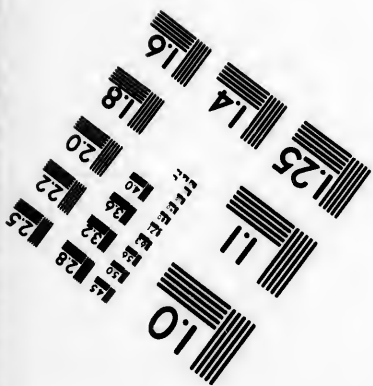
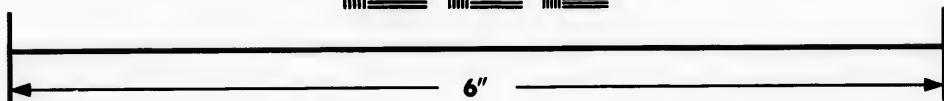
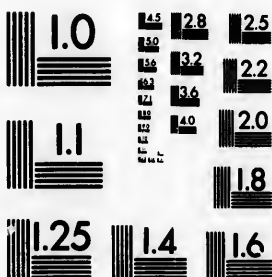


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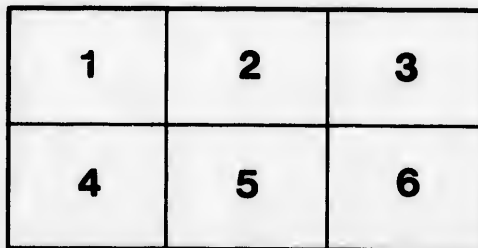
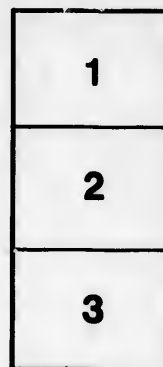
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BETWEEN THE
CHIEF SUPERINTENDENT OF SCHOOLS
FOR UPPER CANADA,
AND OTHER PERSONS,

ON THE SUBJECT OF
SEPARATE SCHOOLS:

(BEING A CONTINUATION OF THE RETURN LAID BEFORE THE HOUSE, AND PRINTED ON THE
17th SEPTEMBER, 1852.)

Printed by order of the Legislative Assembly.



TORONTO:
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RETURN

TO AN ADDRESS of the LEGISLATIVE ASSEMBLY to HIS EXCELLENCY the GOVERNOR GENERAL, dated the 2nd ult., praying His Excellency to cause to be laid before the HOUSE "a copy of all Correspondence which has passed between the Chief Superintendent of Education in Upper Canada, and any other persons, since "the first day of January, 1853, on the subject of Separate Schools."

By Command,

GEO. ET. CARTIER,
Secretary.

SECRETARY'S OFFICE,
QUEBEC, 10th May, 1855.

[No. 1367, N.]

EDUCATION OFFICE,
Toronto, 30th April, 1855.

SIR,

I have the honor to acknowledge the receipt of your letter of the 3rd instant, requesting me, by command of the Governor General, to furnish you, for the information of the Legislative Assembly, with a copy of all the Correspondence which has passed between me, in my capacity as Chief Superintendent of Schools for Upper Canada, and any other persons, since the first day of January, 1853, on the subject of Separate Schools.

I herewith transmit a copy of the Correspondence required, as also a copy of the Separate School clauses of the School Acts and Bills, and blank forms of School Returns which are referred to in the Correspondence.

I have the honor to be, &c.

(Signed,)

E. RYERSON.

E. A. MEREDITH, Esquire,
Assistant Secretary of the Province,
Quebec.

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THE
SEPARATE SCHOOL QUESTION
 IN
UPPER CANADA.

No. 1. Provisions of the Law relating to Separate Schools in Upper Canada.

COMMON SCHOOL ACT OF 1850, 13 & 14 Vic., Cap. 48.

[Received Royal Assent, 24th July, 1850.]

XIX. And be it enacted, That it shall be the duty of the municipal council of any township, and of the board of school trustees of any city, town, or incorporated village, on the application in writing of twelve or more resident heads of families, to authorize the establishment of one or more separate schools for Protestants, Roman Catholics or colored people, and, in such case, it shall prescribe the limits of the divisions or sections for such schools, and shall make the same provision for the holding of the first meeting for the election of trustees of each such separate school or schools, as is provided in the fourth section of this act for holding the first school meeting in a new school section: Provided always, that each such separate school shall go into operation at the same time with alterations in school sections, and shall be under the same regulations in respect to the persons for whom such school is permitted to be established, as are common schools generally: Provided secondly, that none but colored people shall be allowed to vote for the election of trustees of the separate school for their children, and none but the parties petitioning for the establishment of, or sending children to, a separate Protestant or Roman Catholic school, shall vote at the election of trustees of such school: Provided thirdly, that each such separate Protestant, or Roman Catholic, or colored school shall be entitled to share in the [school fund] according to the average attendance of pupils attending each such separate school, (the mean attendance of pupils for both summer and winter being taken,) as compared with the whole average attendance of pupils attending the common schools in such city, town, village or township: Provided fourthly, that no Protestant separate school shall be allowed in any school division except when the teacher of the

Separate schools for Protestants, Roman Catholics and Colored People authorized.

[Applicants prescribe limits in cities, towns and villages, by 14 & 15 V. c. 111.]

Under same regulations for elections and commencement as common schools.

Manner of electing trustees in such separate school sections.

Apportioning school moneys in same ratio as to common schools [School "fund" changed to school "grant." 16 V. c. 126, s. 4.]

Condition of establishment.

Proviso as to certain returns.

common school is a Roman Catholic, nor shall any Roman Catholic separate school be allowed except when the teacher of the common school is a Protestant: Provided fifthly, that the trustees of the common school sections within the limits of which such separate school section or sections shall have been formed, shall not include the children attending such separate school or schools, in their return of children of school age residing in their school sections.

SEPARATE SCHOOL ACT of 1851, 14 & 15 Vic., Cap. 111.

An Act to define and restore certain rights to parties therein mentioned.

[Received Royal Assent, 30th August, 1851.]

Preamble.

13th and 14th Vic. cap. 48, cited

Separate school in each ward or union of wards, at option of applicants.

Proviso: Conditions of establishment same as heretofore.

WHEREAS it is expedient to remove doubts which have arisen in regard to certain provisions of the nineteenth section of an act passed in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act for the better establishment and maintenance of Common Schools in Upper Canada*: And whereas it is inexpedient to deprive any of the parties concerned of rights which they have enjoyed under preceding school acts for Upper Canada: Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That each of the parties applying according to the provisions of the said nineteenth section of the said act shall be entitled to have a separate school in each ward, or in two or more wards united, as said party or parties shall judge expedient, in each city or town in Upper Canada: Provided always, that each such school in its establishment and operations shall be subject to all the conditions and obligations, and entitled to all the advantages imposed and conferred upon separate schools by the said nineteenth section of the said act.

SUPPLEMENTARY SCHOOL ACT of 1853, 16 Vic., Cap. 185.

[Received Royal Assent, 14th June, 1853.]

Separate schools for Protestants and Roman Catholics.

IV. And be it enacted, that in all cities, towns and incorporated villages and school sections, in which separate schools do or shall exist according to the provisions of the common school acts of Upper Canada, persons of the religious persuasion of each such separate school sending children to it, or supporting such school by subscribing thereto annually

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an amount equal to the sum which each such person would be liable to pay (if such separate school did not exist) on any assessment to obtain the annual common school grant for each such city, town, incorporated village or township, shall be exempted from the payment of all rates imposed for the support of the common public schools of each such city, town, incorporated village or school section, and of all rates imposed for the purpose of obtaining the legislative common school grant for such city, town, incorporated village or township; and each such separate school shall share in such legislative common school grant only (and not in any school money raised by local municipal assessment) according to the average attendance of pupils attending each such separate school, (the mean attendance of pupils for winter and summer being taken) as compared with the whole average attendance of pupils attending the common schools in each such city, town, incorporated village or township; and a certificate of qualification, signed by the majority of the trustees of each such separate school, shall be sufficient for any teacher of such school; Provided always, firstly, that the exemption from the payment of such school rates, as herein provided, shall not extend beyond the period of such persons' sending children to or subscribing as aforesaid for the support of such separate school; nor shall such exemption extend to school rates or taxes imposed or to be imposed to pay for school houses, the erection of which was undertaken or entered into before the establishment of such separate school; Provided secondly, that the trustees of each such separate school shall, on or before the thirtieth day of June, and thirty-first day of December of each year, transmit to the local superintendent, a correct return of the names of all persons of the religious persuasion of such separate school, who shall have sent children to, or subscribed as aforesaid for the support of such separate school during the six months previous, and the names of the children sent, and amounts subscribed by them respectively, together with the average attendance of pupils in such separate school during such period; And the superintendent shall forthwith make a return to the clerk of the municipality and to the trustees of the school section or municipality in which such separate school is established, stating the names of all the persons who, being members of the same religious denomination, contribute or send children to such separate school, and the clerk shall not include in the collector's roll for the general or other school rate, and the trustees or board of trustees shall not include in their school rolls, except for any rate for the building of school houses undertaken before the establishing of such separate school as herein mentioned, the name of any such person as appears upon such return then last received from the said superintendent: And the clerk or other officer of the municipality within which such separate school is established, having possession of the assessor's or collector's roll of the said municipality, is hereby required to allow any one of the said trustees, or their authorised collector, to make a copy of such roll as far as it shall

Supporters to be exempted from common school rates.

To share in legislative grant same as common schools.

Proviso, 1st. Exemption from common school rates conditional.

3d. Half-yearly returns to local superintendent.

Return of supporters and the usual common school return.

Superintendent to report to clerk and trustees of municipality.

Effect of such returns:

Exemption from rates.

Separate school trustees to have access to assessor's roll.

man Catholic common school section or children attending of school age

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in mentioned.

August, 1851.]

have arisen in of an act Majesty's Reign, maintenance of inexpedient to have enjoyed before enacted, the advice and assembly of the of and under ited Kingdom the Provinces Canada, and it of the parties tion of the said l, or in two or edient, in each h such school the conditions and conferred said act.

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th June, 1853.]

incorporated or shall exist Upper Canada, school sending oreto annually

- 3d.—Penalty for false returns. relate to their school section ; Provided thirdly, that the provisions of the thirteenth section of the said Upper Canada School Act of 1850, shall apply to the trustees and teachers of separate schools, the same as to trustees and teachers of other common schools : Provided fourthly, that the trustees of each such separate school shall be a corporation, and shall have the same power to impose, levy, and collect school rates or subscriptions upon and from persons sending children to, or subscribing towards the support of such separate school, as the trustees of a school section have to impose, levy and collect school rates or subscriptions from persons having property in such section or sending children to or subscribing towards the support of the common school of such section : Provided fifthly, that the foregoing provisions in this clause shall take effect from the first day of January, one thousand eight hundred and fifty-three, and shall extend to the separate schools, established or intended to be established under the provisions of the Upper Canada Common School Acts ; Provided sixthly, that no person belonging to the religious persuasion of such separate school, and sending a child or children thereto, or subscribing towards the support thereof, shall be allowed to vote at the election of any trustee for a public common school in the city, town, incorporated village or school section within the limits of which such separate school shall be situate.
- 4th.—Separate trustees to be a corporation. Same powers to levy and collect rates from supporters as trustees of public schools. power to impose, levy, and collect school rates or subscriptions from persons having property in such section or sending children to or subscribing towards the support of the common school of such section : Provided fifthly, that the foregoing provisions in this clause shall take effect from the first day of January, one thousand eight hundred and fifty-three, and shall extend to the separate schools, established or intended to be established under the provisions of the Upper Canada Common School Acts ; Provided sixthly, that no person belonging to the religious persuasion of such separate school, and sending a child or children thereto, or subscribing towards the support thereof, shall be allowed to vote at the election of any trustee for a public common school in the city, town, incorporated village or school section within the limits of which such separate school shall be situate.
- 5th.—Foregoing provisions to have effect from January, 1853. . V. And be it enacted, That the trustees of each school section shall, on or before the thirtieth day of June, and the thirty-first day of December, in each year, transmit to the local superintendent, a correct return of the average attendance of pupils in the school or schools under their charge during the six months then immediately preceding ; nor shall any school section be entitled to the apportionment from the school fund for the said six months, the trustees and teacher of which shall neglect to transmit a verified statement of such average attendance of pupils in their school or schools ; Provided always, that nothing herein contained shall be construed to repeal the provisions of the thirty-first section of the said Upper Canada School Act of 1850.
- 6th.—Separatists not to vote for common school trustees. Public school half-yearly returns to local superintendent. Penalty for omission to do so. Proviso.

No. 2. *The Chief Superintendent to the Honorable Inspector General Hincks.*

Explanatory remarks on the provisions of a draft of bill relating to Separate Schools. (4th section of the Supplementary School Act of 1852.)

[No. 655, G.]

EDUCATION OFFICE,

[Extract.]

Toronto, 26th August, 1852.

4th Section. This section is designed as supplementary to the 19th section of the Common School Act in regard to separate schools. The most simple, and

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perhaps the most satisfactory mode of silencing clamor on the part of parties demanding these schools, (if they are permitted to continue at all,) is that which is proposed in the part of the section contained in the margin (b)—namely, to relieve the parents and guardians sending children to them, from paying any school tax whatever, and then allowing them to share with the other schools according to average attendance in the same municipality in the legislative school grant alone. In case such a provision were adopted: 1. There would be no provision in the school law requiring a public municipal tax for denominational schools, and all opposition and clamor against it on that ground would cease. 2. There could be no complaint from any quarter that the supporters of a separate school paid more or less in school taxes than they received from the school fund. 3. All the inhabitants of a municipality except those who might choose to send children to the separate school, could proceed with their school interests as if no other class of persons were in existence. 4. The teachers of separate schools might be relieved from appearing before the County Board of Public Instruction for examination, and thus the last vestige of possible agitation between the supporters of separate schools and the municipal authorities, in relation to the subject at all, would be removed. If, on the other hand, the clause, as expressed in the text (a) is preferred, then all teachers of separate schools should be required to appear before the County Board of Public Instruction for examination, the same as other teachers of common schools; for I hold it as a sacred principle of municipal right, that no municipality should be required to assess and collect money for the support of teachers whose qualifications to teach are not attested by a board appointed by such municipality. Before any such board there is no examination as to religious doctrines or knowledge. The certificate of the priest, clergyman, or minister, of the religious persuasion to which each candidate professes to adhere, is taken by each county board as the guarantee for the religious qualifications of such candidate.

It will be observed, that in this (4th) section, I do not propose to specify the manner in which persons exempted from school taxes shall be returned or ascertained; for if any one mode be specified, it will be abused by scores of persons merely with a view of avoiding the payment of any school tax. I therefore propose to leave it a matter of instruction as to the mode of carrying this as well as every other provision of the law into effect, so that that kind of inspection can be employed that will prevent imposition or abuse.

Then the section does not, any more than the 19th section of the existing law, give the persons who petition for, and send children to the separate school, control over all the Roman Catholics or Protestants of the municipality; but only over those of the persuasion of the separate school who choose to support it.

But I find that the very mention of a separate column on the tax roll, for a separate school, excites a hostility and feeling that you can hardly conceive. I find very few others feeling as indulgent as I do in such matters. But I am apprehensive that some municipalities would refuse to levy any school assessment whatever under such circumstances; and probably boards of school trustees would feel still more strongly, many of their members would sooner go to prison

than be instruments of collecting moneys for the support of papal schools; and Roman Catholics would loudly exclaim against being tax-assessors and tax-collectors for the support of Protestant schools. The proposition of a separate column on the tax roll, for the support of separate schools, would give an immense advantage to all opponents of separate schools; but the 4th section in the accompanying draft of bill, as proposed in the margin (b) will, I think, give all that can be reasonably asked by any person in support of denominational schools, and will extinguish all agitation on the subject, yet require such conditions, returns and inspection in connexion with separate schools as will prevent abuses upon the school grant. It may be objected that should persons at one time sending children to a separate school, afterwards wish to send them to a common school, they should be required to pay the taxes at least for the erection of the school-house from which they had been exempted; but this would oppose an obstacle to their coming back to the public school; and I would wish to leave the door as wide open as possible for that purpose.

I may add that the subject of this fourth section has deeply exercised my mind. The part of the section as proposed in the margin (b) occurred to me after that in the page (a) was transcribed; and I think it is the nearest approach to the solution of the difficulties connected with separate schools, if they are allowed to exist, that has yet been proposed.

(Signed,)

E. RYERSON.

The Honorable FRANCIS HINCKS, M. P.,
Inspector General, Quebec.

Original draft of the 4th section of the Supplementary School Act of 1853.

(a) *Section as in Text.*

IV. And be it enacted, That in all cities, towns, incorporated villages and school sections in which separate schools exist, according to the provisions of the 19th section of the said 13th and 14th Vic., chap. 48, all parents or guardians of the religious persuasion of such separate school, and sending children to it, shall be exempted from the payment of all school rates for the support of the common public schools of such city, town, incorporated village or school section, beyond the amount of rate which shall be required to secure the payment

(b) *Marginal Section.*

IV. And be it enacted, That in all cities, towns, incorporated villages and school sections, in which separate schools do or shall exist, according to the provisions of the 19th section of the said act, 13th and 14th Vic., chap. 48, parents or guardians of the religious persuasion of each such separate school sending children to it, shall be exempted from the payment of all school rates for the support of the common public schools of each such city, town, incorporated village or school section; and each such separate school shall share in the legislative common school grant apportioned to each such city, town, incorporated village or township, (but shall not share in any school money raised by local municipal assessment,) according to the average attendance of pupils attending each such separate school (the mean attendance of pupils for summer and winter being taken), as compared with the

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l cities, towns, ions, in which ording to the said act, 13th ardians of the parate school pted from the support of the ch city, town, on; and each he legislative to each such ounship, (but raised by local o the average such separate ls for summer are with the

of the annual legislative school grant apportioned to each such municipality or school section: Provided always that such exemption from the payment of the ordinary school rates specified, shall not extend beyond the period of the existence of a separate school in each such city, town, incorporated village or school section, or beyond the period of such persons sending children to it, or of their being liable to be rated for its support: Provided likewise,—that the provisions of the 13th section of the said act, 13 & 14 Vic., chap. 48, shall apply to the trustees and teachers of separate schools the same as to trustees and teachers of other common schools.

whole average attendance of pupils attending the common schools in each such city, town, incorporated village or township; and a certificate of qualifications signed by the bishop or other ecclesiastical head of the religious persuasion of such separate school, shall be sufficient for any teacher of such separate school: Provided always—first, that the exemption from the payment of school rates as herein provided, shall not extend beyond the period of such parents or guardians sending children to such separate school: Provided—secondly, that the trustees of each such separate school shall, on or before the thirtieth day of June and thirty-first day of December of each year, transmit to their local superintendent, (verified by the oath of their teacher, before a magistrate,) a list of the names of all persons of the religious persuasion of such separate school, who shall have sent children to such separate school during the six months previous, and the names of the children sent by them respectively, together with the average attendance of the pupils in such separate school during such period: Provided—thirdly, that the provisions of the 13th section of the said act, 13th and 14th Vic., chap. 48, shall apply to the trustees and teachers of separate schools the same as to trustees and

teachers of other common schools: Provided—fourthly, that the trustees of each such separate school shall be a corporation, and shall have the same power to levy and collect school-rates or school-rate bills from persons sending children to such separate school as the trustees of a school section have to levy and collect school-rates or school-rate bills from persons sending to the common school of such section: Provided—fifthly, that no person sending a child or children to a separate school shall be allowed to vote at the election of any trustee for a public common school in the city, town, incorporated village or school section within the limits of which such separate school shall be situated.

*No. 3. The Chief Superintendent to the Honorable Inspector General
Hincks.*

Explanatory Remarks on the Sections of a Draft of Bill relating to Separate Schools, to amend section 19 of the Common School Act of 1860, and section 4 of the Supplementary School Act of 1858.

EDUCATION OFFICE,

[Extract.]

Toronto, 6th September, 1854.

The following sections relate to separate schools, and, without undermining our general system, provide for all that even ultra advocates of separate schools have professed to demand, and all that I think the country can be induced to give.

I think our next step must be, if further legislation be called for, to take the sound American ground of not providing or recognizing separate schools at all. In this we should have the cordial support of nine-tenths of the people of Upper Canada; while in the course now pursued, the more you concede, the more you contravene the prevalent sentiment of the country, and the greater injury you are inflicting upon the great body of the parties for whom separate schools are professedly demanded, but who have not, as far as I am aware, any safe and adequate means of speaking for themselves, or of even forming a judgment.

These three sections relieve the trustees of separate schools from making any return or including any item in any return whatever, not required of other trustees; leave the applicants for separate schools to do any thing or nothing, as they please; but do not permit them to make the municipal council their school tax collector, nor give them the legislative school grant except in proportion to the average number of children they teach.

(Signed,)

E. RYERSON.

Proposed Sections relating to Separate Schools.

VI. And be it enacted, That so much of the fourth section of the act of 16 Vic., chap. 185, as requires each supporter of a separate school to subscribe or pay a certain sum in order to be exempted from the payment of the public school rates, and so much of the said section of said act as requires the trustees of a separate school to include in their semi-annual returns a statement of the names of the children attending such school, or of the names of parents or guardians sending children to such school, or of the sum or sums subscribed or paid by each of the supporters of such school, shall be, and is hereby repealed: Provided always, that the supporters of a separate school or schools, in order to be entitled to exemption from the payment of any public school rates for any one year, as authorised by the said 4th section of the act 16 Vic., chap. 185, shall, on or before the first day of February of such year, communicate in writing, with their names and places of residence, to the clerk of the municipality in which such separate school or schools are situated, a declaration to the effect, that they are supporters of such separate school or schools.

Repeal of part of 16 Vic. c. 185, s. 4.

Of obligation on supporters of separate schools to subscribe a certain amount.

And on trustees to report names and subscriptions of supporters.

Proviso: Supporters of separate schools exempted by notifying clerk of municipality before 1st Feb.

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VII. And be it enacted, That the trustees of separate schools elected in each of the wards of any city or town in Upper Canada, shall have authority to unite, during their pleasure, into one joint board of trustees for the management of the several separate schools in such city or town.

Union of trustees of separate schools in cities and towns.

VIII. And be it enacted, That the Chief Superintendent of Schools for Upper Canada shall have authority to determine the proportions of the legislative school grant which may be payable respectively, according to law, to public and separate schools; and shall have authority to pay the sums thus apportioned in such manner as he shall judge expedient, upon the conditions, and at the time prescribed by law: Provided always, that such returns shall be made to him, and in such manner by all parties concerned, as he shall require, to enable him to decide upon the amount and payment of said sums.

Chief Superintendent to determine proportion of Legislative Grant to separate schools

No. 4. The Chief Superintendent to the Roman Catholic Bishop of Toronto.

Comparison of the School Laws of Upper and Lower Canada regulating Separate Schools.

[No. 1677. M.]

EDUCATION OFFICE,

Toronto, 26th August, 1854.

MY LORD,

During some months past, your Lordship has been pleased several times to attack me personally by name—attacks which have been often repeated and variously enlarged upon by the newspaper organs of your Lordship. On two occasions especially, once in Lower Canada, and once in Upper Canada, you have charged me with “falsehood.” The former of these attacks was made by you on the occasion of a “Catholic Institute,” at Quebec, presenting an address to your Lordship, and in which Mr. Cauchon, M. P. P., took a part, under the smiling approbation of your Lordship. This proceeding was first reported in Mr. Cauchon’s paper, *Le Journal de Québec*, and afterwards translated for, and published in, the *Catholic Citizen*, of Toronto, the 22nd of June. The latter of your Lordship’s attacks was made in an address to a “Catholic Institute” in Toronto, and reported in the *Catholic Citizen* of the 20th July.

I am quite aware that these attacks upon me, in connection with the provisions of the law in regard to separate schools, were designed to influence the recent elections; and for that very reason I thought it proper not to notice them until after the elections—that your Lordship might have every possible benefit of them, and that I might not give the slightest pretence for a charge that I interfered in the elections. Indeed, at no period during the last twenty-five years, have I electioneered for or against any candidate whatever. I have at different times, especially during the many years that I was an editor of a weekly paper, earnestly discussed great principles of government and civil rights, but in the application of those principles

for or against any particular candidate at an election, I have taken no active part, not even so much as to give an advice in any instance; nor can any man truly charge me with doing so.

But as that reason for my silence no longer exists, and as my silence seems to have been mistaken for an inability to answer your Lordship's statements and imputations, in consequence of which, one or two respectable journals in Lower Canada, have been led into the error of supposing that there was some ground for your Lordship's charges, I will briefly reply to them.

In my last annual report, I stated that supporters of separate schools in Upper Canada occupy the same position in respect to the public schools as do the supporters of separate schools in Lower Canada. Your Lordship charges me with the "direct assertion of falsehood," with asserting the "reverse of truth" on this subject.

Before noticing your Lordship's charges in detail, I may remark that when public men have said that they will advocate granting the same privileges to the Catholics in Upper Canada as are enjoyed by Protestants in Lower Canada, they are quite right, and say no more than I have said from the beginning—no more than I have sincerely intended—no more than each succeeding administration has intended—no more than the late Attorney General (now Judge) Richards believed was fully secured to them by the Supplementary School Act for 1853; for after he and I had gone over the several clauses of the *fourth* section (relative to separate schools) of the supplementary school bill, he asked me if the supporters of the separate schools were now placed on the same footing in Upper Canada as in Lower Canada; I replied I believed they were in every respect—that in some particulars there was a difference in the *mode* of proceeding in the two sections of Canada, arising from the existence of municipal councils and assessments in Upper Canada, and the payment of all school moneys by county and town treasurers, which did not exist in Lower Canada—that in regard to these peculiarities, nothing was required of the trustees of separate schools, which was not required of trustees of public schools, with the single exception that in the semi-annual returns of the former the names of children and their parents or guardians were included, with the amounts of their school subscriptions, in order that it might be known whom to exempt from the payment of public school taxes. But I desired the Attorney General to examine for himself the provisions of the two laws in regard to separate schools. At his request, I took the school law of Upper Canada as existing and as proposed, and he took the school law of Lower Canada, and went over the provisions clause by clause relative to dissentient schools, while I referred him to the corresponding clauses of the school law of Upper Canada; and after he had finished, he said the equality in the two cases was perfect, and he was prepared to defend it. After this examination, and with this conviction, the Attorney General, with the concurrence of his colleagues, brought the bill before the Legislative Assembly, and it was passed—after which, and for several months, your Lordship's newspaper organs boasted of it as subverting the foundation of our public school system, which your Lordship had so fiercely denounced, and would soon secure its overthrow. This turns out to have been a great mistake—our school system is neither shaken in its foundations, nor impeded in its progress; and now your Lordship manufactures new charges against

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the school law, and new imputations against myself. I will now quote and answer them one by one.

1. *Bishop Charbonnel.* "In Lower Canada, any number whatever enjoy the right of establishing separate schools, while in Upper Canada it is necessary for *twelve* resident heads of families to apply in writing to the municipal council or the board of school trustees in any city or incorporated village."

Answer. This is not correct. There can be no dissentient school district in Lower Canada, which shall contain less than *twenty* children between the ages of five and sixteen years; nor can any dissentient school be *continued* which is not attended by "at least fifteen children." See sections 4, 19, 26, 27, Act 9 Vic., chapter 27. These conditions are not so easy as those required of the same parties in Upper Canada.

2. *Bishop Charbonnel.* "In Lower Canada, Protestants exercise, without restriction, the right of establishing separate schools, while in Upper Canada, persons desirous of doing so must be either freeholders or householders."

Answer. This is a mistake. The Upper Canada School Act specifies "resident heads of families" without any reference to their being freeholders or householders, and the "parties petitioning for and sending children to a separate school" elect the trustees.

3. *Bishop Charbonnel.* "In Lower Canada, Protestants have only to signify their intention of having started a separate school, while in Upper Canada before any proceedings are taken, Catholics must apply to a Protestant Board, before their school can have an existence." "That the right has been bestowed of establishing separate schools, even where a Protestant teaches a common school."

Answer. This is a mistake. The Superintendent of Education in Lower Canada says, in his official circular, "The present act authorises the establishment of dissentient schools *only upon the ground of religious difference*, and to the inhabitants only forming the minority." "The law relating to common schools does not recognise independent [Protestant denominational] schools."

(2) The Lower Canada School Act (9th Victoria, chapter 27, section 23) authorises the commissioners of each school municipality (the same as a board of school trustees in Upper Canada) "to regulate the course of study to be pursued in each school, and to establish general rules for the management of the schools under their care." And in order to establish a dissentient school, the 26th section of the same act provides, "That whenever, in any municipality, the *regulations and arrangements* made by the school commissioners for the conduct of any school, shall *not be agreeable* to any number whatever of the inhabitants *professing a religious faith different* from that of the majority of the inhabitants of such municipality, the inhabitants so dissentient may collectively *signify such dissent* in writing to the *chairman of said commissioners*, and give in the names of three

trustees, chosen by them for the purposes of this Act; and such trustees shall have the same powers and be subject to the same duties as School Commissioners, but for the management of those schools only which are under their control; and such dissentient inhabitants may, by the intervention of such trustees, establish in the manner provided for other schools, one or more schools, which shall be subject to the same provisions, duties, and supervision," &c. The 27th section of the Act provides, that no such School shall receive anything from the School Fund unless it "has been in actual operation during at least eight calendar months," and "has been attended by at least fifteen children."

By these provisions, it is clear that the dissentients must signify in writing to the Chairman of the Local School Board their intention to establish a Separate School or Schools, the same as in Upper Canada; but they are not entitled to a Separate School without avowing their dissent from the regulations made by the very Commissioners to whom they are required to make the application; nor can they receive any aid from the School Fund without having had a school in operation at least eight months, and attended by at least fifteen children. Another section of another act requires semi-annual returns made by them on oath of at least two of the trustees of the dissentient school as to the actual number that has attended their school—three conditions, these, and very serious ones too, which are not required of the Trustees of Separate Schools in Upper Canada.

4. *Bishop Charbonnel.* "In Lower Canada, the clergymen of all religious denominations in each municipality are eligible without any property qualifications to be School Commissioners."

Answer. So they may be elected trustees of separate or other schools, or appointed school superintendents in Upper Canada, without any property qualification whatever—without even being residents in the school sections where they are elected,—and even without being British subjects or taking the oath of allegiance.

5. *Bishop Charbonnel.* "Protestant Trustees in Lower Canada have the same powers accorded to them as is given to Catholic Commissioners."

Answer. The powers of Trustees of Separate Schools in Lower Canada are confined to the dissentients and the schools under their control. It is the same in Upper Canada.

6. *Bishop Charbonnel.* "Protestant Trustees in the Lower Province are constituted a Corporation for assessment and collection, and are entitled to receive from the Chief Superintendent, if they please, the sum proportionate to the dissenting population."

Answer. The trustees of dissenting schools are designated by an inferior title to that given the managers of the Catholic schools in Lower Canada. They are called "Trustees of the dissentient schools in the municipality," while the others are designated "The School Commissioners of the municipality," and are declared to be a corporation under that name. The Protestant schools are not honored with

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the name of "separate schools," but are designated "dissentient schools," and the managers are not called "commissioners," but "trustees," in contradistinction to commissioners; and are required to apply to the "president of the school commissioners" for any lists of assessments and names of school-rate-payers, &c., in which they are interested, and to express, "at least one month before the first day of January and first day of July, that they are not satisfied with the arrangements antecedently made by the school commissioners in said municipality," in order to obtain a release from the payment of school rates to the Catholic school of such municipality, and to collect them for the "dissentient school or schools."

Nor is it correct to say, that the school fund in Lower Canada is given to the trustees of a "dissentient" school in a municipality, "proportionate to the dissenting population." This was the case under the School Act of Lower Canada of 1846; but this provision was repealed by another School Act (12 Victoria, chap. 50), passed in 1849, the 18th section of which provides, that the "dissentient schools" shall be entitled to receive from the superintendent a share of the general school fund (that is the legislative grant) bearing the same proportion to the whole sums allotted from time to time to such municipality as the number of children attending such dissentient school bears to the whole number of children attending school in such municipality at the same time." Accordingly, in the School Act of Upper Canada, passed the year after the passing of the School Act of Lower Canada, just quoted, it was provided that "each separate school shall be entitled to share in the school fund according to the average attendance of pupils attending each such separate school, as compared with the whole average attendance of pupils attending the common schools in such city, town, or township." Thus the basis of distributing the money allotted by the Chief Superintendent to municipalities between the separate and municipal schools, is precisely the same in both parts of Canada.

7. *Bishop Charbonnel.* "Every facility is afforded to Protestants for the collection of the sums to which they are entitled. They have the same right of employing the municipal officers or not at their discretion."

Answer. The trustees of separate schools have precisely the same rights and the same facilities for procuring the information they may require from the assessor's roll of school tax-payers, as have the trustees of the common schools, and as have the trustees of dissentient schools in Lower Canada, and can employ any person as their collector of the rates imposed by them, who is willing to accept the office, the same as the trustees of common schools.

8. *Bishop Charbonnel.* "They have the right of receiving a due proportion of the building fund."

Answer. The school law of Lower Canada authorises the expenditure of a portion of the legislative school grant in the erection and repairs of school-houses. This is not allowed in Upper Canada, in regard to school-houses of any description. The whole of the legislative school grant in Upper Canada must be expended in

paying the salaries of teachers, in which separate schools share equally with other schools upon the same principle of distribution as that which is provided by law in Lower Canada. There is, therefore, no school "building fund" in Upper Canada; and therefore none for common, any more than for separate schools.

9. *Bishop Charbonnel.* "Of having in Montreal and Quebec only one board of six members wholly independent of the other board."

Answer. The trustees of each separate school in Upper Canada are constituted a board of examiners, "independent of all other boards" to give certificates of qualifications to their own teachers—a power not given to any other board of trustees in any city, town, or municipality in Upper Canada.

10. *Bishop Charbonnel.* "Of receiving in these cities a sum proportionate to their population."

Answer. There is no school rate, as such, levied in Montreal and Quebec. The arrangement of paying certain sums out of city funds which is confined to those two cities, and does not extend to any other part of Lower Canada, tells powerfully against the Protestants in those two cities, as they are not allowed to share in the fund according to their property or the taxes they pay, but according to their numbers—which are very small in proportion to their wealth, and therefore small in proportion to what they themselves pay to the fund itself.

11. *Bishop Charbonnel.* "And still further right of exemption from taxation for the purpose of establishing common school libraries and buildings."

Answer. The school commissioners themselves in Lower Canada, are not authorised to levy rates for libraries. The supporters of separate schools in Upper Canada are exempt from all school rates for libraries, as well as for the salaries of teachers, and from all rates for the erection of school-houses except such as were undertaken before the establishment of a separate school. Nor are the supporters of "dissentient schools" in Lower Canada exempted from the payment of any school rates, whether for school-houses or for other purposes, which were levied before they established separate schools. The trustees of separate schools in Upper Canada have the same power, and receive the same assistance, for the establishment of libraries, as do the trustees of common schools.

12. *Bishop Charbonnel.* "The right is also granted of corresponding with the Superintendent alone, and the right of such large, beneficial and liberal constructions as will ensure the attainment of the objects of the act, and the enforcement of the several enactments, according to their true intent, meaning and spirit."

