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THE LAW OF 1863

RELATING TO

ROMAN CATHOLIC  
SEPARATE SCHOOLS

IN

UPPER CANADA:

TOGETHER WITH

EXTRACTS FROM THE COMMON SCHOOL ACTS, DEPARTMENTAL  
REGULATIONS, &c., AFFECTING THE ROMAN CATHOLIC  
SEPARATE SCHOOLS.

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ARRANGED WITH NOTES AND REFERENCES.

*By J. J. Gibson*



TORONTO;

Printed for the Department of Public Instruction for Upper Canada,  
BY LOVELL AND GIBSON, YONGE STREET.

1863.

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# AN ACT

TO

RESTORE TO ROMAN CATHOLICS IN UPPER CANADA CERTAIN  
RIGHTS IN RESPECT TO

## SEPARATE SCHOOLS.

26. *Victoria, chapter 5.—Assented to 5th of May, 1863.*

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### *Preamble.*

**W**HEREAS it is just and proper to restore to Roman Catholics in Upper Canada certain rights which they formerly enjoyed in respect to Separate Schools, and to bring the provisions of the Law respecting Separate Schools more in harmony with the provisions of the Law respecting Common Schools: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

#### *Roman Catholic Separate School Act of 1855 repealed.*

I. Sections eighteen to thirty-six, both inclusive, of chapter sixty-five of the Consolidated Statutes for Upper Canada, intituled, "An Act respecting Separate Schools," are hereby repealed, and the following shall be substituted in lieu thereof, and be deemed to form part of the said Act.

#### *Five Roman Catholic heads of families may call a meeting.*

II. Any number of persons, not less than five, being heads of families, and freeholders or householders, resident within any school section of any Township, Incorporated Village or Town, or within any ward of any City or Town, and being Roman Catholics, may convene a public meeting of persons desiring to establish a Separate School for Roman Catholics, in such school section or ward, for the election of Trustees for the management of the same.\*

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\* Public notice of this and every other Separate School meeting must be given, similar to that required under the Common School Act, viz., notice in three public places within the school section or ward, six days previous to the day of meeting.

*Majority present at School Meeting to elect three Trustees.*

III. A majority of the persons present, being freeholders or householders, and being Roman Catholics, and not candidates for election as Trustees, may, at any such meeting, elect three persons resident within such section or an adjoining section to act as Trustees for the management of such Separate School, and any person, being a British subject, not less than twenty-one years of age, may be elected as a Trustee, whether he be a freeholder or householder, or not.\*

*Notice of establishment of Roman Catholic Separate School.*

IV. Notice in writing that such meeting has been held and of such election of Trustees, shall be given by the parties present at such meeting to the Reeve or head of the Municipality, or to the Chairman of the Board of Common School Trustees, in the Township, Incorporated Village, Town, or City in which such School is about to be established, designating by their names, professions, and residences, the persons elected in the manner aforesaid, as Trustees for the management thereof; † and every such notice shall be delivered to the proper officer by one of the Trustees so elected, and it shall be the duty of the officer receiving the same to endorse thereon

\* The preliminary proceedings necessary to the establishment of a Separate School must take place within the existing Common School section or ward where the Separate School is desired, and by the Roman Catholic freeholders and householders resident therein, i. e., *Five Roman Catholic heads of families* in such section or ward may call a public meeting of such Roman Catholic residents as are desirous of establishing a Separate School. A majority present at this meeting can elect three resident, or adjoining, Roman Catholics, being British subjects—(tax payers or not)—to act as trustees of the Separate School, subject to the provisions of the twenty-fourth section of this Act.

† The form of notice to be signed by all the Roman Catholics present at the meeting for the establishment of the Roman Catholic Separate School, may be as follows:

School Section, No. . . . , Township of . . . .

or

. . . . Ward, City, (or Town) of . . . .

Sir,—We, the undersigned Roman Catholics and freeholders and householders resident in Common School Section No. . . . , in this Township (or . . . . Ward, in this City [or Town, &c.]) and present at a meeting called to establish a Roman Catholic Separate School within such Common School Section (or Ward) in accordance with the Roman Catholic Separate School Act of 1863, hereby notify you that at a meeting called by [*here state the names of at least five persons calling the meeting*] being . . . . Roman Catholic heads of families, and freeholders or householders resident within such School Section (or Ward), and held on the . . . . day of . . . ., 186. . . , at which the number of . . . . Roman Catholic resident freeholders and householders of the said Section (or Ward) were present [*here designate by their names, professions, and places of abode, the persons elected as*

the date of the receipt thereof, and to deliver a copy of the same so endorsed and duly certified by him to such Trustee,\* and from the day of the delivery and receipt of every such notice or in the event of the neglect or refusal of such officer to deliver a copy so endorsed and certified, then from the day of the delivery of such notice, the trustees therein named shall be a body corporate, under the name of "The Trustees of the Roman Catholic Separate School for the Section Number . . . , in the township of . . . . ., or for the ward of . . . . ., in the city or town (as the case may be) or for the village of . . . . ., in the county of . . . . ."<sup>†</sup> [The Provincial Statutes General Interpretation Consolidated Act, 22 Vict. chap. 5, § further adds in regard to Corporations: 6. \* \* \* \* "Twenty-fourthly. Words making any association or number of persons a corporation,<sup>‡</sup> 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

*Trustees*), were duly elected Trustees for the management of said Roman Catholic Separate School, according to law.

Dated this . . . day of . . . , 186. .

To the Reeve, or other head of the Municipality, of the Township of . . .

or  
To the Chairman of the Board of Common School Trustees for the [City, Town, or Incorporated Village] of . . .

\* The Trustees cannot act until after the delivery of this notice; nor can the existence of the Separate School be officially recognized by the Educational Department, until the same, or a duplicate notice having the signature of the Reeve or Chairman, be transmitted to the Chief Superintendent of Education. (See *Departmental Regulations*, page —.)

† By this and the second section of the Act, the law provides that whenever a Roman Catholic Separate School is established, (unless a union be formed, as provided in the sixth section,) the power of the Trustees shall extend to the boundaries of the Common School Section in townships; of the ward, in Cities and Towns; or of the Municipality in Villages. But by the twelfth section, children from other school sections may be admitted into the Separate School. The fifth section of the Act provides for the establishment of a single Board of Roman Catholic Separate School Trustees for the several wards of a city or town, and the sixth section authorizes the union of two or more Separate Schools in townships.

‡ 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 S. S. No. 2, Dunwich v. McBeath*, 3 C. P. R. 228.

§ The Trustees, being a corporation, must, by the School Act of 1860, use a corporate seal in their official acts. otherwise they may become personally liable for contracts and agreements. These Seals can be procured in Toronto for about

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.”]

*Board of R. C. Separate School Trustees in Cities and Towns.*

V. The Trustees of Separate Schools heretofore elected, or hereafter to be elected, according to the provisions of this Act, in the several Wards of any City or Town, shall form one body corporate, under the title of “The Board of Trustees of the Roman Catholic Separate Schools for the City (or Town) of . . . . .”\*

*Union of R. C. Separate Schools in one or more School Sections.*

VI. It shall be lawful for the majority of the rate-paying supporters of the Separate School, in each Separate School Section, whether the Sections be in the same or adjoining Municipalities, at a public meeting duly called by the Separate School Trustees of each such section, to form such sections into a Separate School Union Section, of which union of sections the Trustees shall give notice within fifteen days to the Clerk or Clerks of the Municipality or Municipalities, and to the Chief Superintendent of Education; and each such Separate School Union Section thus formed, shall be deemed one School Section for all Roman Catholic Separate School purposes, and shall every year thereafter be represented by three Trustees, to be elected as in Common School Sections.

