may be hereafter established, without calling a Special Meeting of the Freeholders and Householders of their Section to consider the matter ; and if a majority of such Freeholders and Householders present at such Meeting, differ from a majority of the Trustees as to the site of a School House, the question shall be disposed of in the manner prescribed by the eleventh section of the said Upper Canada School Act of 1850.

**Proviso : Special meeting to be held.**

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

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

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

**Penalty on Trustees neglecting to make their yearly Report.** X. And be it enacted, That the Trustees of each School Section, shall, each personally forfeit the sum of one pound five shillings for each and every week that they shall neglect, after the fifteenth of January in each year, to prepare and forward to their local Superintendent of Schools, their School Report, as required by law, for the year ending the thirty-first of December, immediately preceding ; and which sum or sums thus forfeited, shall be sued for by such local Superintendent, and collected and applied in the manner provided by the ninth section of the said Upper Canada School Act of 1850.

XI. And be it enacted, That no agreement between Trustees and a Teacher in any School Section, made between the first of October and the second Wednesday in January, shall be valid or binding on either party after the second Wednesday in 5 January then next, unless such agreement shall have been signed by the two Trustees of such School Section, whose period of Office shall extend to one year beyond the second Wednesday of January, after the signing of such agreement.

What agreements only with Teachers shall be valid.

XII. And be it enacted, That any person residing in one School 10 Section, and sending a child or children to the School of a neighboring School Section, shall nevertheless be liable for the payment of all rate-bills and rates for the School purposes of the Section in which he resides, the same as if he sent his child or children to the School of such Section ; and such child or 15 children shall not be returned as attending any other than the School of the Section in which the parents or guardians of such child or children reside ; but this clause shall not be held to apply to persons sending children to or supporting separate Schools, or to prevent any person who may be taxed for 20 Common School purposes on property situate in a different School Section from that in which he resides, from sending his children to the School of the Section in which such property may be situate on as favorable terms as if he resided in such section.

Liability of persons sending children to School in a Section other than that in which they reside.

Exception as to separate Schools.

XIII. And be it enacted, That no rate shall be imposed upon the inhabitants of any School Section according to the whole number of children, or of the number of children of legal school age, residing in such section ; but all the School expenses of such section shall be provided for by any or all of the three 30 authorized methods of voluntary subscription, rate-bill for each pupil attending the School, or by rate upon property : Provided always, that no rate-bill shall be imposed exceeding two shillings and six pence per quarter, or one shilling and three pence per month for each pupil attending the School.

By what methods only School expenses shall be provided for.

Proviso.

XIV. And be it enacted, That any person who has been or 35 may be appointed Local Superintendent of Schools, shall continue in office, (unless he resigns, or is removed from office for neglect of duty, improper conduct, or incompetency,) until the first day of April of the year following that of his appointment : Provided always, that no Local Superintendent shall be 40 a Teacher or Trustee of any Common School during the period of his being in office : Provided, secondly, that no Local Superintendent shall be required (unless he shall judge it expedient, and except with a view to the adjustment of disputes) 45 to make more than two official visits to each School Section under his charge ; one of which visits shall be made some time between the first of April and the first of October, and the other sometime between the first of October and the first of April : Provided, thirdly, that the Local Superintendents of adjoining Proviso.

Term of office of Local Superintendents.

Proviso.

Proviso.

Proviso.