Answer. The same right exists in Upper Canada in regard to the trustees of separate as well as of public schools, and has never been denied in any one instance. But it is a regulation of my department, that parties complaining should furnish a copy of their communication to the parties against whom they complain, and against whom my decision is invoked—and I have adverted to a disregard of this equitable and necessary regulation on the part of separate school trustees in the

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city of Toronto,* although I did not even delay on that account to receive and answer their communication. The publication of my correspondence with these parties—and which has been withheld in the bishop's newspaper organs that have perpetually assailed me—would furnish a complete refutation of this unjust and groundless insinuation. It has also been shown above that the "dissentient minority" in Lower Canada, must previously "correspond," not "with the superintendent alone," and not at all with him, but with the Catholic school commissioners of the municipality as to the establishment of a "dissentient" school, and must make a protest against, or avow their dissent from, the school regulations made by such commissioners, in order to establish a separate school; and afterwards make another written protest in order to be exempted from the payment of school rates levied by such commissioners—regulations which said commissioners are not required to communicate to dissentients at all. Should the Roman Catholic school commissioners make no "regulations" to which the Protestants could object, "on the ground of religious difference," they could not establish a "dissentient" school—as every step they take towards the establishment of such school, must be subsequent to the making of school regulations by the commissioners; must be effected by corresponding with such commissioners, and not with the Chief Superintendent; and must contain a protest against, or avowed dissent from, the regulations made by such commissioners. Besides this, each semi-annual return to the Chief Superintendent of the actual attendance of children at the "dissentient school" must be made on the *oath* of at least two of the trustees—a requirement which is not imposed upon the Catholic commissioners in making their semi-annual returns. Now, were the trustees of separate schools in Toronto placed in such a relation to the trustees of the public schools, and compelled to make every return on *oath*, without such oath being required of the other trustees, we should then have much more serious and better founded complaints from your Lordship. Nor is it unworthy of remark, that no religious denomination in Lower Canada can have separate schools such as are granted to Roman Catholics in Upper Canada. In Lower Canada the schools of the majority are denominational, while the schools of the minority are non-denominational—it having been officially and judicially decided there that the schools of the "dissentients" are for Protestants generally in contradistinction to Roman Catholics, but not for any one denomination of Protestants in distinction from others. Therefore the schools of the minority in Lower Canada cannot be used for denominational purposes, while the schools of the majority are so used universally.

13. *Bishop Charbonnel*. "It is again enacted that no corporation shall alienate any portion of property held by it without the sanction of the Chief Superintendent, and no such corporation shall cease by reason of the want of school commissioners in any municipality at any time."

Answer. Nor can any corporation cease to exist in Upper Canada for want of a school, or even for want of members; nor can school property be alienated or applied to other than school purposes, even with the sanction of the Chief

* See letter to the trustees of Roman Catholic Schools, Toronto, dated 11th May, 1854.

Superintendent; and separate school corporations in Upper Canada are responsible to their supporters alone, in regard to all school property, and not to the Chief Superintendent.

14. Such are the points on which your Lordship has undertaken to compare the school laws of Upper and Lower Canada in regard to separate schools, in order to prove that I have asserted "falsehoods," and that I have got laws passed which are unjust and oppressive towards the Roman Catholics; and by means of such statements and representations, your Lordship has endeavoured to impress public men in Lower Canada with the idea that you are cruelly oppressed and persecuted by the school law and its administration in Upper Canada, and thus to sow the seeds of distrust and dissension between the two sections of United Canada, and invoke the interference of Lower Canada in matters appertaining exclusively to Upper Canada. The intelligent statesmen of Lower Canada will, no doubt, be surprised to find how utterly apocryphal are your Lordship's representations on this subject, and how grossly you have wronged the people and public men of Upper Canada by your statements and appeals.

15. Your Lordship has represented me as having "been compelled to change my decision" on a matter respecting which I gave but one decision, and that willingly and promptly;* and you have assailed me with opprobrious epithets and allusions, when, if the correspondence which has taken place between this department and persons acting under your Lordship's direction, were published, it would be seen who has endeavoured to give the most liberal construction and application of the law, and who has sought to evade its provisions, to embarrass its operations, and to create and multiply causes of dispute; that if money has not been paid when the law provided for its payment, to whom the delay is justly attributed:—that if (according to the reported proceedings of the board of school trustees for the city of Toronto, this very week) the legislative school grant is promptly and fairly apportioned between the public and separate schools in 1854, it is not because the law is different from what it was in 1853, but because the provisions of the law have been complied with by parties who did not observe those provisions last year. Nor can the fact fail to be noticed, nor its legitimate inference be overlooked, that these disputes between separate and other school trustees, are, as far as I know, confined to the city of Toronto, and as the noise about the school law has been commenced and perpetuated by an ecclesiastico-political institute, of which your Lordship is the animating spirit, there must be some other cause than anything unjust and oppressive in the provisions of the law in regard to any party.

A key to explain much of the zeal evinced by your Lordship is furnished in a remark of Mr. Cauchon's, whose address to your Lordship seems to have afforded you so much gratification. Mr. Cauchon says: "Who is ignorant of the fact, that Protestantism is intolerant in its very nature. It will cry out to you, be freemen, if you think as we do; if not, be slaves. Liberty is for Protestants." This, it appears, is the feeling your Lordship seeks to inculcate in Lower Canada, in regard

* See letter to certain Roman Catholic inhabitants of St. David's Ward, Toronto, dated 30th August, 1853.

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to the religion and spirit of the great majority of the people of Upper Canada, and is sufficient to account for your efforts to seek the destruction of our public schools and school system. In reply, might I not assert as fact, apart from *ology*, that the essential principle and life of Protestantism is liberty, and that no true Protestant can be a religious persecutor; and that the liberty and rights enjoyed by Roman Catholics in the Protestant countries of Great Britain and the United States, as compared with the liberty and rights enjoyed by Protestants in the Italian States of the Pope, afford a happy commentary on the liberality, the modesty, the intelligence and the truth of the assertion, that "Protestantism is intolerant in its very nature;" and that "among Protestants, all are slaves except Protestants."

I have only to remark in conclusion, that it has not been my object in this communication to express an opinion as to whether or not the school law is susceptible of amendment or improvement on the subject referred to. In regard to allegations against the school law and its administration, I intimated in my last annual report, that an investigation of them by a government commission or parliamentary committee, would be just to the school system and equally just to all parties. Your Lordship seems to prefer the mode of making addresses at Institutes in Toronto and Quebec on the subject, to the method of public inquiry, where both sides can be heard, and where assertions are weighed in the impartial balance of intelligence and justice. There is no accounting for tastes; but as your Lordship has chosen to charge me before popular audiences, and through the newspapers, with injustice in my official acts, and falsehoods in my official statements, rather than meet me at the tribunal of a governmental or parliamentary inquiry, I have been compelled to write and publish this letter. Whether I have acted unjustly towards the Roman Catholics—whether I have not treated them with the same consideration that I have any other religious persuasion in Upper Canada, I am prepared to answer before any tribunal of inquiry which may be appointed; and whether your Lordship or I have made incorrect statements, any one can judge after reading your Lordship's assertions above quoted, and my answers to them.

I have the honor to be,

Your Lordship's faithful servant,

(Signed)

E. RYERSON.

The Right Reverend Dr. DE CHARBONNEL,
 Roman Catholic Bishop of Toronto.

No. 5—Comparative Table of Legislation on Separate Schools in
Canada, prepared by three

IN UPPER CANADA.

	Dissenters must	{ For having Separate Schools, be <i>twelve</i> heads of families; apply to and be authorized by persons opposed to them	A. 19.*	
Separate School Supporters	Cannot	{ Have a Separate School where a Catholic teaches a Common School, nor provide by themselves for the Election of Trustees.....		
		{ Nor elect for Trustee a Clergyman having no property	A. 5.	
	Must	{ Contribute to the Common School Buildings and Libraries	A. 27.—B. 4.	
Separate School Trustees	Cannot	{ Be less than 21 in Toronto	A. 22.	
		{ Exercise the same powers as the Common School Trustees	A. 19.—B. 1.	
		{ Circumscribe their Schools wherever they like...	A. 19.	
			{ Receive their shares from the Chief Superintendent, and apply to him for any case they like	A. B. here & there.
			{ Nor receive any share according to population...	B. 4.
			{ Avail themselves of the Municipal Assessment and Collecting.....	do.
			{ Take a census during the greatest heat and cold	do.
	Must	{ And twice a year the names of Parents and Pupils, with daily attendance.....	do.	
		{ The names of Subscribers to Separate Schools, having no child thereat	do.	
		{ And the amount of their Taxes, even unknown..	do.	
		{ Collect Taxes from Parents and Subscribers.....	do.	
Separate Schools		Are visited by Clergymen of different faith.....	A. 32.	

N. B.—*A. means 13 & 14 Vict., c. 48; B. 16 Vict., c. 185.

From those penalties general dissatisfaction of Dissenters, who cannot have either Separate Schools or the money due for them; witness Toronto, Hamilton, London, St. Catharines, &c. &c.

For further particulars see the pamphlet of Angus Dallas, just published, entitled, "The Common School System, its Principle, Operation, and Results." Toronto: Thompson & Co., printers, King Street East.

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*Upper and Lower Canada, and Draft of a School Bill for Upper
Roman Catholic Bishops.*

IN LOWER CANADA.

A. 19.*	Dissenters may	In any number whatever, heads of families or not, establish Separate Schools, without petition <i>to</i> , or authorisation <i>from</i> , persons opposed to them.....	A. 26.—B. 18.
A. 5.		Have Separate Schools even where a Dissenter teaches the Common School	
. 27.—B. 4.		Keep Common School Buildings for themselves, far from being obliged to contribute to Common School Buildings or Libraries	A. 26.
A. 22.		Elect for Trustee a Clergyman having no property	B. 6.
. 19.—B. 1.		Are only six in Quebec and Montreal, larger cities than Toronto.....	A. 43.
A. 19;		Have all the same powers as the Common School Trustees	A. 26.
here & there.		Circumscribe their Schools as they like.....	B. 18.
B. 4.	Separate School Trustees	May apply to the Chief Superintendent for any case, and receive from him their shares in all School Funds.....	A. 26.—B. 18.
do.		On easy Reports and Certificates.....	A. 27.—B. 18.
do.		According to their population in Quebec and Montreal, and wherever they are pleased with the Municipal Assessment, and Collecting.....	A. 26, 43.
do.		If not, they provide for both, and get shares according to attendance.....	B. 18.
A. 32.		Cannot be visited by Clergymen of Rome.....	A. 33.

N. B.—A. means 9 Vict., c. 27; B. 12 Vict., c. 50.

From those liberal clauses working liberally, full satisfaction of Protestants.

The only efficient remedy to that inveterate wound in a country which wants, above all, union and peace for its progress and prosperity, is to repeal clauses 19 A. and 4 B., Upper Canada; to place separate schools for every thing under only one Official, not opposed to separate schools, and give them an equal share in all school funds. On that principle, and on the legislation of Lower Canada, is framed the following project of a School Bill:

An Act to better define certain Rights to parties therein mentioned.

Preamble.

WHEREAS the clauses of the school acts on separate schools in Upper Canada do not secure all that is granted to the dissenters in Lower Canada,

Repeal of separate school clauses.

I. Be it enacted, That the clauses 10—13 & 14, V., c. 48,—and 4—16 V., c. 185,—be and are repealed.

Any number of dissenters may establish a separate school and elect trustees.

II. That in any school section, when the arrangements for the common school shall not be agreeable to any number whatever of dissidents, those dissidents may signify in writing to the chairman of the board of common school trustees, their will of having one or more separate schools, and give in the names of three trustees, freeholders or not, elected by a majority at a public meeting convened by three heads of families of the same school section, and held according to the clauses 4 and 5 of the School Act of 1850: Provided that no member of those dissidents shall be allowed to vote at any common school election within the school section in which their separate schools shall be established. (So it is in Lower Canada, see 9 V., c. 27, sec. 26.)

Trustees a corporation, with same extended powers as common school trustees.

III. That the said trustees, by the only fact of the said signification and election, shall form *de facto* a corporation under the name of having all the same rights and powers, as defined and extended in common school acts of Upper Canada and in this act, subject to the same duties and penalties as the board of common school trustees, such as defined in the clauses 12 and 13 of the School Act of 1850, with the exception that they will be exclusively accountable to the only one official appointed *ad hoc* for copies, reports, &c.: That board also shall be renewed partly at each annual school meeting, as provided by the clause 3 of the School Act of 1850. (So it is in Lower Canada, see ditto.)

Exclusively accountable to their own special official.

General public meetings in each ward to elect separate school trustees.

IV. That in localities divided into wards, each ward this year within two months after the passing of this act, and every year after, on the second Wednesday of January, shall elect one fit person to be a trustee of one or more separate schools, and hold office until his successor be elected at the ensuing year, or himself may be re-elected if he consent thereto; that those trustees shall form one corporation under the name of having the same rights, subject to the same duties and penalties as mentioned in the preceding clause III, with the same exception that they will be accountable, for such conditions as may be required, exclusively to the only official appointed for the superintendence of separate schools; and that any majority of the members present

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Exclusively accountable to their own special official.

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V. That they like, (so of their faith V., c. 27, sec they have a

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at any meeting regularly held, at which there shall be an absolute majority of the members of the board, may validly exercise all the powers of the corporation. (So it is in Lower Canada, see 9 V. c. 20, sec. 5.)

V. That the said trustees may circumscribe their separate schools as they like, (so it is in Lower Canada, 12 V., c. 50, sec. 18,) receive children of their faith from other school sections, (so it is in Lower Canada, 9 V., c. 27, sec. 20,) and qualify teachers for their separate schools, until they have a separate normal school.

VI. That the said trustees shall be entitled to receive from their said special superintendent, on a report such as required by him, such sums out of the government grant out of all the taxes for school and library purposes, and out of any provincial or municipal school funds, as proportionate to the population they represent according to the last official census, (so in Lower Canada, 9 V., c. 27, sec. 20, 12 V., c. 50, sec. 18,) provided that those sums shall be expended for school purposes: Provided also, that should any municipal corporation refuse to pay any portion of those sums, either the Chief Superintendent shall deduct a sum equal to the deficiency from the apportionment of the current and following years, until full payment, or the secretary of the board shall refer the case to the superior court, who will judge of it, and shall order the payment by all legal means.

VII. That such of the provisions of the common school acts of Upper Canada as are contrary to the provisions of this act, shall be and are hereby repealed.

VIII. That generally all words and provisions of this act, doubts and difficulties arising about it, shall receive such large, beneficial and liberal construction as will best ensure the attainment of this act, and the enforcement of its enactments, according to their true intent, meaning and spirit. (So in Lower Canada, 9 V., c. 27, sec. 55.)

IX. That the present act shall take effect from the first of January of this year, 1855.

We, the undersigned, hereby declare that nothing short of the above will satisfy the conscientious convictions of the Catholics of this Province.

(Signed) + PATRICK PHELAN, Bp. of Carthage, Adm't. Apostolic.
+ ARMANDUS FR. MA., Bp. of Toronto.
+ JOS. EUGENE, Bishop of Bytown.

No. 6 *The Chief Superintendent to the Honorable Attorney General
McDonald.*

On the Roman Catholic Bishops' comparative table of legislation on Separate Schools, and draft of a new School Bill for Upper Canada.

[No. 1353, N.]

EDUCATION OFFICE,

Toronto, 2nd April, 1855.

SIR,

As you are the member of the Government to whom has been confided the care of all measures relating to the educational interests of Upper Canada, I desire to address to you some observations on a paper (a copy of which is hereto appended), which the Right Reverend Dr. de Charbonnel, Roman Catholic Bishop of Toronto (after having procured the signatures to it of the Roman Catholic Bishops of Kingston and Bytown), has distributed amongst the members of the Legislature during the present session, and has pressed upon the Government as the ultimatum of his demands on the subject of separate schools. This paper consists of two parts—first, a professed comparison between the school laws of Upper and Lower Canada, and secondly, a draft of bill embodying provisions, as the signers state, nothing short of which will satisfy the conscientious convictions of the Catholics of this Province.

I have said that this paper is signed by three Roman Catholic Bishops. This is the case with the copy before me, and with copies which have been enclosed to some members of the Government and of the Legislature; but I believe the greater number of copies of it are anonymous, and have been enclosed in a pamphlet against our school system, published by Mr. Angus Dallas, wooden ware and toy merchant, Toronto, who, though he is said to be sceptical as to the Christian religion itself, has written against our school system, because it is not religious enough, in hopes of inducing the religious people of Canada to prevent the board of school trustees in the city of Toronto from taxing his property to support free schools—institutions which fill Mr. Dallas' imagination with terror, and tinge the pages of his pamphlet throughout with the hue of sombre melancholy. Bishop Charbonnel is the only ecclesiastic I know of in Canada, and the *Catholic Citizen* the only newspaper I have seen, who have extended to the sceptic writer of this sorrowful pamphlet the support of their patronage in the circulation of his attack upon our public school system. The professed facts of this pamphlet are fictions, so far as they apply to our schools, and so far as they relate to myself personally, and to the normal school. I should not refer to it here, as I have not thought it needful to notice it, were it not circulated by Bishop Charbonnel, and introduced as an authority into the paper which he has circulated amongst the members of the Legislature, and were there not introduced, as the motto of the pamphlet, a garbled extract from an address delivered by the Honorable Chief Justice Robinson, at the opening of the new normal school buildings for Upper Canada, the 24th November, 1852, by which it is attempted to make the Chief Justice

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express a sentiment unfavorable to our public school system. Sir John Beverley Robinson has evinced himself a cordial friend of our school system, as testified by his addresses on various occasions; the distinguished Baronet is a man of too high a sense of honor and propriety to have consented to deliver the address on the auspicious occasion referred to, had he not approved the system of public instruction of which the normal and model schools are the types and auxiliaries: and such was the whole character of the beautiful discourse which he read and which was published entire in the *Journal of Education* for December 1852, and in my annual report for the same year. But, as late as the 8th of last January, Chief Justice Robinson, in his annual address before the Canadian Institute, took occasion to allude to our common school system in the following significant terms:

"If the system of common school education which pervades all parts of Upper Canada shall continue to be maintained in full efficiency, which there is no reason to doubt, the number of those who can enter with pleasure and profit into discussions upon subjects of science will be immensely increased; and those whose generous aim it may be to enlighten and improve others by communicating freely the results of their own researches and experiments, will find abundance of hearers and readers able to understand and reason upon their theories. There is good ground, too, for expectation that, with the advantage of public libraries, selected as they are with care and judgment, which are being formed within the several counties, and even within each school section, a spirit of inquiry will be fostered, and an ambition excited to be distinguished in scientific pursuits, which we may hope will in time add largely to the number and variety of interesting contributions to the Institute."

Therefore Bishop Charbonnel and Mr. Dallas (the one in his personal intercourse and the other in his pamphlet) are wholly unjustified in using the name of Chief Justice Robinson as authority for their attacks upon our school system.

I will now address myself to the paper referred to; and in doing so, I will notice first, The statements which Bishop Charbonnel has made in his comparative view of the school laws of Upper and Lower Canada; secondly, The nature of the demands made in Bishop Charbonnel's draft of Bill; and thirdly, The course of proceeding which I have pursued, and which Bishop Charbonnel has adopted towards me, in respect to separate schools.

I.—*Bishop Charbonnel's statements respecting the school laws of Upper and Lower Canada in regard to separate schools.*

The statements contained in this "Comparative table of the legislation on separate schools," are the same as those which were delivered by Bishop Charbonnel at the "Catholic Institute" in Toronto, and published in the *Catholic Citizen* in July before the last general elections, and afterwards shown by me to be wholly incorrect in a letter addressed to the Bishop published in the Toronto papers, and dated 26th August, 1854.* The Bishop repeats and republishes these statements just as if they were true, and as if they had never been shown to be otherwise. It will therefore be necessary for me to notice them again in order.

* See letter, No. 4, to the Roman Catholic Bishop of Toronto.

1st Statement.—"In Upper Canada, dissenters must, for having separate schools, be twelve heads of families, apply to and be authorised by persons opposed to them; in Lower Canada, dissenters may, in any number whatever, heads of families or not, establish separate schools, without petition to, or authorisation from persons opposed to them."

Correction.—Both parts of this statement are incorrect, "twelve heads of families," in place of ten freeholders, as provided in previous acts, were inserted in the school act of 1850, in accordance with the wish of the acting Heads of the Roman Catholic Church at Toronto; and I would have as readily proposed five heads of families as twelve had it been desired, nor will any one pretend that a school can be established and sustained by fewer than twelve heads of families. It is not correct to say that there is no reference to numbers in Lower Canada; though heads of families are not mentioned, the offspring of heads of families are specified; for a dissentient school is not allowed except in a school district which contains more than *twenty* children between the ages of five and sixteen years; nor can any dissentient school be continued which is not attended by "at least fifteen children," as certified *on oath*, a condition imposed on the dissentients of Lower Canada alone. See sections 4, 19, 26, 27, Act 9 Vic. ch. 27, and section 18, of the Act 12 Vic. ch. 50. These conditions and the returns they involve, are vastly more restrictive and onerous than a single application signed by twelve heads of families, without reference either to the number of children residing in the school district between the ages of five and sixteen years, or the number in actual attendance at school.

Those parts of the statement which represent the applicants for separate schools as depending suppliants for authorisation before persons opposed to them, while the reverse is the case in Lower Canada, are a mere play upon words. It is true, the dissenters "apply to" and are "authorised by" a municipality to elect their school corporation, and so does a person "apply to" to the Crown Land Office, perhaps to an opponent, for a deed of land, and is "authorised by" such deed to hold the land; but is he thereby a *dependent*? So do common school trustees, in townships, cities and towns, apply to the municipal councils for sums of money to be raised by rates, and are "authorised" to receive and expend such sums. But are the trustees thereby dependents on the councils? No, the latter are *required* to comply with the application of the former, and have been, in more than one instance, compelled to do so by the decision of the Court of Queen's Bench. So is each municipal council *required* to comply with the application of any twelve heads of families in a school section for a separate school, and *must* include in such separate school section all who apply to be included. What more can be reasonably desired? It is also thus through the municipal council that every school section in Upper Canada is constituted, and the first trustee election in it provided for. And the clerk of each council is required to keep a record of all the school sections in the township. Without such a record there can be no means of knowing the limits of school corporations, or how to levy school rates or exempt parties from their payment within any such school divisions. It is of no more consequence whether the municipal council is favorable or opposed to parties applying for a separate school, than it is that a post

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master should be favorable or opposed to the parties applying for letters at his office.

In Lower Canada, where our system of municipal councils is not yet established, school municipalities are constituted by law the same as townships or parishes; but the dissentients desiring a separate school, must address the chairman of the very board of commissioners to whom they are opposed and against whose regulations they must protest in order to obtain a separate school, and then cannot get it unless they can produce twenty resident children between the ages of 5 and 16 years, nor share in the school grant until eight months *after* the school is established, nor without maintaining the attendance of at least 15 children, and certifying their reports on *the oath* of at least two trustees, though a separate school can obtain its share of the legislative school grant in Upper Canada from the time of its establishment, and according to the attendance of pupils, whether 1 or 20, and without certifying the report on the oath of trustees.

2nd Statement.—"In Upper Canada, separate school supporters cannot have a separate school where a Catholic teaches the common school; dissenters in Lower Canada may have separate schools even where a dissenter teaches the common school."

Correction.—The Superintendent of Education in Lower Canada says, in his official circular, "The present act authorises the establishment of dissentient schools *only upon the ground of religious difference*, and to the inhabitants of the minority." In my Annual School Report for 1852, and often since, I have stated that when a separate school is once established, it can be continued as long as the parties establishing it desire, whether the public school is taught by a Protestant or Roman Catholic.

In Upper Canada there are some 300 Roman Catholic teachers employed by Protestant school municipalities; but how many Protestant teachers are employed in Lower Canada by Roman Catholic school municipalities?

3rd. Statement.—"In Upper Canada, separate school supporters cannot elect for a trustee a clergyman having no property; in Lower Canada, dissenters may elect for trustee a clergyman having no property."

Correction.—The law leaves the supporters of separate schools to elect whom they please in Upper Canada, whether a freeholder, householder, or not, whether resident or non-resident, foreigner or subject; of this I have assured Bishop Charbonnel, and Roman Catholic clergymen have been elected school trustees in Perth, Prescott, Brockville, Kingston, and other places.

4th Statement.—"In Upper Canada, separate school supporters must contribute to the common school buildings and libraries; in Lower Canada, dissenters may keep common school buildings for themselves, far from being obliged to contribute to common school buildings or libraries."

Correction.—Supporters of separate schools in Upper Canada are exempted from school rates of every description, except in the single case of school buildings commenced before their separation from the public schools. The latter part of the statement is also a misrepresentation of the school law of Lower Canada. The act, the 26th section of which is referred to as authority for this statement, was passed in June, 1846, and the provision in question applies exclusively to separate schools that were then in operation—not to any that have been established since, or that may be established. The words of the act are, “Provided always, that whenever the majority of the children attending any school now in operation, and the school house *shall belong to or be occupied by such dissentients*, the said school house shall continue to be occupied by them as long as the number of children taught in such school shall amount to the number required by this act, to form a school district.” Thus this provision applies only to school houses which were built under former school acts, and before 1846, and which at that time *belonged to dissentients or were occupied by them*. The law, therefore, simply secured to them what was their own at the time of passing it, but that *only so long* as they should have twenty children between the ages of 5 and 16 years in the school district, with at least fifteen of them attending the school; but it has no application to any school house which has been built since 1846. Under analagous circumstances, all school houses now built or to be built in Upper Canada, would continue, as a matter of course, in the hands of the occupiers of them. The Superintendent of Education for Lower Canada, in his circular to school commissioners, dated 15th June, 1846, refers to the point in question, as follows: “It will be observed, however, that the 21st clause of the act, 9 Vic. ch. 27, placing at the disposition of school commissioners all the lands and school houses acquired, given to, or erected under the authority of former education acts, or of the present act, *gives no power or right to the trustees of issentient schools to demand the use or possession of the like property, unless they were in possession of the same at the time of the passing of this act.*” [1846.]

5th Statement.—“Separate school trustees cannot be less than twenty-one in Toronto; separate school trustees are only six in Quebec and Montreal—larger cities than Toronto.”

Correction.—There have been fourteen trustees of the public schools in Toronto; there will be twenty the current year.* The act 14 & 15 Vic. ch. 111, leaves it discretionary with the parties supporting separate schools, to have two or more wards of any city united into one, and thus reduce the number of the trustees to three, if they please.

6th Statement.—“In Upper Canada, the separate school trustees cannot exercise the same powers as common school trustees; in Lower Canada, separate school trustees have all the same powers as common school trustees.”

Correction.—The 19th section of the Upper Canada School Act, 13 & 14 Vic. ch. 48, provides expressly that “each separate school shall go into operation at the

* This was written in anticipation of the passage of the clause in the Grammar and Common School Bill providing for the union of the two boards of trustees in each city, town or village in Upper Canada.

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same time with alterations in school sections, and shall be under the same regulations in respect to the persons for whom such school is established, as are common schools generally." Then when the powers of school trustees, in respect to levying and collecting school rates were extended in the Supplementary School Act, it was also provided in the 4th section of that act, "that the trustees of each separate school shall be a corporation, and shall have the same power to impose, levy and collect school rates or subscriptions upon and from persons sending children to, or subscribing towards the support of such separate school, as the trustees of a school section have to impose, levy and collect school rates or subscriptions from other persons having property in such section, or sending children to, or subscribing towards the support of the common school of such section." The section of the Lower Canada School Act, referred to by Bishop Charbonnel, in respect to the trustees of dissentient schools, provides that "such trustees shall have the same powers and be subject to the same duties as school commissioners, *but for the management of those schools only which shall be under their control.*"

7th Statement.—"In Upper Canada, separate school trustees cannot circumscribe their schools wherever they like; in Lower Canada, separate school trustees circumscribe their schools as they like."

Correction.—There is not one word about circumscribing schools or school divisions in the section of the act to which Bishop Charbonnel refers in this statement. The school municipalities are fixed by law in Lower Canada, and can no more be changed than townships in Upper Canada. In Upper Canada, these school sections are fixed by the local municipalities, and must include all the applicants for a separate school.

8th Statement.—"In Upper Canada, separate school trustees cannot receive their shares from the Chief Superintendent and apply to him for any case they like; in Lower Canada, separate school trustees may apply to the Chief Superintendent in any case, and receive from him their shares in all school funds."

Correction.—The Chief Superintendent in Upper Canada, does not pay money to the trustees of any schools whatever, but to the county, city, and town treasurers, who pay them in behalf of separate school sections, upon the very same terms that they do to all other school sections. Separate school trustees can apply to the Chief Superintendent on any matter they please, the same as the common school trustees.*

9th Statement.—"In Upper Canada, separate school trustees cannot receive any

* The following is printed on every letter sent out from the Department to Grammar, Common and Separate Schools:—

1. *Appeals to the Chief Superintendent of Schools.*—All parties concerned in the operations of the Grammar and Common School Acts have the right of appeal to the Chief Superintendent of Schools; and he is authorised to decide on such questions as are not otherwise provided for by law. But for the ends of justice—to prevent delay, and to save expense,—it will be necessary for any party thus appealing to the Chief Superintendent of Schools: 1. To furnish the party against whom they may appeal with a correct copy of their communication to the Chief Superintendent, in order that such party may have an opportunity of transmitting any explanation or answer they may judge expedient. 2. To state expressly, in the appeal to the Chief Superintendent, 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.

share according to population ; in Lower Canada, according to population, in Quebec and Montreal, and whenever they are not pleased with the municipal assessment and collecting."

Correction.—In Quebec and Montreal there is no school tax, but a certain amount of the city taxes is paid to the Protestant and Catholic School Boards, according to population—the Protestants being much more wealthy in proportion to their numbers than the Roman Catholics, and paying, therefore, much more than they receive. But throughout Lower Canada, the provision of the law is *the same* as in Upper Canada, and provides expressly as follows: "The said trustees shall be a corporation for the purposes of their own dissentient schools and school district, and shall be entitled to receive from the Superintendent, shares in the general school fund, bearing the same proportion to the whole sums allotted from time to time to such municipality as the number of children attending such dissentient schools bears to the entire number of children attending school in such municipality at the same time."

10th Statement.—"In Upper Canada, separate school trustees cannot avail themselves of the municipal assessment and collecting."

Correction.—Nor can they do so in Lower Canada, without declaring their previous dissatisfaction with the arrangements antecedently made by the school commissioners of the said municipality, relative to the recovery and distribution of the assessment; nor is there any provision to compel the commissioners to pay them; nor am I aware that this provision of the act is any thing more than a dead letter. Besides, the schools of the majority in Lower Canada are denominational schools; but those of the minority are not denominational schools. In Upper Canada, church and state union is not admitted; and the municipalities will not permit themselves to be made tax gatherers for any church, Protestant or Roman Catholic. To impose and collect rates by law for any church, is the worst species of church and state connection.

11th Statement.—"In Upper Canada, separate school trustees must take a census during the greatest heat and cold; send twice a year the names of parents and pupils, with daily attendance; the names of subscribers to separate schools, having no children thereat, and the amount of taxes, even unknown; collect taxes from parents and subscribers."

Correction.—The school law requires all trustees of both common and separate schools, to make semi-annual returns—the one at the end of June, the other at the end of December; or, as Bishop Charbonnel says, "during the greatest heat and cold." The school law in Lower Canada *requires the same*. No census is required of separate school trustees, except the names of children attending the schools, and of parents and subscribers to their schools, and the amounts of their subscriptions, that they may thus be known, so as to be exempted from the payments of all rates for the public schools. But the trustees of common schools, besides giving returns of the daily and average attendance of pupils, and of the amounts of all moneys received and paid by them, must make a return, (census, if you please) of all children residing in their school section, between the ages of five and sixteen years.

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12th Statement.—"In Lower Canada, separate school trustees may receive their shares in all school funds on easy reports and certificates."

Correction.—Though separate school trustees in Upper Canada share in the legislative school grant, on making the same returns, at the same times and in the same ratio as trustees of common schools, yet it is not so in Lower Canada; for there the semi-annual returns of the dissentient trustees, must be made on the *oath* of at least two of them, *which is not required of the school commissioners* in making their returns; nor can the trustees of dissentient schools share in the school fund until after having had a school in operation eight months, and an attendance of at least fifteen pupils—three conditions, these, not required of the trustees of separate schools in Upper Canada.

13th Statement.—"In Upper Canada, separate schools are visited by clergymen of a different faith; in Lower Canada, separate schools cannot be visited by clergymen of Rome."

Correction.—Roman Catholic separate schools in Upper Canada, cannot be visited by Protestant clergymen, who are by law visitors of "the public schools," not of the "separate schools."

14th Statement.—"In Upper Canada, from these penalties general dissatisfaction of dissenters, who cannot have either separate schools or the money due them; witness Toronto, Hamilton, London, St. Catharines, &c. &c.; in Lower Canada, from these liberal clauses working liberally full satisfaction of Protestants."

Correction.—I know not of a Protestant newspaper in Lower Canada satisfied with the school system there; nor have I met with a Protestant who did not express his belief that it is unjust to Protestants. I find, also, that in 1851, there were but 43 dissentient schools in all Lower Canada, and in 1850 there were 44.* But there was no dissatisfaction with the school system among Roman Catholics in Upper Canada, until Bishop Charbonnel excited them to it; nor has there ever been, to this day, a complaint from St. Catharines, or Hamilton, or London; nor am I aware of the existence of a separate school, or a desire for one, in either of those places. Bishop Charbonnel has not been as successful in those places, as he has been in Toronto.

I have thus examined, one by one, the contents of Bishop Charbonnel's "Comparative table of the legislation on separate schools;" and the feeling produced by it cannot fail to be that of surprise at the trivial character of his complaints, and the baselessness of his statements. It must be obvious that so much noise is not made about such trifles, but that these statements and complaints have been put forth as mere pretexts, with a view of accomplishing more important objects; and these objects will be apparent on examining the draft of bill prepared by the Bishop, nothing short of the provisions of which, we are told, "will satisfy the *conscientious* convictions of the Catholics of this Province." I proceed, therefore, to examine the provisions of this draft of bill, which will form the second part of this letter.

* The Superintendent of Education for Lower Canada has not reported the number of dissentient schools since 1851.

II.—*The nature of the demands made in Bishop Charbonnel's draft of bill.*

This draft of bill is the first document that Bishop Charbonnel has printed, stating explicitly what he and his colleagues demand. This document speaks for itself; and no private professions or disclaimers as to what is or is not desired or intended, will be of any value in the face of what is here summarily and deliberately demanded as necessary to "satisfy the conscientious convictions of the Catholics of this Province."

The professed object of Bishop Charbonnel's statements and draft of bill, is to secure to the Roman Catholics in Upper Canada what is enjoyed by Protestants in Lower Canada; but the provisions of the draft of bill itself would confer upon Roman Catholics in Upper Canada what is not enjoyed by Protestants in Lower Canada, or in any other civilized country. Under the pretence of assimilating the school law of Upper Canada to that of Lower Canada in regard to separate schools, an attempt is made to place the property of every Protestant in Upper Canada, the power of every municipality, and the school fund itself, in subjection to the promoters of separate schools, without their being subject to any of the restrictions and obligations to which separate schools in Lower Canada and public schools in Upper Canada are now subject. An analysis of the provisions of this draft of bill will more than justify this assertion.

1. The first feature of this draft of bill that I shall notice, is that which relates to the accountability, or rather *non-accountability of separate school trustees, and the conditions of their claims upon the school fund.* The third and fourth sections provide a special superintendent for separate schools, to whom alone they are to make returns, and such returns only as he may require; and on "a report such as (the sixth section prescribes,) required by him," are provincial and municipal school funds to be paid to separate school trustees, and that according to the last official census of the population. Now, every one of those provisions is contrary to the school law of Lower Canada. Here is a special superintendent for separate schools, which does not exist in Lower Canada; here is no provision as to the kind of returns, or when the returns shall be made, or how attested, all of which are prescribed by the school law of both the Canadas, and are not left to any one man and especially a man chosen to promote a special object. Nothing is prescribed as to the length of time schools shall be kept open in order to share in the school fund; or how conducted; or any inspection. Under such provisions, there might be one separate school in a township or city, that school not kept open more than three days in a year, nor contain more than three pupils, and yet, according to the separate school ratio, the trustees of it receive several hundred pounds of the school fund! It is also here provided that all the money thus to be given to separate schools, shall be paid to the trustees, and that without any personal responsibility on their part as to the expenditure of this money; whereas the school law of Upper Canada does not permit any part of the school fund to be paid into the hands of school trustees at all; but to legally qualified teachers alone, on the written orders of trustees.