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\$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.

\* By the twenty-fourth section of this Act, page 12, the election of Roman Catholic Separate School Trustees of any City or Town becomes void unless a Separate School be established in their City or Town within three months after the first or annual election.

*Union R. C. Separate School Section—Corporation formed.*

2. And the said Trustees shall form a body corporate, under the title of "The Board of Trustees of the Roman Catholic United Separate Schools for the United Sections Nos. .... (as the case may be,) in the ..... (as the case may be).

*Powers of Roman Catholic Separate School Trustees.*

VII. The Trustees of Separate Schools forming a body corporate under this Act, shall have the same power to impose, levy and collect School rates or subscriptions, upon and from persons sending children to, or subscribing towards the support of such Schools, and shall have all the powers\* in respect of Separate Schools, that the Trustees of Common Schools have and possess under the provisions of the Act relating to Common Schools.†

*R. C. Sep. Sch. Trustees may copy Assessment Roll of Municipality.*

VIII. The clerk or other officer of a Municipality within or adjoining which a 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 in so far as it relates to the persons supporting the Separate School under their charge.

*Declaration of Office by Roman Catholic Separate School Trustees.*

IX. The Trustees of Separate Schools shall take and subscribe the following declaration before any Justice of the Peace, Reeve, or Chairman of the Board of Common Schools: "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:"—and they shall perform the same duties and be subject to the same penalties as

\* For powers and duties of Common and Separate School Trustees, see Appendices B and C, pages 27 and 48.

† No rate-bill can exceed twenty-five cents per calendar month for each child. The term "same power" here referred to does not authorize Roman Catholic Separate School Trustees to impose rates on non-resident ratepayers (Common School Trustees not having that power), unless such persons are rated for property in the section in which the Separate School is situated, and reside within three miles of the school house of such Separate School; and these persons cannot claim exemption from the Common School rates imposed in their own section, unless they come within the definition of "Supporters of Separate Schools," according to the fourteenth and nineteenth sections of this Act. (See note \*, page 9.)



Trustees of Common Schools:\* and teachers of Separate Schools shall be liable to the same obligations and penalties as teachers of Common Schools.

*Term of Office of Roman Catholic Separate School Trustees.*

X. The Trustees of Separate Schools shall remain respectively in office for the same periods of time that the Trustees for Common Schools do, and as is provided by the thirteenth section and its sub-sections, of the Common School Act of the Consolidated Statutes for Upper Canada; but no Trustee shall be reelected without his consent, unless after the expiration of four years from the time he went out of office: Provided always, that whenever in any City, or Town divided into Wards, a united Board now exists, or shall be hereafter established, there shall be for every Ward two 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; and provided also, that at the first meeting of the Trustees after the election on the second Wednesday in January next, it shall be determined by lot, which of the said Trustees, in each Ward, shall retire from office at the time appointed for the then next annual election, and the other shall continue in office for one year longer.

*Period of office—Time and mode of R. C. Sep. Sch. Trustee election.*

XI. After the establishment of any Separate School, the Trustees thereof shall hold office for the same period and be elected at the same time in each year that the Trustees of Common Schools are, and all the provisions of the Common School Act relating to the mode and time of election, appointments and duties of Chairman and Secretary at the annual meetings, term of office and manner of filling up vacancies, shall be deemed and held to apply to this Act.†

*Roman Catholic Children admitted from other School Sections.*

XII. The Trustees of Separate Schools may allow children from other School Sections, whose parents or lawful guardians are Roman Catholics, to be received into any Separate School

\* These obligations and liabilities include: Conducting their Schools according to law; observing the general regulations; keeping a proper register of attendance; furnishing information when desired; reporting yearly to the Local Superintendent and to their supporters, and half yearly to the Chief Superintendent—subject to the penalties provided against incorrect returns. (See Appendix B, page 27.)

† See Appendix A, page 19.

under their management, at the request of such parents or guardians;\* and no children attending such School shall be included in the return, hereafter required to be made to the Chief Superintendent of Education, unless they are Roman Catholics.

*R. C. Separate School Teachers' Certificate of Qualification.*

XIII. The Teachers of Separate Schools under this Act shall be subject to the same examinations, and receive their certificates of qualification in the same manner as Common School Teachers generally;‡ provided, that persons qualified by law as teachers, either in Upper or Lower Canada, shall be considered qualified teachers for the purposes of this Act.

*Supporters of R. C. Sep. Schools exempted from Common School Rates.*

XIV. Every person paying rates, whether as proprietor or tenant, who, by himself or his agent, on or before the first day of March in any year, gives, or who, on or before the first day of March, of the present year, has given to the Clerk of the Municipality, notice in writing that he is a Roman Catholic, and a supporter of a Separate School situated in the said Municipality, or in a Municipality contiguous thereto, shall be exempted from the payment of all rates imposed for the support of Common Schools, and of Common School Libraries, or for the purchase of land or erection of buildings for Common School purposes, within the City, Town, Incorporated Village, or section in which he resides, for the then current year, and every subsequent year thereafter, while he continues a supporter of a Separate School. And such notice shall not be required to be renewed annually;‡ and it shall be the duty of the Trustees of every Separate School to transmit to the Clerk of the Municipality or Clerks of Municipalities (as the

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\* This section provides for the attendance of non-resident Roman Catholic children at the Separate School of another section; and the fourteenth and nineteenth sections exempt their parents and guardians from all Common School rates levied in the City, Town, Incorporated Village or Section in which they reside, provided the proper notice has been given in due time, and provided their residence is within three miles of the separate school house. See note †, page 7.

† See Appendix C, page 43.

‡ Each Roman Catholic, desirous of exemption, must see that he gives the required notice, either personally or by his agent properly authorized, in writing, "on or before the 1st day of March of any year,"—the period at which the assessment rolls are being made out,—otherwise there is no authority in law to exempt him from the Common School rates. But should any one fraudulently give such notice, or make any false statement therein, he will be subject to the

case may be) on or before the first day of June in each year, a correct list of the names and residences of all persons supporting the Separate Schools under their management; and every rate-payer whose name shall not appear on such list shall be rated for the support of Common Schools.\*

*Certificate of notice to Municipal Clerk be given by him.*

XV. Every Clerk of a Municipality, upon receiving any such notice shall deliver a certificate to the person giving such notice, to the effect that the same has been given, and showing the date of such notice.

*Penalty for fraudulent notice.*

XVI. Any person who fraudulently gives any such notice, or wilfully makes any false statement therein, shall not thereby secure any exemption from rates, and shall be liable to a penalty of forty dollars, recoverable with costs, before any Justice of the Peace at the suit of the Municipality interested.

*Exception as to Common School Rates already imposed.*

XVII. Nothing in the last three preceding sections contained, shall exempt any person from paying any rate for the support of Common Schools or Common School Libraries, or for the erection of a School House or School Houses, imposed before the establishment of such Separate School.

*Persons may withdraw their support from R. C. Separate Schools.*

XVIII. Any Roman Catholic who may desire to withdraw his support from a Separate School, shall give notice in penalty hereafter provided. (See Section 16 above.) The form of notice may be as follows:

School Section No. . . . Township of . . . . .

or

. . . . . Ward, City [or Town] of . . . . .

Sir,—I hereby give you notice, in accordance with the provisions of the fourteenth clause of the Separate School Act of 1863, that I am a Roman Catholic, and a supporter of the Roman Catholic Separate School for Section No. . . . in this Township [or . . . Ward in this City or Town], and therefore claim exemption from all Common School rates levied in this School Section [City or Town] as provided by law.