townships shall have authority and are hereby required to determine the sum or sums which shall be payable from the School apportionment and assessment of each Township in support of Schools of Union School Sections, consisting of portions of such Townships'; and they shall also determine the manner in which such sum or sums shall be paid : Provided fourthly, that in the event of one person being Local Superintendent of both of the Townships concerned, he shall act in behalf of such Townships ; and in the event of the Local Superintendents of Townships thus concerned not being able to agree as to the sum or sums to be paid to each such Township, the matter shall be referred to the Chief Superintendent of Schools for final decision : Provided, fifthly, that each Local Superintendent of Schools shall have authority to appoint the time and place of a Special School Section Meeting, at any time and for any lawful purpose, should he deem it expedient to do so : Provided, sixthly, that each Local Superintendent of Schools shall have authority, within twenty days after any meeting for the election of Common School Trustees within the limits of his charge, to receive and investigate any complaint respecting the mode of conducting such Election, and to confirm it, or set it aside, and appoint the time and place of a new Election, as he shall judge right and proper : Provided, seventhly, that each Local Superintendent shall have authority on due examination, (according to the programme authorized by law for the examination of Teachers,) to give any candidate a certificate of qualification to teach a School within the limits of the charge of such Superintendent until the next ensuing meeting (and no longer) of the County Board of Public Instruction of which such Local Superintendent is a Member ; but no such certificate of qualification shall be given a second time, or shall be valid if given a second time, to the same person in the same County : Provided, eighthly, that in the event of a Local Superintendent of Schools resigning his office, the Warden of the County or Union of Counties within which such Superintendent shall have held office, shall have authority, if he shall deem it expedient, to appoint a fit and proper person to the office thus vacated until the next ensuing meeting of the Council of such County or Union of Counties.

XV. And be it enacted, That the last proviso of the seventeenth Section of the Upper Canada School Act of 1850, shall be and is hereby repealed ; And be it also enacted, That the Arbitrators mentioned in the said seventeenth Section of the said Act, shall have authority to administer oaths to and to require the attendance of all or any of the parties interested in the said reference, and of their witnesses, with all such books, papers and writings as such Arbitrators may require them or either of them to produce ; and the said Arbitrators, or any two of them, may issue their warrant to any person to be named therein, to enforce the collection of any sum or sums of money by them awarded to be paid, and the



person named in such warrant shall have the same power and authority to enforce the collection of the money or monies mentioned in the said warrant, with all reasonable costs, by seizure and sale of the property of the party or corporation against whom the same is rendered, as any Bailiff of a Division Court has in enforcing a judgment and execution issued out of such Court ; and no action shall be brought in any Court of Law or Equity, to enforce any claim or demand which by the said seventeenth Section of the said in part recited Act may be referred to arbitration as therein mentioned.

XVI. And be it enacted, That whenever the lands or property of any individual or company shall be situated within the limits of two or more School Sections, it shall be the duty of each Assessor appointed by any Municipality to assess and return on his Roll, separately, the parts of such lands or property according to the divisions of the School Sections within the limits of which such lands or property may be situated.

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

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

XIX. And be it enacted, That if any person shall wilfully disturb, interrupt or disquiet any Common or other Public School, by rude or indecent behaviour, or by making a noise either within the place where such school is kept or held, or so near thereto as to disturb the order or exercises of such school, such person shall, on conviction thereof before any Justice of the

Peace, on the oath of one or more credible witnesses, forfeit and pay such a sum of money not exceeding *Five Pounds*, together with the costs of and attending the conviction, as the said Justice shall think fit; such conviction and all other convictions before a Justice or Justices of the Peace under this Act or the Upper Canada School Act of 1850, and the costs thereof to be levied and collected from the offender, who, in default of payment, may be imprisoned for any time not exceeding thirty days, unless such fine and costs, and the reasonable expenses of endeavouring to collect the same, shall be sooner paid. 5 10

Provision for sale of lands on which School rates shall remain unpaid.

XX. And be it enacted, That if the Taxes or School Rates mentioned in the Roll or List of the Collector appointed by the Trustees of any School Section, or Board of School Trustees or under any By-law of any Municipality, shall remain unpaid, and such collector shall not be able to collect the same, he shall deliver to the County Treasurer, or to the City Chamberlain (if the account relate to a City,) an account of all such Taxes or Rates remaining due on such Roll or List; and in such account the Collector shall state, opposite to each separate assessment, the reason why he could not collect the same, by inserting, in each case, the words "non-resident," or "no property to distrain," as the case may be, and upon making oath before the Treasurer or Chamberlain, that the sums mentioned in such account remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to or in the possession of the parties charged with or liable to pay such sums, whereon he could levy the same, the said account shall be sufficient authority to the County Treasurer or City Chamberlain to proceed to sell the lands on which such Taxes or Rates remain unpaid in the manner hereinafter provided. 15 20 25 30

Duty of County Treasurer or City Chamberlain as to such lands.