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2. The second feature of this draft of bill which I notice, is, that it *annihilates the individuality and individual right of choice on the part of the members of the religious persuasion of the separate schools.* The second section provides that "any number whatever of dissidents" in a municipality may establish a separate school; the third section makes three persons signified by themselves *de facto* a corporation; and the sixth section makes them the representatives of the whole population, according to the last census, of the persuasion to which they belong. Thus, any three priests, or any other three members of such persuasion, can erect themselves into a corporation to represent and control the whole population of that persuasion in a municipality, and claim and receive into their own hands school moneys of every kind, according to the numbers of such persuasion, as certified by the last official census, though nine-tenths of such persuasion might wish to remain, and have their children educated with other classes of their fellow-citizens. No such monstrous provision exists in the school law of Lower Canada. In the section of the act there authorizing the dissentients to receive a portion of the assessment, on their protesting against the assessment adopted by the commissioners, (section 18, 12 Vic., chap. 50.) it is only the parties making the representation that are included, and they only receive what they themselves pay to the collector. The law there does not make the last official census the basis of distribution; much less does it ignore individual right of choice. So the school law of Upper Canada recognizes individual rights; deals with each individual for himself, and does not ignore or proscribe him from the public schools and all the privileges connected with them, except at his own request.

3. The third feature of this draft of bill to which I have to call attention, is, that it *transfers all the common school property of Upper Canada from its present occupiers to the trustees of separate schools.* The seventh section repeals all the provisions of the present common school acts of Upper Canada that are contrary to the provisions of this act; and the third section gives to the trustees of separate schools all the rights and powers which the 12th & 13th sections of the school act of 1850 give to the present trustees of common schools; and the 12th section of that act includes the possession and control of all common school property in Upper Canada. Truly this is a very ingenious and modest provision to "satisfy conscientious convictions!" And this is far from being all; for,

4. A fourth feature of this draft of bill is, that it *gives the trustees of separate schools unrestricted power to tax all property in Upper Canada,*—not only that which belongs to the supporters of separate schools, but that which belongs to every Protestant and every Roman Catholic in Upper Canada. The present Upper Canada school law makes the trustees of separate schools corporations, and gives them the same power in the management of their own schools and in respect to all persons for whom such schools are established, as is possessed by the trustees of common schools, but the "conscientious convictions" of Bishop Charbonnel and his colleagues require much more. They claim by the 3rd section of this draft of bill "all the same rights and powers" which the 12th section of the school act of

1850 gives to the common school trustees. These "rights and powers" thus claimed, are not restricted to any class or classes of persons, but are absolute and universal. The only restriction on them is that which is contained in the 13th section of the same act—a section imposing a fine of five pounds upon a trustee convicted of "knowingly signing a false report"—a section of no effect in connexion with the other provisions which relieve separate schools of all inspection, create for them a special superintendent of their own, and with no obligation, to make any returns except such as he may require from them. The 9th, 10th, 11th, 14th, 18th, 29th and 31st sections of the school act of 1850, (13 & 14 Vic., chap. 48.) and the 4th, 5th, 6th, 9th, 10th, 11th, 12th, 13th and 17th sections of the supplementary school act, (16 Vic., chap. 185.) impose various restrictions and obligations upon trustees in regard to the exercise of the large powers which the nineteen clauses of the 12th section of the school act of 1850 confer upon them—thus preventing them from levying any rate upon the supporters of separate schools, requiring semi-annual returns, limiting their applications to councils, &c., &c., &c.; but the 3rd section of this draft of bill discards all these restrictions and obligations, and demands for the trustee corporations to be created, absolutely and without restriction all the "rights and powers," as well as all the property which the 12th section of the school act of 1850 confers upon common school trustees, the 8th clause or paragraph of which authorises them "to apply to the municipality of the township, or employ their own lawful authority, as they may judge expedient, for the raising and collecting of all sums authorised in the manner hereinbefore provided, to be collected from the freeholders and householders of such section, by rate, according to the valuation of taxable property, as expressed on the assessor or collector's roll." Here is no restriction as to persons or property; all are subject to the taxing power of the separate school trustees—but whom this draft of bill makes the sole school trustees! And in this connection it is also to be observed, that the proviso in the 2nd section of this draft of bill allows none but dissentients to vote at the election of these trustees. This is also the provision of the present law; but the present law restrains the acts of the trustees thus elected, to the property and persons of the dissentients. This draft of bill, however, while it restricts the elective franchise to a particular class, gives the trustees elected by that class, power over all the taxable property of all classes of freeholders and householders in the section. Nor is this all, for—

5. A fifth feature of Bishop Charbonnel's draft of bill is, that it gives the trustee corporations it creates, equal power over the municipal councils as over individuals. The 8th clause of the 12th section of the school act of 1850, above quoted, gives the trustees power to apply, at their pleasure, to the municipality, to impose school rates; and the 18th section of the same act makes it the duty of such council to levy and collect the amount of rates thus applied for, from all the taxable property of the section concerned; and the sixth section of this draft of bill requires the Chief Superintendent to pay the amount of such taxes, if the municipality fails to do so. Thus is every municipality in Upper Canada, as well as the school fund, subjected to the discretionary demands of separate school sections. Nor is even this all, for—

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6. A sixth feature of this draft of bill is, that it ties the hands of all public school trustees (were any to exist,) from doing anything for their own schools without doing also as much for the separate schools; for the sixth section of this draft of bill requires "all taxes for school and library purposes," as well as "any provincial and municipal funds," to be paid to the trustees of separate schools, in proportion "to the population they represent, according to the last official census." Thus, whatever might be done by any parties for the erection of public school-houses, or the support of public schools, they could not raise a penny by taxes even from themselves, without dividing it with the trustees of separate schools, who are not subject to corresponding obligations—who may do nothing whatever—and who are to receive not in proportion to their taxable property, but in proportion to population, though the ratio of that population may be three times that of the taxes they pay, as is the case even in the city of Toronto.*

I might remark upon other minor features of this draft of bill, and show its operations in other aspects. But the six features I have exhibited, sufficiently prove that it contemplates the complete destruction of our public school system, and the subjection of the school funds, municipalities and property, and whole population of Upper Canada to a religious domination such as is without a parallel in any age, and is incompatible with the free government or liberties of any country. I doubt whether the ingenuity of man could devise under meeker pretensions, and in fewer words, the destruction of the educational institutions and the constitutional liberties of a whole people, and their prostrate subjection under the feet of a religious denomination. The authors of this draft of bill must have presumed marvellously upon their own power, and upon the simplicity of the members of the legislature. I am persuaded that no persons will more promptly recoil from and repel such a measure than the great body of the Roman Catholic members of the legislature and of the community, who will be grieved and ashamed to see the worst imputations of their opponents exceeded by the monstrous propositions covertly involved in what is demanded by Bishop Charbonnel and his colleagues, under the pretext of "satisfying their conscientious convictions."

The members of the legislature now have the issues of the whole question before them; and they, as well as the people of Upper Canada at large, will understand their rights, their interests and their duty.

III.—*Course of proceeding which I have pursued, and which Bishop Charbonnel has pursued towards me, in respect to separate schools.*

Having examined Bishop Charbonnel's statements and analysed the provisions of his draft of bill, I will now briefly advert to the course of proceeding which I have pursued, and which Bishop Charbonnel has adopted towards me, in respect to separate schools.

* The Trustees of the Roman Catholic Separate Schools in Toronto in 1852, claimed £1,150 for their schools; and in reporting upon this demand, the Committee of the Board of School Trustees state that—"From a recent return your Committee find that the total annual value of the taxable property in the city amounts to £186,983 5s.—of this the proportion held by Roman Catholics is £15,750 10s. The total nett amount of school tax for last year, at 2½d in the pound, was £1,800; the nett proportion contributed by the Roman Catholic inhabitants was only £156 10s."

1. Ten years ago, when I assumed the duties of my present office, I found provisions for separate schools in the school act, and a few of them in operation—about as many Protestant as Roman Catholic. I determined to know neither religious sect nor political party in the discharge of my official duties. Believing that Roman Catholics had been hardly treated in Ireland, I resolved as far as I could, to give them no just cause of complaint in Upper Canada; and if there is any one class of the community that I have endeavored to benefit, as such, more than another, it is the Roman Catholics. My friendly bearing towards them has subjected me more than once to severe criticisms from some Protestant writers. During the life of Dr. Power, late Roman Catholic Bishop of Toronto, and until Bishop Charbonnel commenced his crusade and agitation three years ago, no complaints were heard against the separate school provisions of the school law. Bishop Power, virtually a Canadian, being a native of Nova Scotia, had a patriotic desire to elevate the Roman Catholic population of the country, and believed that that would be best effected by their children being educated with the children of other classes, wherever party feeling did not oppose insuperable obstacles to it. Bishop Charbonnel (who, on my recommendation, was, before his arrival in Toronto, appointed a member of the Council of Public Instruction for Upper Canada, in place of Bishop Power,) professed the same views and feelings during a year or more after his arrival. Then he began to attack mixed schools, as such, then to attack the character of our schools generally, then the character of the people at large, then the provisions of the school law, demanding that municipalities should be compelled to build school-houses for separate schools, and support them the same as public schools. How frivolous were his complaints, how groundless his statements, and how unreasonable his views, is known from the correspondence which took place between him and myself during the year 1852, which was printed by order of the House of Assembly.

2. But what has been my course of proceeding? Not only was there no complaint against the law, or any part of my administration of it from 1845 to 1852, but when the school bill of 1850 was under consideration, and a desire was expressed that the option of having such separate schools should be with the applicants and not with the municipalities, as it had been in cities, towns, and villages, I so framed the 19th section that it was cordially approved of by the acting Ecclesiastical Heads of the Roman Catholic Church, and voted for by all its members in the legislature.

The Roman Catholics demanding more than one separate school in Toronto, and the judges having decided that but one could be legally demanded in a school section, (which each city or town was held to be,) I prepared and recommended the passing of the act 14 & 15 Vic., chap. 111, which gave the right of a separate school in each ward of a city or town; and for which I afterwards received the formal thanks of Bishop Charbonnel and Vicar General McDonald.

Then, when in 1852, Bishop Charbonnel complained so vehemently of the injustice of taxing supporters of separate schools at all, according to the provisions of the act, I prepared and submitted in August of that year, the fourth section of the supplementary school act, 16 Vic. chap. 185,—which exempted the supporters of

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separate schools from the payment of all school taxes whatever, and their teachers from going before any public board of examiners, and invested them with as full power in regard to their own schools and their own supporters as have the trustees of common schools in regard to the public schools and the other classes of the community.* The bill was printed some months before it passed; and this fourth section was as highly commended by supporters of separate schools as it was denounced by their opponents. On its becoming a law, the *Toronto Mirror* (the newspaper in which Bishop Charbonnel published his official notices and letters, and which he commended from the pulpit and by letter, to the support of the faithful,) published two editorials (the 1st and 8th July, 1853), eulogistic of this section of the act. It was considered not only as securing the rights claimed by the parties concerned, but as calculated to accomplish another object, apparently as dear to the heart of Bishop Charbonnel and his organ as the establishment of separate schools themselves—namely, the destruction of a national system of education. An extract from each of these editorials will illustrate the spirit and feeling with which this enactment was viewed and received:

“The public satisfaction will be heightened by removing all anxiety from the mind of Catholic parents respecting the education of their offspring; and the sour bigot [Chief Superintendent of Schools,] with the vaunt of liberality on his tongue, but the poison of proselytism in his heart, will be relieved from a great load of care. He can give his undivided attention to his own affairs, and leave the progress and management of the culture of Popish children to the direction of their parents and the patronage of the Priests.”

“State-schoolism—that daring outrage on the rights of conscience, and the tender ties of domestic affection—has received, its deadly wound, from which it never can recover; and the laws of nature and the injunctions of heaven will be no longer violated by severing the connection between the parent and the child. The right has been secured by the laborious exertions of the friends of religious education, and the liberality of an enlightened legislature; and we trust that a faithful application of this salutary enactment will produce all the benefits anticipated, and remove all existing dissatisfaction on this vital question.”

To shew how entirely this enactment of the supplementary school act exempted the supporters of separate schools from all taxes for public schools, I will make yet another quotation from the editorial of the *Toronto Mirror*, of the 8th July, 1853. It is as follows, the italics and capitals being those of the *Mirror*:

“Some misapprehension, we understand, exists respecting the support of separate schools, and insinuations have been thrown out that persons rated for such school purposes may still be subject to the common school tax. The misrepresentation, whether proceeding from ignorance or a more reprehensible source, can at once be removed by a simple reference to the commencement of the 4th clause. We find it there distinctly stated—

“That in all cities, towns, and incorporated villages and school sections, in which separate schools do, or shall exist, according to the provisions of the common school acts of Upper Canada, persons of the religious persuasion of each such

* See No. 2 of this correspondence.

separate school, sending children to, or supporting such school by subscribing thereto annually an amount equal to the sum which such person would be liable to pay if such Separate School did not exist, on any assessment to obtain the annual Common School Grant for each such city, town, incorporated village or township, shall be exempted from the payment of ALL rates imposed for the support of the Common Public Schools of each such city, town, incorporated village or school section, and of ALL rates imposed for the purpose of obtaining the Legislative Common School Grant, for such city, town, incorporated village or township."

"We should consider these terms sufficiently explicit and intelligible. There is no ambiguity, no mystery, but everything expressed in words so plain and concise as to render misapplication impossible. Those persons who contribute to the maintenance of Separate Schools to the amount of their liability to the Common School Tax, shall be totally exonerated from ALL taxes for Common School purposes. Those who do *not* contribute to the support of Separate Schools shall be compelled to pay their full proportion of the Common School rates."

Such was the light in which this enactment was viewed by those who demanded it. But instead of its being carried fairly into effect by the Roman Catholic separate school trustees in Toronto, their secretary (Hon. John Elmsley,) resisted making the returns which the act required, and then complained of injustice and wrong at the hands of the Municipal Council of the City of Toronto. An appeal was made to me; and the questions raised were discussed in correspondence which took place between Mr. Elmsley and myself, in the autumn of 1853. Soon, a new agitation was commenced against these shortly-before lauded provisions of the supplementary school act. It was complained that the local municipalities obstructed its operations, and that requiring the payment of these school rates to separate schools as a condition of having them, was a hardship, and it was demanded that the Chief Superintendent (who was responsible, and could be complained of to the government,) should divide the school grant between the public and separate schools, and should pay it directly to them. Some time last summer, the late Inspector General (Hon. F. Hincks,) communicated with me on this subject, and suggested whether I could not undertake to distribute and pay the school grant to separate schools, as this would be satisfactory to the complaining parties. I expressed my conviction that this would not satisfy Bishop Charbonnel—that I was satisfied he had ulterior objects in view—that his object was to get a measure by which the Catholic population, *as a body*, would be separated from the public schools, and the municipalities made tax-gatherers for the separate schools. But in deference to Mr. Hincks' wishes, and as he had done so much to aid me in my work, and to promote the public school system, and seemed to think it would be satisfactory, I consented to undertake the task proposed, although I had expressed strong objection to it in my printed report for 1852. Accordingly, in a draft of bill which I transmitted to Mr. Hincks, with explanatory remarks, the 6th September, 1854,* I prepared these clauses, providing that the separate schools and public schools in municipalities where they both exist, should report semi-annually to the Chief Superintendent—that he should determine the sums payable to them respec-

* See No. 3 of this correspondence.

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tively, and pay the sums thus awarded—that the trustees of separate schools should be relieved from making any returns of the names of the supporters or pupils of their schools; but in order to be exempted from all public school taxes, they should do as they do in Lower Canada, make a declaration in writing to their municipal council, before the 1st day of February each year, that they are supporters of separate schools. Mr. Hincks' administration ceased to exist a day or two after my draft of bill was put into his hands; and it was subsequently handed over to you. I believe the clauses I submitted were at first viewed favorably by the lay members of the Roman Catholic church, who examined them, and who were probably not aware of Bishop Charbonnel's real objects. I think he calculated upon my refusing to accede to the proposition of Mr. Hincks, and that he would thereby obtain an advantage. But whether that be so or not, I am glad that he has refused to accept that which I had assented to and proposed. The result is, that Bishop Charbonnel has been compelled to do what the Earl of Elgin complained a year ago that he could not get him to do—that is, to state explicitly what he wanted in regard to separate schools. All parties will now know Bishop Charbonnel's terms and conditions of peace and harmony in Upper Canada. It now remains to be seen whether the people will accept them or not.

I have thus stated the course I have pursued in regard to separate schools from the beginning to the present time, as also the course pursued by Bishop Charbonnel. It will have been seen that what he professed to be well satisfied with at one time, he complained of at another; and that he has made every new concession the starting point of a fresh agitation for further concessions. It may also now be submitted, whether I have not rather erred on the side of concession than otherwise. I have done all in my power, and incurred much opposition and obloquy to gratify the wishes of Bishop Charbonnel in everything that did not involve the subversion of a system of public instruction, and the constitutional and sacred rights of individuals and municipalities.

I have been given to understand that one reason of Bishop Charbonnel's demand for a special superintendent of separate schools is, that I expressed myself unfavorably as to their success in my Annual School Report for 1852; and my right to do so in such a document has been called in question. On this point I observe, *first*, that the school act expressly requires me to include in my annual report of the state of the schools, "such statements and suggestions for improving the common schools and the common school laws, and promoting education generally, as I shall deem useful and expedient." Strictly of this character were my observations in my report for 1852, in which I justified the government and legislature in maintaining the separate school provisions of the law, as an actual experiment was the only means of satisfying the parties claiming separate schools as to their expediency and advantage, or otherwise, and which I believed would result in a conviction that the public schools were more economical and advantageous to all parties concerned. I remark, *secondly* that the Superintendent of Education in Lower Canada has, from year to year, not only discussed actual and proposed provisions of the school law, but the conduct of various parties in regard to the law and the school, and especially a class whom he terms "*Eleignoirs*," on whose proceedings he animadverts with great severity—

much more severely than I have remarked even in this letter upon the proceedings of Bishop Charbonnel. I remark, *thirdly*, that my discussing the provisions of the law respecting separate schools in but one annual report during ten years, sufficiently shows that there must have been some strong necessity for it at the time; and a reference to that report will furnish ample proof of that necessity, as well as amply justify the observations made. I remark, *fourthly*, that if Bishop Charbonnel found anything officially objectionable in that report, he should have complained of me at the time to the government, and not brought it forward privately at this late period to aid in accomplishing a particular object. I remark, *lastly*, that it argues an obliquity of judgment, not easily conceived, to suppose that I cannot be impartial (even if I had to decide them) on matters between separate and public schools, because I intimated that the latter could not be destroyed by the former (as some advocates for abolishing the separate school clauses of the law had contended) as I believed the latter would, after fair experiment, be preferred by all parties to the former. The very fact, that, with all the anxiety of the Bishop to seize upon every trifling shadow of complaint, he has not ventured to charge me in any instance with administrative partiality, shows the utter injustice of his imputations. I have expressed my belief, and that frequently and with great earnestness, that free schools are more economical and advantageous for all classes than rate-bill schools; yet the majority of the schools of the country are still of the latter class; but how perverted must be the mind that would on that account assail me as partial in administering the law in regard to rate-bill and free schools.

I may also observe that the objection is equally absurd that I must, in the discharge of my official duties, be hostile to the Church of Rome because of my replies to the attacks, and my remarks upon the statements and proceedings of Bishop Charbonnel; I have found it necessary in justification of the school system and of myself, to reply to Protestant ecclesiastics as distinguished, and of much longer standing in the country than Bishop Charbonnel; but who would on that account think of charging me with hostility to the churches of which they are ministers? Nay, on more than one such occasion, I have expressed the sentiments as well as advocated the interests of the great majority of the members of the churches referred to. To no class of persons, more than to Roman Catholic statesmen, was the former correspondence of Bishop Charbonnel with me painful and mortifying; and none more than they will feel scandalized at the fabulousness of his recent statements, and the unconstitutional character and unheard-of provisions of his draft of bill.

I think I have now shown that Bishop Charbonnel's complaints against the school law of Upper Canada, in comparison with that of Lower Canada in regard to separate schools, are without foundation; that the comparison of exemptions and powers is in favor of the separate schools of Upper Canada; that if separate schools in Upper Canada are not multiplied and if those established languish or are soon abandoned, it is not in the law that the cause is to be found, but in the acknowledged greater efficiency and more popular character of the public schools in Upper than of those in Lower Canada—in the greater freedom of our school and municipal systems, and the unwillingness of the great body of the Roman Catholic population to isolate

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themselves and their children from these free institutions and their fellow citizens, and to erect and sustain separate establishments for themselves—and also in the greater mental culture and wealth of the Protestant minority as compared with the Roman Catholic majority in Lower Canada than that of the Roman Catholic minority in Upper Canada as compared with the Protestant majority.* I think I have also shown, that Bishop Charbonnel and his colleagues claim upon the ground of “conscientious convictions” a legislative enactment to deprive the Roman Catholics of the individual right of choice in school matters,—severing them from the rest of the population by law, and not by individual option—that the three Bishops claim Protestant taxes as well as Protestant school property in support of Roman Catholic schools, and the discretionary subjection to them of the school fund and all the municipalities of Upper Canada.

Under these circumstances there are obviously three courses before the legislature—to maintain the separate school provisions as they are, and leave separate schools to work out the experiment of their own destiny; to concede to the claims of Bishop Charbonnel and his colleagues, and thus bring on a war with the municipalities and people of Upper Canada such as has never been witnessed; or to abolish the separate school provisions of the law altogether, allowing exclusive privileges to none, but equal rights and protection to all.

I have the honor &c.,

(Signed)

E. RYERSON.

The Hon. JOHN A. MACDONALD, M.P.P.,
Attorney General for Upper Canada,
Quebec.

City of Toronto.

No. 7. The Roman Catholic Bishop of Toronto to the Chief Superintendent.

Complaint against the Toronto Board of School Trustees.

[L. R. No. 2608, 1852.]

+ ST. CATHERINES, 21st Nov., 1852.

REVEREND DOCTOR,

On the 10th of April last you wrote to me: “Should there be any hesitation on the part of the Toronto board of school trustees (of which I have no apprehension) to give effect to the provisions of the law in regard to the separate schools established, I shall readily employ the means provided by law for the execution of its provisions.”†

* But notwithstanding these facts, there are fewer separate schools in Lower than in Upper Canada, the number in the former (L. C.) being 43, in the latter (U. C.) 53: this shows that the school law must be more favorable to separate schools in Upper Canada than in Lower Canada.

† See “Correspondence” in Return laid before the House of Assembly on the 17th September, 1852, following letter, No. V., pp. 18, 19.

Now, Rev. Doctor, that board has refused to pay our separate schools, and I have paid the last quarter of all of them.

I have the honor, &c.,

(Signed)

+ ARMANDUS, FR. MY.,

Bp. of Toronto.

Rev. Dr. E. RYERSON,
Chief Superintendent of Schools,
Toronto, C W.

No. 8. The Chief Superintendent to the Roman Catholic Bishop of Toronto.

Complaint referred to local school authorities for explanation.

[No. 800. G.]

EDUCATION OFFICE,

Toronto, 2nd December, 1852.

MY LORD,

I have the honor to acknowledge the receipt of your letter of the 21st ultimo, and to state in reply, that I have written to the chairman of the board of school trustees for this city on the subject of your complaint; and that as soon as I receive his answer I will reply to your letter.

I have the honor, &c.,

(Signed)

E. RYERSON.

The Right Reverend A. F. M. DeCHARBONNEL, D. D.,
Roman Catholic Bishop of Toronto.

No. 9. The Chief Superintendent to the Toronto Board of School Trustees.

On the complaint of the Roman Catholic Bishop of Toronto against the Board.

[No. 801. G.]

EDUCATION OFFICE,

Toronto, 2nd December, 1852.

SIR,

I have received a letter from the Roman Catholic Bishop of Toronto, complaining that the board of school trustees of this city had refused to pay to the teachers of the separate schools the portion of the school fund to which they are entitled by law

Before
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JOSHUA G. B.
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[L. E. No. 67, 1852]

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Before replying to the Bishop's letter, I will thank you to favor me with a statement of your proceedings on the subject.

I have the honor, &c.,

(Signed)

E. RYERSON.

JOSHUA G. BEARD, Esq.,
Chairman, Board of School Trustees,
City of Toronto.

No. 10. *The Toronto Board of School Trustees to the Chief Superintendent of Schools.*

Explanation of proceedings relative to Separate Schools.

[L. R. No. 67, 1853.]

ALBANY CHAMBERS,

Toronto, January 3rd, 1853.

REVEREND SIR,

I have been instructed by the board of school trustees for this city to communicate for your information a copy of a resolution adopted by the board at its meeting on the 29th ultimo, relative to the matter of complaint made by the Roman Catholic Bishop regarding the separate schools of this city, as referred to in your communication of December 2nd, and on the adjoining page you will find said copy accordingly.

I am, &c.,

(Signed)

G. A. BARBER,

Secretary, B. S. T.

To the Rev. Dr. RYERSON,
Chief Superintendent of Schools, C. W.

[Enclosure.]

Resolved.—That this Board has not, according to the allegation of the Bishop, as contained in the letter of the Chief Superintendent, refused to pay to the teachers of those separate schools the portion of the school fund to which they are entitled by law, but its members did resolve on the 7th July last,—

“That, regarding the arrangement with the separate schools now in existence, as extending to the end of the half-year then closed, the same be paid at the rate of the first quarter, applying half of the legal appropriation for such separate schools towards its liquidation: But that in future no sum be paid to any separate school beyond that which the law prescribes, the same to be determined at the end of the year.

“So soon, therefore, as the returns of attendance of pupils at the several schools are made by the visitorial teacher and superintendent, the legal division of the school

fund will be made, and the proportion accruing to the Roman Catholic separate schools will be paid.

"And your committee recommend that a copy of this report be sent to Dr. Ryerson by the secretary."

Certified,

(Signed)

G. A. BARBER,
Secretary, B. S. T.

No. 11. *The Chief Superintendent to the Roman Catholic Bishop of Toronto.*

More specific statement of complaint required.

[No. 1039, G.]

EDUCATION OFFICE,

Toronto, 7th January, 1853.

MY LORD,

In reference to your lordship's letter of the 21st November, the receipt of which I acknowledged on the 3rd ultimo, I herewith enclose you a copy of the correspondence which has taken place between this department and the board of school trustees for the City of Toronto.*

As your lordship has not furnished me with any statement of the particular cases in which the board of school trustees have refused to pay the teachers of the separate schools, nor of the amounts claimed by such teachers; and as the trustees deny the general charge preferred by your lordship, it is not in my power to do anything more in the matter, or to form any opinion of the ground of the complaint, without a specific statement of the alleged facts on which the complaint is founded, and on which the claims in question are made.

I have the honor, &c.,

(Signed)

E. RYERSON.

The Right Reverend Dr. DECHARBONNEL,
Roman Catholic Bishop of Toronto.

* The two preceding letters, Nos. 9 and 10.

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No. 12. *The Roman Catholic Archdeacon of Toronto to the Chief Superintendent.*

Acknowledging receipt of letter to the Roman Catholic Bishop of Toronto.

[L. E. No. 131, 1853.]

TORONTO, 8th January, 1853.

REVEREND SIR,

In the absence of his lordship I have to acknowledge the receipt of your communication of the 7th instant, and to say that it shall be submitted to him on his arrival.

I have the honor, &c.,

(Signed)

P. MOLONY, Archdeacon.

REV. EGERTON RYERSON, D.D.,
Chief Superintendent of Education,
Toronto.

No. 13. *Certain Roman Catholic Inhabitants of St. David's Ward, Toronto, to the Chief Superintendent.*

Refusal of the Toronto Board of School Trustees to establish a Roman Catholic separate school in St. David's Ward.

[L. E. No. 2,636, 1853.]

TORONTO, 29th August, 1853.

REVEREND SIR,

On behalf of the twelve resident heads of families in the Ward of St. David in this city, who have made application in writing to the city board of school trustees for the establishment of a separate school in that ward, I beg to bring under your official notice the reply which has been given to their application, a copy of which is herewith enclosed.

The applicants were refused a separate school in January last, upon the ground that there was a Catholic teacher employed in their ward, but they had hoped and expected that the supplementary act of last session of Parliament, would have smoothed all difficulties, and healed all wounds: and that upon their renewed application, subsequent to the passing of that act, they would have been at once permitted to enjoy the advantage of a separate school within their limits.

The reply of the city board of school trustees, however, destroys all hope; unless by a re-consideration of the decision they have made, they see fit to revise it. In this view I have been instructed to address a communication to you as Chief Superintendent of common schools in order to ascertain whether in your judgment the city board takes a correct view of the law. The applicants now see that they are placed in a worse position than they were when the city was under the school

section system; because then, although there were three school sections in the ward yet in only one of them was there a Catholic teacher, and therefore of course the only portion of the ward deprived of the privilege of having a separate school. Now the whole ward is, if the city board be right in their decision, to be subjected to the same disability as a portion of it formerly was, although the teachers in all other portions of the ward were then, have continued to be, and still are, Protestant.

The short act of 1851, was, as its title and preamble signify, destined to restore rights, to remove doubts; it declares that it is inexpedient to deprive parties of rights which they enjoyed under preceding school acts. The applicants of St. David's ward therefore think that it could not possibly have been the intention of the legislature by that act, or by any other measure, to deprive them of the right of having a separate school, at least for such portions of it as possessed the right under the school section system; and that therefore the concluding proviso of the act of 1851 does not subject the whole ward to the obligation to which only one section of it had been formerly subjected under preceding school acts.

There are now nearly three hundred children of Catholic parentage, who attend the Catholic school in St. David's ward. There are six teachers in the ward employed by the board, only one of whom is a Catholic. Can it be possible that the legislature contemplated that so many pupils should be deprived of the benefit of a separate school upon such a ground. The applicants respectfully suggest that the intentions of the legislature were not such, and to you, Sir, they appeal for redress.

I have the honor, &c.,

(Signed)

J. ELMSLEY.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools, C. W.

[Enclosure.]

ALBANY CHAMBERS,
Toronto, 1st August, 1853.

DEAR SIR,

With reference to the petition of certain parties to the board of school trustees, praying that an election for trustees of a separate school for the ward of St. David should be ordered, I beg to submit for your information the copy of so much of a report by the sub-committee on free schools relating to said petition as was adopted by the board on Wednesday last, July 27th, viz.:

"With reference to the petition of certain Roman Catholic householders of the ward of St. David praying for the order of your board, for an election of trustees for a separate Roman Catholic school in said ward; your committee understanding that no change in the school law in relation to this matter has been made since your board had the same subject under discussion, deem it inexpedient to recommend to your board to reverse the decision come to on a former occasion on the grounds that in a ward in which a Roman Catholic teacher is employed, no valid claim for a separate Roman Catholic school can obtain."

I am, &c.,

(Signed)

G. A. BARBER,
Secretary, B. S. T.

HON. J. ELMSLEY.

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No. 14. *The Chief Superintendent to certain Roman Catholic Inhabitants of St. David's Ward, Toronto.*

The twelve resident Roman Catholics in St. David's Ward, Toronto, are entitled to a Separate School in their Ward.

EDUCATION OFFICE,

Toronto, 30th August, 1853.

I have the honor to acknowledge the receipt of your letter of the 29th instant, on behalf of twelve heads of families of the Roman Catholic church in St. David's Ward in this city, and enclosing an extract of the report of a committee on the subject adopted by the board of school trustees for the city.

According to the impression conveyed by the extract of the report which you enclose, I think the city board of school trustees are correct in their conclusion, namely, that where the teacher of the public school is a Roman Catholic, a separate Roman Catholic school cannot be allowed in the ward. But it appears from your statement that in the public school of St. David's ward, six teachers are employed, and only one of them is a Roman Catholic, and he, as I understand, not the principal of the school.

The question then is, whether, under such circumstances, the twelve heads of families whom you represent are entitled to a separate school?

I think they are. The provision of the 19th section of the school act of 1850 in relation to this point is as follows: "Provided, fourthly, that no Protestant separate school shall be allowed in any school division except when the teacher of the common school is a Roman Catholic; nor shall any Roman Catholic separate school be allowed except where the teacher of the common school is a Protestant."

It is clear that in each of the common schools referred to, the law assumed the existence of but one teacher. The obvious intention of the statute, therefore, was, that if the teaching of the common school in any school division, or ward of a city or town, was by a Roman Catholic or Roman Catholics, a Protestant separate school should be allowed on the application of twelve Protestant heads of families; and that if the teaching of such common school was by a Protestant or Protestants, a Roman Catholic separate school should be allowed on the application of twelve Roman Catholic heads of families. I do not think, therefore, that the employment of one Roman Catholic among several teachers of a common school in St. David's ward, precludes the Roman Catholic heads of families whom you represent from having a separate school if they desire it.

I have the honor, &c.,

(Signed)

E. RYERSON.

The Hon. JOHN ELMSLEY,
St. David's Ward, Toronto.

No. 15. The Trustees of the Roman Catholic Separate School, St. James Ward, Toronto, to the Chief Superintendent.

The Clerk of the Municipality declines exempting certain supporters of Separate Schools, on account of incomplete returns.

[L. R. 3183, 1853.]

TORONTO, 27th October, 1853.

SIR,

As the secretary-treasurer of the Roman Catholic separate school trustees for the ward of St. James, in this city, I beg to inform you that the clerk of the Common Council declines to take upon himself the responsibility of omitting from the collector's roll for the city school rate, the names of those persons who were returned to the local superintendent on the 30th of June last, as willing to subscribe to the separate schools; and he grounds his refusal on the fact, that the amount subscribed by each subscriber is not inserted in the return, as is required by the 2nd proviso of the 4th section of the Supplementary School Act.

The 4th section provides that persons subscribing to the support of separate schools, shall be exempt from the payment of the school rate—provided the amount subscribed by each is equal to the assessment for school purposes; and which amount such persons would have to pay if no such separate schools were in existence.

But the city authorities are themselves to blame in this matter, if indeed blame can attach to any party; because they have omitted to decide upon the amount which each citizen would have to pay for school purposes until the month of September. It was therefore simply impossible for the trustees of St. James' ward in June last to insert the amount of an unknown quantity, and unknown to them by no fault or omission of theirs.

Neither did there exist any reliable data upon which the Roman Catholic trustees could have an approximation to the amount. In the first place, they could not undertake to fix the school rate for 1853 at the same figure as that of 1852: had they done so they would have been 1d. in the £ short of the amount, and then the clerk of the council would indeed have had just grounds for declining to exempt them from paying the tax. In the next place, the Roman Catholic trustees could not fix the value of the assessable property of the citizens for 1853, because a very great increase in the value of all kinds of property had taken place in the course of the past twelvemonth. In my own case, land has been valued at more than double the valuation of 1852, by the assessors, and whereas my taxes for last year amounted to £45, they reach this year £97—and thus had my subscription been based upon an assessment of £45, or even twice £45, I should have been shut out of the privilege of subscribing to the separate schools, upon the ground of having subscribed an insufficient amount. Several of my co-religionists would have been in the same condition.

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The clerk of the council does not positively refuse to omit these persons from the collector's roll; but he feels great difficulty in deciding upon the course he should pursue, and therefore it has been agreed to refer the matter to your decision.

May I beg the favour of you to take the subject into your consideration, and inform me of your decision thereon?

Your obedient servant,

(Signed,)

J. ELMSLEY.

Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

No. 16. The Chief Superintendent to the Trustees of the Roman Catholic Separate School in St. James' Ward, Toronto.

Decision against Trustees for Incomplete Returns.

[No. 888, I.]