Dated this . . . . day of . . . . . 186..

I am, Sir, your obedient servant,

To the Clerk of the Municipality of . . . . .

A. B.

\* Roman Catholic supporters of the Separate School, giving proper notice, are by the above, exempted from all Common School rates levied by either County or Township Councils, or by Common School Trustees, within the Section, City, or Town, in which they reside, provided that such residence is within three miles of the separate school house. See nineteenth section of this Act.

writing to the Clerk of the Municipality, before the second Wednesday in January in any year,\* otherwise he shall be deemed a supporter of such School: Provided always, that any person who shall have withdrawn his support from any Roman Catholic Separate School, shall not be exempted from paying any rate for the support of Separate Schools or Separate School Libraries, or for the erection of a Separate School House, imposed before the time of his withdrawing such support from the Separate School.

*Supporters of a Roman Catholic Separate School defined.*

XIX. No person shall be deemed a supporter of any Separate School unless he resides within three miles (in a direct line) of the site of the School House.

*Condition of sharing in Legislative School and other grants.*

XX. Every Separate School shall be entitled to a share in the fund annually granted by the Legislature of this Province for the support of Common Schools, and shall be entitled also to a share in all other public grants, investments, and allotments for Common School purposes now made or hereafter to be made by the Province or the Municipal authorities, according to the average number of pupils attending such school during the twelve next preceding months, or during the number of months which may have elapsed from the establishment of a new Separate School, as compared with the whole average number of pupils attending school in the same City, Town, Village or Township.†

\* *Form of Notice of withdrawal from support of R. C. Separate School:*

Township of \_\_\_\_\_ Sch. Section No. \_\_\_\_\_  
day of \_\_\_\_\_ 186—

SIR,—I hereby give notice, as required by law, of the withdrawal of my support from the Roman Catholic Separate School at \_\_\_\_\_ in this Municipality.

I am, Sir, your obedient servant,

To the Clerk of the Municipality of \_\_\_\_\_

J. W.

† The number of teaching days in each month of 1863, omitting the allowed holidays and vacations, is as follows:

<i>First Half of the Year.</i>		<i>Second Half of the Year.</i>	
January	21	July	28
February	20	August	21
March	} As Easter is changeable, { these will vary.	September	22
April		October	22
May	21	November	21
June	22	December	18
Total	127	Total	117

The numbers 127 and 117 are the fixed divisors for obtaining the proportional average attendance of children at the Common and Separate Schools in

*R. Catholic Separate Schools not to share in Municipal Assessment.*

XXI. Nothing herein contained shall entitle any such Separate School within any City, Town, Incorporated Village or Township, to any part or portion of school moneys arising or accruing from local assessment for Common School purposes within the City, Town, Village or Township, or the County or Union of Counties within which the City, Town, Village or Township is situate.

*Half Yearly Return to be sent to Chief Superintendent.*

XXII. The Trustees of each Separate School shall, on or before the thirtieth day of June, and the thirty-first day of December of every year, transmit to the Chief Superintendent of Education for Upper Canada, a correct return of the names of the children attending such school, together with the average attendance during the six next preceding months, or during the number of months which have elapsed since the establishment thereof, and the number of months it has been so kept open ;\* and the Chief Superintendent shall thereupon determine the proportion which the Trustees of such Separate School are entitled to receive out of the Legislative grant, and shall pay over the amount thereof to such Trustees.

*Who are Visitors of Roman Catholic Separate Schools.*

XXIII. 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.

*Election of Roman Catholic Separate Trustees void in certain cases.*

XXIV. The election of Trustees for any Separate School shall become void unless a Separate School be established under their management within three months from the election of such Trustees.

school sections each half-year. The number of teaching days in each month is prescribed by the general regulations, and is always the same for Common and Separate Schools. In cities, towns, and villages, the number of teaching days in the second half-year is 107 ; and where the Grammar and Common Schools are united, there are 118 in the first half-year and 96 in the second.

All official returns to the Chief Superintendent, or a Local Superintendent, which are made upon the printed blank forms furnished by the Educational Department, *should be pre-paid one cent, and open at each end, so as to entitle them to pass through the post as printed papers.* No letters should be enclosed with such returns.

*Supporters of R. C. Sep. Schools not to vote at Com. Sch. Election.*

XXV. No person subscribing towards the support of a Separate School established as herein provided, or sending 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 situate.\*

*Official Inspection of Roman Catholic Separate Schools.*

XXVI. The Roman Catholic Separate Schools (with their Registers) shall be subject to such inspection as may be directed from time to time by the Chief Superintendent of Education, and shall be subject also to such regulations as may be imposed from time to time by the Council of Public Instruction for Upper Canada.

*Disagreement between Roman Catholic Trustees and Officials.*

XXVII. 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 arbitration 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.†

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\* Supporters of Separate Schools, not being on the school assessment roll, and not being allowed to vote at Common School elections, are consequently ineligible as trustees of Common Schools. And by the Common School Act, no teacher or trustee of any Common or Separate School can be a local superintendent.

† 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 be-

*When this Act takes effect.*

**XXVIII.** This Act shall come into force and take effect from and after the thirty-first day of December next: But all contracts and engagements made and rates imposed, and all corporations formed under the Separate School Law hereby repealed, shall remain in force as if made under the authority of this Act.

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fore His Excellency through the proper department,—which occasions unnecessary delay and expense.

2. *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 apportionment, 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 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 Superintendents for them, and not to the Department. Those for Grammar Schools are also to be obtained through the County Clerk.

# APPENDICES.

## INTRODUCTORY SUMMARY

OF THE

### POWERS, DUTIES, AND RESPONSIBILITIES OF COMMON SCHOOL TRUSTEES, AS APPLIED TO THE TRUSTEES OF ROMAN CATHOLIC SEPARATE SCHOOLS.

**NOTE.**—From the following summary, Trustees can learn at a glance 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. Summary of the necessary and discretionary Powers of Common School Trustees.*

1. To take possession and have sole custody of all [separate] 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 exempt all indigent persons from section school-rates.
9. To call a special school meeting for any lawful school purpose.
10. To resign the office of trustee, with the consent in writing of their colleagues and of the local superintendent.
11. 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 to the chief superintendent, 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 the names and residences of the supporters of their school.

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 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 at the annual meeting. (3) For the amount of an award against them if they refuse to give effect to it. (4) For all moneys lost to the section through their neglect of duty:—such as omission to send the half-yearly return to the chief 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, page 43.

### 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 auditors with information.

7. *Forfeiture of office* unless Roman Catholic separate school be established within three months of election.

V. *Penalties imposed on other Parties by the Consolidated 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. *Forty dollars and costs* on any person giving fraudulent notice of being a supporter of a Roman Catholic separate school, to secure exemption from common school rates.
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.

VI. *Roman Catholic Separate School Trustees' Yearly Calendar.*

(Taken from the Upper Canada R. C. Sep. School and the Consolidated Common School Act.)

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 a Magistrate, Reeve, or Chairman of Board of Common School Trustees.
"	15	To transmit their <i>annual</i> report to the local superintendent.
FEB.	—	To establish a school within <i>three</i> months of their election.
JUNE	30	To transmit their first half-yearly return to the Chief 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.

VII. *Periodical Duties for which no specific dates are given.*

1. There shall be *quarterly* examinations held in all the R. C. Separate Schools.
2. Rate-bills in Common and Separate Schools are payable *monthly, quarterly, or yearly*, in advance.
3. A general meeting of school visitors may be held at any time. They should attend the *quarterly* examinations of the schools.
4. Roman Catholic Separate School Trustees elected to fill a vacancy, to hold office only during the unexpired term.