XXI. And be it enacted, That it shall be the duty of the said County Treasurer or Chamberlain to prepare a list of such lands upon which any such Tax or Rate shall remain due at the time of such Collector making his account, and it shall be the duty of such Treasurer or Chamberlain, within one month after the receipt of such account, to address a circular letter, through the post, to the owners of the several lots or parts of lots of land respectively, on which such Taxes or Rates are still due, stating the amount due, and calling for payment thereof: Provided always, that in any case where the County Treasurer or Chamberlain shall not be able to satisfy himself who the owner of any land in the said account or list, is, or where he resides, it shall be the duty of such Treasurer or Chamberlain to publish a list of such lands in the same manner and at the same time, and subject to the like charges and expenses as lands published under the forty-fifth section of the Upper Canada Assessment Act of one thousand eight hundred and fifty. 35 40 45

XXII. And be it enacted, That the County Treasurer shall, within thirty days after the Collector has made his account or return as aforesaid, issue a warrant under his hand and seal to the Sheriff of the County, or the High Bailiff of the City, commanding him to levy on the said lands of non-residents for the amount of the Taxes or Rates then remaining due thereon, with his costs; and that the Sheriff or High Bailiff to whom the warrant is directed shall, within the same time, and in the same manner, execute the said warrant and pay over moneys levied by virtue thereof, and in every respect, shall, with regard to such lands, adopt and follow, as nearly as possible, all the provisions of that part of the Upper Canada Assessment Act of one thousand eight hundred and fifty, which is contained in the sections numbered from forty-nine to fifty-eight, both inclusive.

Warrant to the Sheriff to levy taxes on such lands.

XXIII. And be it enacted, That it shall be the duty of such Treasurer or Chamberlain on the receipt of the Taxes or Rates aforesaid, on the lands aforesaid, to pay over as soon as reasonably may be, to the Treasurer of the Trustees of each School Section, the amount of such Taxes belonging to them respectively.

Treasurer or Chamberlain to pay over monies to the Trustees.

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

Recital.

Appeal given to Chief Superintendent from decisions of Division Courts in School matters, to the Superior Courts of Common Law at Toronto.

Proviso as to costs.

Judge  
of Division  
Court may  
grant delay  
for bringing  
appeal.

costs incurred by him, shall be payable by the Chief Superintendent, and the amount chargeable to the Contingencies of his Office: And the Judge presiding over any Division Court wherein any action of the kind referred to in this section is brought, may order the entering of judgment to be delayed for a sufficient time to permit either party to apply to the Chief Superintendent of Schools to appeal such case, and after Notice of Appeal is served as herein provided, no further proceedings shall be had in such case until the matter of the Appeal shall be decided by such Superior Court. 5 10

Inconsistent  
enactments  
repealed.

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

Act to apply  
for 1853.

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

Short Titles  
of Common  
School Acts  
of Upper  
Canada.

XXVII. And be it enacted, That in citing or otherwise referring to the said Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act for the better establishment and maintenance of Common Schools in Upper Canada*, it shall be sufficient to designate it as "The Upper Canada School Act of 1850," and that in citing or otherwise referring to this Act it shall be sufficient to designate it as "The Upper Canada supplementary School Act of 1853;" and that in citing or otherwise referring to the said Acts generally, or to them and to any other Act or Acts relative to Common Schools, which may at the time of such citation or reference be in force in Upper Canada, it shall be sufficient to use the expression, "The Common School Acts of Upper Canada." 25 30