EDUCATION OFFICE,

Toronto, 20th October, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 27th instant, and to state in reply, that, I do not see how the circumstance to which you allude should or could have prevented the supporters of separate schools in St. James' ward from subscribing for the support of their school. The clause of the act to which you refer, expressly requires in regard to the supporters of the separate schools, the return of their names, and the "amounts subscribed by them respectively." The act did not intend to exempt from supporting, or excluding from the privileges of the public schools, any person whatever who should not by his own act and subscription separate himself from them; and of which act as a fact, (not as an intention,) the municipal authorities were to be duly notified.

The trustees of the separate school setting down a number of names, (more or less,) and stating that such persons were "willing to subscribe to such separate school," is certainly no compliance with the letter or spirit of the law. In this way many persons might be exempted from the support of the public schools, who never paid a farthing to the support of any separate school, and who might have no wish to do so; and the trustees might thus subject themselves to the penalty of the 13th section of the Upper Canada School Act of 1850.

The names of the persons alluded to by you, and returned to the municipal authorities as supporters of the separate school in St. James' ward, had subscribed to the separate school, or they had not. If they had subscribed, then it was easy for the trustees to state in their return the amount which each had subscribed. But if the persons referred to had not subscribed at all to support the separate school, it

is plain they had not in any way, expressed their wish to separate themselves from the public school interests of the city; and, therefore, are not liable to be set apart, as you request, as supporters of a separate school. It is an important matter, and altogether novel in Upper Canada, for any person to be exempted from the payment of any part of the payment of the public taxes, or to be excluded in his children from any of the public institutions of learning, and cannot be done, according to the obvious intentions and provisions of the law, without proof that such person occupies that position by his own act. This proof is his subscription of a certain amount in support of a separate school. You have not furnished this proof, or even a statement of the fact, to the municipal authorities as to any of the persons to whom you refer. The plain provisions and intentions of the law should certainly be fairly carried out on the one side as well as on the other.

I think the only course left you to promote the object you have in view, is to cause a subscription paper to be prepared and presented to each of the persons mentioned in your return referred to, and let him subscribe what he pleases to support the separate school, and let the list of subscribers thus obtained, be transmitted by you to the local superintendent as a part of your return, (to supply an omission in it,) required by the 2nd proviso in 4th section of the supplementary school act.

The principle of the enacting clause is, that persons under the condition supposed, contributing a certain sum annually to support a separate school, may be exempted from paying the public school rates; the second proviso is a means of giving effect to this enactment, and if its directions in regard to the point omitted by you, are attended to before the collection of the school rates, I think the subscribers to the separate school will be entitled to claim the application to them of the enactment.

I have the honor, &c.,

(Signed,)

E. RYERSON.

The Hon. JOHN ELMSLEY,
Trustee R. C. Separate School,
St. James' Ward,
Toronto.

*No. 17. The Chief Superintendent to the Honorable John Elmsley, of
Toronto.*

On the Establishment of Public Libraries by Trustees of Roman Catholic Separate Schools.

[No. 589, I.]

EDUCATION OFFICE,

Toronto, 29th October, 1853.

Sir,

I avail myself of this opportunity of intimating to you that the same assistance and facilities will be afforded to the trustees of separate schools, that are afforded

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The Hon. J.
&c.

No. 18

[L. R. 3562, 1853]

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I have the honor, &c.

(Signed,)

E. RYERSON.

The Hon. JOHN ELMSLEY,
&c. &c. &c.
Toronto.

No. 18. The Clerk of the City of Toronto to the Chief Superintendent.

On Exempting Supporters of Roman Catholic Separate Schools from School-rates.

[L. R. 3562, 1853.]

CLERK'S OFFICE,

Toronto, November 18th, 1853.

Sir,

I have received through the local superintendent of education for the city, a list of persons who have signified their willingness to subscribe towards the maintenance of Roman Catholic schools, but the amounts are not set opposite their names. I am informed that the omission arose from the fact that the parties were not aware of the amount of school-rate that they would be required to pay, and were willing to subscribe. The common council of the city did not fix the rate in the pound for school purposes until after the period at which the returns were to be made: the subscribers were thus prevented from specifying the amount at the time.

May I, therefore, beg that you will, at your earliest convenience, instruct me as to the course I should pursue to remedy this difficulty—a difficulty of which the trustees of Roman Catholic schools seriously complain, as it was obviously one, which, from the circumstances, it was not in their power to obviate.

I have the honor, &c.

(Signed,)

CHARLES DALY,

C. C. C.

To the Rev. Dr. RYERSON,
Chief Superintendent of Education,
Toronto.

* See Annual School Report for 1853, Appendix F., pages 131—147.

No. 19. The Chief Superintendent to the Clerk of the City of Toronto.

In Reply.

[No. 680, I.]

EDUCATION OFFICE,

Toronto, 19th November, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of yesterday, and in reply, to enclose you a copy of the letter* which I lately addressed to the secretary of the trustees of the Roman Catholic separate school of St. James' ward, in this city, on the subject respecting which you ask advice.

I have the honor, &c.

(Signed,)

E. RYERSON.

CHARLES DALY, Esq.,
Clerk, City of Toronto.

No. 20. The Trustees of Roman Catholic Separate Schools, Toronto, to the Chief Superintendent.

School-rates were levied on supporters of Separate Schools in 1853, in consequence of Trustees incomplete returns.

[L. E. 2222, 1854.]

Toronto, 2nd May, 1854.

SIR,

On behalf of the trustees of the Roman Catholic separate schools of this city, it has become my duty to appeal to you officially, upon another difficulty which has arisen in the practical operation of those portions of the Common School Acts which relate to separate schools. The frequency of my communications may, I am afraid, lead you to consider me very troublesome; but the importance of the question makes it imperative upon me to appeal to you for redress.

The clerk of the city council did not in the year just past, omit the names of the parents and guardians duly returned through the local superintendent as sending children to the separate schools; their names were all included in the collectors' rolls for the whole of the general school-rate for 1853; the rate has been collected; the money has been paid over to the chamberlain by the collectors; and the finance committee of the city council, to whom the matter was referred, refuse to recom-

* The preceding letter, No. 16. [No. 538, I.]

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mend that the amount should be refunded, or paid to the trustees of the separate schools; taking the same ground as that taken by the municipal clerk, viz., that the trustees of the separate schools had not made a return of the actual attendance in detail of the children, as well as the average attendance, to enable the municipal clerk to determine the amount, or extent of the exemption, to which such parents or guardians were entitled, under the 4th section of the supplementary act, qualified as they maintain by the first proviso of that section.

For example, let it be supposed that a child commenced attendance at the beginning of the year; and after some time, from temporary indisposition or other cause, that such child would be absent a few days and then returned, and resumed its regular attendance; the municipal clerk and finance committee, as I understood them, would maintain that for, and during these few days of absence, the parents and guardians should be looked upon as not sending children to school, and therefore not entitled to exemption from the general school rate for those few days. Surely the act cannot be so interpreted. As a general practice the children are sent to school at the beginning of the year, and are usually kept there until the end of the first half of it at least, with occasional interruption of no great duration; but are these interruptions to be construed to mean that the parents and guardians have discontinued to send their children to school? The few cases in which children may have been absent for any considerable portion of the half year; or who, after commencing the year, soon after left the school altogether, form the inconsiderable exceptions, and cannot surely be construed to deprive the great majority of the parents of the benefit of the exemption. Therefore, I respectfully submit that the clerk of the municipality and the finance committee, have required a return, which the separate school trustees were not obliged to furnish, and in point of fact they would have been wrong had they furnished it, if the use to which the clerk and committee would have put it had been their object. The act of parliament is silent upon the subject of a return in detail of the actual attendance of pupils: a return of the average, not the actual, attendance is required. Had the actual attendance in detail been intended by the legislature, the act would have made provision for it: matters of far less importance have been provided for with the utmost exactitude.

But it is said, parents and guardians should not be exempt from the whole of the general school rate, if they send children to school only for a limited period. I reply, that it is impossible to draw a line between one day and half a year, the legislature has wisely not attempted to draw one for a lesser period than half a year. Until the Provincial Parliament thinks it advisable to make some provision in this regard, I think the parents and guardians are entitled to the exemption of half a year at least, if not the whole year, as I now hope to shew you.

The remarks above regard the first half yearly return. As respects the second half of every or any year, past, present, or to come, I do not perceive how the exemption of parents and guardians sending children, as well as the subscribers to the separate schools not sending children, can be effected at all if it be not made at the same time that the exemption of the first half year is made. The collector's roll is made out but once a year; and the clerk of the municipality of this city usually completes the rolls and places them in the hands of the collectors

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about the month of August or September. The collectors forthwith commence their labors, and the greater part of the rates are collected long before the time for making the second return, on the 31st of December. But the rolls are then out of the clerk's hands, and no exemption can be made in favor of parents and guardians who have steadily sent children to the separate schools, nor of those subscribers who renew their subscriptions for the second half year as well as for the first.

If the principle contended for by the clerk and the committee be acted upon, then would ensue the following extensive financial operation:—

A large number of the parents and guardians sending children to the separate schools of this city are assessed to an amount which would make their portion of the general school tax, if they were charged with it, amount to less than five shillings. The year contains 365 days, if therefore a pupil should be absent from school for only one day, even if that one day should be a Sunday, the parents or guardian of such child would have to be placed upon the collector's roll for the 365th part of 5s. The bare absurdity of such an entry on the roll would be ample security that it would not appear there. But if the absence of a child from school for but one day, is not sufficient to warrant the placing of its parent or guardian on the collector's roll, who is to determine authoritatively the precise number of days of absence which would make it worth while to place such parent or guardian on the roll. A whole week's absence would only take the amount out of the reach of a fraction of a penny. Fancy, if you can, sir, the amusement which would be created by asking for a tax so utterly insignificant. The collectors would not venture to make the demand, still less would it be worth their while to collect it. I cannot suppose that the legislature ever contemplated imposing such minute fiscal transactions upon a large and opulent corporation, deservedly esteemed to be the commercial, political and social metropolis of Western Canada. The legislature has not manifested any similar concern for the care of those, who, though not sending children are nevertheless willing to subscribe an amount at least equal to what they would have to pay did no separate school exist. Those parties can claim exemption for at least half a year by a single signature of their names; it is not pretended that any thing can be urged to imply that they have subscribed for any lesser period than half a year: and yet these parties, who by the dash of a pen can claim such exemption, are better off than those who manifest a far greater desire to support the separate schools by sending their children to them, and by so doing subject themselves to be taxed by their own trustees for the support of such separate schools: that is to say, if the principle set up by the clerk and the committee can be sustained.

I trust that I have made myself understood in the above, and that you will endeavor to suggest a remedy.

I have the honor, &c.

(Signed)

J. ELMSLEY,
Secretary and Treasurer.

Rev. Dr. RYERSON,
Chief Superintendent of Schools,
Toronto.

No. 21.

Complaints ag

[No. 1086, L.]

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No. 21. *The Chief Superintendent to the Trustees of Roman Catholic Separate Schools, Toronto.*

Complaints against parties must be furnished them.—General Provisions of the Law relating to Separate School Returns.

[No. 1006, L.]

EDUCATION OFFICE,

Toronto, 11th May, 1854.

Sir,

I have the honor to acknowledge the receipt of your letter of the 2nd instant, and to state in reply that, a copy of it should have been sent to the parties of whom you complain, according to the printed regulations of this department, (quoted on the last page of this letter,)* that I might have the statement of both sides of the question submitted before expressing any opinion respecting it. Nevertheless, on the legal question on which you appeal, and which you elaborately argue, I readily comply with your wish in stating what I think is the plain intention and fair interpretation of the school law in regard to the returns which trustees of separate schools should make, and the manner in which I have applied this provision of the law to returns of trustees of public schools.

The question submitted is, whether or not the trustees of a separate school should return the actual school attendance of the pupils whose names they are required to transmit to the local superintendent semi-annually, in order that the parents of such pupils may be exempted from the payment of the municipal school-rate for the support of public schools. Such a return the city authorities require; such a return you object to make. I understand you to maintain that the city authorities have no right to know whether a pupil has attended one day or the whole six months of each half year; that all they are entitled to know is the names of the pupils and the average attendance of pupils at the school.

To arrive at a correct conclusion on the subject, it is proper to refer to the provisions of the act. In the first proviso of the 4th section of the Supplementary School Act, it is stated, "that the exemption from the payment of such school rates, as herein provided, shall not extend beyond the period of such person's sending child-

* As follows:

COMMUNICATIONS TO THE DEPARTMENT OF PUBLIC INSTRUCTION FOR UPPER CANADA.

Appeals to the Chief Superintendent of Schools.—All parties concerned in the operations of the Grammar and Common School Acts have the right of appeal to the Chief Superintendent of Schools; and he is authorised to decide on such questions as are not otherwise provided for by law. But for the ends of justice—to prevent delay, and to save expense,—it will be necessary for any party thus appealing to the Chief Superintendent of Schools: 1. To furnish the party against whom they may appeal with a correct copy of their communication to the Chief Superintendent, in order that such party may have an opportunity of transmitting any explanation or answer they may judge expedient. 2. To state expressly, in the appeal to the Chief Superintendent, 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.

In all communications, the number of the School Section and the name of the Township and Post Office, and the Official Title of the writer should be given; and also the numbers and dates of any previous correspondence on the same subject.

ren to, or subscribing as aforesaid, for the support of such separate school." The second proviso of the same section of the supplementary act states, "that the trustees of each separate school shall, on or before the 30th day of June and 31st day of December of each year, transmit to the local superintendent, a correct return of the names of all persons, of the religious persuasion of such separate school who shall have sent children to, or subscribed as aforesaid, for the support of such separate school during the six months previous, and the names of the children sent, and amounts subscribed by them respectively, together with the average attendance of pupils in such separate school during such period." The act then goes on to provide, that "the local superintendent shall forthwith make a return to the clerk of the municipality, of the names of the persons who, being members of the same religious denomination, contribute or send children to the separate school, and the clerk shall not include in the collectors' roll for the general or other school rate, the name of any such person as appears upon such return then last received from the said superintendent."

From these last cited provisions of the act, it is clear that the clerk of the municipality has nothing to do with the kind of returns that trustees of a separate school may make to the local superintendent; the clerk has only to do with the return of the local superintendent, and is expressly required to omit from the collectors' roll the name of every person included in the return of the local superintendent. If, therefore, the clerk of the city municipality of Toronto, has communicated with the trustees of a separate school on this subject—if he has presumed to judge of their returns, or refused even to act to the letter on the return of the local superintendent—he has mistaken his duty and contravened the provisions of the statute. If this be the point of your complaint, the law is clearly in your favor; and there can be little doubt or difficulty in your obtaining a speedy remedy.

As you make no reference to the local superintendent (the only party with whom you have to do in making your returns, and the only party having a right to judge of their accuracy or completeness) I take it for granted that no difference has arisen between him and your trustees in regard to your school returns. The question, therefore, which you present at so great length and with so much warmth, may be regarded as rather speculative than practical in relation to the immediate object you have in view. But I have no hesitation in saying, that I think that the trustees of a separate school ought to include in their half-yearly returns the *actual*, as well as the aggregate average attendance of pupils at their school.

From the 1st and 2nd provisos (above quoted) of the 4th section of the Supplementary School Act, the following things are obvious:—1. That two classes of persons of the religious persuasion of the separate school can claim exemption from the payment of municipal school rates—namely, persons subscribing to a separate school to a certain amount, and persons sending children to a separate school. 2. That the sending of children which entitles the party in question to claim exemption from paying municipal school rates, is for a period of *six months*—not one month or two months, or a few days, but "six months"—that is, at least the major part of that period, according to the most liberal, scholastic, or university interpretation of analagous terms and provisions.

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If, as I infer from the tenor of your letter, you would claim this exemption in behalf of parents of children attending school a few days of the six months, then the requirements of the act are nugatory, and a premium is held out to persons to practice deception in order to avoid paying municipal school rates, by getting their children's names entered on a school register, with a day or a few days' attendance at the separate school. Such cases are perhaps more likely to occur, than the imaginary ones of hardship which you suppose.

It is also plain, that if the trustees return the names of children as having attended their separate school during the period of the previous six months, who have only attended a few weeks or a few days of that period, such trustees render themselves liable to be prosecuted and fined for making false returns in order to obtain an undue share of public school money.

I think, therefore, that full and explicit school returns are the fairest, the safest, and the most honest. I have acted upon this principle in preparing the blank half-yearly returns of the trustees of common schools throughout Upper Canada, as may be seen by referring to printed copies of them.* In these returns, the trustees report the attendance of the pupils *every day* of the whole half-year. And it is certainly less trouble for trustees of a separate school to set down in one column opposite the name of each child contained in their return the number of days he has attended school during the six months, than it is for the trustees of a public school to report the *daily* attendance of the pupils in their school, besides their average attendance, during the half year. Besides the regularity and system that such *daily* returns require and induce in the conduct of the school, they enable the local superintendent to ascertain and judge for himself as to the accuracy of the return of *average* attendance, (in making up which very different bases of calculation have been adopted by trustees,) and to detect false returns by comparing the report of any particular day, with the memoranda of his own visits to such schools and his examination of their registers. And if the trustees of a separate school do not wish to make any other than a correct return, or obtain more than is their due, they cannot reasonably object to add to each child's name in their half-yearly return the aggregate number of days that he has attended school during that period, while, as may be seen by the printed forms, the trustees of public schools are required to make much more detailed and minute returns—and especially in union school sections, which are very numerous.

In regard to your objections to half-yearly returns by trustees of separate schools, I may merely observe, that there is the same reason for such returns from the trustees of separate schools as from the trustees of public schools, that, apart from other considerations, as the one-half of the legislative grant apportioned to a separate school in any one year, is payable at the end of the first, and the other at the end of the second, six months of the year, half-yearly returns should be made as the basis of such half-yearly apportionment.

It may be proper for me to add, that in this city alone, throughout all Upper Canada, has difficulty arisen such as your letter indicates—shewing clearly that it

* See No. 187 of this Correspondence.

has arisen from the disposition and objects of the parties concerned, rather than from anything difficult in the provisions of the law. I know not how these provisions can be plainer; but no legal provisions are plain when efforts are made to employ them for other than their obvious and legitimate objects.

Perhaps even in this case, I am not altogether free from blame myself. The school law authorises me to prepare forms for making all returns and reports and conducting all proceedings under it. I thought the provisions of the 4th section of the Supplementary School Act were so explicit and plain, and the number of separate Schools was so small, that it was not necessary to prepare forms of returns and reports, and get them printed, for separate schools. I will, however, do so in the course of the present year, and thus prevent the recurrence of circumstances such as you have stated in your letter. Until, however, I prepare and furnish blank forms of returns and reports for separate, as well as for public common schools, I shall recommend the acceptance (if not already accepted) by the local superintendent of schools in this city of the returns which you made—subject of course to the responsibility which the 13th section of the School Act of 1850 imposes upon all school trustees in regard to school returns.

I have the honor, &c.

(Signed)

E. RYERSON.

The Hon. JOHN ELMSLEY.

Trustee, R. C. Separate School,
Toronto.

No. 22. The Trustees of Roman Catholic Separate Schools, Toronto, to the Chief Superintendent.

Further on school rates of 1853, and on exemption of supporters of Separate Schools.

[L. R. 2500, 1854.]

TORONTO, 16th May, 1854.

SIR,

In acknowledging the receipt of your letter of the 11th instant, No. 1066, L., I have also to acknowledge the justice of your censure respecting my neglect of the official channel through which all communications should be addressed to you. You are, however, somewhat the cause yourself of this departure from rule on my part, inasmuch as you have kindly permitted me to depart from the regular course on former occasions without reproof. I will in future observe the proper regulations.

Permit me now in reply to state, that although your exposition of the law is very satisfactory in some regards, nevertheless upon the principal points submitted, we are still without your definitive judgment.

Perhaps I was not quite correct in stating in my first letter that the clerk of the municipality was the party causing the defeat of the supplementary act in regard of the separate schools, in the particulars I brought under your notice. I have not been able to ascertain with precision how it happened that the names of the parents and guardians, duly returned by the local superintendent as sending children to the separate schools should nevertheless have been included in the collector's roll for 1853, for the general school rate. The supplementary act had only been passed a few days before the returns of the 30th of June were required to be made. Copies of the act were only to be obtained by much trouble and delay, and therefore very few persons, either official or otherwise, knew much about its provisions, with reference to separate schools. The collector's rolls were therefore made up and completed, and placed beyond the control of the municipal clerk before the necessary steps were taken to prevent him from including the names of the parents and guardians, &c., in the rolls for the general school rate. The collectors went to work, and soon the most of the money was collected and paid into the hands of the chamberlain, and no one could state how all this had happened.

However, the whole matter has been brought under the notice of the committee of the city corporation on finance, and they seem quite willing to entertain the question of refunding the money; provided, that upon a review of the proceedings they can perceive that all has been done that could reasonably be expected, under all the difficulties of a new enactment.

And herein the finance committee are of opinion that the trustees of the separate schools should have made a return of the actual as well as of the average attendance of the children attending their schools. The trustees on the other hand think that the law does not require, and they admit that they have not made, any such return.

It is desired by all concerned that you should decide whether the absence of such return should or should not be fatal to our claim for the exemption of the parents, &c., from the school rate for 1853, however desirable such return might be to carry out the provisions of the 1st proviso.

The second important matter submitted to your consideration in my letter of the 2nd instant, does not appear to have been alluded to in your reply, in the sense in which your decision was needed.

The municipal clerk usually completes the collector's rolls in the month of August in each year; the collectors thereupon forthwith commence their labors, and long before the 31st of December, the period of each year when the second half yearly returns are due, the taxes and rates have been mostly collected and paid into the chamberlain's or treasurer's hands. How then is it within the bounds of possibility for the municipal clerk to exempt the subscribers to the support of the separate schools, or the parents or guardians sending children thereto, from the general school rate, for the second half of the year; unless he does it at the same time that he exempts them for the first half year; that is to say, for the whole year at once; as it is but once in each year that the collector's rolls are made; and but once the taxes and rates are collected?

Your decision upon this very difficult question will not affect the year 1853, because the finance committee seeing the impossibility of exemption for the second half year, have practically waived it. But the same difficulty will again arise in the month of December of 1854. The municipal clerk will be required to make the exemption, but the collector's rolls will have passed from his custody, and the exemption cannot be effected, and other views may actuate the committee.

The finance committee meet again on Friday next, the 19th instant, and if you could furnish me with the result of your deliberations on or before the morning of that day you will greatly oblige,

Your obedient servant,

(Signed)

J. ELMSLEY,
Secretary and Treasurer.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

No. 23. The Chief Superintendent to the Trustees of Roman Catholic Separate Schools, Toronto.

Further explanation of the provisions of the law regarding Separate School Returns.

[No. 1105, L.]

EDUCATION OFFICE,
Toronto, 20th May, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 16th instant, and to state in reply that you misapprehend the remark in my letter of the 11th instant, if you supposed that I intended to intimate that you should address me through the local authorities against whose proceedings you appealed. I simply intimated that you should have furnished them with a copy of your letter, as required by fairness, and the regulations of this department.

2. As you have not furnished me with copies of any of the correspondence between you and the city authorities, and do not intimate that you have made any enquiries of, or addressed any communications on the subject to the local superintendent; and are uncertain as to the parties who caused the refusal or delay of which you complain, it is impossible for me to add anything to what I have already said and suggested on those points.

3. As to the first question which you again propose, I repeat what I stated in my letter of the 11th instant, and for the reasons therein stated, that the return of the actual attendance of pupils at the separate schools, as it is required of trustees of

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the common public schools, should be made; and the city authorities reasoning from the returns required of the trustees of all common schools, as well as from the obvious intentions of the statute, were doubtless induced to make the objection they did to the last year's returns of the trustees of separate schools. But since I did not prepare forms for the returns of separate schools as I did for the trustees of other schools, I shall urge the city authorities to accept and act upon the returns made to them, being anxious that the most liberal construction and application should be given to all the provisions of the school act in reference to all parties concerned.

4. In reply to your second and last question, I may observe, that it is thus far speculative rather than practical, as no instance has yet occurred for its application to the supporters of separate schools. I may also remark that the same principle applies to the supporters of public schools. If they neglect to keep open or send their children to the public school for the first six months of the year, they forfeit all share in the legislative school grant for that year; yet they are not the less liable to be taxed not only to the amount required to share in the legislative school grant, but for all school purposes.

It appears to me that the question you propose and the apprehensions you express, originate in an unnatural and erroneous view of the provisions of the supplementary school act. They are founded in the assumption that there is a half yearly municipal school assessment, and that the design of the half yearly returns by trustees of separate schools is to exempt the supporters of such schools from the payment of such assessments. Now, in the first place I have never yet heard of a half yearly school assessment by the municipal council of any county, township, city, town or village in Upper Canada. In the second place the chief design of the half yearly returns by all school trustees, whether of public or separate schools, is to furnish the local superintendent with data for an equitable half yearly apportionment of moneys to the schools. This is the sole design of the December school returns. But a second object of the June school returns in regard to separate schools is to exempt the persons who have either sent their children to a separate school, or subscribed for its support to a certain amount from the annual municipal assessment for such year—six months being according to law a minimum school year. It is the mean or average attendance of pupils for both winter and summer that determines the amount to be apportioned to each school, whether public or separate, during the civil year; but the enacting clause of the 4th section of the supplementary school act shows clearly that the return of attendance of pupils at the separate school, and of subscriptions towards its support, on which exemption from the annual school assessment is based, is the return which immediately precedes the levying of such assessment, and that it is for a year and not for a half year. I trust this explanation in reply to your question will remove all misunderstanding and reasonable ground of complaint in regard to the annual assessment provision of the supplementary school act.

But the same section of the act provides for the exemption of certain parties from the payment not only of the annual municipal assessment, but also of a special rate imposed for the erection of school-houses. The limitation and application of

this provision are so explicit as to leave no room for doubt or dispute. I may, however remark, that in to day's issue of a newspaper organ of your church, published in this city, called the "*Catholic Citizen*," I am assailed for having from vile motives, introduced this provision into the act; whereas, the fact is, that although I prepared and recommended the general provisions in the fourth section of the supplementary school act, it so happens that the restrictive words ("nor shall such exemptions extend to school-rates or taxes imposed, or to be imposed, to pay for school-houses, the erection of which was undertaken or entered upon before the establishment of such separate school,") were not submitted or suggested by me, but were suggested by the Attorney General (now Judge) Richards, than whom no man in Canada could desire more anxiously what was most liberal as well as most just towards his Roman Catholic fellow-citizens.* And the circumstance that this clause of the act, so vehemently exclaimed against by the newspaper organ referred to, originated in a mind the least liable to be charged or suspected of intolerance against Roman Catholics, and was approved of by Roman Catholics as well as other members of the government and legislature, is an ample refutation of the insinuations referred to, and a sufficient proof that the provisions of the fourth section of the supplementary school act were conceived in the spirit of the utmost fairness and liberality to all parties concerned.

In conclusion, I have to regret that it was not in my power to return an earlier answer to your letter.

I have the honor, &c.

(Signed)

E. RYERSON.

The Honorable JOHN ELMSLEY,
Trustee R. C. Separate School,
Toronto.

No. 24. *The Chief Superintendent to the Finance Committee of the City Council, Toronto.*

Recommending acceptance of Roman Catholic Separate School Returns.

[No. 1106, L.]

EDUCATION OFFICE,

Toronto, 25th May, 1854.

SIR,

Understanding that certain matters relating to the claims of trustees of separate schools in this city to the refunding of certain rates collected from the supporters of separate schools during the year 1853, had been referred by the city council to the standing finance committee of which you are chairman, I take the liberty of suggesting to you the propriety of recommending that the claims in question be granted.

* See the original draft of the 4th section of the Supplementary Act, page 20—23.

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If I am correctly informed, the objection to these claims is on the ground that the trustees of the separate schools did not make a return of the *actual* attendance of each pupil at their schools, as well as the average attendance of the pupils collectively.

I think a return should be made of the actual attendance of pupils at the separate, as well as public schools, were the provisions of the act not so very explicit on the subject. It will also be recollected, that the Supplementary School Act requiring these returns did not pass the Legislature until the 14th of June last, and that the returns in question were required to be made the 30th of the same month. The school law requires me to prepare forms for making all reports and returns, and conducting all proceedings under it. I prepared forms of returns for school trustees generally, but did not do so for the trustees of the few separate schools in existence.

Under these circumstances, I think you will agree with me that it is hardly fair and not doing as we would be done by, to take advantage of any alleged technical omissions, contained in the first half-yearly returns of the trustees of separate schools, made within a few days of the passing of the act requiring them, and made without the aid of blank forms provided for other school trustees. But, notwithstanding the aid of such blank forms of returns, a large proportion of trustees throughout Upper Canada forfeited (according to the letter of the law) all share in the legislative school grant of last year, by their omissions and errors—so much so that I deemed it necessary, in the exercise of the discretionary power given me in such cases, to request by a circular notice to local superintendents of schools that they would not, *in that case*, withhold from school trustees the aid apportioned to them from the legislative school grant. I think it but equitable that the law should be administered in the same spirit in regard to the trustees and supporters of separate schools, whatever may be our opinion of the expediency or in expediency of establishing such schools.

I beg to intimate, that I purpose to prepare and provide blank forms for full and explicit half-yearly returns by trustees of separate schools for the current year. And for my views of the provisions of the law on the subject of these returns, and other matters connected with them in relation to separate schools, I refer you to two letters* which I have addressed to the Hon. John Elmsley—the one dated to-day (No. 1105 L), and the other the 11th instant (No. 1066 L).

I have requested Mr. Elmsley, and he has promised me, to shew these letters to you.

I have the honor, &c.

(Signed)

E. RYERSON.

ANGUS MORRISON, Esq.,

Alderman and Chairman of the Finance Committee,
City of Toronto.

* No. 17 and No. 15 ante.

City of Kingston.

No. 25. The Rev. William Herchmer, A. M., of Kingston, to the Chief Superintendent.

Establishment of Church of England Separate Schools.

[L. E. 3029, 1853.]

ST. LAWRENCE COTTAGE,
Kingston, 21st September, 1853.

SIR,

The fourth section of the common school supplementary act of 1853 refers to the 19th section of the common school act of 1850.

I am anxious to know the correct interpretation of that section which authorizes the establishment of "one or more separate schools for Protestants, Roman Catholics or coloured people;" i. e., I wish to be informed whether each denomination of Protestants can, if disposed, apply for a separate school—for instance—if twelve or more heads of families attached to the communion of the Church of England, desire to establish a separate school for the children of those who are connected with that church, will the act authorize the establishment of such a separate school?

An answer to this enquiry will oblige.

I have the honor, &c.

(Signed,)

WM. HERCHMER,
Asst. Minister St. George's.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

No. 26. The Chief Superintendent to the Rev. William Herchmer, A. M., of Kingston.

Separate Schools for Protestants generally can only be established.

[No. 404, L.]

EDUCATION OFFICE,
Toronto, 23rd September, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 21st instant, and to state in reply, that the school acts do not recognize any other than two classes of separate schools—Roman Catholic and Protestant—the latter including Protestants generally in contra-distinction to Roman Catholics.

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The Rev.
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No. 27.

[L. E. 340, 1853]

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But the board of school trustees in any city, town, or incorporated village, can (according to the fourth clause of the 24th section of the school act of 1850.) establish any kind or description of schools they please, whether Church of England, Presbyterian, Wesleyan, or Roman Catholic.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. WM. HERRMEL, A. M.,
Asst. Minister of St. George's,
Kingston.

No. 27. The Kingston Board of School Trustees to the Chief Superintendent.

Employment of Christian Brothers and Nuns by the Board.—Equality of votes.

[L. R. 248, 1854.]

KINGSTON, 18th February, 1854.

REVEREND SIR,

As chairman of the board of trustees of common schools for this city, I take the liberty of asking your opinion respecting a point of the school act of last year; and in doing so, I think it better to state briefly the case which has made this matter of some importance.

Last year there were on the list of schools receiving aid from the common school fund, a school taught by the order of Christian Brothers, and another taught by the Nuns. These schools, it is believed by the Protestant part of the community, do not conform to the requirements of the statute so as to entitle them to a share of the school fund—they do not use the prescribed text-books, and in a word they have no right to be classed as common schools, on several other grounds which it would be easy to state.

At the last meeting of the school trustees the question came up as to the continuance of those schools on the fund.

Two resolutions were submitted, one "That the school teachers employed by the board during the last year, be the teachers under the board for the present year, with the addition of Mr. Kells." The other in amendment, "That the schools respectively under the charge of the Nuns and Christian Brothers, and last year aided by the funds of the common schools, as they are conducted by persons belonging to a religious order, be not again aided as common schools," when the vote was taken on the amendment seven members, including myself as chairman, voted for it, the other seven members of the board opposing it.

In this equality of votes it would seem, from the first clause of the supplementary school act of last year, that the amendment was lost; but as I had doubts

regarding the point, I declined to declare the amendment lost until I should take advice on the matter. The original resolution was clearly lost.

Should the amendment be lost according to the existing law, I fear the Board will be placed in the difficulty of not being able to re-engage any of the teachers, or appropriate any of the funds for the present year—those favorable to the Roman Catholic interest being likely to obstruct any re-engagement which does not involve the two schools in dispute.

The composition of the board is five Roman Catholics to nine professedly Protestant members, but two of them have allied themselves with the Roman Catholics in this question.

The Protestant members are most anxious that the Roman Catholics should avail themselves of the act for separate schools, but there is no likelihood of that being adopted by them at present.

I shall be obliged if you will favor me with your opinion as to the point arising from the equality of votes, and if you can suggest any way by which we shall escape being placed in the embarrassment I anticipate, I shall be thankful for your advice.

I have the honor, &c.

(Signed,)

J. MALCOLM SMITH.

The Rev. E. RYERSON, D. D.
Chief Superintendent of Schools,
Toronto.

No. 28. The Chief Superintendent to the Kingston Board of School Trustees.

Persons of any religious order may be employed as Teachers, but they must be subject to the general school regulations.

[No. 767, K.]

EDUCATION OFFICE,

Toronto, 24th February, 1864.

SIR,

I have the honor to acknowledge the receipt of your letter of the 18th instant, and to state in reply that, in several instances during the last year or two, chairmen of boards of school trustees gave double votes—one as members, and the other as chairmen of such boards.

These proceedings gave rise to disputes—though I decided, according to the law officers of the crown, in favour of the double vote of the chairmen—and the section of the act to which you refer, was intended to set the question at rest, by declaring that no resolution should be considered as carried unless supported by a

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The Rev. J. Chairm

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[L. R. 1344.]

Sir,

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majority of the members of the board present. It appears that neither of the resolutions which you mention was carried.

Perhaps it may be as well for the board of trustees to make the appointments one by one. In such case the teachers whose appointments are not agreed to by a majority of the board present, must be regarded as not continued in the employment of the board.

I may remark generally, that no persons of any religious order—ecclesiastical or lay—are disqualified from being teachers of common schools, if trustees choose to employ them.

But no person, can be considered as common school teachers unless employed by the board of trustees, subject to its orders, and liable to be removed or continued according to the terms of agreement. You cannot lawfully pay any part of the school fund to any teacher not employed by you, and subject to such duties as you may impose, according to the general school regulations. It is for you, within the limits of the general regulations, to say what books shall be used, what subjects shall be taught, and what order, discipline and exercises of all kinds shall, or shall not be observed in each of the schools to the teachers of which you pay any portion of the public school fund. But you have nothing to do with any schools, the teachers and all the arrangements of which are not thus subject to your direction and control.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. J. MALCOLM SMITH, A. M.,
Chairman Board of School Trustees,
Kingston.

No. 29. The Kingston Board of School Trustees to the Chief Superintendent.

Refusal of Christian Brothers and Nuns to allow Inspection of the Public Common Schools in which they are employed.

[L. R. 1844.]

PRINCESS STREET,

Kingston, 8th March, 1854.