5. 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.

6. 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.

### VIII. *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 Roman Catholic Separate 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 Roman Catholic Separate 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 such 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. 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."

12. 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 note on page 11, and General Regulations, page 57.

13. 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*.

14. The number of teaching days in each month, omitting the allowed holidays and vacations, is appended to the *twentieth* section of the Roman Catholic Separate School Act, and note, page 11.

15. 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.

### IX. *School Arbitrations.*

The arbitrations authorized by the School Act 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 the annual meeting, in regard to the financial report.

3. 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.

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EXTRACTS FROM THE

**Consolidated Common School Act for Upper Canada,**

22 VICTORIA, CHAPTER 64.

(Which, by the Roman Catholic Separate School Act of 1863, 26 Victoria, chap. 5, are made to apply to the Trustees of R. C. Separate Schools.)

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APPENDIX A.

LAW RELATING TO SCHOOL ELECTIONS, &c.

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**Annual Election on the Second Wednesday in January.**

**Section 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.\*

**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.†

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\* *The 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 school sections the poll shall close on the same day the election is commenced.

† *The Act of 1860 further enacts as follows :* [11. \* \* \* 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. *Note.*—[Roman Catholic Separate School Trustees may reside in the adjoining common school section. See page 4.]

*(Sections 7 and 8 relate to New Common School Sections.)*

**Chairman and Secretary to be appointed at Meeting.**

9. The [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 the 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.

**Mode of recording votes at School Meetings.**

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.

*(Section 12 relates to Trustees of New Common School Sections.)*

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\* The usual form of proceedings at public 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 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 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.

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 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.

**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 ;

(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 appointed.

**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.†

**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 the place of the one whose term of office is about

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

\_\_\_\_\_, 186—. [—Post Office.]

SIR,—We desire to inform you that at a meeting of the [Roman Catholic resident assessed] freeholders and householders of School Section [or Sections] 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 Roman Catholic Separate 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 obeident servants,

To the Local Superintendent of Schools  
for the County or Township of \_\_\_\_\_

D. E., Chairman.  
F. A., Secretary.

NOTE.—The Trustees elected must be resident assessed freeholders or householders in the Section for which they are elected.

The *twenty-fifth* section of the Upper Canada Consolidated Common School Act authorises Local Superintendents to investigate School Election complaints within *twenty* days after the election. See page 26.

† *The Common School 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, page 56.]

NOTE.—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 fine for neglect of duty.

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.

#### Mode of Proceeding at Annual Meeting.

16. At every annual [Roman Catholic separate] school section meeting in any township, as authorized and required to be held by the *third* section of this Act [page 19], the [resident assessed Roman Catholic] freeholders and householders [and separate school supporters] 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 [page 20]; and also by the *nineteenth* section of the School Act of 1860 [note †, page 21.]

#### Trustees' Financial Report to be submitted.

(2) Shall receive and decide upon the report of the trustees, as required by the *twenty-first* clause of the *twenty-seventh* section of this Act [page 40.]

#### Annual Election of School Trustees.

(3) Shall elect a trustee [resident in the same or adjoining section, who shall be a British subject, and not less than *twenty-one* years of age] or trustees, to fill up the vacancy or vacancies in the trustee corporation; \* and

#### To decide on 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† [page 55.]

\* See *eighteenth* section of the Common School Act of 1860, and the *twenty-fourth* section of the Consolidated Common School Act, both on page 28.

† 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 resident assessed Roman Catholic freeholders and householders and separate school supporters 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, page 55, † as to the *manner* in which 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 32, 33, 37, 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 35, 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 money received and expended by them, the Trustees must account annually to the School Section auditors, as prescribed in the *eighth* section of the School Act of 1860, page 41.

**Auditors' Report to be received.**

[(5) The *eighth* section of the Common School Act of 1860 also provides that the meeting shall receive the report of the auditors of school section accounts for the previous year and dispose of the same.]

**School Section Auditor to be appointed.**

[(6) Shall appoint an auditor of the Roman Catholic separate school accounts of the section for the current year. See page 41.]

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

**[Who are legal Voters at R. C. Separate School Meetings.\***

[3. 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 [Roman Catholic separate] Trustee, or on any [separate] school question whatsoever, unless he [be a Roman Catholic and] 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 R. C. School Electors.**

“I do declare and affirm that I [am a Roman Catholic; a supporter of the Roman Catholic separate schools in this section; and] 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 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 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 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* section of the] said Upper Canada [Consolidated Common School Act, page 56.]

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;

\* The *nineteenth* section of the Common School Act, and the *twenty-fifth* section of the Separate School Act, pages 24 and 13, excludes supporters of separate schools from the right of voting at common school meetings.



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 to 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 [Roman Catholic separate school] trustees of each school section shall appoint the place of each annual school meeting† of the

\* See the *one hundred and fortieth* section, page 56.

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

ROMAN CATHOLIC SEPARATE SCHOOL NOTICE.

The undersigned, Trustees of the Roman Catholic Separate School in Section [or Sections] No. —, in the Township of —, hereby give notice to the [assessed] Roman Catholic Freeholders, Householders, and supporters of the said Separate School, 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. 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 Roman  
C. D. } Catholic Sep. School  
E. F. } in Section No. —.

NOTE.—1. The manner of proceeding at the annual meeting is prescribed in the *sixteenth* section of this Act [page 22.]

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 the *twenty-first* section, page 25; 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 25.

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 call-

[assessed Roman Catholic] freeholders and householders [and separate school supporters] of the section, or of a special meeting for the filling up of any vacancy 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 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 *ninth* to the *eleventh* sections of this Act, page 20.]

**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 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, page 56.]

**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 Roman Catholic] freeholders or householders [and separate school supporters] in such

ing 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 27, authorizes Local Superintendents to call special school meetings under certain circumstances. The *twenty-sixth* section, on page 27, also authorizes certain other persons to call special meetings, in case of the death of all the trustees, &c.

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

**SPECIAL SCHOOL NOTICE.**

Notice is hereby given to the [assessed Roman Catholic] Freeholders and Household-ers and Supporters of the Roman Catholic Separate 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 R. C.  
C. D. } "Separate School  
E. F. } Section, No. —.

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

**ROMAN CATHOLIC SEPARATE SCHOOL NOTICE.**

The Trustees of the Roman Catholic Separate School in Section, No. —, in the Township of —, having neglected to give notice of the Annual School Section Meeting, as required by law, the undersigned hereby give notice to the assessed

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 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 Consolidated Act. [See page 56.]

**Trustee 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.

[*The Common School Act of 1860 further enacts that—11. \* \* a continuous non-residence of six months from his school section [or the adjoining section] by any [Roman Catholic Separate School] 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 [separate] school section trustees within the limits of his charge, receive and investigate any complaint respecting the mode of conducting the

Roman Catholic freeholders and householders and supporters of the said School, 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., } *R. C. Sep. School Section, No.—*

NOTE.—The mode of proceeding at a School Meeting thus called, is prescribed in this Act, pages 22, 23. This meeting may also be called by the Local Superintendent. See second clause of the *twenty-fifth* section of the Consolidated Common School Act, page 27.

\* For other penalties imposed on delinquent trustees, see pages 40, 42, 43, and 56.

† [*Fine for default, or in case of neglect to make declaration:*

And if any person elected as trustee shall not make the declaration enacted in the *ninth* section of the Separate School Act, page 7, 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 [preceeding [*twenty-third* section of the said Upper Canada [Consolidated] Common School Act.

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—

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

26. The [Roman Catholic separate school] trustees in each school section shall be a corporation, and no such corporation shall cease by reason of the want of trustees; but in case of such want, any two [assessed Roman Catholic] freeholders and householders [and separate school supporters] may, by giving *six* days' notice, to be posted in at least three public places in the section call a meeting of the [assessed Roman Catholic] freeholders or householders [and separate school supporters] who shall proceed to elect *three* trustees [being British subjects not less than twenty-one years of age, resident within such section, or an adjoining section] in the manner prescribed in the *ninth, tenth, eleventh, and thirteenth* sections of this Act (pages 20 and 21), and the trustees thus elected shall hold and retire from office in the manner prescribed for trustees.

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## APPENDIX B.

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### POWERS AND DUTIES OF COMMON SCHOOL TRUSTEES IN RURAL SECTIONS.

*As so far applicable to Roman Catholic Separate School Trustees*

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27. It shall be the duty of the [Roman Catholic separate school] 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.†

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

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\* *The Common School Act of 1860 further enacts that*—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.

† For personal responsibility of trustees, in case they neglect to take this security, see the *one hundred and thirty-seventh* section of the Upper Canada Consolidated Common School Act, on the next page. For form of security to be taken, see also the next page.

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 ;†

#### Appointment and duty of School Collector.

(2) To appoint if they think it expedient, one of themselves‡ or

\* *The Common School 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 ; *Provided* always, that a majority of the trustees, at a meeting thus called, shall have full authority to perform any lawful business.¶

† The one hundred and thirtieth and following sections of the Consolidated Common School Act provides a remedy against a defaulting Secretary-Treasurer. See page 56. 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, as follows :

*Certain parties personally responsible in case School Fund be lost.*

137. If any part of the Common School Fund 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.

‡ *The Common School Act of 1860 further enacts that* :—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.

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

Roman Catholic Separate School, in Section No. —, Township of —, 186—.

SIR,—A meeting of the Trustees of the Roman Catholic Separate School, in this Section, will be held in the 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, A. B.,

To C. D.,

Trustee of R. C. Separate School, Section No. —. Senior Trustee [or Secretary, as the case may be.]  
Township of —.

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

¶ *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.* 12 Q. B. R. 877.

some other person a collector\* (who may also be secretary-treasurer), to collect the rates imposed by them upon [such of] the [Roman Catholic] inhabitants of their school section [as are supporters of the separate school] 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 the same powers by virtue of a warrant, ‡ signed by a majority of the trustees, in collecting the school-rate or subscription [from such supporters], and shall proceed in the same manner as ordinary collectors of county and township rates and assessments;||

\* *The Common School Act of 1860 further enacts that*:—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 27.

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

*Bond of Collector 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 the Roman Catholic School, in 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 Roman Catholic School 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 ourselves 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 collect§ all school rates and assessments of the said School for which he has been appointed collector, and shall pay or cause to be paid over all moneys which he may collect (except his own per centage) to the [*Trustees, or Secretary-Treasurer*] of the said School, 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	} P. Q. R. S.	A. B., Collector or Sec.-Treasurer, [ <i>Seal.</i> ]
		F. G., [ <i>Seal.</i> ]

‡ For form of warrant see page 35.

§ *POWERS and duties of COLLECTOR of School Rates.*

These "powers" of, and the mode of "proceeding" observed by Township and County Collectors, are prescribed in the Upper Canada Consolidated Assessment

[§ *NOTE*.—If the bond be for a Secretary-Treasurer alone, insert the following instead of "shall collect," &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"]

### Trustees to acquire and hold School Property.\*

(3) To take possession and have the custody and safe keeping of all [Roman Catholic separate] school property which has been acquired

Act, 22 Vict. chap. 55. They may be adapted to Collectors of Roman Catholic Separate School rates, as follows:

\* 1. *Shall call for the rate.*

1. The Collector on receiving or making out the roll (page 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 by post a statement of demand; he shall not receive rates for property which is not set down on his roll. See sections 93, 94, and 95.

2. *Shall seize Goods and Chattels of Defaulters.*

2. 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. *Shall give Written Notice and Sell by Auction.*

3. He shall give written or printed notice of the day of sale and the name of the defaulter, in not less than three public places in the place where the sale is to take place, at least six days before the day of sale; and shall sell by public auction the property seized. Section 98.

4. *How to dispose of surplus.*

4. If proceeds of 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 property sold, the surplus shall be paid over to the Township Treasurer until the dispute be settled. Sections 99, 100, and 101.

5. *Omitted Assessments and mistakes.*

5. The Consolidated Assessment Act authorizes the County Treasurer to report to the Township Clerk any land liable 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 correct any palpable error, as certified by the Township Clerk, sections 116-119.

\* This clause and especially the tenth section of the Common School Act of 1860 (page 33) vest all School property absolutely 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.—See the fifth clause of the ninth section of the Upper Canada Consolidated Assessment Act, 22 Vict. 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 Pro-**

or given for [such separate] school purposes in such section,\* and to acquire and hold as a Corporation, by any title whatsoever, any land,

vince 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 Roman Catholic Separate School in 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]:

**To have and to hold** the same, in trust to and for the use of a Roman Catholic Separate 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 Roman Catholic 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 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

T. H. }  
M. B. } *Witnesses.*

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

"R. W—, J. P.  
"A. M—, J. P.

\*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



movable property, moneys or income for [Roman Catholic separate] school purposes, and to apply the same according to the terms on which the same were acquired or received ;

#### Building, or otherwise providing School Premises.

(4) To do whatever they may judge expedient with regard to the building,\* repairing, renting, warming, furnishing, and keeping in order the [Roman Catholic separate] 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 ;

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.* 3 Q. B. R. 484.

NOTE.—Should the trustees permit the school-house to be used for other than lawful purposes, the Court of Chancery can restrain them from doing so.

#### \* Decisions of the Superior Courts in regard to the School-House :

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

1. 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.†—*Marshall v. Trustees No. 4, Kitley*, 4 C. P. R. 375.

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

2. 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 verdict set aside.—*Forbes v. Trustees, No. 8, Plympton*, 8 C. P. R. 73.

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

3. 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 resorted 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 46.]—*Scott v. Trustees of Union Section No. 1, Burgess and 2 Bathurst.* 19 Q. B. R. 28.

† "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.*

(5) And when there is no suitable school house belonging to such section, or when a *second* school house is required,\* then to rent, repair, furnish, warm and keep in order a house, and its appendages, to be used as a school house.

**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 [Roman Catholic separate] schools generally ;

(*Clause 7 not applicable to Roman Catholic Separate Schools.*)

**Employ teachers—Certain agreements therewith invalid.**

(8) To contract with and employ teachers for such [separate] 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 [separate] school section whose period of office extends to one year beyond such second *Wednesday*; ‡

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\**The Common School 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 [Roman Catholic separate] school purposes, shall vest absolutely in the Trustee Corporation for this purpose. See also the *thirtieth* section of this Act, page 42

† 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 Common School 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 39. As to the mode of settling disputes between trustees and a teacher, see the *eighty-fourth* section of this Act, page 52.

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

We, the undersigned, Trustees of the Roman Catholic separate school in 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 Separate School Act of 1863, have chosen [here insert the Teacher's name] who holds a — class certificate of qualifi-

(9) *Not applicable to Roman Catholic Separate Schools.*

cation, 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 day 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 Separate 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\* according to law), and shall include all lawful holidays and vacations, prescribed under the authority of the School Law.

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

K. L., *Witness.*

A. B.	}	Trustees'
C. D.		corporate seal.
E. F.		
G. H.,		Teacher. [ <i>Seal.</i> ]

\* *i. e.* By the Chief or Local Superintendent. See page 55.