Sir,

I have to acknowledge your communication respecting the state of the law in regard to the chairman's right of decision in case of an equality of votes.

At a meeting of the board of trustees held last night, your suggestion as to moving the schools one by one was accepted, and the two common schools which were proposed by the Protestant party were opposed by the Roman Catholic party, and lost through an equality of votes.

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These were the only schools which the state of the meeting permitted a vote to be taken upon. And the case now stands thus:—That the Roman Catholic party, dreading that the schools taught by the Nuns and Christian Brothers would be lost, if the schools were proposed one by one, factiously opposed the continuance of those which the other party proposed, and to which there has never been any objection.

I beg to mention to you that in the discharge of my duty as chairman of the board of trustees, I have visited among other schools, those of the Nuns and Christian Brothers. The latter refused me admittance altogether at the time I went, although I distinctly stated in what capacity I came. The superior or head teacher told me that I could not be admitted at all in the forenoon, but that if I named a day when I could come in the afternoon, he would let me know if I could be admitted or not. Being occupied with my college duties in the afternoon, and standing on what I conceived to be right of admission at all times as in the other common schools of the city, I refused to name a time, and came away without being able to get within the school.

I then went to the Nuns' school. A lay female teacher to whom I first applied for leave to see the school, referred me to a Nun who was teaching some classes in an adjoining apartment; she, after hesitating a little, permitted me to remain, and brought up one of the classes for examination. I had not been long in, when an older Nun, I believe the superioress of the institution, entered and asked me what right I had to be in the school; I explained to her who I was, and in what capacity I came; she told me that it was no matter, and that I had no right to visit the school unless I had previously asked and obtained leave to do so, at least two days previously; I stated to her that I understood the school regulations differently, and thought, that if the school was to be ranked and paid as a common school, that the trustees had a legal right to visit it whenever they chose to do so, without any previous notice or asking any leave.

I reported to the board before its breaking up last night, the result of my applications in both these schools; but the Roman Catholic party said that the teachers of these schools were not bound to know the school regulations; that even if they had known them, they were justified in excluding me, in consequence of the vote I gave at last meeting of the board against their continuance as common schools. A Roman Catholic priest, a member of the board, gravely told me that if I wished to get into either of the schools I had nothing to do but come to him and he would afford me the requisite facilities, adding, that he was not surprised I had been refused admittance, taking the side I had done at last meeting, for that though the Nuns and Christian Brothers did not know the school regulations, they were not ignorant of the proceedings at the meeting of the school board. Another member told me that there was no violation of the school act or regulations in the refusal to admit me.

Might I beg you would favour me with your opinion on these matters. The Board is at a stand still in consequence of the determination of one party to uphold these schools, whether conforming to the law or not. And meetings hitherto have been of the most discreditable character; no real business has been done beyond

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the election of the chairman and the secretary and superintendent; and unless we can find some mode of extrication from our embarrassment, the whole year will pass over without anything being done; and indeed the fewer meetings we have in future the better, if time is to be frivolously wasted or filled up with speeches outraging Protestant feeling, and, I am constrained to say, common decency.

I have the honor, &c.

(Signed)

J. MALCOLM SMITH.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

P. S.—I have been requested by a majority of the board to publish your last communication to me, but before doing so, I would beg to ask your leave to do it.

(Signed)

J. M. S.

No. 30. *The Chief Superintendent to the Kingston Board of School Trustees.*

It is illegal for Teachers to exclude their Trustees from the Common Schools.

No. 968, K.]

EDUCATION OFFICE,

Toronto, 23rd March, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 8th instant, and to state in reply that, you are quite at liberty to publish any official letter addressed to you by me.

In regard to teachers refusing to admit their school trustees employing them, it is a new case, such as I am not aware has ever before been brought under the notice of this department, and appears to me like a man being refused admission into his own house, and by persons in his own employment.

If a trustee should abuse his authority in this respect, the board of school trustees in each city or town can make a regulation to the mode of proceeding in visiting its schools by its members. But apart from any such regulations, the law clearly gives this authority to all trustees.

By the 14th clause of the 12th section of the school act of 1850, it is made the duty of trustees "to visit the school from time to time and see that it is conducted according to the regulations authorised by law." And in the first section of the supplementary school act, the same power is expressly declared to be possessed by trustees in cities and towns.

In the school act of 1850, the trustees in cities and towns, among other things, are authorised and required "to determine the number, sites, kind and description of

schools which shall be established and maintained in such city or town ; the teacher or teachers who shall be employed, the terms of employing them, the amount of their remuneration, and the duties which they are to perform ;" " to see that all the pupils in the school are duly supplied with an uniform series of authorised text books ;" " to see that all the schools under their charge are conducted according to the regulations authorised by law."

From these provisions of the act, I think it is clear that the board of school trustees in cities and towns can establish any kind of schools they please, and employ any kind of qualified teachers they please; but that all such teachers shall be their servants, and all such schools their schools, and not those of any other party: that if any religious persuasion or other party wishes its schools to be regarded and supported as the public schools in a city or town, such school must become the school of the board of school trustees and its teachers the officers of such board alone.

No man can serve two masters at one and the same time, nor can schools be subject to more than one authority. The only authority recognised by law in the management of schools and their teachers in cities and towns are the trustees elected by the people.

I have the honor, &c.

(Signed)

E. RYERSON,

The Rev. J. MALCOLM SMITH, A. M.,
Chairman Board of School Trustees,
Kingston.

No. 31. The Kingston Board of School Trustees to the Chief Superintendent.

Refusal of Christian Brothers and Nuns to conform to the general regulations.—Quorum of Board.

[L. B., 4324, 1854.]

KINGSTON, 2nd November, 1854.

SIR,

As chairman of the board of trustees of common schools of this city, I beg to ask your advice and direction in the case I am about to state. You are already aware that on the list of our common schools for last year there were two Roman Catholic schools, one taught by the Nuns and the other by the Christian Brothers.

How these two schools ever came to be recognised and paid as common schools, is quite unknown to me. But on my becoming a member of the board at the beginning of the present year, I found six of my fellow trustees determined to resist the re-engagement of these schools or teachers. In their views I entirely concurred; and at our second meeting the matter was brought up; but there being an equality of votes on each side, both the resolution and the amendment, in terms of the act, fell to the ground.

In these circumstances we were at a loss how to proceed, and after an attempt to engage the schools by a separate vote on each, the board found itself at the end of March in no better a position with regard to business than at its first meeting. The seven Protestant trustees would not agree to the re-engagement of the two Romish schools; and the five Roman Catholic Trustees supported in all their measures by two professedly Protestants, would agree to no vote on the schools which did not comprise their own two schools.

More than one of the Roman Catholics had spoken to me with the view of my agreeing to the re-engagements of their two schools for the present year, for the sake of peace, pledging themselves to apply for separate schools at the close of the year. I stated to them the only conditions on which I could agree, and these seeming to them reasonable and fair, I embodied them in a resolution, a copy of which I enclosed, and the next meeting all the schools or teachers of last year were re-engaged subject to this resolution.

I may state that in the resolution as at first proposed by me, I mentioned the two Romish schools by name, requiring on their part conformity in every respect to the other common schools, as required by the common school act; but as this seemed to be offensive to the Roman Catholic members, I drew up the resolution in the general form enclosed.

The engagements of the schools subject to this resolution was carried by eight to six, all the Roman Catholic members voting with me for it, and six Protestant members voting against it. At the passing of this vote I gave it distinctly to be understood that I would not allow the resolution to be a mere form; and I soon afterwards went round all the schools to ascertain where it was acted upon, and where it was not. In order that there might be no ignorance on the part of the teachers, I directed the secretary to get the resolution printed and to leave a copy or copies of it at every school, and to inform the teachers that copies of the authorised text-books would be supplied to poor scholars, on the teacher applying for them to the secretary.

Notwithstanding all our exertions, the Nuns and Christian Brothers' schools would not, and did not conform to our requirements. They still continued using their own Romish text-books; and no reading book authorised by the council of public instruction found a place among them.

On more than one occasion when I went to visit the schools I found these two closed. Their hours of meeting were different from the others, and they would not alter them. And when the summer holidays were ended, all the other schools met promptly on the day named by the superintendent, but these two remained closed without any leave asked or obtained, for nearly two weeks after. From other facts which I could easily adduce, were it necessary, I became satisfied that these two schools were under other control than that of the board of common school trustees, and that they would never submit to our control being exercised over them.

After this vote for re-engaging the schools, the Roman Catholics seemed contented, and they absented themselves from subsequent meetings of the board called by me, thus preventing us from transacting any business for want of a quorum.

In the month of August one of their trustees died, and I called a special meeting to fill up his place. They knowing that a Protestant would be returned for the ward would not attend; so that there were only seven members present.

But I had taken legal advice, and ascertained that under the circumstances seven would be a legal quorum of the board, being an absolute majority of the members. By order of this meeting a writ was issued for the election of a trustee to fill the vacancy; and a Protestant was elected.

At our next meeting (nine members being present including one Roman Catholic, who soon withdrew on finding none of his brethren there), a resolution was carried declaring that the schools had forfeited their engagement by the board, in consequence of not having complied with the terms of the resolution subject to which they were engaged.

Would you be so good as favor me with your opinion as to our proceedings, as thus briefly and hurriedly detailed by me—especially as to our having met as a board with a quorum of seven, when the board consisted of thirteen, &c.: whether we are liable for any salary to the teachers of these schools—or if for any, for more than their proportion from January 1st to date of the passing of the enclosed resolution.

Your opinion of the case, with any direction or advice you may see fit to give will be thankfully received by me and by the other members of the board who are now acting.

I may state before closing, that the Roman Catholic trustees have been threatening us with legal proceedings for the salaries of the teachers, we have declared as not subject to the board.

I have the honor, &c.

(Signed)

J. MALCOLM SMITH.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

[Enclosure.]

Resolution passed at a meeting of the Board of School Trustees, Kingston, on the 11th April, 1854.

Resolved,—That this BOARD claims the sole and exclusive authority over all the teachers and schools recognized and paid by them; and that while they are determined in every instance to require a strict compliance with all the regulations of the school act generally, they deem it proper and necessary at this time to give a distinct expression of this their determination,—especially with reference to the use of unauthorized text-books, and the existence of any kind of sectarian religious teaching during the common school hours. And the board further declare that all the schools with which they have to do shall be open at all hours of school teaching to the visits of the members of this board, and all other visitors recognized by law,—that it is the

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The Board

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duty of all their teachers to receive such visitors courteously, and to afford every facility for inspecting the text-books used; for seeing the method of instruction pursued, and the general efficiency of the school, and for recording their visits in the visitors' books, along with any remarks they may see fit to make.

(Signed)

J. MALCOLM SMITH.

No. 32 The Chief Superintendent to the Kingston Board of School Trustees.

The Board in employing persons for the Public Schools has only to do with them as Teachers, and not as members of religious orders.

[No. 2307, M.]

EDUCATION OFFICE,

Toronto, 13th November, 1854.

Sir,

I have the honor to acknowledge the receipt of your letter of the 2nd instant, and to state in reply that, as the question you propose is a purely legal and technical one, and not involving a general principle of the school system, I feel some delicacy in answering it.

I think there is no doubt that the teachers to whom you refer have violated, or rather disregarded, the conditions and regulations under which they were employed. But on adopting the last resolution of which you speak, notice of their dismissal to the teachers concerned, should have been given, and payment made to them of their salaries up to that time.

Whether your board took these steps or not does not appear from your letter.

If not, I am inclined to think the board will be liable for their salaries up to the present time, under the 17th section of the School Act of 1850. If your Board did not notify and pay them at the time of passing the last resolution referred to, it appears to me to be the most peaceable way to pay their salaries for the current year, and guard against a similar abuse of the provisions and objects of the school law.

A board of school trustees has only to do with the teachers it employs; and it should employ each of them without any reference to, or recognition of, any religious community with which such teacher may be connected. Each of the nuns or monks employed by the board, should be as much subject to the board as any other teacher employed by it. They are no exception to the general rule that "no man can serve two masters;" nor should the board suffer its own requirements to be treated with contempt by any teacher in its employment.

I have the honor, &c.

(Signed)

E. RYERSON.

The Rev. J. MALCOLM SMITH, A.M.,
Chairman Board of School Trustees,
Kingston,

No. 33. *The Kingston Board of School Trustees to the Chief Superintendent.*

Election and Voters for Separate School Trustees.

[L. R. 4737, 1854.]

QUEEN'S COLLEGE,
Kingston, 21st December, 1854.

REVEREND SIR,

Some of the Roman Catholics of this city having applied to the board of common school trustees, to be allowed to have separate schools for next year, and their application having been sanctioned by the board, the necessary steps are being taken to have this carried out immediately. I have been authorized by the board to issue writs for the election of separate school trustees in each ward in the city. But there will be a difficulty, in my opinion, as to who shall vote, the qualification in this case being posterior to the act of voting. Might I trouble you for your advice in the matter:

First. Whether the board ought to appoint separate returning officers for the separate school trustees election, or if the returning officers for the general board can record the votes and make the returns for both parties.

Secondly. Who are entitled to vote for separate school trustees, there being as yet, properly speaking, no separate schools, and no taxes having been paid, consequently, for such. *And lastly.* Can those voting for the separate school trustees vote also for trustees to the general board?

The board of common school trustees have already cut off the schools taught by the Nuns and Christian Brothers, and paid their salaries in full up to the beginning of this month, thereby freeing itself from all further claim from these quarters. But besides these two, there is still a common school taught by a Roman Catholic teacher. When the separate schools come into operation, will it be the duty of the general board to remove this teacher, to make way for a Protestant?

I have the honor, &c.

(Signed) J. MALCOLM SMITH.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

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The Rev. J.
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L. R., 723, 1853.]

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N. SPARKS,
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No. 34. The Chief Superintendent to the Kingston Board of School Trustees.

The Petitioners for Separate Schools are Voters at first Election of Separate School Trustees.

[No 18. M.]

EDUCATION OFFICE,

Toronto, 4th January, 1855.

Sir,

I have the honor to acknowledge the receipt of your letter of the 21st ultimo, and to state in reply that, the first election of trustees for separate schools takes place in the same manner as that of trustees of school sections, according to the 5th section of the School Act of 1850. The electors present choose a chairman, and elect three trustees for the section, as usual.

2. By the 2nd proviso of the 10th section of the School Act of 1850, it is the parties *petitioning* for a separate school that have a right to vote at the first election of trustees for it. If any parties present themselves at a separate school election meeting, to whose right to vote any person present makes objection, the 7th section of the same act states the mode of proceeding in such a case. Others have no right to interfere.

3. By the last proviso in the 4th section of the Supplementary School Act. the supporters of separate schools have no right to vote at the election of common school trustees.

I have the honor, &c.

(Signed)

E. RYERSON.

The Rev. J. MALCOLM SMITH, A.M.,
Chairman Board of School Trustees,
Kingston.

City of Ottawa (Bytown).

No. 35. The Local Superintendent of Bytown to the Chief Superintendent.

Protestant inhabitants complain of the Board's management of the Public Schools.

[L.R. 3723, 1853.]

BYTOWN, 10th May, 1853.

Sir,

I beg to enclose you a petition to myself from certain inhabitants of Bytown, and I hereby send a copy of my reply to them :

“BYTOWN, 9th May, 1853.

N. SPARKS, Esq., and 113 others.

“GENTLEMEN,—

“I acknowledge receipt of your petition, setting forth that you are aggrieved and dissatisfied with the unjust and unequal apportionment of the school fund, public and local. If anything in your minds of this kind exists, the proper course to pursue is

to petition the board of school trustees, laying before them what you consider oppressive, unjust or illegal in the distribution of the school fund.

"The superintendent is the mere servant of the board of school trustees, he has no power in his hands except to carry out their orders, see that the teachers do their duty, to report to the board any misconduct or dereliction of duty on their part and have the teacher admonished or dismissed.

"If there be any school section in which there is not a teacher professing to be Protestant, the 10th section of the school act points out distinctly the course to be pursued; the board no doubt, if applied to, will carry out the intentions of the law and do all they can to satisfy the people.

"I will forward your petition to the Chief Superintendent of Schools as you desire, that he may be in possession of your views.

"That part of your petition where you allude to teachers being employed by the board who have not legal certificate of qualification, your information is not correct. No teacher has at any time been engaged by the board without producing a certificate of qualification from the county board of instruction."

On looking over these papers, if any suggestions on your part can be offered, will be happy to receive them and lay them before said petitioners.

I have the honor, &c.

(Signed) ALEXANDER WORKMAN,
L. S. C. S., Bytown.

Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

[Enclosure.]

TO ALEXANDER WORKMAN, Esq.,
Superintendent of Common Schools, Bytown.

SIR,

The petition of the undersigned Protestant inhabitants of Bytown, respectfully beg leave to represent—That they feel aggrieved and dissatisfied with the unjust and unequal apportionment of the school fund, public and local, as relatively distributed between the Roman Catholics and Protestants of Bytown. They, therefore, hereby demand separate Protestant schools in every school section in this town; and respectfully but firmly insist upon receiving every penny of school funds which is contributed by the Protestants of Bytown, together with the portion of the public grant in the proportion that the whole government grant bears to the whole school rates for the town.

They further beg leave to request that in the event of your not carrying this arrangement into immediate effect, that you will be pleased forthwith to communicate their views to the Chief Superintendent of Education for the Province, as they will never consent to be taxed, or pay any school rate, upon any other terms.

If division and dissent is to be perpetuated in the common school system of this province, let it at least be based upon the principle of common justice, in giving to the separatists the amount they contribute themselves, as well as the proportion thereto of the public grant.

They beg also to state that they are informed that there are teachers and institutions participating in the school funds who are not legally entitled to the same, inasmuch as some of the teachers have no certificates of qualification according to law, and who are teachers in institutions not created in accordance with the common school act, and over whose property and management the school trustees have no control.

Soliciting an answer at your earliest convenience,

The above the honor, &c.

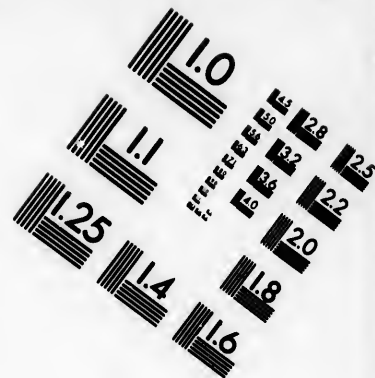
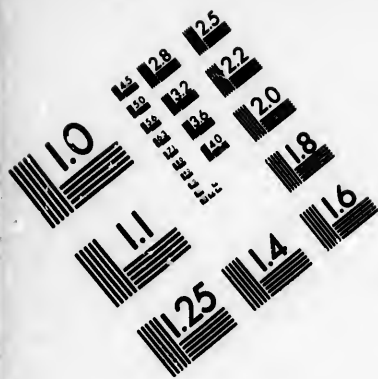
(Signed)

Bytown, March 14th, 1853.

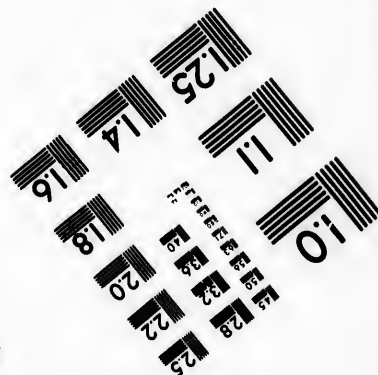
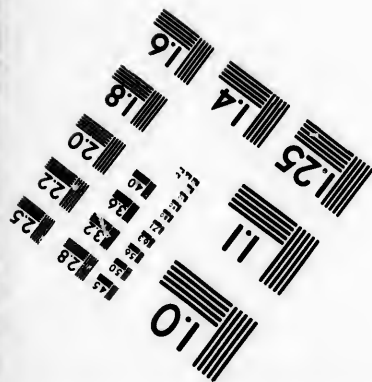
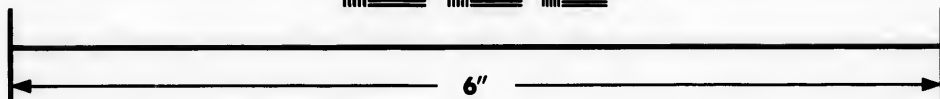
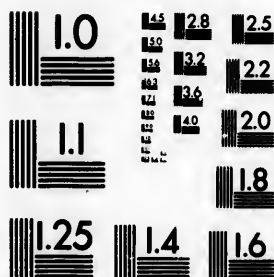
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Michael Johnston,
James Raitt,
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William Elliott,
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James Mathars, Councillor,
J. D. Slater,
James Cook,
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William Hewitt,
Thomas Green,
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John Sweetman,
John Carnegie,
James Hawken,
James Montgomery,
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**IMAGE EVALUATION
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 John Rochester, Jr.,
 John Walker,
 John Langford,
 George Wilson,

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 Abraham Astleford,
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 Andrew Graham,
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 Angus Sutherland,
 Joseph Coombs,
 George Carter,
 James Peacock,
 R. Freligh,
 Thomas Langrill,
 H. Haughton,
 C. A. Burpee,
 William P. Lett,
 James Coombs,
 Thomas Wilson,
 Thomas G. Burns,
 Jonas Barry,
 Robert McDougall,
 George Story.

No. 36. The Chief Superintendent to the Local Superintendent of Bytown.

Petitioners can, if they please, have a Separate School after the 25th of December.

[No. 16, 1.]

EDUCATION OFFICE,

Toronto, 2nd July, 1853.

Sir,

I have the honor to acknowledge the receipt of your letter of the 10th May, enclosing a petition addressed to you by a large number of the Protestant inhabitants of Bytown. I have deferred answering your letter until I could refer you to the provisions of the new Supplementary School Act in regard to separate schools. You will find that act in the *Journal of Education* for June; I beg to refer the petitioners

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ALEXANDER
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No. 37.

[L. R. 2037, 1853.]

Rev. Sir,
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to the 4th section of it. No separate school can be established before the 25th of December. The school operations, therefore, of your town, for the current year, must be conducted as usual. After the 25th of next December the petitioners can, if they please, avail themselves of the provisions of the 19th section of the School Act of 1850, in connection with the provisions of the 4th section of the Supplementary Act.

I have the honor, &c.

(Signed)

E. RYERSON.

ALEXANDER WORKMAN, Esq.,
Local Superintendent of Schools,
Bytown.

No. 37. *The Rev. S. S. Strong, D. D., of Bytown, to the Chief Superintendent.*

On the establishment of a Protestant Separate School.

[L. R. 2887, 1853.]

Bytown, 4th October, 1853.

Rev. Sir,

Some members of my congregation, and others, have suggested to me the propriety of getting up a Protestant school in which all denominations other than Roman Catholics should be united. I have every desire to meet their wishes if such a plan can be legally carried out under the school act at present in existence, which I doubt, as I can find in them nothing beyond a power to establish separate sectarian schools, which does not recognize a union of Protestants.

I am sorry to add to the vast amount of labour and trouble which your office entails upon you, but you would much oblige me if you would give me your opinion upon the subject.

I am, &c.

(Signed)

S. S. STRONG.

To the Rev. E. RYERSON, D. D.,
Toronto.

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July, 1853.

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*No. 38. The Chief Superintendent, to the Rev. S. S. Strong, D. D., of
Bytown.*

A Protestant Separate School may be established in any Ward if the Teacher of the Public School in
Roman Catholic.

[No. 463, L.]

EDUCATION OFFICE,

Toronto, 7th October, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 4th instant, and to state in reply that if the teacher in any ward or wards of Bytown is a Roman Catholic, a Protestant separate school, (including all Protestants who choose to apply for, or support such separate school,) can be established, as provided for in the 19th section of the act of 1850. I may remark that the 4th section of the supplementary school act is as favourable to Protestants as Roman Catholics. I mentioned this to several Protestant gentlemen in Bytown during my visit there last winter, on their informing me that the Protestants possessed the greater part of the taxable property in the town, while they were in the minority as to numbers.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. S. S. Strong, D. D.,

&c., &c., &c.,

Bytown.

No. 39. The Ottawa Board of School Trustees to the Chief Superintendent.

Queries relating to Separate and Common Schools.

[L. R. 567, 1855.]

CITY OF OTTAWA,

30th January, 1855.

SIR,

I was under the necessity of troubling you the other day with a telegraphic despatch, to which you were kind enough to reply,* and I am now under the

* The following are the communications referred to:—

By Telegraph from Ottawa, 26th January 1855.

To the Rev. E. Ryerson,
Chief Superintendent of Schools.

Have our City Council the power of declaring each ward a separate school section? Can one of our school trustees act as local superintendent? Please answer queries.

(Signed,)

JAMES COX,

Chairman.

[Reply.]

By Telegraph from Toronto, 26th January, 1855.

To James Cox, Esq.,

Ottawa.

Council has no power but to provide money when required by trustees. Trustees have all power. Trustee may be superintendent in a city.

(Signed,)

E. RYERSON.

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Further necessity of forwarding a series of queries for your consideration and decision, in consequence of the ambiguity of the common school act; but it is right I should assign my reasons for thus troubling you; permit me then, sir, to draw your attention to a few facts which will fully illustrate the present position of the common schools of this city, and which have hitherto prevented the school trustees of Ottawa (late Bytown,) from working the school law to advantage.

First.—The town until lately was entirely under the control of the Roman Catholic priesthood, who, as you are aware, are strenuously opposed to education in any and every form.

Second.—The division of the town (3 wards) under its late municipality, gave to the Roman Catholics the preponderance in the board of school trustees, and as a consequence they carried every measure to suit the views of the priesthood.

Third.—The Protestant population have hitherto contributed about two-thirds of the tax levied for school purposes, while the Roman Catholics have received a little more than two-thirds as their share in its disbursements, the latter having eleven schools, all, or nearly all free, while the former have but five schools, and fully one-third of the number paying scholars.

The present division of the city into five wards having given the Protestant population the preponderance, (they having six representatives in the trustee board, and the Roman Catholics four,) feel it incumbent upon them to make such alterations and amendments in the number and management of the schools as shall bring them into greater conformity to the common school acts.

It would be impossible, in a single letter, to detail all the disadvantages under which the Protestants of this rising city have labored for the last few years in regard to common schools, but you sir, with your usual penetration, will easily perceive, from what I have stated above, that many changes are necessary in order to work the schools to advantage; may I then request you to give the accompanying queries your earliest consideration, and favor me with your opinion upon the same, with any other suggestions which may occur to you.

I enclose an extract from the act incorporating the College of Bytown, cap. 167, dated 30th May, 1849, and also one from the act incorporating the community of the Sisters of Charity, cap. 108, dated 30th May, 1849, which may assist you in the consideration of queries Nos. 15 and 16.

I remain, &c.

(Signed,)

JAMES COX.

Queries for the consideration of the Chief Superintendent of Education for Canada West, for his interpretation and opinion.

1st.—Can the several wards (five) of the city be formed into distinct and separate common school sections, and if so, by whom?

2nd.—In the event of its being legal to have the wards formed into separate school sections, can each ward or section be taxed by itself, for all matters appertaining thereto, by the city board of trustees?

3rd.—If wards in cities are not considered distinct school sections, and cannot be made such, is it requisite in taking steps to appoint new schools, purchase land for sites, establish libraries, &c., &c., to call a meeting of the taxable inhabitants of the whole city, or of the inhabitants of the particular ward only in which such new school, &c., &c., is to be situated; or can the board of trustees do each and all of these things within itself?

4th.—Can the board of trustees in a city, exercise all the powers and perform all the duties prescribed in the school acts, without calling any public meeting?

5th.—Is a trustee of the city board eligible to be appointed local superintendent?

6th.—The city of Ottawa having come into existence by special Act of Parliament, on the 1st January, with five wards, and having elected a new board of trustees of ten, two for each ward, does the former superintendent continue in office till April, or shall one be appointed forthwith?

7th.—Before the teachers are re-engaged for the current year, is it not in the power of the Protestant inhabitants to demand as many Protestant separate schools as they are willing to support?

8th.—If one or more separate schools are applied for, and granted, can they go into immediate operation, as no assessment has yet been made for the current year, or do sections 18 and 19 apply to them, and for what reason?

9th.—Can any of the trustees of the city board be also trustees of separate schools?

10th.—Shall the committee of three mentioned in the 5th clause of the 24th section, consist of members of the trustee board or others?

11th.—What way can the city chamberlain provide funds when the collection is made only in December?

12th.—The population of this city having increased since the last census returns to about 10,000, are we entitled to an increased share of the provincial grant?

13th.—Can books in any other language than English, be taught in common schools?

14th.—Can you supply the board of trustees with copies of the school acts, to be handed over to their successors?

15th.—In a chartered Catholic college, and receiving provincial aid, have they a right to teach a common school in such college and be paid therefor?

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16th.—Have incorporated Sisters of Charity a right to teach two or more common schools in a nunnery or hospital, under the school act, and be paid for the same ?

17th.—Did the engagements of the teachers employed by the trustees of the late town of Bytown cease with the functions of the old board of trustees ?

[Enclosures.]

An Act to incorporate the community of the Sisters of Charity.—Passed 30th May, 1849—Cap. 108.

This act incorporates the institution now existing at Bytown under the same name, and the object of which is the maintenance of a hospital for indigent and infirm sick persons and orphans of both sexes. The present members of the corporation are named and incorporated, and such others as may hereafter become members under the rules of the corporation. The yearly value of the real property the corporation may hold is limited to £2,000, the issue and profits of all real and personal property being applicable solely to the purposes of the institution as above mentioned, the present property of the institution is vested in the corporation, which is to lay yearly before each branch of the legislature, a detailed statement of its property. The rights of the crown and of other parties not specially mentioned, are saved.

This institution gets a yearly provincial grant of £150, solely for hospital purposes.

The site of the institution was granted by the board of ordnance in trust (free) to certain Sisters of Charity, distinctly for an hospital for the destitute sick of Bytown.

An Act to incorporate the College of Bytown—Cap. 167.—Passed 30th May, 1849.

This act incorporates the institution now existing in Bytown under the same name, with the usual powers. The members of the corporation are the Roman Catholic Bishop of Bytown, the superior of the college, the curé of the parish of Bytown, the director of the college, the professors of philosophy and *belles lettres* therein, the bursar and all necessary officers thereof, and their successors respectively; the yearly value of the real property of the corporation may be £2,000. The issues and profits of all property, real and personal, to be applied solely to the purposes of the college; the repairs of the requisite buildings, and the education of the youth; the property of the corporation now existing at Bytown, under the same name, is vested in the corporation, which is to lay yearly before each branch of the legislature, a detailed statement of its property and affairs. The rights of the crown and parties specially mentioned are saved.

This institution gets a yearly provincial grant of £150 to educate youths from the county of Ottawa, Canada East, free of charges, but from a recent enquiry made by the member for Russell, in his place in the Legislative Assembly, it was ascertained there were no youths from the county of Ottawa attending the college free.

No. 40. *The Chief Superintendent to the Ottawa Board of School Trustees.*

General provisions of the law relating to separate and common schools in cities.

[No. 516, N.]

EDUCATION OFFICE,

Toronto, 7th February, 1855.

SIR,

I have the honor to acknowledge the receipt of your letter of the 30th ult., and to reply to your several questions in order as follows:—

1st. and 2nd.—The board of school trustees cannot divide the city into school sections, as can a township council a township. But the board can establish ward schools—one or more schools in each ward—and call upon the municipal council to tax the property in such ward for the erection and repairing, furnishing, &c., of the school-house or school-houses, and the payment of teachers in such ward.

3rd. and 4th.—Boards of school trustees in cities and towns can do whatever they please in regard to everything authorised by law as to school sites, school houses, school furniture, teachers, &c., without calling a public meeting. The obligation to call public school meetings, applies to school sections in townships, and not to cities and towns.

5th.—The board of school trustees may, if they think it expedient, appoint one of their own number as local superintendent of schools, and prescribe his duties, although I do not know of any instance in which it has been done.

6th.—The provision of the law relative to a local superintendent continuing in office until the first of April, does not apply to cities and towns. It only applies to local superintendents appointed to townships by county councils, and whose duties are prescribed by law. But the duties of local superintendents in cities and towns are prescribed by the boards appointing them, and their continuance in office may be determined by such boards.

7th. and 8th.—No Protestant separate school can be established in a ward unless the teachers employed in the public common school are Roman Catholics; nor can any separate school be now established this year before the 25th of next December, unless it was legally authorised before the 25th of last December. Section 19 of the School Act of 1850, and section 4 of the Supplementary School Act, applies to cities and towns as well as to townships.

9th.—The parties establishing a separate school can select whom they please of their own religious persuasion, as a trustee, if he is willing to serve; but such individual being a supporter of a separate school, forfeits all right to vote at the elections of public school trustees, and consequently to serve as trustee of a public school.

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JAMES COX
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10th.—The committee allowed to be appointed under the authority of the 5th clause of the 24th section of the school act, may consist wholly, or partly, or not at all of the members of the board, as the board may judge expedient. The board need not appoint such a committee at all, if it does not desire to relieve its own members, or if it does not think the aid of such a committee necessary. I am not aware that the board of school trustees in Toronto have ever appointed such a committee, but they have directed the local superintendent to attend minutely to the affairs of each school, for which they may not have made provision at their monthly meetings.

11th.—Under the provisions of the 6th clause of the 24th section of the school act, the city council must provide funds at such times and in such manner as the board of trustees may require.

12th.—I cannot yet tell upon what returns I shall apportion to the several municipalities the school grant for the current year.

13th.—Books in French and German are used in some of the common schools in Upper Canada, although no text-books in those languages have been formally recommended by the council of public instruction. But the use of these languages in the schools where the inhabitants speak them, is recognised by law—See page 157 of my report for 1853; and the trustees can use any books published in the British dominions, and which are not prohibited by the council of public instruction.

14th.—Several copies of the school act are herewith sent, and a copy of my last annual report.

15th. and 16th.—No school is entitled to share in the common school fund which is not established under the authority, and according to the provisions of the school acts; and the trustees of which are not elected according to the acts, and the teachers of which are not employed by such trustees, and who do not conduct their schools according to the regulations prepared under the authority of the school acts. But trustees have a right to employ Sisters of Charity or any other persons whom they think proper (having legal certificates of qualification,) as teachers of their schools.

17th.—I cannot answer this question, as I know not the provisions of the act incorporating your city, which may apply to the subject; nor the terms of agreement with your teachers. But I think in point of equity and propriety, the present board of trustees succeeding to all the powers and property of the board of trustees, succeed also to their obligations.

I have the honor, &c.

(Signed,)

E. RYERSON.

JAMES COX, Esq.,

Chairman, Board of School Trustees,
City of Ottawa.

Town of Belleville.

No. 41. The Belleville Board of School Trustees to the Chief Superintendent.

The Trustees of the Roman Catholic Separate School have applied to the Court of Queen's Bench against the Board.

[L.R., 524, 1853.]

BELLEVILLE, 11th February, 1853.

REVEREND SIR,

An application has been made to the Court of Queen's Bench by the trustees of the Roman Catholic separate school of this town, for a mandamus to compel the board of school trustees of Belleville to pay to the teacher of the separate school, a proportion of the monies raised by assessment, for school purposes. (over and above the school fund as defined by section 40 of the school act,) equal to that paid to the common school teachers during the first half year of 1852. Upon this application, a rule has been granted by the court, calling upon the board of school trustees to shew cause why the mandamus should not go forth.

Acting in behalf of the board, I have submitted all the facts connected with this pretended right, the correspondence between the parties, brief, &c., to Mr. Van-koughnet, Q. C., of Toronto, to whom the whole case has been confided. I have furthermore taken the liberty of referring him to you as one who can best guide and assist him in the proceedings.

The case is an important one, raising pretensions which, should they prevail, will be likely to create a vast deal of excitement, not only in this part of the country, but wherever separate schools have been established, and besides, will greatly endanger the free school system, which hitherto has worked so admirably.