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, page 27. See also the *twelfth* section of the School Act of 1860, below.

*The Common School 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.

#### DECISIONS OF THE SUPERIOR COURTS IN REGARD TO TEACHERS.

*A Local Superintendent Signing a Contract with a Teacher is a mere approval of the appointment.*

1. 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.*, 3 Q. B. R. 241.

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

2. 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. [*Quære* by the Court, whether such an agreement could be enforced.]

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

Received from the Trustees of the Roman Catholic Separate School in 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.*

**Provide for Salaries and Expenses, as authorized by School 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 Roman Catholic] freeholders and householders [and supporters of the separate school] of such section, at the annual 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 [Roman Catholic separate] school purposes of such section,||

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*\*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.—*Stark v. Montague et al.* 14 Q. B. R. 478.

† These "expenses" may be "for any lawful purpose whatsoever" (see *twenty-first* clause of this section, page 40.) and may therefore include collector's fees, law costs incurred in maintaining or defending *successful* suits,§ 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 22, no public meeting can limit, or deprive them of the authority conferred upon them by the latter part of this (*tenth*) clause.

**‡ Form of, and number of Signatures to 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 Act of 1860, as note † on page 27]. 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 was made.—*Gillies v. Wood.* 13 Q. B. R. 357.

**|| Trustees mode of collecting School Rates.**

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

§ *No rate can be imposed by Trustees for the re-imbursement 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 *groundless* action brought against them.—14 Q. B. R. 478, and 15 Q. B. R. 87.

and the amount payable by each, and to annex to such list a warrant directed to the collector of [such separate] school section, for the collection of the several sums mentioned in such list; and any school-rate imposed by trustees, according to this Act, may be made payable monthly, quarterly, half-yearly, or yearly, as they may think expedient.†

making default of payment. 12 Q. B. R. 525. (But not if they reside more than three miles from the Separate School house.)

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

The Court of Queen's Bench has also decided that school trustees can only give a warrant to collect school-rates within the limits of the section for which they are appointed.—*Gillies v. Wood*. 13 Q. B. R. 357. [For Form of Warrant, see note \* below.]

\* *Form of Warrant for the collection of Rate Bill or School Rate* :§

We, the undersigned, Trustees of the Roman Catholic Separate School in 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 Separate School Act, 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,] 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 — day of —, 186—.

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

REMARKS.—The Trustees being a corporation, the law requires that all warrants and documents issued by them in that capacity, should have the corporate seal of the school attached, otherwise they may be resisted, and the Trustees made personally responsible for such neglect.

† By the general regulations (sixth clause, fifth section), which are appended, the fees for tuition in any Common School are payable in advance. They must be charged for each Calendar month and not per day. They cannot exceed seventy-five cents per quarter.—See the one hundred and twenty-fifth section of this Act, page 55.

*Form of Rate Bill for School Fees, as authorized by the eleventh clause of this section, and the one hundred and twenty fifth section of this Act, (pages 35 and 55), to be annexed to the foregoing Warrant.*

Rate Bill of persons liable for School Fees for tuition at the Roman Catholic Separate School in Section No. —, in the Township of —, for the [month

§ 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 Collector's roll for the school rate can be taken from any Township assessor's roll, so far as it relates to the Roman Catholic supporters of the separate school resident in the school section. See (12) page 37.

**To levy Rate themselves.**

(12) To \* \* \* employ their own lawful authority, as they may judge 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 pur-  
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.	Amount of [Monthly or Quarterly] Rate Bill for TUITION, FUEL, RENT, &c.	
			\$	c.
[See especially remarks 1 and 2; and for form of receipt to parents, &c., remarks 5 and 6, on page 37.]				

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 apportionment 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 included in this amount. (See page 55.) The Collector's fees must also be paid by the Trustees out of the amount collected.

2 Rate bills being now payable in advance, 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 34.) 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 Receipt to be given by the Collector on receiving the amount named in the Rate Bill.*

Received from [here insert the person's name] the sum of [here write the sum in words] being the amount of his [or her] Rate Bill for the [month or quarter, &c.] ending on the — day of —, 186—.

A. B.,

Collector of Roman Catholic Separate School Moneys.

Dated this — day of —, 186—.

6. *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

chase of school sites\* and the erection of school houses, and for any other school purpose authorized by this Act to be collected from the [Roman Catholic] freeholders and householders [and separate school supporters] of such section ; †

**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 ratable inhabitants [who are Roman Catholics, and separate school supporters] of the school section, but the same shall not be deducted from the salary of a teacher ;

*the name of the person in whose behalf payment is made] to the Trustees of the Roman Catholic Separate School in Section No. —, in the Township of — for the [month or quarter] ending the — day of —, 186—.*

Dated this — day of —, 186—.

A. B., Collector (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.

\* Before procuring a new or changing the old site of a school house, Trustees must first obtain the sanction of a public meeting. See the *thirtieth* section of the Consolidated Common School Act, page 42.

† Property rates must be levied equally on all taxable property of Roman Catholic separate school supporters in the section ; but persons residing more than three miles from the separate school-house are not liable for separate school rates. (See the following decision.)

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

2. 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 made by the collector on "John Applegarth," named on the roll, was sufficient to bind all the plaintiffs.—*Applegarth et al. v. Graham* 7 O. P. R. 171.

(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 [but within three miles of the separate school-house, who are supporters of such school, and] who make default in payment.\*

(15) *Not applicable to Roman Catholic Separate School Trustees.*

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

(16) To permit all [Roman Catholic] 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.

(18) *Not applicable to Roman Catholic Separate Schools.*

**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;

\* See note | to the *eleventh* clause of this section, page 35.

† Boarders for less than a year are non-residents in the sense of the Act, and cannot therefore lawfully 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.

‡ The last part of this clause is not applicable unless there is also a separate school for coloured persons in the same section.

| 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.

§ 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.



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 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 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 the matter shall be referred to arbitration in the manner provided in the [eighth] section of [the Common School Act of 1860, on page 41.]

(22) *Not applicable to Roman Catholic Separate Schools.*

**Make Yearly Report to Local Superintendent.**

(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

\* *Personal liability of Trustees dependent upon their neglect or refusal to exercise their Corporate powers.*

1. 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.

*Quære* by the Court, whether the arbitrators have authority to determine the question of personal liability on the part of the trustees.—*Kennedy v. Burness et al.*, 15 Q. B. R. 473.

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

2. 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* by the Court, 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 personally 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.*, 7 C. P. R., 218.

† 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. See page 43.

‡ See next section of this Act.

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.

**Penalty for delaying Yearly Report.**

28. In case the [Roman Catholic separate school] 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 25.]

[*The twenty-ninth section has been superseded by the eighth section of the Common School 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 [Roman Catholic separate] school sections, the majority of the [assessed Roman Catholic] freeholders and householders [and separate school supporters] present at the annual school meeting [for such school] shall appoint a fit and proper person to be auditor of the [Roman Catholic separate] school accounts of [such] section for the then current year, and the trustees shall before 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 [such] school section ;

**[Trustees to submit their School Accounts to the Auditors.**

[And it shall be the duty of [such] 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

\* 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 35. 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 22.]

accounts, with a full report thereon, at the next annual [Roman Catholic separate] 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 52, 53]; 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 [Roman Catholic separate] 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.

**[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 Trustee 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 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 [page 56.]

**New School Site to be authorized by Special Meeting.**

**30.** No steps shall be taken by the [Roman Catholic separate school] 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

\* 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 22, note.

† This date refers to the year 1860. In future years it will be sufficient if the notice be given when calling the annual meeting.

‡ See the *sixth* section of the School Act of 1860, page 28.

school house, without calling a special meeting of the [assessed Roman Catholic] freeholders and householders [and separate school supporters] 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 Roman Catholic] freeholders and householders [and separate school supporters] at such special meeting, each party shall choose an arbitrator, and 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.‡

**Trustees personally responsible for Moneys lost.**

**31.** The [Roman Catholic separate] school trustees of each school section shall be personally responsible for the amount of any school moneys forfeited by or lost to such [separate] 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 25. §

*(The 32nd to the 60th sections relate solely to the duties of Municipal Councils and their officers.)*

\* The Local Superintendent may call this meeting if desired, see page 27.

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

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.*, 12 Q. B. R. 377.

† *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 sanction 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.

‡ *The School 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.

§ 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 Cor-

## APPENDIX C.

### POWERS AND DUTIES OF SCHOOL TRUSTEES IN CITIES, TOWNS, AND INCORPORATED VILLAGES.

*So far as applicable to Roman Catholic Separate Schools.*

#### Board to appoint Local Superintendent.

**61.** The Board of [Roman Catholic Separate] School Trustees for every such City, Town, and Village respectively, shall appoint the Local Superintendent of [such separate] schools for the City, Town, and Village. [See the *eighth* clause (c) of the *seventy-ninth* section of this Act, page 47].

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

(62 & 63 superseded, as to Roman Catholic Separate Schools, by the 10th Section of the Separate School Act of 1863, page 8.)

#### Annual elections of one School Trustee in each Ward of Cities and Towns.

**64.** In every City and Town [in which a Roman Catholic separate school has been established] at the time prescribed by the *third* section of this Act, [*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 Roman Catholic] freeholders and householders [and separate school supporters] in and for each such ward respectively, and such Trustee shall continue in office for *two* years, and until his successor has been elected.

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

**65.** In each Town, not divided into wards, [in which a separate school has been established] and in each [such] Village, there shall be *six* [Roman Catholic separate] school trustees, *two* of whom after

poration, 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 27, and also note \* to the *twentieth* clause of the *twenty-seventh* section of the Consolidated Common School Act, page 40.

\* The Common School Act of 1860, enacts as follows: 4. \* \* \* 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.

the first election shall retire yearly on the *second Wednesday in January*.

**Such Trustees to be divided into Classes.**

67. The [Roman Catholic separate school] 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.

**Term of Office of such Trustees.**

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 Elections of Two Trustees in Villages and Town Municipalities.**

69. A school meeting shall be held annually on the *second Wednesday in January*, in each town and village, at the place of the then last annual election of councillors, at which meeting the [assessed Roman Catholic] freeholders and householders [and separate school supporters] 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 [such] election in any city, town, or village, or upon any other subject connected with [Roman Catholic separate] school purposes therein, the [person] presiding at the election shall require the person whose right of voting is objected to, to make the following declaration:

**Declaration of Voter.**

“ I do declare and affirm that I [am a Roman Catholic and] 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 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.”

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

**Effect of such Declaration.**

71. If any person wilfully makes a false declaration of his right to vote, he shall be guilty of a misdemeanor, and upon conviction,

\* By the *nineteenth* section of this Act, and 25th section of the Separate School Act, supporters of separate schools are not allowed to vote at the election of common School trustees. See pages 24 and 18.

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 [pages 23 and 24].

#### **Contested Elections in Cities, Towns, and Villages.**

*Note.*—The 72nd, 73rd, and 74th sections provide for the settlement of disputes with respect to *common* school trustee elections, but are probably superseded as to separate schools by the 27th section of the Separate School Act, page 18.

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.

(73. *Provides a penalty in case of the illegal action of the Returning Officer in common school elections.*)

#### **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 [Roman Catholic Separate] 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 shall be elected with his own consent, otherwise he shall be exempted from serving for *four* years next after leaving office.

(77. *Superseded by 5th section of Separate School Act.*)

(78. *Not applicable to Separate Schools.*)

#### **Duties of the Board.**

79. It shall be the duty of the Board of [Roman Catholic Separate] 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 Secretary 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,

\* 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. See page 56, &c.

obligations, and penalties as secretary-treasurers in school sections. [See pages 27, 28.]

**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 [Roman Catholic separate] school property, and to accept and hold as a corporation all property acquired or given for [separate] 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 [Roman Catholic separate] school purposes.

**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.

(9) Not applicable to Separate Schools.

**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

\* For mode of conducting public meetings, see page 20.

† 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 [eighth 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.—*In re Board of School Trustees v. Municipality of Brockville.* 9 Q. B. R. 302.



than *three* persons for the special charge, oversight, and management of each school within the City, Town or Village.

(11) *Not applicable to Roman Catholic Separate Schools.*

**Trustees to levy Rates for Children attending School.**

(12) To levy at their discretion any rates upon the parents or guardians of children attending any school under their charge, and to employ the same means for collecting such rates, as Trustees of [Roman Catholic separate] school sections in townships :\* and all moneys thus collected shall be paid into the hands of the *Secretary-Treasurer*, for the [separate] school purposes of the same, subject to the order of the Board of Roman Catholic Separate 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 their own Secretary-Treasurer.

**Trustees to give Notice of Annual and Special Meetings.**

(14) To call and give notice of annual and special school meetings of the [supporters of the separate school] 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 24, 25.]

**To see that authorized Text-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 to take charge of the school library or libraries when established.

**To see that Regulations are observed—Publication of Financial and General 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.

*\* 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 upon 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*. 13 Q. B. R. 346. See the *eleventh* and the *fourteenth* clauses of the *twenty-seventh* section of this Act, pages 35, 36, 37, 38. (This decision is applicable to Union Boards of Separate Schools in Cities, Towns and Villages.)

**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 [Roman Catholic separate school] trustees of each school section in regard to such school section.

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## APPENDIX D.

COMMON SCHOOL TEACHERS AND THEIR DUTIES,\*

*So far as applicable to Roman Catholic Separate School Teachers.*

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**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.†

**Teacher not to hold certain Offices.**

**81.** No teacher shall hold the office of school trustee or of local superintendent.

**Duties of Separate School Teachers.‡**

**82.** It shall be the duty of every teacher of a [separate] 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.

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\* 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. The Roman Catholic Separate School Act further recognizes teachers qualified to teach in Lower Canada.

‡ The *twenty fifth* clause of the *seventh* section of the Upper Canada Consolidated Jurors' 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."

**To keep the Register of the School.**

(2) To keep the daily, weekly, monthly or quarterly registers of the school.\*

**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 ¶

\* As the *twentieth* section of the Separate School Act, page 11, contemplates the distribution of the separate school money to the several separate schools 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 separate 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, page 56, 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 note ¶ to the *fifth* clause of the *eighty second* section of this Act, below.

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.

† *Representation as to the character of a teacher by a ratepayer, 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.

*Quære* 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.

‡ These forms and regulations are appended.

¶ *The Common School Act of 1860 further enacts:*

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

### 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 anywise affecting its interests or character.

### Protection of Teachers in regard to Salary.

§3. 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 pay him the whole of his salary, as teacher of the school,‡ according to their engagement with him.||

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.

\* *Form of Teacher's Circular Notice of the Quarterly Examination of his School.*  
Roman Catholic Separate 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 23 of Separate School Act, page 12.] 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," and "Remarks on the Duties of Teachers," appended.

† 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.

|| 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 Common School Act of 1860, on preceding page.

### 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

\* See the *fifteenth* section of the Common School Act of 1860, page 43.

† *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. Burness et al.* 15 Q. B. R. 473.