I trust, Reverend Sir, you will pardon the liberty I have taken in making use of your name, and beg to subscribe myself,

Your most obedient servant,

C. O. BENSON.

Rev. E. RYERSON, D. D.

Toronto.

P. S.—The case stands for argument during the present term.

No. 42.

The Court of

L. R. 1334, 1853

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No. 42. The Trustees of the Roman Catholic Separate School, Belleville, to the Chief Superintendent.

The Court of Queen's Bench has declined granting a mandamus until the Chief Superintendent's decision is laid before it.

[L. B. 1334, 1863.]

BELLEVILLE, 28th March, 1853.

Sir,

I beg to enclose herein, certain documents, numbered respectively 1, 2, 3, 4, for the sole purpose of acquainting you with the position in which the dispute between the board of school trustees, and the separate school trustees now stands.

We applied to the Court of Queen's Bench for a mandamus to compel the trustees to divide the government grant, and the monies raised by local taxation for the payment of teachers' salaries, between the common school teachers and the separate school teachers, in proportion to the attendance at each school. A portion of the Judgment of Chief Justice Robinson will be found enclosed, marked 1, from which you will perceive that our definition of the school fund is acquiesced in, although our application was unsuccessful, chiefly because it was not shewn on the argument that the dispute had been referred to you, and had been decided on; the opinion of Judges Draper and Burns, respecting the definition of the school fund, is the same as that of the Chief Justice, I understand from my agent: but of that Mr. Vankoughnet will be able to speak. My object in again troubling you for a decision as to whether the separate school teacher is entitled to share in the government grant, and the monies raised by local taxation for the payment of the salaries of qualified teachers, in proportion to the number of children attending the separate school, as compared with the number attending the other schools, is for the purpose of bringing the matter again before a court of law; and I have to request, that you will be pleased to favour us with a decided expression of opinion on this point soon, so that it may be used in the proceedings about to be instituted.

You will see by the papers enclosed, marked 2, 3, 4, that the separate school trustees have used every exertion for a settlement, believing as they did, that a similar dispute could not again arise, and that it was desirable to avoid further litigation. The board of trustees, however, take higher ground than at the commencement of the dispute, and as you will perceive, refuse to pay more than the £21 3s. 4d. already paid.

I may observe, that at the argument in Toronto, it was distinctly sworn to in the papers submitted by us, that £300 had been estimated for by the trustees for teachers' salaries in 1852; that the treasurer's books shewed this amount had been received on account of the "school fund," and in the cheques drawn by the chairman of the board on the treasurer, the money was requested to be paid to the teachers, from time to time, out of the school fund. This seems to have escaped the Chief Justice.

Had a civil action been resorted to, instead of the summary proceeding by mandamus the result would probably have been different; as it is, your opinion in the sense alluded to in the judgment of the court, is requested, so that it may be used in a civil action before Judge Draper.

I am, &c.

JNO. O'HARE,
Secretary to the R. C. School Trustees,
Belleville.

The Rev. E. RYERSON,
Superintendent of Education,
Toronto.

[Enclosures.]

[No. 1.]

C. J. ROBINSON'S opinion, in part.*—It does indeed appear, by the papers before us, that the Chief Superintendent has been referred to by the general board of trustees on the subject, and that his opinion has been obtained; but it is the parties complaining who should first submit their complaint to him in a formal manner, and ask for redress. Whether his judgment given upon such a complaint would not be final, is not a question at present before us. We must assume that all parties desire only what is right, though they may differ in their opinions upon the effect of the statute. I own, for my own part, that I find it no very easy matter to satisfy myself as to what the legislature really did mean in regard to the point which has been discussed before us, and the difficulty, I dare say, has been occasioned, as was intimated in the argument, by the 19th clause having been inserted in the act during its passage through the legislature, by some gentleman who did not and could not, perhaps, under the circumstances, take the time and pains necessary for adapting the other provisions of the act to its reception. Under the doubt which at present surrounds the question, and considering, also, the provisions which refers all parties in the first place to the Chief Superintendent with their complaints, I do not think we can grant a mandamus; but if it can be of any use to state the impression which rests upon my own mind, after a consideration of the statute, I have no objection to say that I think, as the act now stands, what a separate school established under the 19th clause is entitled to share in, is the sum apportioned by the Chief Superintendent out of the government grant, and the sum which can not be less, but may be more, which has been raised by local assessment to meet that grant raised—I mean for payment of teachers generally, and not upon an estimate for any specific purpose. I cannot make out quite clearly without seeing more than is in the papers before us, whether the school trustees did or did not estimate for more than a sum equal to the government allowance to form a fund for paying their common school teachers generally; if they did, then it seems to me the Roman Catholic trustees had a claim

* See the Chief Justice's judgment in full, page 116.

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[No. 2.]
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pages 112,

to share in the whole of such sum added to the government allowance according to the average attendance of pupils at their school.

For the reasons I have given, I think the rule for a mandamus, should be discharged, but not with costs.

BELLEVILLE, 10th March, 1853.

To the Board of School Trustees of the Town of Belleville.

[No. 2.]

GENTLEMEN.

With respect to the application made to the Court of Queen's Bench for a mandamus against you, I am in possession of the judgment of the court. The rule for a mandamus was refused on the ground that the separate school trustees had not furnished proof that application had been made under section 35, clause 5, of the school act to the Chief Superintendent, before applying to the court—and as the mandamus was a harsh remedy, they thought it incumbent on us to prove everything strictly before they would issue it. The judges unanimously decided however, that "the separate school was entitled to share in the government allowance—and in all monies raised by local assessment for the payment of teachers or paid for teachers' salaries—in proportion to the number of children attending the separate school as compared with the other schools." The point in dispute I consider decided in our favor, although the mandamus was refused on the technical ground above referred to, and each party compelled to pay their own costs. You are of course aware that the decision of the Chief Superintendent was obtained before we took legal proceedings at all, and that it was only an oversight in not supplying the court with the correspondence.* What we desire to know now is whether you will pay us our proportion as stated above of the government grant, and the monies raised by local taxation last year, and paid for teachers' salaries for the term our school has been in operation, and if not, will you pay us at once the same amount as a teacher of the common school for the period our school has been kept open. The act proposed to be introduced respecting separate schools this year, will probably end such disputes, and as such an occasion of difference may not again arise, we hope you will comply with our request now, and prevent further litigation. An early answer is desired.

Yours, &c.

JNO. O'HARE,

Sec'y. to the Board of Separate School Trustees.

Resolution of the Board of School Trustees of the Town of Belleville.

[No. 3.]

Whereas the board of school trustees have procured a copy of the judgment rendered by the Court of Queen's Bench in the matter of an application by the trustees of the Roman Catholic separate school for a mandamus against the board

* See Correspondence laid before Parliament, 1852, page 39, and Letters No. 45 and 46: following pages 112, 113.

whereby it has been adjudged that the application should not prevail, and whereas it is by the said judgment declared that the first proceeding to be taken upon the complaint charged, should be an appeal to the Chief Superintendent for his decision upon the matter in difference, and the court appear to be undetermined whether such decision would be final or not. Therefore, inasmuch as the board are desirous for the sake of all parties concerned that the highest authority of the land should determine an important question which at present is involved in much uncertainty, it is resolved in answer to the communication of the said Roman Catholic trustees, made through their secretary, that this board feel themselves not only justified, but in duty bound to await a judicial decision upon the subject matter of the controversy.

The above is extracted from the minutes of the proceedings of the board of school trustees of the Town of Belleville.

(Signed) RUFUS HOLDEN,
Secretary.

Dated March 22nd, 1853.

[No. 4.]

BELLEVILLE, 28th March, 1853.

SIR,

I am in receipt of your note of yesterday, enclosing a copy of a resolution of the board of trustees on the subject of our application. As the gentlemen who compose the board are not satisfied with the opinion of the Queen's Bench Judges of Upper Canada, (delivered as it apparently was for their guidance) but on the contrary "feel themselves not only justified but in duty bound to await a judicial decision on the subject matter of the controversy," I have to request that you will name some professional gentleman who will accept a writ on behalf of the board, and thereby enable us to proceed to trial at the next assizes. When this "controversy" first arose the board of school trustees informed us that it was solely from a deep sense of their official duty that they refused to place our teacher on the same footing as one of their own—that the term "school fund" in their opinion and in that of the Chief Superintendent, included the government grant and an equal amount raised by local taxation only. The controversy has developed the fact that Chief Justice Robinson and Judges Draper and Burns, hold an entirely different opinion; and that they consider Roman Catholic trustees entitled to share in the government grant, and in all other monies raised from local taxation for payment of qualified teachers in proportion to the number of children attending the separate school, as compared with the attendance at the other schools.

The definition of the school fund by constituted legal authority ought, it appears to me, to be sufficient to quiet the fears of the trustees and to justify them, if so inclined, in paying our teacher; certainly they need not fear the Chief Superintendent or official or personal responsibility. So long as the broad fact is apparent that the Roman Catholic teacher taught just as many, nay more, pupils than most of the common school teachers, that the Court of Queen's Bench cannot see anything in the

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No. 43. 7

L. R. 1525, 1853

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law to prevent his being paid just as much as other teachers, and not only this, but the Judges consider Roman Catholics entitled to as much. After considering all the circumstances, I have come to the conclusion that it is not right or proper that the public at large, or more properly speaking the inhabitants of this town, should be obliged to pay costs to gratify the desires of any body, and I shall deem it my duty as a member of the town council, now that a decision has been obtained to oppose the granting or levying of any monies hereafter at the request of the trustees, for the payment of costs in connection with this dispute,—I mean further than those already incurred.

This note is longer than I at first intended it should be, and is scarcely official, but I hope you will pardon its contents; certainly it is not my intention to give personal offence to any one,—on the contrary, I desire to remain on good terms with you all. Still I am surprised that the liberals in the board should have neglected so good an opportunity of retreating from an untenable position.

I am, gentlemen,

Your obedient servant,

JNO. O'HARE,

Secr. to R. C. Trustees.

RUFUS HOLDEN, Esq.,
Secr. Board of School Trustees,
Belleville.

*No. 43. The Trustees of the Roman Catholic Separate School, Belleville,
to the Chief Superintendent.*

For a decision relative to their case.

[L. R. 1625, 1863]

BELLEVILLE, 12th April, 1853.

Sir,

On the 29th ult. I sent you some papers relating to school matters here, and requested your opinion as Chief Superintendent of Schools, on certain points in dispute between the separate and common school trustees. As no answer has been received to that letter, I have to request that you will be so good as to favor the separate school trustees with a reply on receipt of this, that is if we are correct in assuming that we have the right to your opinion under the circumstances referred to in my former note. If not, I beg to apologize for troubling you at all.

I am, &c.

JNO. O'HARE,

Secr. to S. S. Trustees.

The Rev. E. RYERSON,
Superintendent of Education, Toronto.

No. 44. *The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Belleville.*

Decision as to the construction of the term "Common School Fund."

[No. 245, H.]

EDUCATION OFFICE,

Toronto, 22nd April, 1853.

SIR,

I have the honor to acknowledge the receipt of your letters of the 28th ult., and the 12th inst.; but from the accumulation of official duties claiming my immediate attention, after some two months absence on a tour of the province, and engagements connected with the semi-annual examinations of the normal and model schools, I have not been able until now, to prepare the official opinion which you desire in regard to the legal construction of the term "common school fund," employed in the Act 13th & 14th Vic., chap. 48.

I have felt it necessary to procure a copy of the opinion of Chief Justice Robinson, on the case of the trustees of the separate schools *vs.* the board of school trustees for the town of Belleville;* and the perusal of the whole document has produced a very different impression upon my mind from that which I received on reading your extract from it, in connection with your own comments and statements.

I have re-examined and re-considered the whole question; but I am unable to arrive at any other than the conclusion which I have heretofore expressed, and am strengthened in that view by the perusal of the judgment given by the Chief Justice, and in which you say the other judges concur. For I believe the Chief Justice would have expressed the same opinion that I have, had his lordship been more fully informed as to the real intentions of the legislature. His lordship says, indeed, near the conclusion of his judgment, "If it can be of any use to state the *impression* which rests upon my own mind after a consideration of the statute, I have no objection to say that I think as the act now stands, what a separate school established under the 19th clause is entitled to therein, is the sum apportioned by the Chief Superintendent out of the government grant, and the sum, which cannot be less, but may be more, which has been raised by local assessment to meet the grant; raised, I mean, for payment of teachers generally, and not upon an estimate for any specific purpose."

It will be observed that his lordship gives this merely as his "impression," and with qualifications and after observations which shew that he did not wish to be considered as expressing or entertaining a decided opinion on the subject.

In the commencement of his judgment, the Chief Justice observes—"The learned counsel employed in this case have been very industrious in inspecting and comparing the various provisions of the common school act, and have argued on both sides very ably; but, I think, without much confidence that the court would be able to bring themselves to any clear and satisfactory conclusion upon the question of

* See pages 116—119.

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what should be taken to constitute the fund in which each separate Protestant or Roman Catholic school is to share under the 19th clause of the statute 13 & 14 Vic., chap. 49." Again, his lordship says— "If we should issue a writ, as prayed, commanding the desired payment to be made, it could only be because we see it to be beyond question that it is the public duty of the school trustees to do what has been demanded of them, and what they have refused to do. If the least doubt remains on our minds as to the proper construction of the statute in this respect, it would be wrong to grant the writ, because when granted, it must be obeyed; and we must take care not to place any one in peril of a contempt for refusing to violate an act of parliament." The Chief Justice observes furthermore—"I own for my own part, that I find it no very easy matter to satisfy myself as to what the legislature really did mean in regard to the point which has been discussed before us; and the difficulty I dare say, has been occasioned, as was hinted at in the argument, by the 19th clause having been inserted in the act during its passage through the legislature, by some gentleman who did not, or could not perhaps, under the circumstances, take the time and pains necessary for adapting the other provisions of the act to its reception. Under the doubt which at present surrounds the question, and considering also the provision which refers all parties in the first instance to the chief superintendent with their complaints, I do not think we can grant a mandamus."

These passages from the judgment of the Chief Justice, are far from warranting the inferences and remarks contained in your letter, and leave me at full liberty to form and express an opinion according to the best of my judgment. I may also observe, that such doubts so strongly expressed by the highest legal authority in the land, ought to protect me from the imputations which parties who ought to have known better, have made upon me for the expression of opinions on this question, a decision on which the duties of my office did not permit me to refuse.

The Chief Justice states the question with his usual clearness when he says, "Unless what the present applicants desire to share in forms part of the 'school fund,' it is quite clear they can have no right under the 19th clause of the statute to share in it. If it does form part of the 'school fund,' then the 35th clause provides that the Chief Superintendent is to decide upon all matters and complaints submitted to him, which involve the expenditure of any part of the 'school fund.'"

If then the sum claimed by you is not, in my opinion, included in the school fund, I have no authority to interfere with the board of school trustees in Belleville in respect to it.

I think the term "school fund" in the 19th section of the statute is to be understood according to the sense in which that term is defined in other sections of the statute—according to the powers with which the statute invests local municipalities in regard to school moneys—according to the scope and design of the school system established by the statute—and, finally, according to practice and usage in past years.

1. There are two terms which occur in several sections of the statute—namely, "school moneys," and "school fund." Between these terms there is a

manifest distinction. Though the sums included under both terms are to be expended for school purposes, yet the former is not defined, the latter is defined by the 40th section of the act; the former may be applied to various school purposes, the latter can only be applied to the payment of the salaries of the legally qualified teachers, as expressly required by the 45th section of the statute. It is in the latter only that the 19th section of the statute authorises separate schools to share; but you claim to share in the former as well as the latter, upon the ground that both terms are identical. To shew that the two terms are used in different senses in the statute, it may be sufficient to refer to the first and fourth clauses of the 27th section. The former makes it the duty of the municipal council of each county "to cause to be levied each year upon the several townships of such county such sum or sums of money for the payment of legally qualified common school teachers, as shall at least be equal (clear of all charges of collection,) to the amount of school money apportioned to the several townships thereof for such year, by the Chief Superintendent of Schools, as notified by him to such council, through the county clerk: Provided always, that the sum or sums so levied may be increased at the discretion of such council, either to increase the common school fund, or to give special or additional aid to new and needy school sections, on the recommendation of one or more local superintendents." Again, the 4th clause of the same section requires each county council "to see that sufficient security be given by all officers of such council to whom school moneys shall be entrusted; and to see that no deduction be made from the school fund by the county treasurer or sub-treasurer for the receipt and payment of school moneys." The second and third clauses of the same section of the statute authorise the county council to assess and collect moneys for school libraries, and for the payment of local school superintendents but the 45th section prohibits the application of any portion of the "school fund" to these purposes. In the former of the above quoted clauses, it is clear that a county council has discretionary authority to levy and collect money even for "school sections" other than that included in the "school fund;" and in the latter clause quoted, a deduction from "school moneys" for the payment of county officers, is not prohibited—only a deduction from the "school fund," for that purpose. The payment, indeed, of all the local superintendents of schools throughout Upper Canada is made from "school money," but not from the "school fund," by municipal councils.

It is therefore clear, all school moneys in a county, over and above a sum equal to that which may be apportioned to such county by the Chief Superintendent, are at the disposal of the county council, either to "increase the county school fund," or to be disposed of for other school purposes, as such council may judge expedient.

The question now is, whether the provision of the statute in regard to the "school fund" in cities and towns is different from what it is in counties. I think not, and for the following reasons:—First, the 40th section of the statute defines and establishes a uniformity in the school fund of municipalities of every description by providing "That the sum of money apportioned annually by the Chief Superintendent of Schools to each county, township, city, town or village, and at least an equal sum raised annually by local assessment, shall constitute the common school

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and of such county, township, city, town or village, and shall be expended for no other purpose than that of paying the salaries of qualified teachers of common schools." Secondly, the several clauses of the 24th section of the statute give the elected board of school trustees in cities or towns, unlimited powers in regard to raising and expending school moneys for school purposes—powers which appear to me to be liable to no restriction beyond those imposed by the 40th and 19th sections of the statute.

If then it is not compulsory on a county municipality to include in the "county school fund" any school moneys raised by its authority beyond a sum equal to that apportioned to such county by the Chief Superintendent, I do not think that it is compulsory on a city or town municipality to do so. It does not, therefore, appear to me that the board of school trustees for the town of Belleville are under any legal obligation to share with the Roman Catholic separate school all the school moneys they may think proper to raise beyond the sum equal to the apportionment to that town out of the legislative school grant.

2. The powers with which the statute invests municipal school authorities generally in regard to school moneys, seem to me to be inconsistent with the compulsion involved in the claim which you make against the Belleville board of school trustees. The statute requires municipalities to raise a certain sum of money, and to expend it in a particular way, as a condition of sharing in the legislative school grant; but beyond seeing that that condition is fulfilled, the statute gives the Chief Superintendent no authority to interfere with or control the discretion of any municipality. Should any municipality raise or expend ever so large sums for the establishment and support of common schools, but decline to share in the legislative school grant, it is clear that I would have no right to interfere with its discretionary proceedings; nor could any separate school receive any aid beyond what such municipality might think proper to grant it. So, if any municipality chooses to raise more money than is required to secure an apportionment from the legislative school grant, I conceive that such excess is the exclusive property of such municipality, and that it has a right to do for school purposes what it pleases with its own. This, I think, is the obvious intention and import of the several provisions of the statute, as well as the fundamental principle of the municipal system of Upper Canada.

3. I am impressed with the same view of the question from a consideration of the scope and design of the school system itself. It is clearly that of mixed schools—affording equal protection and security to parental sovereignty in religious matters in regard to every religious persuasion,—and providing for the co-operation of all classes of the community for the education of all the children of the land. The provision for separate schools in certain cases, was obviously a concession to a necessity created by passion and social animosity, and constituting an exception to the general rule, and not to be perpetuated beyond the period during which the teacher of the public school should be of a different religious faith from the dissentients. If the law intended to place separate or sectarian schools upon an equal footing with the public schools, it should have provided equally for their permanent

continuance and support. This it clearly has not done. But if a municipality is compelled to share equally with the separate school all the moneys it may think proper to raise for the payment of school teachers, the separate school would be in a much better position in regard to its supporters than the public schools in the city or town municipality, as they would have no trouble or responsibility in providing money by assessment for the payment of teachers—which burden would fall wholly upon the authorities of the other schools—and yet the separate schools would share equally with the public schools in such money. This would be holding out a premium for the establishment of separate schools—which is at variance with the whole scope and design of the statute, and the well-understood intentions of the legislature.

4. The provisions of previous Acts of Parliament and the usage of past years will throw further light on the intentions of the legislature, which the Chief Justice found it difficult to ascertain from the wording of the 19th clause in connection with other clauses of the statute itself. In the school act which existed before 1849, the aid given to a separate school was according to the number of children attending such school as compared with the whole number of children of school age residing in the school municipality, as should be determined by the local superintendent. In the school act passed in 1849, no provision at all was made for separate schools. When the bill of 1850 was introduced, it left in all cases, (as had been left by a previous act in cities and towns) the option of establishing separate schools to the municipalities. While the bill was passing through the legislature, this provision was altered so as to leave the option, under certain conditions, of establishing a separate school to twelve resident heads of families—allowing such school to share according to the average attendance of pupils in the "school fund"—the 40th section of the statute defining what school moneys should constitute that fund, although in common parlance the term school fund is frequently used to designate school moneys of every kind.

The reason and circumstances of defining the school fund in the 40th section of the statute are as follows: In the school act passed in 1849, provision was made for a class of pauper schools. I objected to this provision as injurious and inexpedient, and in a letter which I addressed to the secretary of the province, dated 12th May, 1849, I assigned the following among other reasons in support of my objections: "The school act authorises any council to raise as large an amount as it pleases for common school purposes. I have never insisted as the common school fund upon a larger sum in each district or township than that apportioned out of the legislative grant. Any sum over and above that amount which a council may think proper to raise may (as has been done by some councils) be applied at the pleasure of such council." I therefore prepared and submitted the 40th section of the act of 1850, to define what I had previously held and acted upon as the true spirit of the law. And when, within two months after its passage through the legislature, I distributed the act of 1850, I accompanied it with a circular to local municipalities, in which I explained at some length the origin and design of the 19th section, concluding with the following words: "It is also to be observed, that a separate school

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entitled to no aid beyond a certain portion of the school fund for the salary of the teacher. The school house must be provided, furnished, warmed, books procured, &c., by the persons petitioning for the separate school. Nor are the patrons and supporters of the separate school exempted from any of the local assessment or rates for common school purposes. The law provides equal protection for all classes and denominations; and if there be any class or classes of either Protestants or Roman Catholics who are not satisfied with the equal protection secured to them in the mixed schools, but wish to have a school subservient to sectional religious purposes, they should, of course, contribute in proportion, and not tax a whole community for the support of sectarian interests."

Such being the light in which I have considered and defined the legal school fund in past years; such being the circumstances under which the 19th and 40th sections of the statute of 1850 were introduced and passed, I conceive for those as well as the other reasons previously stated, that I have no right to compel the board of school trustees for the town of Belleville to apply the money which you claim, to other school purposes than those which they shall judge expedient.

There can be no doubt that had the board of school trustees laid before the town council an estimate of £90 8s. 6d. (that being the sum apportioned by the Chief Superintendent for 1852) to be raised to make up the school fund required by law, and then laid before the council other estimates for sums required to support the schools under their charge, there could not have been a shadow of a ground on which to claim for the separate school more than a share of the sum of £180 17s.

But if the board did not make this distinction when laying its estimates before the council, is it not, it may be asked, deprived of the power of making such distinction afterwards? I think not, and for three reasons. *Firstly*, a county council before imposing its school assessment, does not, and cannot in many cases, specify before hand the sums it may require to defray the expenses of objects authorised by law; and boards of school trustees in cities and towns are clearly invested with more extensive powers in regard to school moneys than are county councils. *Secondly*, there is nothing in the statute which specifies the time or manner at or in which the board of school trustees shall specify the precise objects to which the school moneys raised by its authority shall be applied. I think, therefore, that such board possesses the same power as to the disposal of such moneys after they have been raised, as it had when laying the estimate for them before the town council. *Thirdly*, the statute gives the town council no discretion as to what school purposes the board may require the school moneys for; the law making it "the duty of the common council or council of such city or town to provide such sum or sums in such a manner as shall be desired by said board of school trustees." It can, therefore, make no difference to a town council, or to any other party, whether the board of school trustees does or does not specify in their estimates the objects for which they require school moneys.

I observe, from one of the papers which you have enclosed, that the board of school trustees for the town of Belleville, wish the final decision of the highest authority provided by law on this question. It has now become a theoretical, rather than a practical one, as the sum in dispute amounts to only a few pounds, and as the

provisions in the supplementary school bill before the legislature, will prevent any further occasion of litigation on the question, I should hope, under such circumstances that a friendly reference might be agreed upon by both parties. But with the views I entertain and which I am persuaded will be concurred in by the judges when they come to consider all the provisions of the law in connection with the whole scope and design of the school system, I cannot doubt the legal right of each municipality to exercise its own discretion in expending or not expending any school moneys it may raise beyond the sum defined by the 40th section of the statute to constitute the school fund, for the support of separate schools. I cannot believe that the legislature ever intended to enact such an anomaly as to deprive a municipality (after having fulfilled the requirements and conditions of the school law) of the power of raising and expending moneys for school purposes in which all classes are equally protected and interested, unless a proportion of such moneys are applied for the promotion of sectarian interests.

In the peculiar circumstances under which I am required to give a decision on this question, I have felt myself called upon to state my views much more in detail than I did when it was referred to me last year.

I have, &c.

(Signed)

E. RYERSON.

JOHN O'HARE, Esq.,
Trustee R. C. Separate School,
Belleville.

No. 45. The Trustees of the Roman Catholic Separate School, Belleville, to the Chief Superintendent.

Think the decision is kept back with intention of delaying legal proceedings.

[L. E. 1612, 1853.]

BELLEVILLE, 22nd April, 1853.

SIR,

I beg to apprise you that no reply having been received to the two letters addressed to you on the 29th ult. and the 12th instant, respecting the difference existing between the common and separate school trustees here, and in which an opinion was requested, on the points in dispute; and the separate school trustees having reason to suppose that such opinion has been kept back either through negligence or a desire to delay legal proceedings so that no suit could be brought against the common school trustees at the approaching assizes, they have determined to memorialize the Governor General in Council, on the subject, and to supply copies of all the papers, so that a proper understanding of their complaint may be had. The complaint will be forwarded to His Excellency so soon as the papers can be copied.

I am, &c.

(Signed)

JOHN O'HARE,

Sec'y to the Separate School Trustees.

The Superintendent of Education,
Toronto.

No. 46.

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[No. 201, H.]

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JOHN O'HAR
Trustee

* See Cor
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No. 46. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Belleville.

The Separate School Trustees had already obtained decision regarding school fund, and the non-production of it in court was their own neglect.

[No. 261, II.]

EDUCATION OFFICE,

Toronto, 25th April, 1853.

SIR,

After writing, and placing in the hands of the clerk to copy, but before mailing, my letter of the 22nd inst. I received yours of the same date. I have only to say that you have my full consent to present such memorial to His Excellency, as you may judge proper; and the grounds of your assertion, that you "have reason to suppose" that I have kept back my opinion on the question submitted by you in order to delay proceedings against the common school trustees of Belleville, when you know that I gave you my opinion on the question the 18th February, 1852.* You yourself, in your letter to the board of school trustees, dated 10th ult. refute your own statement to me in your letter of the 22nd instant. You state in your letter to the board as follows: "You are of course aware that the decision of the Chief Superintendent was obtained before we took legal proceedings at all, and that it was only an oversight in not supplying the court with the correspondence."†

You here admit that the decision required by law had been given by me, and that your own "oversight" was the cause of its not being made use of in your legal proceedings; and now you venture to assert that I have delayed an answer to your letter of the 29th ult. in order to prevent you from taking legal proceedings against the board of trustees! I have your own statement to refute your own imputation.

I may also observe that I have a number of letters and cases on hand, prior in date to yours, which I have as yet been unable to dispose of, and among these a lengthened reference from the Provincial Secretary, dated 10th March, numbered 1670 among the letters received at this department since the 1st January, while yours, dated the 28th March, is numbered 1334.

In the accumulated and onerous duties of my department, if I cannot dispose of all the communications made to me in the order of receiving them, I must be the judge as to which should claim my first attention. And I have complied with your request, before it was entitled, in order of time, to reply, and when, according to your own statement, there was no legal necessity for it, but only professional skill or attention wanting on your part to use the decision already in your possession.

I may add that however insulted and assailed by individuals, I hope to be able to do, as I have heretofore done, act with perfect impartiality to all sects and parties in the discharge of my official duties.

I have the honor, &c.

(Signed)

E. RYERSON.

JOHN O'HARE, Esq.,

Trustee R. C. Separate School,
Belleville.

* See Correspondence laid before Parliament, 1852, page 39.

† See Enclosure No. 2, in letter No. 42 ante, page 108.

No. 47. The Belleville Board of School Trustees to the Chief Superintendent.

Enclosing a copy of the judgment of the Court of Queen's Bench in the case of the Roman Catholic Separate School.

[L. E., 1808, 1883.]

BELLEVILLE, 9th April, 1853.

REVEREND SIR,

The trustees of the Roman Catholic separate schools have communicated to the board of school trustees, Belleville, their determination to commence proceedings at law for the recovery of their claim to arrears, alleged to be due to their teacher, and the body last mentioned have appointed me their solicitor to defend the action.

The secretary of the Roman Catholic trustees, Mr. O'Hare, has informed me that he has sent you an extract from the judgment of the Queen's Bench in the matter of their application for a mandamus, together with copies of the renewed demand upon the board, for the amount claimed for their teacher, and of the board's resolution thereon.

As it may be that the extract discloses only so much as will sustain a favorable view of their case, I think it desirable to put you in possession of the entire judgment, delivered by the Chief Justice, so that you may have the full benefit of his comments upon the school act. I therefore send you herewith, a copy of the statement of the case, and of the court's decision upon it, whereby you will see that the Rule was discharged upon the ground that it was not shewn that an application had been made to you in the first instance, as provided by the 5th sub-section of the 35th clause of the school act.

I think I cannot do better than to refer you to Mr. Vankoughnet, from whom, as he argued the case, and was present at the decision, you may derive much fuller information as to the views of the court upon the subject matter in difference, than I can supply.

The board wish to be furnished with your answer to the application that has been made to you in this matter, at your earliest convenience.

I have the honor, &c.

(Signed)

C. O. BENSON.

To the Rev. Dr. RYERSON,
Chief Superintendent, &c. &c.
Toronto.

In the Court of Queen's Bench.

In re Trustees of the
Roman Catholic
School of Belleville,
versus
School Trustees of
Belleville, 359.

Richards, in last Term, obtained a rule on the school trustees of Belleville, to shew cause why a mandamus should not issue commanding them to pay to the trustees of the separate Roman Catholic school of the town of Belleville, or to give an order to the trustees of the separate Roman Catholic school upon the treasurer of the town for the sum of £50, towards payments of the salary of the teacher of the said

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separate Roman Catholic school, for the present year, or the sum of £46 11s. 9d., being the share to which the said separate school was entitled of the sum of £200 of the common school fund of the town, paid to the teachers of common schools for their first half year's salaries for the present year, or the sum of £40, being the share of the said £200, to which the said school was entitled, or such other sum as this court may think said separate school entitled to. This rule was served on the secretary and chairman of the board of school trustees.

Before moving for the rule the trustees of the Roman Catholic school had served a written demand upon the general board of school trustees for Belleville, requiring the board to pay them for their teacher a proportion of the £200, school monies paid by them to the four teachers employed by them for the first six months of the year (1852,) according to the average attendance of scholars at the said separate school, taught by one Mason for the said six months, as compared with the average attendance at all the other schools, during the said period, specifying the averages of the several schools, and shewing thereby a claim for Mason's school to the sum of £60 14s. 8d.

Or to apportion the £200 among the four common schools, and the separate school teacher, in proportion to the average attendance of scholars, in which case £46 11s. 9d. would be the sum to which such separate school is entitled.

It is shewn that the board of school trustees for Belleville, estimated for £672 14s. 10½d. for the part of the year 1852 unprovided for, and called upon the town council to raise that sum by assessment for common school purposes for 1852, which sum was by the council directed to be raised. This sum was

For four teachers	£300
Improvements to school houses	£140
Improvements for ventilation.....	£ 75

With other items for rent of school houses, maps, and apparatus, and other contingencies. And this sum was, in addition to £189 7s. 10½d., estimated for at another time in the same year, for similar purposes: the two sums amounting to £861 2s. 9d.

It was sworn in answer to this application, that for the year (1852) there was apportioned by the Chief Superintendent of Schools to the town of Belleville £90 8s. 6d., and the like sum raised by local assessment for the purposes mentioned in the 40th section of statute 13 & 14 Victoria, chapter 48; that on the 9th November, 1852, the treasurer paid to one of the trustees of the separate Roman Catholic school, upon the order of the board of trustees £21 13s. 4d., as and for an apportionment and proportion of the school fund of 1852, due to the teacher of the separate Roman Catholic school, for his services during the first half of that year; and that the said trustee accepted the same; that according to the statement made by the trustees of the Roman Catholic school, in their demand served upon the school trustees of Belleville, the average number of scholars attending the common schools for the year, was 326, and those attending the separate Roman Catholic school 99, in all 425. That during and for the year 1852, there was apportioned by the Chief Superintendent of Schools to the town of Belleville £90 8s. 6d., which with an equal sum raised by assessment makes £180 17s., which sum the school trustees considered to be and

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April, 1853.

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are advised by the Chief Superintendent that it constitutes the school fund of the town out of which the teacher of the separate school should be paid in proportion to the average number of his scholars and the average number of the scholars of the common schools on the 1st July, 1852; that such proportion was estimated by the school trustees to be for the half year £21 1s. 3d., which sum they have paid to the Roman Catholic school trustees, and rather over, viz. £21 3s. 4d.

Vankoughnet, Q. C., shewed cause—

CHIEF JUSTICE ROBINSON.—The learned counsel employed in this case have been very industrious in dissecting and comparing the various provisions of the common school act, and have argued on both sides very ably, but I think without much confidence that the court would be able to bring themselves to any perfectly clear and satisfactory conclusion upon the question of what should be taken to constitute the fund in which such separate Protestant or Roman Catholic or Colored school is to share under the 19th clause of the statute 13th and 14th Victoria, chapter 48.

We must remember that this is an application for a mandamus to compel the school trustees of Belleville to make a payment to the trustees of the separate Roman Catholic school, of something which according to some of the alteratives in the rule would be in addition to the sum which the average attendance of pupils in the school would shew them to be entitled to under the 19th section of the act, as the due share of each school out of the school fund, unless we take the words "school fund," used in the 19th clause, to comprehend something more than in the 40th clause is described as constituting the common school fund of the town, that is to say "the sum of money apportioned annually by the Chief Superintendent of Schools to each county, township, city, town or village, and at least an equal sum raised annually by local assessment for no other purpose than that of paying the salaries of qualified teachers of common schools."

If we should issue a writ as prayed commanding the desired payment to be made, it could only be because we see it to be beyond question that it is the public duty of the school trustees to do what has been demanded of them, and what they have refused to do. If the least doubt remains on our minds as to the proper constitution of the statute in this respect, it would be wrong to grant the writ, because when granted it must be obeyed, and we must take care not to place any one in peril of a contempt for refusing to violate an act of Parliament.