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 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 not contemplated by the School Acts.—*Kennedy v. Burness et al.*; *Murray v. Burness et al.* 7 C. P. R. 227.

‡ *The Common School 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 [preceding] *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.

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.

**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.

**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.†

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## APPENDIX E.

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### DUTIES OF COUNTY OR TOWNSHIP LOCAL SUPERINTENDENTS OF SCHOOLS.‡

*So far as applicable to Roman Catholic Separate Schools in Rural Sections.*

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**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—

(1) and (2) *not applicable to Roman Catholic Separate Schools.*

**Make Two Visits a Year to each School.**

(3) To visit each [Roman Catholic separate] school within his jurisdiction twice in each year, unless oftener required by the County

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\* For form of warrant see sub-note § on page 86.

† *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.—*Tiernan v. Trustees No. —, Nepean.* 14 Q. B. R. 15.

‡ The law provides that the entire duties of local superintendents of both common and Roman Catholic separate schools in cities, towns, and incorporated villages, should be prescribed by the Boards of common and Roman Catholic separate school trustees respectively. See page 47.

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*.\*

**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 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.

**See to Observance of lawful Regulations.**

(6) To see that all the schools are managed and conducted according to law.

**Attend certain Meetings.**

(7) To attend the meetings of the Board of Public Instruction.

**Attend Arbitration—Decide Disputes.**

(8) \* \* \* \* 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. §

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\* 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 regulations relating to correspondence with the Department, pages 13, 14

§ *The Common School Act of 1860 further enacts:*

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. [In regard to these appeals, see regulations in regard to communications with the Educational Department, pages 13, 14.]

### May Suspend Teacher's Certificate.

(9) To suspend the certificate of qualification of any teacher, [of a Roman Catholic 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.\*

### 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 [Roman Catholic 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.

## APPENDIX F.

### SPECIAL PROVISIONS.

*No far as applicable to Roman Catholic Separate Schools.*

#### 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 ;

\* *The Common School 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.

NOTE.—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 52. 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 49. See also the *eighth* clause of the *twenty-seventh* section of this Act, page 33.



But no rate-bill shall be imposed exceeding twenty-five cents per month\* for each pupil attending the school. †

(126 & 127 not applicable to Roman Catholic Separate Schools.)

**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.

(129 not applicable to Roman Catholic Separate Schools.)

**Penalty on Secretary-Treasurer for refusing to account.**

130. If any secretary-treasurer appointed by the [Roman Catholic 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 [such] school trustees for [such] school section then in office, such withholding or refusal shall be a misdemeanor.

(131 to 136 refer to the proceedings of the County Judge.)

**Certain Parties personally Responsible in case of lost School Fund.**

137. If any part of the common [or separate] school fund 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 recover 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 [Roman Catholic separate] school knowingly signs a false report, or if any teacher of [such separate] school keeps a false school register, or makes a false return, with the view of

\* 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 amended Common School Regulations, all school fees are payable in advance. See page 60.

‡ See also pages 28, 29.

obtaining a larger sum than the just proportion of school moneys coming to such [separate] school, such trustee or teacher shall, for each offence, forfeit to the [Roman Catholic separate] 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 collected, shall by such Justice be paid over to the said [separate] 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 [separate] 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 [Roman Catholic separate] 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.

## APPENDIX G.

### GENERAL REGULATIONS FOR THE ORGANIZATION, GOVERNMENT AND DISCIPLINE OF COMMON SCHOOLS.

*So far as applicable to Roman Catholic Separate Schools.*

*(Adopted by the Council of Public Instruction.)*

*Extract from the twenty-fifth section of the Roman Catholic Separate School Act.—“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*.

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. 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*.

\* \* \* \* \*

3. Every Saturday shall be a holiday; or, if preferred by the board of trustees and head master of any grammar school, the afternoon of Wednesday and Saturday in each week shall be half holidays. All days declared by law to be holidays, shall be holidays in each grammar school.

\* 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.

## 2. Duties of Masters.\*—(See page 49.)

The *eightieth* and the *seven* following sections of the Upper Canada Consolidated Common School Act, prescribe, in explicit and comprehensive terms, the duties 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 50. 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.

It shall be the duty of each master of a [separate] school:

1. To receive courteously the visitors appointed by law, page 12, 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 chose, 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 present Separate School Act, as the *twentieth* section authorizes 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 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 38.

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.

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\* 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 *four dollars* per annum, and 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.

† The *fifth* clause of the *eighty-second* section of the Upper Canada Consolidated Common School Act, page 50, 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 Upper Canada Common School Act of 1860, imposes a penalty on teachers who refuse to comply with the order of their trustees in this respect. See note ¶ on page 50. In regard to procuring Registers, &c., see note on \* page 50.

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 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 virtues 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 provision relative to the school-house and its appendages, as are required by the *third* clause of the *twenty-seventh* section, and the *fourth* clause of the *seventy-ninth* section of the Upper Canada Consolidated Common School Act, pages 30 and 47, 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 pupils 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 36—37.

## APPENDIX H.

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**ORDER AND CLASSIFICATION OF STUDIES PRESCRIBED FOR THE COMMON SCHOOLS IN UPPER CANADA, AS OBSERVED IN THE UPPER CANADA MODEL SCHOOL, TORONTO, AND APPLICABLE TO ROMAN CATHOLIC SEPARATE SCHOOLS.**

*(Adopted by the Council of Public Instruction.)*

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**(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 correctly and legibly all the letters of the alphabet, and 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 the 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.

*Needle-work* (for girls).—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 Lesson.

*Spelling and Definition.*—To be able to spell and define any word contained in the Sequel and Third Book of Lessons.

*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 1,000; 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 be able to analyse and parse any easy sentence; 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, and America, and Oceania, the different countries in each, with their capitals; and to know the position and chief cities in 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.

**Needle-work** (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 Divisions.

**Derivation.**—Reading Books and Spelling Book Superseded.

**Writing.**—Text, and 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 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.

**Needle-work** (for girls)—Under the direction of the female teacher.

BOYS:

- \*Trigonometry.
- \*Elements of Geology.
- \* Do Zoology.
- \* Do Botany.
- \* Do Natural Philosophy.

GIRLS:

- \*Science of things familiar.
- \*Elements of Geology.
- \* Do Zoology.
- \* Do Botany.
- \*Domestic Economy.

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\*Extra subjects, to be taken up at the discretion of the school authorities, no two, however, during the same school term.

## APPENDIX I.

### PROVISIONS OF THE LAW RELATING TO PUBLIC SCHOOL LIBRARIES IN UPPER CANADA.

"Township and County Libraries are becoming the crown and glory of the Institution of the Province."—*Lord Elgin at the Provincial Exhibition, Sept., 1854.*

#### 1. Trustees of Rural School Sections.

The *twenty-seventh* section of the Consolidated Common School Act, (page 39), 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.

#### 2. 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 [Roman Catholic Separate] School Trustees of every city, town and village respectively. \* \* \*

(7) To do whatever they may judge expedient \* \* \* for establishing and maintaining school libraries. \* \* \*

(15) \* \* \* to appoint a librarian to take charge of school library or libraries when established.

#### 3. 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 Trustees to aid in the establishment of Public School Libraries.

Where trustees neglect to comply with the library regulations in maintaining the library provided for their section, they subject themselves to penalties, by the *twenty-third* and *thirty-first* sections of the Consolidated Common School Act of Upper Canada. The property of every public library is exempt from taxation.

#### 4. 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:

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 enter-

\*For Library Regulations, see "Library Manual."



taining 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.

## APPENDIX J.

### 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.

#### 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 Separate 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.