I think in order to form an opinion upon the question, it is material to consider the following sections of the act, 12th, 9th sub-section, and the 2nd head of the 19th sub-section of the same clause: also the 18th, 19th, 24th, sub-section 6; 27th, 35th, sub-section 5; and 40th, 45th; and I have some doubt whether the 35th section, part 5, does not make the Chief Superintendent the proper tribunal for determining all claims upon any part of the school fund: Unless what the present applicants desire to share in forms part of the "school fund," it is quite clear they can have no right under the 19th clause of the statute to share in it. If it does form part of the "school fund," then the 35th clause provides that the Chief Superintendent is "to decide upon all matters and complaints submitted to him which involve the expenditure of any part of the school fund," and the applicants before they come to this court

with any claim to be remedied in and hath

It does been refer has been complaint given upon us. We differ in the I find it not mean in re I dare say, having been gentleman and pains Under the provision of their comp use to state the statute, separate so apportioned which can't to meet the an estimate

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JUDGES fail, because appropriate application money and construction says, "that with altera respect to

with any complaint, should at least be able to shew that they have submitted their claim to him, and that he has refused to entertain it; for a mandamus is the proper remedy in those cases only "in which a party hath a clear right to have a thing done and hath no other specific means of compelling its performance."—(8 East. 210.)

It does indeed appear by the papers before us that the Chief Superintendent has been referred to by the general board of trustees on the subject, and that his opinion has been obtained, but it is the parties complaining who should first submit their complaint to him in a formal manner and ask for redress. Whether his judgment given upon such a complaint would not be final, is not a question at present before us. We must assume that all parties desire only what is right, though they may differ in their opinion upon the effect of the statute. I own for my own part that I find it no very easy matter to satisfy myself as to what the legislature really did mean in regard to the point which has been discussed before us, and the difficulty, I dare say, has been occasioned as was hinted in the argument, by the 19th clause having been inserted in the act during its passage through the legislature by some gentleman who did not, and could not perhaps under the circumstances, take the time and pains necessary for adapting the other provisions of the act to its reception. Under the doubt which at present surrounds the question, and considering also the provision which refers all parties in the first place to the Chief Superintendent with their complaints, I do not think we can grant a mandamus, but if it can be of any use to state the impression which rests upon my own mind after a consideration of the statute, I have no objection to say, that I think as the act now stands what a separate school established under the 19th clause is entitled to share in, is the sum apportioned by the Chief Superintendent out of the government grant, and the sum which cannot be less but may be more which has been raised by local assessment to meet that grant, raised I mean for *payment of teachers generally*, and not upon an estimate for any specific purpose.

I cannot make out quite clearly without seeing more than is in the papers before us, whether the school trustees did or did not estimate for more than a sum equal to the government allowance to form a fund for paying their common school teachers generally. If they did, then it seems to me the Roman Catholic trustees had a claim to share in the whole of such sum added to the government allowance, according to the average attendance of pupils at their school.

For the reasons I have given I think the rule for a mandamus should be discharged, but not with costs.

JUDGE BURNS.—In my opinion the application on the part of the trustees must fail, because they are not the parties who by law have a right to the money appropriated to, or that should be appropriated to the separate school.—The application is made as if the school trustees were the parties to receive the money and deal with the teacher they may employ; I do not think such is the construction of the act. The 19th section, in providing for separate schools says, "that each such separate school shall go into operation at the same time with alterations in school sections, and shall be under the same regulations in respect to the persons for whom such school is permitted to be established as

are common schools generally." The trustees would seem to understand the provisions of the legislature in the light of applying to their school because the teacher they employ has qualified himself to teach by an examination and by having obtained the necessary certificate. In this respect, they were I think, quite right, but at the same time, their school was subject to the regulations which the act provided for as to others. Under the 8th clause of the 24th section, the duty of the board of trustees is to give the teacher orders upon the treasurer, for the sum or sums of money which shall be due him. In the case of schools in townships, the trustees of the school section divisions give the order to the teacher upon the local superintendent—vide clause 6, of section 12—and the local superintendent again gives orders to the teacher upon the treasurer—vide clause 2 of section 31. Whichever way the school trustees are constituted, whether in an united board, or in school section divisions, the money due to the teacher does not pass through the hands of the trustees, and there is no difference in this respect between the separate schools and the common schools generally. We could not, therefore, direct the money to be paid to the trustees of the separate school, for the teacher is the person entitled to it, and it is he to whom any order must be made.

I quite agree with his lordship the Chief Justice also, in thinking that, supposing the application could be entertained on behalf of the trustees of the separate schools, yet before it could be granted it must be shewn to us that every other remedy has been tried and has failed. It is the duty of the municipality to appoint annually a local superintendent. This officer is quite independent of the board of school trustees or the trustees of school section divisions, being elected or chosen by another body than that which elect the trustees. By the 7th clause of section 31, a portion of the duties of this officer is "to decide upon any other questions of difference which may arise between interested parties under the operation of this or any preceding act, and which may be submitted to him; provided always that he may, if he shall deem it advisable, refer any such question to the Chief Superintendent of Schools; provided also that any aggrieved or dissatisfied party in any case not otherwise provided for by this act, shall have the right of appeal to the Chief Superintendent of Schools."—Then again, in enumerating what the duties of the Chief Superintendent shall be, it is by clause 5 of section 35, enacted that he shall "see that all monies apportioned by him be applied to the objects for which they were granted, and for that purpose to decide upon all matters and complaints submitted to him (and not otherwise provided for by this act) which involve the expenditure of any part of the school fund." I do not define how or in what way the application should be, whether to the local superintendent in the first instance and then by way of appeal to the Chief Superintendent, or whether it may be made in the first instance to the Chief Superintendent; but I have quoted the duties of both officers to shew that the legislature has provided a domestic forum for questions to be determined. Is the present case then a point which may be brought before the Chief Superintendent? It may be said that it is purely a legal question, and that the legislature did not mean such to be determined by an officer who perhaps might not be versed in legal distinctions. That argument is, however, answered by the fact that in the 18th clause of section 12, and in section 17, the legislature has provided for certain differences and disputes, and of a char-

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No. 43. T

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[No. 200, H.]

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acter too, which may involve legal considerations to be disposed of and determined by arbitration. The question then is whether the case comes within the terms of clause 5 of section 35; and I think it does. In such a case as the present it would be quite competent for the trustees to complain to the Superintendent that their teacher was paid differently from the fund than the other teachers, and so they could obtain his decision. That decision might be against a party who notwithstanding had a legal right, but then it would not be final, or the board of trustees might think it wrong, and thus, by resisting, take the opinion of a court of law as to the construction of the act. There may, however, be no necessity to go to a court to obtain an opinion, because the decision of the Superintendent may be acquiesced in by all parties. It appears to me, looking at the whole scope of the act, that it was supposed the affairs of the schools might be managed by means of arbitrations and references to the local superintendent and the Chief Superintendent, without troubling the courts.

As it has been desired by both parties, I have no objection to express an opinion upon the point in issue between them as to what constitutes the school fund. The school fund is, I think, not only the sum granted by the legislature, and the equivalent sum raised by the municipality, but also whatever beyond the equivalent sum the municipality shall think proper to raise for the purpose of paying teachers. The whole money so raised, together with the sum apportioned from the government grant, forms the school fund.

JUDGE DRAPEL, concurred.

Rule discharged.

No. 43. *The Chief Superintendent to the Belleville Board of School Trustees.*

Enclosing copy of decision relative to the claims of the Trustees of the Roman Catholic Separate School.

[No. 240, H.]

EDUCATION OFFICE,

Toronto, 25th April, 1853.

Sir,

I have the honor to acknowledge the receipt of your letter of the 20th instant, enclosing a copy of the opinion of the Honorable Chief Justice Robinson, on the case of the trustees of the Roman Catholic separate school *vs.* the board of school trustees for the town of Belleville, and requesting me to furnish you, for the information of the board, with a copy of any opinion I might give to the trustees of the Roman Catholic separate school on the question at issue.

As I had given an official opinion on the question, in a letter addressed to Mr. John O'Hare, secretary of the Roman Catholic trustees, dated 18th February, 1852, (a copy of which was furnished to your board) I was under no official obligations to give a second decision; but, under all the circumstances of the case, I determined to reconsider the question and give, at length, my final conclusions as to the provisions of the law and intentions of the legislature, respecting the import of the term

"common school fund," and the powers of municipalities in the application of "school moneys."

I herewith enclose you a copy of a letter which I have addressed to the secretary of the trustees of the Roman Catholic separate school, in the town of Belleville, on this subject.*

I have the honor, &c.

(Signed,)

E. RYERSON.

C. O. BENSON, Esq.,
Secretary Board of School Trustees,
Belleville.

No. 49. The Belleville Board of School Trustees to the Chief Superintendent.

Subscribers to the Roman Catholic Separate School prefer sending their Children to the Public Schools, and desire to pay Public School Taxes.

[L. E. 2815, 1853.]

BELLEVILLE, September 20th, 1853.

SIR,

We have in this town a separate Roman Catholic school. A considerable number of persons of that denomination have opposed a separate school, and have sent their children to the common schools. The names of several of these persons are upon the roll returned by the trustees of the separate school, as subscribing towards the support of the separate school. Our board instructed their teachers to exclude the children of all parents whose names appear on that roll. Several parties affected by this order have appealed to the board, stating that what they subscribed to the separate school was intended merely as a donation; that they were not aware that they were identifying themselves with the separate school, or that they would thereby exclude their children from the common schools. They wish to send to our schools as heretofore, and to be taxed for the support of common schools as formerly. Some of them say distinctly they will not send to the separate school, and think it hard that their children should be turned into the street. The board wish to know whether they can legally admit the children of such parents to their common schools, and whether these parents can be taxed for common school purposes. The board would feel obliged by an early reply.

Your obedient servant,

(Signed,)

RUFUS HOLDEN,
Secretary B. S. T., Belleville.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools.

* See preceding letter No. 44, [No. 245, II.] pages 106—112.

No. 50.

Subscribers to
[No. 400, I.]

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[L. E. 356, 1853.]

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No. 50. The Chief Superintendent to the Belleville Board of School Trustees.

Subscribers to Separate Schools cannot be taxed for, but their children may be admitted to, the Public Schools.
[No. 400, 1.]

EDUCATION OFFICE,

Toronto, 22nd September, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 20th instant, and to state in reply, that although you are not prohibited from permitting the children of persons supporting a separate school to attend the schools under the charge of your board; yet by the 13th clause of the 12th section of the school act of 1850, you are not required to admit them, and by the enacting clause of the 4th section of the supplementary act, you have no authority to tax their parents. Whatever may have been their intention in subscribing for the support of the separate school, they have put it out of your power to tax them for the support of the public free schools. If they cease to subscribe to the support of the separate school, or if they will signify in writing, that what they gave to the separate school was a donation and not a subscription, as contemplated by the 4th section of the supplementary act, and that they claim to have a right to send their children to the public schools, and consider themselves liable to pay the public taxes for their support, then you can retain or place their names on the tax roll and admit their children as heretofore to the public schools. But if you attempt to do so without such a declaration in writing on their part, leaving the payment of the rate by the persons to whom you refer perfectly voluntary, you will render yourselves liable at any moment to a complaint of oppressing the Roman Catholics, and perhaps expose yourselves to legal proceedings instituted by them in consequence of your levying and collecting such rates.

I have the honor, &c.

(Signed,)

E. RYERSON.

RUFUS HOLDEN, Esq., M. D.

Secretary Board of School Trustees,
Belleville.

No. 51. The Belleville Board of School Trustees to the Chief Superintendent.

Supporters of the Roman Catholic Separate School send Children to the Public Schools, although exempted from Public School rates.

[L. E. 350, 1854.]

BELLEVILLE, 21st January, 1854.

REVEREND SIR,

At the request of many of my fellow townsmen, I consented to be appointed a school trustee. The trustees at their meeting have made me their chairman; and a question has come up, with reference to the Roman Catholic separate school, upon which I should like to have your opinion.

According to the 4th section, chapter 185, 16 Victoria, the separate school has to make its return on the 30th June and 31st December. Arrangements entered into on the 1st January are, consequently, six months old before we have any knowledge of the fact, by which means, children of Roman Catholic parents who have subscribed to the separate school, can be sent to our common schools, and when we obtain knowledge of the fact, we are deprived of all power to compel payment, because their names cannot be included on the collector's roll. I observe that the same section provides that the exemption shall not extend beyond the period, &c. This, in the opinion of the board, is wrong. Some contend that the last six months return must govern the succeeding six months; I cannot so read the law, and would therefore like to have your opinion.

We propose making an order compelling parties so imposing on us, to pay in proportion to the period and according to the tax to which each would be liable, if not exempted. We, of course, must protect the common schools, and we find no other means of doing it, until the law shall be amended. May I solicit an early answer?

I have the honor, &c.

(Signed,) G. BENJAMIN,
Chairman Board School Trustees.
Belleville.

Rev. E. RYERSON,
Chief Superintendent.

No. 52. The Chief Superintendent to the Belleville Board of School Trustees.

Supporters of Separate Schools bear the same relation to the Free Public Schools of a Municipality as non-residents.

[No. 404, K.]

EDUCATION OFFICE,

Toronto, 24th January, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 21st instant, and to state in reply, that I do not see any obscurity, or any room for doubt, as to the intention and fair construction of every provision of the 4th section of the supplementary school act, and especially in connection with the corresponding provisions of the school act of 1850.

1. As the assessment to meet the apportionment from the legislative grant is made after the first of July, it is clear that that exemption of certain parties from being included in that assessment, is based on the return made to the local superintendent for the six months ending the 30th of June. But if the municipality should

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N. BENJAMIN,
Chairman

No 53. 7

T. E. 2619, 1852

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Every assessment after the 1st of January, then the return to the local superintendent, ending the 31st of December, would be the basis or criterion of exemption. Whether, therefore, the assessment to make up a sum equal to the sum apportioned from the legislative grant, be made during the former or the latter part of the year, there can be no difficulty in ascertaining who are to be exempted from its payment. Of those to be exempted, there are two classes, the one, who subscribe a certain sum for the support of a separate school, but do not send to it; the other, who both subscribe and send to it. But in both cases the persons exempted must be of the religious persuasion of the separate school.

2. Then as to the board of trustees being imposed upon by separate school supporters, sending their children to the common schools without paying for it;—this need not be so; since the board is under no more obligations to admit to their schools, the children of parents supporting a separate school, than they are to admit the children of parents residing out of the limits of the town. See the proviso in the 13th clause of the 12th section of the school act of 1850. If the board admits, as pupils, the children of non-residents, or of parents supporting the separate school, it does so voluntarily; and does not thereby acquire any right of taxing the property of either party. If it admits such children at all to its schools, it can impose, as a condition, the payment of any fee per month, or per quarter, it pleases, and can, if it thinks proper, require the payment of such fee in advance; but it cannot levy any rate on their property.

The trustees, therefore, have ample means to protect themselves from being imposed upon, either by parties residing beyond the limits of their corporation, or by parties supporting separate schools.

I have the honor, &c.

(Signed,)

E. RYERSON.

N. BENJAMIN, Esq.,
Chairman Board of School Trustees,
Belleville.

No 53. *The Trustees of the Roman Catholic Separate School, Belleville, to the Chief Superintendent.*

For School Documents.

[L. R. 2619, 1852.]

BELLEVILLE, 23rd May, 1854.

SIR,

The separate school trustees in this town, have frequently applied to the local superintendent for one or more school registers, in pursuance of a notice contained in the *Journal of Education*; and also for a copy of the *Journal of Education*, as we are of opinion, it is supplied to other boards of school trustees; our application,

however, has been unsuccessful hitherto, and to day the superintendent informs us he can supply us neither with the *Journal* nor the registers.

If entitled to these things by law, we would like to be supplied with them; but if not, we cannot pretend to claim them on any other ground, unless it be that the expense connected with getting them up is borne alike by all classes in Upper Canada.

Your obedient servant,

(Signed,) JOHN O'HARE,
One of the Separate School Trustees
and Secretary.

The Rev.

The Chief Superintendent of Education,
Toronto.

No. 54. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Belleville.

School Documents are furnished to Common and Separate Schools alike.

[No. 1130, L.]

EDUCATION OFFICE,

Toronto, 27th May, 1854.

Sir,

I have the honor to acknowledge the receipt of your letter of the 23rd instant and to state in reply, that the last edition of school registers, provided by this department, is wholly exhausted; as soon as a new edition can be prepared, I shall be happy to furnish you with the copies you desire.

The numbers of the *Journal of Education*, for the first five months of the current year, are not yet distributed; they will be ready in a few days, and a copy will be sent to you.

The *Journal of Education* and school registers, are furnished to trustees of separate schools upon the same terms as to the trustees of public schools.

I have the honor, &c.

(Signed,) E. RYERSON.

JOHN O'HARE, Esq.,
Trustee R. C. Separate School,
Belleville.

No. 55.

[L. R. 2227, 18

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[No. 63, L.]

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Town of Brantford.

No. 55. *The Local Superintendent of Brantford to the Chief Superintendent.*

Certain Roman Catholics of the town have organized a Separate School.

[L. R. 2227, 1853.]

BRANTFORD, July 6, 1853.

Sir,

Can you favor me with a copy of the school act of the last session? The Catholics here have organised a separate school, and sent me in a report of the number of pupils that have attended their school during the last months. I am in doubt as to whether their organisation of this school has been legal or not. Hence, if you can spare me a copy of the recent act, or a copy of the *Journal of Education* containing it, you will oblige me much.

I am, &c.

(Signed,)

W. JOHNSTONE,
Supt. of Schools in Brantford.

Rev. Dr. RYERSON,
Chief Superintendent of Schools,
Toronto.

No. 56. *The Chief Superintendent to the Local Superintendent of Brantford.*

Provisions of the law relating to Separate Schools.

[No. 63, 1.]

EDUCATION OFFICE,

Toronto, 18th July, 1853.

Sir,

I have the honor to acknowledge the receipt of your letter of the 6th instant, and to state in reply that a copy of the *Journal of Education* containing the supplementary school act has been sent to your address.

No separate school can be established except according to the provisions of the 19th section of the school act of 1850. When once established, however, according to law, it must be conducted as provided in the 19th section referred to, and the 4th section of the supplementary school act of 1853.

I have the honor, &c.

(Signed,)

E. RYERSON.

W. JOHNSTONE, Esq.,
Local Superintendent of Schools,
Town of Brantford.

*No. 57. The Trustees of the Roman Catholic Separate School, Brantford,
to the Chief Superintendent.*

Proceedings relative to the establishment of a Separate School.

[L. R. 2731, 1863.]

To the Chief Superintendent of Schools for Upper Canada.

The petition of the board of school trustees of the separate school of the town of Brantford,—Humbly sheweth—

That a school was established by Roman Catholics, in the town of Brantford, in the month of November last, for the education of the children of Roman Catholics.

That it was considered advisable at that time to postpone taking the necessary steps to have the limits of the said school defined, as well as to defer the election of trustees till the looked for action in the matter of common schools was taken by the legislature.

That from the time of the establishing the same, (hitherto) the said school has been in operation, having been supported wholly, or chiefly by the voluntary contributions of Roman Catholics.

That in pursuance of the common school act passed in 1852, in the months of December and June last, returns of the names of the contributors to such school, the number of pupils who had attended the same, and of all other particulars required by the said act, were made; an election of school trustees was held in the month of June aforesaid, and the limits of the said school were set out as required by the said act.

That in the apportionment of school moneys for the present year, no moneys were allotted to the said school.

Your petitioners would therefore pray that you would be pleased, under the authority vested in you as Chief Superintendent, to apportion to the said school such a sum of money as in your discretion you may deem just.

And your petitioners, as in duty bound, will ever pray.

(Signed,)

THOMAS DALY,
Chairman of Board.

(Signed,)

JOSEPH QUINLAN,
Secretary.

Dated at Brantford,
13th September, 1853.

No. 58.

[No. 501, L.]

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Mr. THOMAS
Trustee

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[L. R. 507, 1854.]

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No. 58. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Brantford:

General provisions of the law relating to Separate Schools.

[No. 361, L.]

EDUCATION OFFICE,

Toronto, 15th September, 1853.

Sir,

I have the honor to acknowledge the receipt of your communication of the 13th instant, and to state in reply, that with the information which you furnish, I cannot express any opinion as to the claims which you make to share in the common school fund for the current year.

You state that an election of trustees for the separate school was held in June, yet that the separate school was established in November last. By referring to the 19th section of the common school act, you will perceive that the formation of a school section and the election of trustees must precede the establishment of a separate school. According to law, no school, either as a common or separate school, can have legal existence or share in the common school fund until after the formation of the school section and the election of trustees after public notice as required by law. Any school, otherwise established, whether by a religious persuasion, or by private enterprise, must be regarded as a private school, and cannot share in the common school fund.

If your school therefore was organised according to law, before the commencement of the current year, it has a right to share in the current year's common school fund; not otherwise.

The 4th section of the supplementary school act makes no change in the mode of establishing separate schools; it changes only the mode of supporting them, and grants certain exemptions to parties supporting them when established according to law,

I have the honor, &c.

(Signed,)

E. RYERSON.

Mr. THOMAS DALY,
Trustee, R. C. Separate School,
Brantford.

No. 59. The Local Superintendent of Brantford to the Chief Superintendent.

Whether a certain report of the Separate School meets the requirements of the law.

[L. R. 367, 1854.]

BRANTFORD, February 4th, 1854.

Sir,

Some time in last month I received from Messrs. Joseph Quinlan, M: Fennessy, and Thomas Daly, "trustees of the separate school" here, a document dated "25th of December, 1853," setting forth the "average" attendance of pupils, but not

giving the names of the parents or guardians of the pupils, as required by the supplementary act. This document they call their "report," which, in my opinion, is not only defective but useless.

Again on the 11th or 12th January, I received a report to the effect that the Rev. T. Ryan and Messrs. James Smith, and William Murphy, had been chosen trustees of the separate school for this year. Having omitted to state in their report the names of the parents or guardians of the pupils, I do not consider the report referred to of any value, though in this decision I may be wrong, and would feel obliged by hearing from you at your earliest opportunity.

I have the honor, &c.

(Signed.)

W. JOHNSTONE,
Sup. C. S. Town of Brantford.

Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

No. 60. The Chief Superintendent to the Local Superintendent of Brantford.

The second proviso in the fourth section of the Supplementary School Act describes the return required from Separate Schools.

[No. 620, K.]

EDUCATION OFFICE,

Toronto, 9th February, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 4th instant, and to state in reply that unless the report of the separate school to which you refer contains all the information required to be furnished local superintendents by the second proviso of the fourth section of the supplementary school act, you are at liberty to reject it. If it does not contain the names of the supporters of the school, it will of course be impossible for you to furnish those names to the town clerk and board of school trustees with a view to exempt such persons from school rates, as contemplated in the same section of the supplementary act. Until such list is furnished the clerk and board of school trustees, no exception can be made in levying such rates.

I have the honor, &c.

(Signed.)

E. RYERSON.

W. JOHNSTONE, Esq.,
Local Superintendent of Schools,
Town of Brantford.

No. 61.

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[L. R. 3061, 18

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No. 61. The Trustees of the Roman Catholic Separate School, Brantford, to the Chief Superintendent.

Inability to make return of attendance.—The meaning of "amount subscribed" in the Separate School return.

[L. E. 3061, 1864.]

BRANTFORD, 29th June, 1854.

REV. SIR,

I am directed by the trustees for the Roman Catholic separate school of this town, to inform you that their late teacher went away to the States without the trustees being aware of it, and took the school books with him, which will deprive the trustees making their report for the six months; unless you will be kind enough to take the average attendance since our former master went away, and allow in proportion. The local superintendent for this town furnished the trustees with a blank form to have it filled up; there are two columns—one marked amount subscribed, the other, amount paid. Does it mean amount subscribed by taxes, and amount paid mean what is paid out of the taxes? Please to inform me at your earliest convenience, and much oblige,

Your obedient servant,

(Signed,)

JOHN COMERFORD.

Rev. Dr. RYERSON,

Chief Superintendent of Schools,
Toronto.

No. 62. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Brantford.

An approximation to the attendance will be accepted on account of their present difficulties.—Explanation of headings of the return.

[No. 1266, L.]

EDUCATION OFFICE,

Toronto, 10th July, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 29th ultimo, and to state in reply that the average attendance of pupils at school cannot be ascertained without a knowledge of their daily attendance, as the former is the computed aggregate of the latter. If you have lost your school register you must make the best approximation to the facts in your power, as do the trustees of other schools in like circumstances.

2. The "amount subscribed" in the column of the blank return, means the amount which each supporter of the separate school, and of the religious persuasion

of such school has to give towards its support. And the column headed "amount paid," is intended to include the amount which has been paid by each person named, during the six months, in support of the separate school, whether by subscription or rate.

I have the honor, &c.

(Signed,)

E. RYERSON.

Mr. JOHN COMERFORD,
Trustee, R. C. Separate School,
Brantford.

No. 63. The Trustees of the Roman Catholic Separate School, Brantford, to the Chief Superintendent.

For their share of the Legislative School Grant.

L. R. 2610, 1854.]

BRANTFORD, 1st September, 1854.

REV. SIR,

As secretary to the board of trustees for the Roman Catholic separate school in this town, I am directed to inform you that we have applied several times to the town treasurer for our portion of the government money which we consider ought to have been received long since; our teachers pressing us for their salaries, and having no means on hand, we feel obliged to apply to you for our apportionment of said money.

I remain, &c.

(Signed,)

JOHN COMERFORD,
Secretary.

Rev. Dr. RYERSON,
Chief Superintendent of Schools,
Toronto.

No. 64. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Brantford.

Grant will be paid on receipt of Treasurer's Returns for last year.

No. 1737, M.]

EDUCATION OFFICE,

Toronto, 5th September, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 1st instant, and to state in reply that the treasurer of the town of Brantford has not yet trans-

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Mr. JOHN
Trustee

No. 65.

[L. R. 1814, 18

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The Rev.
Chief

No. 66.

Reports from

[No. 164, H.]

GENTLEMEN

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mitted the returns required by law, of the expenditure of the last year's money, so that none of the schools in that town have received any portion of this year's school grant.

I have the honor, &c.

(Signed,)

E. RYERSON.

Mr. JOHN COMERFORD,
Trustee R. C. Separate School,
Brantford.

Town of Goderich.

No. 65. *The Trustees of the Roman Catholic Separate School, Goderich, to the Chief Superintendent.*

Transmitting a Report of the School.

[L. R. 1214, 1853.]

GODERICH, *March 17th 1853.*

Sir,

We have the honor to enclose you a report of the Roman Catholic separate school, in the town of Goderich, established by the trustees of the town of Goderich, in the year eighteen hundred and fifty-two, and has been in operation since July of the same year.

And it is to be hoped, the report will be found sufficiently correct, to secure said school a share of the public funds.

(Signed,)

MAURICE B. SEYMOUR,
R. McDOUGALL, M.D.,
L. McIRATCH.

The Rev. E. RYERSON,
Chief Superintendent of Schools.

No. 66. *The Deputy Superintendent to the Trustees of the Roman Catholic Separate School, Goderich.*

Reports from Common and Separate Schools to be incorporated in the general Report from the Municipality.

[No. 164, H.]

EDUCATION OFFICE,
Toronto, *22nd March, 1853.*

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 17th instant, and to state in reply, that all reports of schools in cities, towns and villages, are

made to this department through the board of school trustees of the municipality. Any report, therefore, which you may have to make, should be addressed to your local superintendent or board of school trustees.

I may also remark, that according to the 1st proviso, in the 19th section, in connection with the 4th clause of the 18th section of the school act, no separate school can come into operation, nor an election of trustees for such separate school take place until *after* the 25th December following the authorizing of the separate school.

I herewith return the report you enclosed, as it is of no use to this department.

I have the honor, &c.

(Signed,) J. GEORGE HODGINS,
Deputy Superintendent.

Messrs. MAURICE B. SEYMOUR,
R. McDUGALL, M.D., and
L. McIRATCH,
Goderich.

No. 67. The Local Superintendent of the Town of Goderich to the Chief Superintendent.

Transmitting Report of Roman Catholic Separate School.

[L. E. 1406, 1853.]

GODERICH, 6th April, 1853.

SIR,

The trustees of the Roman Catholic separate school have handed me your letter of the 22nd of March, returning the report of said separate schools, sent by them.

I now, in accordance with your direction, forward it along with a copy of minute of school trustees, of the town of Goderich, where you will find that the school section was defined, and the separation made prior to the 25th Dec., 1852.

On referring to the act, I cannot find any direction for the local superintendents of schools in incorporated towns and villages, to forward the report—it is there expressly said to be the duty of the trustees.

Hoping that the report will now be received.

I am, &c.

(Signed,) ALEXANDER McKID.

To the Chief Superintendent of Education,
Toronto.

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[Enclosure.]

*Extract from the Minutes of the Board of School Trustees for the Town of Goderich,
Dated 1st December, 1852.*

Mr. Duffy presented an application from the Roman Catholics of the town, for the establishment of a separate school, containing the requisite number of names as by law contained in the school act.

The same being read, and also the section of the act thereon, a difficulty appeared in the question of what is to be the number of trustees to compose the board for said school.

The most feasible plan appeared to be, that the town be considered to be one school section and that a board of three be chosen.

The board agreed to comply with the request of the applicants, and to endeavor to obtain information concerning the construction of the separate board.

The board then adjourned.

(Signed,)

JAMES CAMPBELL,
Chairman.

*No. 68. The Trustees of the Roman Catholic Separate School, Goderich, to
the Chief Superintendent.*

For Share of the Legislative School Grant.

[L. R. 2412, 1853.]

GODERICH, July 27th, 1853.

REV. SIR,

Having been informed by the Rev. Mr. Ryne, that you told him at your office, at Toronto, last June, that our report for the Roman Catholic separate school of Goderich, had been received and acknowledged by your Reverence; the time for apportioning the government money having arrived, we applied to our local superintendent, the Rev. Mr. McKid, for our portion, on which occasion we received the enclosed communication.

Our separate school has been legally applied for, and established by law, and is now in existence more than 12 months, and has been acknowledged before January 1853.

Therefore, under either the old or the new law, we cannot, except by fraud, be deprived of our portion of the government grant. We expect the favor of a reply,—that if any other conditions be required, we may fulfil them in due time.

We also respectfully request that you will be pleased to inform us, to whom shall we apply for our portion of the government grant.

I am, &c.

(Signed,)

P. A. McDOUGALL, M.D.
Secretary to Roman Catholic
Separate School.

The Rev. Dr. RYERSON,
Chief Superintendent of Schools.

[Enclosure.]

GODERICH, July 25th, 1858.

SIR,

In answer to a communication addressed to you by the secretary of the Roman Catholic separate school, and which was brought under the notice of the board of trustees for common schools for the town of Goderich, I am directed to state, that the board is not aware that the government grant of money has yet arrived, and that it has no evidence in its possession to shew that the trustees of said separate school are entitled to any proportion of the said fund.

I am, &c.

(Signed,)

THOMAS NICHOLLS,
Secretary Board of
School Trustees.

To Rev. A. McKID,
Superintendent Common Schools,
Town of Goderich.

No. 69. *The Deputy Superintendent to the Trustees of the Roman Catholic Separate School, Goderich.*

Certain Returns to be forwarded to the Local Superintendent.

(No. 157, I.)

EDUCATION OFFICE,

Toronto, 5th August, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 27th ultimo, and to state in reply that, from the 4th clause of the Supplementary School Act, you will perceive that the trustees of each separate school, are requested in common with the trustees of the section schools (see 5th clause), to transmit to the local superintendent, a certain return as specified in that clause, previous to their school participating in any portion of the school grant. It is doubtless to the absence of such a return that the secretary of the board of school trustees refers in his letter of the 25th ultimo.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,
Deputy Superintendent.

P. A. McDougall, Esq., M.D.,
Trustee R. C. Separate School,
Goderich.

No. 70.

[L. R. 2635, 1858.]

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No. 70. *The Trustees of the Roman Catholic Separate School, Goderich, to the Chief Superintendent.*

Further about their Share of the Legislative School Grant.

[L. E. 2635, 1853.]

GODERICH, August 27th, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 5th instant, and in reply, to state that we applied in due time to the local superintendent for a blank report, but could not obtain any; and in the absence of such blank report, we drew up a report and forwarded it to the local superintendent, who, it appears, although he visited the separate school as superintendent, forwarded the report to the trustees of the common schools, of the town of Goderich, since which time we have heard nothing of the report, nor of any money being apportioned to our school.

It is evident that efforts are being made to defraud the Roman Catholic separate school of the town of Goderich, of what is justly and legally their right, the government grant. And, if possible, the trustees would like to know upon what grounds and by what means it is done.

Therefore, we beg to be informed upon the following points, viz.:—

1st. To whom should the trustees of separate schools apply for blank reports, and when filled up, to whom should they be sent? (Our local superintendent says not to him.)

2nd. Whose duty, if any, is it to furnish the trustees blank reports?

3rd. Is it part of the local superintendent's duty to send the report of separate schools to the board of common schools?

4th. Are not the trustees of separate schools a body corporate, and entitled to some privileges, as the trustees of common schools?

5th. What ought we to do, or what can we do, under the circumstances, to obtain our portion of the government grant?

I am, &c.

(Signed)

P. A. McDOUGALL, M.D.,
Secretary R. C. Separate School,
Goderich.

To E. RYERSON, D. D.,
Chief Superintendent of Schools.

P. S.—Should the trustees, as a corporate body, not be entitled to a copy of the *Journal of Education*, send one to my address, and I will forward payment immediately.

P. A. McD.

No. 71. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Goderich.

Separate School is entitled to Grant when paid, and to School Reports the same as Common Schools.

[No. 295, I.]

EDUCATION OFFICE,

Toronto, August 31st, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 27th instant, and to state in reply, that the school grant apportioned to the town of Goderich, has not yet been paid, on account of the returns required by law not having been made by the clerk of the town council. When paid, the report which you have made will, of course, be taken into consideration by the town board of school trustees.

I intended to have supplied each set of trustees with a blank report directly from this department. But as I had no return of your school, when the lists were made out, I did not send to your trustees either a blank report, or a copy of the *Journal of Education*, which I have now the pleasure of forwarding.

The trustees of a separate school are a corporation, and are entitled to all the reports, &c., through the local superintendent, provided to any other school corporation.

I have the honor, &c.

(Signed)

E. RYERSON.

P. A. McDougall, Esq., M.D.,
Trustee R. C. Separate School,
Goderich.

Town of Perth.

No. 72. The Perth Board of Grammar and Common School Trustees to the Chief Superintendent.

Can a Separate School Trustee be also a Trustee of a County Grammar School?

[L. R. 323, 1855.]

PERTH, 15th January, 1855.

REVEREND SIR,

You would confer a favor upon me by giving me your opinion upon the following points:

When a separate Roman Catholic school is established in a town, is the priest,

—a trustee and supporter of such separate school,—eligible as a trustee of the county grammar school, said grammar school being united with the common schools? And if eligible as a trustee of the county grammar school, is it competent for him to sit as a member of the united board and interfere in the affairs of the united school, grammar and common?

Your opinion on these matters, communicated as early as convenience will permit, will much oblige.

Rev. Sir,
Yours very truly,

(Signed)

WM. BAIN.

Rev. E. RYERSON, D. D.,
Toronto.

No. 73. *The Chief Superintendent to the Perth Board of Grammar and Common School Trustees.*

The County Council is not restricted in its appointments to the Grammar School Board, and may appoint Separate School supporters to such Board.

[No. 365, N.]

EDUCATION OFFICE,

Toronto, 24th January, 1855.

Sir,

I have the honor to acknowledge the receipt of your letter of the 15th instant, and to state in reply that as the county council appoints the trustees of grammar schools, and as it is not restricted in its selections, it may appoint a person or clergymen who is a trustee of a separate school to be a grammar school trustee, if it shall think proper to do so.

I have the honor, &c.

(Signed)

E. RYERSON.

The Rev. WM. BAIN,
Chairman Board Trustees,
Grammar and Common Schools,
Perth.

Town of Peterborough.

*No. 74. The Trustees of the Roman Catholic Separate School, Peterborough
to the Chief Superintendent.*

Share of the Legislative School Grant.

[L. E. 4485, 1854.]

PETERBOROUGH, 22nd November, 1854.

REVEREND SIR,

I am instructed by the board of trustees of Roman Catholic separate school Peterboro' to communicate with you for the purpose of ascertaining the cause of delay of the payment of their apportionment of the government grant.

The teacher is pressing the trustees very much for his money, and they have been expecting it daily since the middle of last August.

Your early reply will much oblige them.

I have the honor, &c.

(Signed,)

JAMES RYAN.
Secretary and Treasurer.

Rev. Dr. RYERSON,
Superintendent of Education,
Toronto.

*No. 75. The Chief Superintendent to the Trustees of the Roman Catholic
Separate School, Peterborough.*

Payment of Grant will be made in a few days.

[No. 2423, M.]

EDUCATION OFFICE,
Toronto, 30th November, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 22nd instant, and to state in reply that the town treasurer of Peterborough has not yet made the returns to this department required by law; but he has promised to do so in a few days, when the money which I have apportioned to that municipality will be paid.

I have the honor to be, &c.

(Signed,)

E. RYERSON.

Mr. JAMES RYAN,
Trustee R. C. Separate School,
Peterborough.

No. 76.

[L. E. 1740, 1854.]

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Town of Picton.

No. 76. *The Local Superintendent of Picton to the Chief Superintendent.*

Report on state of the Roman Catholic Separate School.

[L. R. 1740, 1855.]

Picton, March 27th, 1855.

REVEREND SIR,

I could have sent you the Report of the Roman Catholic separate school before, but I was not aware of my duty. The report is, I think, financially correct, but as to attendance it is questionable. I visited the school several times and found a miserable looking place, with a lot of dirty, sleepy children sitting on some old forms. You will perceive that the *board* do not acknowledge their average attendance by the amount of the government grant they have received.

In Picton, we have done all that we could to satisfy the Priest, by hiring Roman Catholic teachers in the national schools, but it all would not do. When he supposed that the separate school would not receive anything from government if a Roman Catholic teacher was employed by the board, he denounced the teacher from the altar, and was for making him break his written engagement.

The separate school in Picton cannot keep their teacher of their own religion but a few months, and those are newly caught. Some of our best teachers in the County of Prince Edward are Roman Catholics, but they will not teach in a separate school.

I am sorry that the report was not satisfactory the first time, however, I will do better next time. I have been but a few weeks, secretary to the board.

I remain, &c.

(Signed,)

GEO. GILLESPIE,
Local Superintendent.

The Chief Superintendent of Schools,
Toronto.

P. S.—You may find fault with the board for allowing the separate school any money, while there is a Roman Catholic teacher in the public school of the town, but they are tired of war. The last town superintendent had the Priest and all hands at him. I would rather pay the money myself, than have the same trouble.

(Signed,)

G. G.
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Town of Prescott.

No. 77. The Trustees of the Roman Catholic Separate School, Prescott, to the Deputy Superintendent.

On Separate School elections and reports.

[L. R. 2808, 1852.]

PRESCOTT, December 13th, 1852.

SIR,

I beg to be informed what course the trustees of separate schools will adopt at the coming school elections so far as regards the returning officer, as we cannot find in the school act any party named to fill that office; and further I beg to request, to know if trustees of separate schools are obliged to send a report to the Education Office at such times as trustees of common schools generally are obliged to do.

I am, &c.

(Signed,)

J. O'SULLIVAN,
Secretary to Board of Separate Schools,
Town of Prescott.

J. GEO. HODGINS, Esq.,
Education Office,
Toronto.

No. 78. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Prescott.

Elections and reports for Separate Schools are under same regulations as the school sections of Townships.

[No. 275 G.]

EDUCATION OFFICE,

Toronto, 23rd December, 1852.

SIR,

I have the honor to acknowledge the receipt of your letter of the 13th instant, and to state in reply that by referring to the 19th section of the school act, you will find that school meetings for the election of trustees or a trustee of a separate school in a city, town, or incorporated village, are conducted (not as other school elections in such city, town, or incorporated village, but) in the same manner as are school elections in sections, as provided by the 6th section of the act.

The trustees of separate schools can send their report to the local superintendent to be embodied in the local report to this department, the same as the reports of trustees of other school sections.

I have the honor &c.

(Signed,)

E. RYERSON.

Mr. J. O'SULLIVAN,
Trustee R. C. Separate School,
Prescott.

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13th, 1852.

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No. 79. *The Trustees of the Roman Catholic Separate School, Prescott, to the Deputy Superintendent.*

Appointment of their own Local Superintendent of Separate Schools and collection of rate-bills.

[P. R. 141. 1853.]

PRESCOTT, January 8th, 1853.

J. O'SULLIVAN,
Separate Schools,
of Prescott.

Sir,
In acknowledging the receipt of the Chief Superintendent's letter, with which I have been highly honored, I beg to be informed on the following questions:

Have not trustees of separate schools in cities and towns the choice of their own superintendent, such as the trustees of common schools have? and if not is the township superintendent the superintendent of separate schools also? and when the town is apart from the township for other purposes what course may be followed?

These are points highly important to us in preparing our school report.

I am, &c.

(Signed,)

J. O'SULLIVAN,
Secretary Sep. School,
Prescott.

Roman Catholic

Sections of Townships.

Geo. HODGINS, Esq.,
Education Office,
Toronto.

ember, 1852.

P. S.—Are the Trustees of separate schools a corporation, with power to collect their rate-bill by warrant.

(Signed,)

J. O'S.

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No. 80. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Prescott.

Trustees of separate schools in regard to their supporters have equal powers with trustees of school sections.—
Separate Schools are visited by the Local Superintendent.

[No. 1107, G.]

EDUCATION OFFICE,

Toronto, 19th January, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 8th instant, and to state in reply that trustees of a separate school have, in my opinion, the same right to levy and collect school rates, from the persons sending children to such school, as have trustees of common schools.

All schools receiving public aid must be open to public inspection; the town superintendent of schools has, therefore, the same right to visit separate schools as he has to visit any other schools aided by the public school fund. The report of each separate school in a town should be addressed to the town school superintendent.

I have the honor, &c.

(Signed,)

E. RYERSON.

Mr. J. O'SULLIVAN,
Trustee R. C. Separate School,
Prescott.

No. 81. The Prescott Board of School Trustees to the Chief Superintendent.

Authority of Teachers to exclude books from Public Schools without permission from the Board.

[L. B. 1375, 1853.]

At the county school convention held in Brockville 4th March, 1853, the following resolution of the board of school trustees for the town of Prescott, passed at a meeting of the board held on the 25th February, was submitted to the Chief Superintendent for his opinion:

PRESCOTT, 25th February, 1853.

Resolved: That although the board is (with one exception) unanimous in their opinion, that the trustees have legal authority to introduce such text-books into the common schools as they may deem expedient for the improvement of the children, the chairman be requested to obtain from Dr. Ryerson, the Chief Superintendent, his written opinion, as to the course the trustees should adopt relative to Mr. Ahern's dismissing from his school, Goldsmith's History of England, on the grounds that it was offensive to Roman Catholic children and not according to law, and also res-

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No. 82.

The Teacher

[No. 96, H.]

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pecting the powers generally invested in trustees as to their rejection or admission of books in common schools; also to obtain from Dr. Ryerson an explanation of the clause in his published letter to the Roman Catholic Bishop where he speaks of said history not being sanctioned by the council of public instruction, and also in case of Mr. Ahern's positively declining teaching said history or declining teaching any other book which the trustees might recommend; or if the trustees think proper to dismiss Mr. Ahern for thus declining, can he claim salary any longer than previous to such notice?

Having submitted the case to the local superintendent, he said we would be quite justified in dismissing Mr. Ahern, and also advised the trustees not to submit to such a case. However he recommended the referring of it to the chief superintendent as the most prudent way.

No. 82. *The Chief Superintendent to the Prescott Board of School Trustees.*

The Teacher of a public school has not the power of excluding books; neither have trustees power to compel children to use books objected to by their parents.

[No. 82, H.]

BROCKVILLE, March 4th, 1853.

Sir,

In reference to the minute of the board of school trustees for the town of Prescott, adopted the 25th February, which you have enclosed to me, I have to remark that a teacher is not the judge of the books to be taught in any school; and that the local superintendent of schools in each city and town is appointed by the board of trustees for such city or town and his duties prescribed by them, as provided in the 4th clause of the 24th section of the school act. The duties of local superintendents appointed by *county councils* are prescribed in detail in the 31st section of the school act, but boards of school trustees in cities and towns prescribe the duties of the local superintendents whom they appoint.

The board of school trustees in each city or town can enjoin the use of any book published in the British dominions not publicly disapproved of by the council of public instruction; but they cannot compel any child in the schools under their care to use a book to which the parents or guardians of such child shall object on religious grounds. But the veto is with the parent of each child, not with the teacher, whose duties are prescribed by the board of trustees employing him, according to the clause of the act above referred to.

I have the honor, &c.

Signed,

E. RYERSON.

The Chairman of the
Board of School Trustees,
Prescott.

Town of Amherstburgh.

No. 83. *The Amherstburgh Board of School Trustees to the Chief Superintendent.*

Establishment and continuance of a Roman Catholic Separate School.

[L. R. 1804, 1883.]

AMHERSTBURGH, 14th March, 1853.

DEAR SIR,

In name of the board of school trustees for this town, I beg to address you a few lines, in regard to our separate Roman Catholic school, and get your advice on the subject.

I presume our *board* (since the commencement of the present liberal system of common school education) has caused you more annoyance than almost any other, but you must bear with us, as we are situated in the very heart of Upper Canadian Jesuitism.

I believe that one of our board (Mr. Nelson) had a conversation with you (while in Sandwich) on the subject, but I am inclined to think that he did not explain the case fully to you.

(I may here mention that our *board* were very sorry that they could not meet you in a body while in Sandwich, on account of the bad state of the road.)

The Catholics have applied for a separate school for this town, for the two former years, but as the board of trustees had Catholic teachers engaged, they could not grant it. This year, as we had three trustees to elect, they tried their utmost to get three Catholics elected, but they were beaten by a small majority; they then applied for a separate Roman Catholic school, and as the board had no Catholic teacher engaged, it was granted; this was after the second Wednesday in January.

Our secretary appointed a day for the election of the separate school trustees, but we took no further cognizance of them, until, on receiving the reports from your office, we noticed that no separate school can come into operation until the 25th of December, of any year, so we concluded we could not recognize their school for this year, and verbally told their trustees so.

Our resolution, granting them their separate school, does not say that it shall be for the present year.

They have written to their *Bishop* and also to the *Attorney General* on the subject, and no doubt will do their utmost to try and get us into trouble; they have got their separate school into operation, having engaged *two* teachers.

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The Rev.
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P. S.

No. 84.

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[No. 153. H.]

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Do you think the board of school trustees would be acting legally, to give them their portion of the school fund for the present year or not?

By giving us your advice on the above, you will much oblige.

I have the honor, &c.

(Signed,) PETER MENZIES.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Education,
Toronto.

P. S.—We have a Roman Catholic teacher engaged as a common school teacher.
(Signed,) P. M.

No. 84. *The Deputy Superintendent to the Amherstburgh Board of School Trustees.*

A Separate School election cannot take place until after the School division has gone into operation.

[No. 163. H.]

EDUCATION OFFICE,

Toronto, 22nd March, 1853.

Sir,

I have the honor to acknowledge the receipt of your letter of the 14th instant and to state in reply, that according to the 1st proviso in the 19th section, in connection with the 2nd proviso in the 4th clause of the 18th section, of the school act, no separate school can come into operation until the 25th of December next after the authorizing of such separate school,—consequently no election of trustees for such school can take place until after “the limits of the divisions or sections for such school” shall have been so established, any more than could an election of councillors take place for a municipality, until after the limits or boundaries of such municipality had taken legal effect.

Under these circumstances, the separate school referred to, has no claim upon the school fund the current year.

With reference to the legal continuance of such school, I can add nothing to what has been stated by the Chief Superintendent, in a published letter to the Roman Catholic Bishop of Toronto, dated 13th March, 1852, as follows:—“There is no guarantee that a separate school will be continued six months, as it ceases to exist legally (at least, so far as it relates to any claim upon the public school fund) the moment the public school trustees employ in the same school division, a teacher of

the same religious faith with that of the supporters of the separate school.* See 4th proviso in the 19th section of the school act.

I have the honor, &c.

(Signed,) J. GEORGE HODGINS,
Deputy Superintendent.

PETER MENZIES, Esq.,
School Trustee,
Amherstburgh.

No. 85. The Chief Superintendent to the Local Superintendent of Amherstburgh.

Statistics of Separate Schools should be given in the general School Report of the Municipality.

[No. 1687, M.]

EDUCATION OFFICE,

Toronto, 28th August, 1854.

SIR,

On comparing the report of your board of school trustees with the school accounts of your town, for last year, I find in the latter the sum of £115 reported as having been paid to the teacher and trustees of a separate school, but no reference is made to such payment in the former.

As all reports from separate schools should be made to the board through its local superintendent, to be incorporated in the general report to this department, I herewith return you the town report for such information and statistics as you can collect and furnish at your very earliest convenience.

I have the honor, &c.

(Signed,) E. RYERSON.

JOHN McLEOD Esq.,
Local Superintendent of Schools,
Town of Amherstburgh.

No. 86. The Local Superintendent of Amherstburgh to the Chief Superintendent.

The Town Council levied a general Municipal Assessment for a Roman Catholic School not legally established as a Separate School.

[L. R. 3839, 1854.]

AMHERSTBURGH, 2nd September, 1854.

SIR,

I beg to acknowledge the receipt of your letter of the 28th ultimo, requiring information in regard to the report of the board of school trustees for last year.

* See Correspondence with the Roman Catholic Bishop of Toronto, printed by order of the Legislative Assembly, 1859, Letter III., page 8.

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The Rev.
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No. 87.

L. R. 1839, 1853

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* See "Co
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In reply, I beg to inform you that the separate Catholic school last year, was not acknowledged by the board of school trustees, inasmuch as they had not complied with the Act of Parliament in the formation of the same. But our town council (the majority of whom were Catholics) took it upon themselves to collect a general rate for the separate school, and paid the same over to the trustees of the separate school, without either my consent, or the consent of the board of school trustees.

This accounts for the same not appearing in the report of the board of school trustees.

I have the honor, &c.

(Signed,)

JOHN McLEOD.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

Town of Chatham.

No. 87. *The Trustees of the Roman Catholic Separate School, Chatham, to the Chief Superintendent.*

Definition of the term "Common School Fund."

[R. 1889, 1883.]

CHATHAM, C. W., 17th May, 1853.

DEAR SIR,

You will probably remember that some time ago, an appeal was made by me in behalf of the Roman Catholic school trustees of this place, to the Government, against what you thought to be the proper interpretation of the 40th section of the School Act of 1850:* in other words as to what constituted the common school fund; whereupon we were informed by the Government that it was their desire that the question should be decided by the superior courts of law. This being the case, we were about to apply to the Queen's Bench, but upon being informed that the question was to be brought before the judges by the trustees of Belleville, we thought it best to await the result; of which I make no doubt you have been made acquainted. I therefore, at the request of the board of trustees, and that of my fellow trustees of the Roman Catholic separate school of this place, and as a matter of common courtesy to yourself, beg to solicit that you will have the kindness to instruct the

* See "Correspondence" laid before the House of Assembly on the 17th September, 1852, Appendix 4, page 32.

said board of trustees, as to whether they are still to persist in the interpretation formerly recommended by you as aforesaid, or to adopt the decision of the judges upon the point in question.

Trusting that you will have the goodness to furnish the desired instructions, and let us have the pleasure of hearing from you as soon as convenient; and also, that at a no distant period, Catholic schools will be established upon an independent and efficient footing, and in such a flourishing condition as to oblige even the clever Dr. Ryerson to admire them far, far more than he now does the common irreligious schools.

I have, &c.

(Signed,)

J. B. WILLIAMS,
Trustee R. C. School,
Chatham.

To Rev. E. RYERSON,
Chief Superintendent of Education,
Toronto.

No. 88. The Deputy Superintendent to the Trustees of the Roman Catholic Separate School, Chatham.

No other definition of the "Common School Fund" than that already given.

[No. 327, H.]

EDUCATION OFFICE,

Toronto, 26th May, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 17th instant, and to state in reply, that you can obtain a certified copy of the recent judgment of the court of Queen's Bench, in the case of the Roman Catholic separate school in Belleville vs. the board of school trustees* by applying to the reporter of the court, J. Lukin Robinson, Esq., Toronto.

I may remark that the views of the Chief Superintendent, in regard to the definition of the term "school fund," as it occurs in the school act, remain unchanged.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,
Deputy Superintendent.

J. B. WILLIAMS, Esq.,
Trustee R. C. Separate School,
Chatham.

* See Correspondence with the Board of School Trustees, Belleville, No. 47, ante, pages 114-119.

No. 89.

[No. 356, H.]

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J. B. WILLIAMS,
Trustee

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[L. R. 1460, 18

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No. 89. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, Chatham.

Reference to Separate School provisions of Supplementary School Act of 1853.

[No. 354, H.]

EDUCATION OFFICE,

Toronto, 14th June, 1853.

SIR,

In reference to your letter of the 17th ultimo, in addition to the remarks addressed you in my absence, I refer you to the 4th section of supplementary school bill, (just passed by the Legislature) according to which all school moneys for separate schools for the current year, are to be apportioned, and in which you will perceive that no separate school has a right to share in any money raised by municipal assessment.

The trustees of the Belleville separate school intend, I am informed, to renew their suit before the court of Queen's Bench at its next term, having been unsuccessful in their application last winter.

As to your "irreligious" imputation, I have no disposition to discuss the matters to which it refers—it being as foreign to the objects of your inquiries, as it is groundless in itself.

I have, &c.

(Signed,)

E. RYERSON.

J. B. WILLIAMS, Esq.,

Trustee R. C. Separate School,
Chatham.

No. 90. The Chatham Board of School Trustees to the Chief Superintendent.

Definition of the term "Common School Fund" by the Court of Queen's Bench.

[L. E. 1400, 1853.]

CHATHAM, 23rd May, 1853.

REV. SIR,

The board of school trustees of this town have been informed, that by a recent decision in the court of Queen's Bench, in which the trustees of the town of Belleville were concerned,* the patrons of separate schools, under the 19th section of the Act 13 and 14 Vic., Cap. 48, were entitled to a proportion of the whole sum raised for school purposes, according to the number of children attending, instead of what we presumed was a proportion of the school fund, composed of the Legislative apportionment, and an equal amount raised by taxation. We should be glad to have your advice in reference thereto, and instruction as to the mode of distribution

* See pages 114-119.

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WILLIAMS,
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May, 1853.

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GINS,
Superintendent.

pages 114-119.

we shall be required to adopt; and if the information above referred to be correct, it will make a material difference in estimating the sum which the municipality will be called upon by the board to raise for the current year's school purposes.

I am, &c.

(Signed,)

GEORGE DUCK, JR.,
Chairman B. of S. T.

Rev. Dr. RYERSON,
Chief Superintendent of Schools,
Toronto.

No. 91. The Chief Superintendent to the Chatham Board of School Trustees.

The Court of Queen's Bench has not given a final decision on the question.

[No. 337 H.]

EDUCATION OFFICE,
Toronto, 14th June, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 23rd ultimo, and in reply to refer you to the 4th section of the supplementary school bill (just passed by the Legislature) in which you will find that *separate* schools are not entitled to share in any part of any municipal assessment for school purposes for the present or any future year.

The trustees of the separate school in Belleville, failed in their law suit before the court of Queen's Bench. I have been notified within the last few days, that they intend to renew their suit before the Queen's Bench at the next term. In the judgment to which you refer, the judges all expressed the opinion that a separate school had no right to a share of any moneys raised for the *erection of school houses*, but intimated the possibility of their having a right to share in all school moneys raised expressly for the *salaries of teachers*; but said it was for the Chief Superintendent in the first instance to decide, and then expressed a doubt as to whether the judges had any authority to interfere with his decision. Since these proceedings, the trustees of the Belleville separate school have applied to me for my official decision on the point, and I have given it at length, in harmony with the views which I have often publicly expressed.* Whether the judges will sustain the correctness of my decision or not, can have no effect on the payment to separate schools of any school moneys for the current year.

I have, &c.

(Signed,)

E. RYERSON.

GEORGE DUCK, Jr., Esq.,
Chairman Board of School Trustees,
Chatham.

* See letter No. 44 [No. 245 H.] *ante*, pages 106—112.

No. 92

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[L. E. 2144, 1853

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No. 92. *The Chief Superintendent to the Local Superintendent of Chatham.**

Separate Schools are under the same regulations in regard to reports, as Common Schools.

No. 1277, M.J

EDUCATION OFFICE,

Toronto, 19th April, 1855.

Sir,

I have the honor to return herewith the report of your board for last year, in order that you may include in it the report of the separate school in your town.

The trustees of the separate school being invested, in regard to their supporters, with the powers of trustees of school sections, are required by the 19th clause of the 12th section of the Act of 1850, to transmit an annual report to the local superintendent of their municipality; and the second clause of the 31st section of the same act, together with the 4th and 5th sections of the Supplementary Act, prescribe the general conditions upon which separate, as well as common, schools, are entitled to share in the school fund.

Blank forms of report have been sent to the separate school.

I have the honor, &c.

(Signed.)

E. RYERSON.

THOMAS CROSS, Esq., M.D.

Local Superintendent of Schools,
Town of Chatham.

Town of Guelph.

No. 93. *Certain School Trustees of Guelph to the Chief Superintendent.*

On establishing a Protestant Separate School in a town not divided into wards.

[L. R. 2144, 1852.]

GUELPH, 11th September, 1852.

Sir,

The undersigned trustees of the town of Guelph—the chairman of the board having resigned office—respectfully request the Chief Superintendent's opinion as to their obligations under the following circumstances:—

There are two common schools in town taught by male teachers—one at either extremity—and which before the village was incorporated, were comprised in

* A similar letter was addressed to the Local Superintendents of the Towns of Belleville, Brantford, Goderich, Niagara, Amherstburgh and Guelph.

different school sections. One of these schools is now vacant, but a Roman Catholic teacher will in a few days be placed in it, in which event the undersigned understand a requisition will be presented to the board of trustees for a separate Protestant school, in terms of the 19th clause of the Act. Is it imperative on the board to grant such application?

The school has had an attendance of about 100 pupils, almost wholly Protestant. Your reply will much oblige.

Yours, &c.

(Signed,)

PETER GOW,
SAMUEL SMITH,
Trustees.

The Chief Superintendent of Education,
Toronto.

No. 94. The Chief Superintendent to certain School Trustees of Guelph.

A Protestant Separate School cannot be claimed if a Protestant Teacher be employed in the Town.

[No. 703, G.]

EDUCATION OFFICE,

Toronto, 14th September, 1852.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 11th instant, and to state in reply, that if there is one Protestant teacher employed by the board of trustees, in the incorporated town of Guelph, a separate Protestant school cannot be lawfully claimed.

In like manner, if a Roman Catholic teacher be employed, a separate Roman Catholic school cannot be lawfully claimed in the town.

I have the honor, &c.

(Signed,) E. RYERSON.

MESSRS. PETER GOW, and
SAMUEL SMITH,
School Trustees,
Guelph.

No. 95.

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No. 96.

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[No. 82, K.]

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No. 95. *The Roman Catholic Pastor of Guelph to the Chief Superintendent.*

Complaint against the Chairman of the Board of School Trustees.

[L. E. 3890, 1853.]

GUELPH, 19th December, 1853.

DEAR SIR,

The Roman Catholics of Guelph, having erected a school house sufficiently large to contain 300 pupils, beg leave to inform you, that they desire to establish a separate school according to the provisions made by the Legislature in their favor.

I regret to be under the necessity of informing you, that the petition put up by them for that purpose, has been rejected by Doctor Henry Orton, the chairman of the board of trustees of the common schools of Guelph.

Per parenthesis—(He very insultingly told us, he would not have anything to do with it, and consequently would not bring it forward.)

Now, sir, we appeal to you for redress, and hope to meet with a favorable and positive answer, in regard to procuring the privileges extended to Roman Catholics by the School Acts of 1850 and 1853.

In the meantime, it is our intention to open our school about the beginning of the ensuing year.

I remain, &c.

(Signed,)

JOHN HOLZER,

Roman Catholic Pastor
of Guelph, C. W.

To DR. RYERSON,

Chief Superintendent of Schools,
Education Office,
Toronto, U. C.

P. S.—A copy of this letter was forwarded to Doctor Henry Orton, chairman of the board of school trustees of the town of Guelph, according to the instructions we lately got from the Education Office.

No. 96. *The Chief Superintendent to the Roman Catholic Pastor of Guelph.*

Application of 12 heads of Families for a Separate School, leaves no discretion to the Board of School Trustees in refusing to grant such Separate School.

[No. 82, K.]

EDUCATION OFFICE,

Toronto, 21st December, 1853.

Sir,

I have the honor to acknowledge the receipt of your letter of the 19th instant, and to state in reply, that if twelve heads of families have applied to the board of

trustees of the town of Guelph, (through the chairman of the board, or otherwise,) according to the provisions of the 19th section of the School Act, 13th and 14th Vic., cap. 48, for a separate school, the board has no discretion in the matter, but must, as required by the Act 14th and 15th Vic., cap. 111, grant the request of the petitioners. The members of the board render themselves liable to a prosecution for damages and the violation of the law, if they refuse to do what the law requires.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. JOHN HOLZER, S. J.,
Roman Catholic Pastor,
Guelph.

No. 97. The Chief Superintendent to the Guelph Board of School Trustees.

It is compulsory on the Board to grant a Separate School when applied for as the law directs.

[No. 83 K.]

EDUCATION OFFICE,

Toronto 22nd December, 1853.

SIR,

I have received a letter from the Rev. John Holzer, Roman Catholic Pastor of Guelph, a copy of which, he says, he had furnished you with. I herewith enclose you my answer to his letter;* and would recommend you to give effect to the law before the 25th instant—the day fixed by law for the formation or alteration of common and separate school sections.

Whatever we may think of any provision of the law in the abstract, we should endeavor to execute it fairly and liberally as long as it remains law.

I have the honor, &c.

(Signed,)

E. RYERSON.

Dr. HENRY ORTON,
Chairman Board of School Trustees,
Guelph.

* The preceding letter, No. 96, [No. 82 K.]

No. 98.

L. R. 2223, 1853

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No. 99.

No. 64, I.]

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Village of Thorold.

No. 98. *The Trustees of a Roman Catholic School, Thorold, to the Chief Superintendent.*

For a Register and the Journal of Education.

[L. E. 2228, 1853.]

THOROLD, 6th July, 1853.

Sir,

We have read in an early number of the *Journal of Education* for the present year, that the schools of this Province were to be supplied gratis with a school register, and with the above periodical, and as ours being a Catholic school, perhaps the boon applies to us too,—if so, be kind enough to favor us with the school register and the *Journal*.

By doing this as soon as you can, you will oblige your obedient servants,

(Signed,)

C. W. GISSO,
P. DONAHOE,
JOHN HEENAN,
Trustees.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

No. 99. *The Deputy Superintendent to the Trustees of a Roman Catholic School, Thorold.*

School documents will be furnished on report of the Local Superintendent.

[No. 64, L.]

EDUCATION OFFICE,

Toronto, 18th July, 1853.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 6th instant, and to state in reply, that at present our stock of school registers is exhausted, but that in the course of a few months, you will be supplied with a copy through your local superintendent.

A copy of the *Journal of Education* will be furnished as you request, upon the application of your local superintendent.

I have the honor, &c.

(Signed,) J. GEORGE HODGINS,
Deputy Superintendent.

Messrs. C. W. GISSO,
P. DONAHOE, and
JOHN HEENAN,
"Catholic School,"
Thorold.

No. 100. Certain Roman Catholics of Thorold to the Chief Superintendent.

Reporting the establishment of a Separate School.

[L. R. 2588, 1853.]

THOROLD, 20th August, 1853.

SIR,

As secretary to a meeting of the Catholic inhabitants of this village, held on this day, for the purpose of electing school trustees, I am directed by the meeting to transmit to you a copy of the proceedings thereof.

The last proviso of the 5th section of the School Act of 1850, says that the proceedings of the first school section meeting, should be transmitted forthwith to the local superintendent, but as the meeting has failed to ascertain who the local superintendent is, they thought fit to acquaint you with their proceedings.

By order of the meeting I went to two of the trustees of the Protestant common school of this village (one of whom is the chairman of the board of trustees) for the purpose of knowing who the local superintendent is, and one of them told me he did not know, and the other said he did not think the village (an incorporated one too) was empowered to create such an officer.

I am authorized by the meeting to ask you to be kind enough to write as early as possible, and say whether their proceedings be legal or not, as also to know what is the reason they did not get information as to who the local superintendent is—if there be any such, and why not?

The first proviso of the second section of the Supplementary School Act of 1853, says that the first election of the first board of school trustees, in any incorporated village in Upper Canada, shall be called by the returning officer, appointed to hold the first municipal election in such village. Now, sir, I am authorized to let you know that the municipal officer was notified one month ago and six days to call, and he did not do it.

Then, sir, be kind enough to say, can a public officer, who is only appointed to carry out the law, be allowed to trample upon it with impunity?

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No. 101.

[No. 272, 1.]

Sir,

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I am authorized by the trustees to ask you, as they know no local superintendent, to be kind enough to send them a school register and a copy of the *Journal of Education*.

I have the honor, &c.

(Signed.) JOSEPH KEARNEY.

The Rev. F. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

[Enclosure]

The Catholic inhabitants of Thorold, Upper Canada, met according to due notice, on the twentieth of August, 1853, at the school house, for the purpose of electing school trustees.

Moved by Mr. Gisso, and seconded by Mr. Hugh McMahan, that Mr. John Heenan take the chair—carried unanimously.

Moved by Mr. Patrick Donahoe, and seconded by Mr. William Cumford, that Joseph Kearney act as secretary to the meeting—motion carried.

Moved by Mr. Gisso, and seconded by Mr. Wm. McCarthy, that Patrick Donahoe act as trustee—carried unanimously.

Moved by Patrick Donahoe, and seconded by Mr. James Kearney, that Mr. John Heenan act as trustee—motion carried.

Moved by Mr. Hugh McMahan, and seconded by Mr. William McCarthy, that Mr. Gisso act as the third trustee—motion carried.

(Signed.) JOHN HEENAN,
Chairman.

JOSEPH KEARNEY,
Secretary.

No. 101. *The Chief Superintendent to certain Roman Catholics of Thorold.*

It has not been stated whether the Separate School was established as the law directs.

[No. 272, I.]

EDUCATION OFFICE,

Toronto, 25th August, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 20th instant, and to state in reply, that Mr. William Beatty is the last local superintendent of schools in the village of Thorold, whose name has been reported to this department.

I do not learn from your communication, that the requirements of the 19th section of the School Act of 1850, have been complied with; namely, that twelve heads of families have applied to the board of school trustees for a separate school, and that the boundaries of the separate school section have been determined, and that the board made provision for calling the first meeting for the election of your trustees.

Nor can I gather from your letter, that application was made for the separate school, before the 25th of last December. If not, then the separate school in question cannot be recognized before the 25th of next December; for it is a principle of the school law, that no alteration can take place in any school section whatever, either by dividing them, or establishing separate schools within them, except at the end of each year, before the making up of the returns for the year, and before making arrangements for the school operations for the subsequent year.

Whenever I learn that your school is organized according to law, I shall be happy to furnish your trustees with a copy of the *Journal of Education*, and, through the local superintendent, with a school register.

I have the honor, &c.

(Signed,)

E. RYERSON,

Mr. JOSEPH KEARNEY,
Secretary R. C. Meeting,
Thorold.

No. 102. The Thorold Board of School Trustees to the Chief Superintendent.

A School House having been lent to certain Roman Catholics, they now claim existence as a Separate School Corporation.

[L. E. 188, 1854.]

THOROLD, 9th January, 1854.

SIR,

As chairman of the board of trustees for this village, I am directed by the board to write you for information respecting a separate school, which the Roman Catholics contend they have established for the last six months.

To be as brief as possible, I will give you a statement of how the case stands. We have a school house in the village which the trustees and their successors have held for the last twenty years as a Protestant school house. In consequence of the house wanting repairs, the school was removed to another building until such time as such repairs were completed. At this time the Catholics were holding their school in a private building, which the owner wanting for some other purpose, notified them to remove; they then applied to the trustees for liberty to occupy the school house referred to, for a short time, until they could procure another, which the trustees granted. At the end of the quarter, the teacher gave up the school, the

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trustees settled with him and demanded the key; they, the Catholics, refused to give it up, alleging that they had as much right to it as the Protestants; the trustees suspended the school until they got possession of the key. The Catholics hired another teacher and declared themselves a separate school.

They now demand their share of the local assessment and legislative grant for the last six months.

It appears from the annual report that no separate school can go into existence until December in each year. If such is the case, you will confer a favor on the trustees by letting them know your opinion of the matter at as early a day as possible.

I have the honor, &c.

(Signed,) HUGH JAMES,
Chairman,

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

No. 103. The Chief Superintendent to the Thorold Board of School Trustees.

A denominational or private School cannot become a Separate School, unless as the law directs.

(No. 304 K.)

EDUCATION OFFICE,
Toronto, 18th January, 1854.

Sir,

I have the honor to acknowledge the receipt of your letter of the 9th instant, and to state in reply, that no separate school can exist unless established in the manner prescribed by the 19th section of the school act.

It is, therefore, perfectly easy for all parties concerned, to ascertain and understand whether a separate school has been established in your village in the manner there prescribed.

The mere existence of a school established or patronized by the members of a religious persuasion (of which there are two or three under the auspices of the Church of England, in this city,) does not make it a separate school—or any thing more than a private school, unless the provisions of the law have been complied with in the mode of its establishment and management, the same as all other schools that share in the school fund.

I have the honor, &c.

(Signed,) E. RYERSON.

HUGH JAMES, Esq.,
Chairman Board of School Trustees,
Thorold;

School Section No. 5, Osgoode.

(County of Carleton.)

No. 104. *The Deputy Superintendent to the Local Superintendent of Osgoode*

Establishment of a Protestant Separate School.

[No. 143, H.]

EDUCATION OFFICE,

Toronto, 18th March, 1853.

SIR,

I will thank you to furnish this department with such information as you possess relative to the establishment of a separate school in school section No. 5 in the township of Osgoode, returned in your report for last year.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,
Deputy Superintendent.

The Rev. WILLIAM LOCHEAD,
Local Superintendent of Schools,
Township of Osgoode.

No. 105. *The Local Superintendent of Osgoode to the Chief Superintendent.*

Causes leading to the Establishment of a Protestant separate school.

[L.R. 1414, 1853.]

OSGOODE, 28th March, 1853.

DEAR SIR,

I have just received a communication from the Education office requesting me to transmit to your Department some account of the circumstances connected with the establishment of a separate school in section No. 5 Osgoode.

The majority of the inhabitants of section No. 5 in Osgoode are Roman Catholics: that majority have *always* secured a Teacher of the Roman Catholic faith.

In the neighbouring sections where the majority are Protestants, Roman Catholic Teachers are now employed in some, and have been employed in all occasionally, so that where the majority are Roman Catholics there has been a liberal spirit manifested by the Protestant majority.

In Section No. 5 however a different spirit ruled; but the Protestant minority would not have complained if their children had been put on an equal footing with the children of their Roman Catholic neighbours.

The *Roman Catholic Catechism* was in the hands of the Roman Catholic children and the Teacher instructed them in it. Mr. Bowes, Post Master of West Os-

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goode Office, and a respectable merchant, living in the section; and a member of the church of England, having heard of his neighbours' children being instructed in the catechism of their church, sent with his child the church of England catechism, and a note requesting the teacher to give his child *tasks* from it; the child returned with its catechism, and the same note it took, with a reply from the teacher on the back of it—"That he could not comply with his request because *that* catechism was *disapproved of by the trustees.*"

When informed of this, I waited upon the teacher, and enquired whether it was as reported: he said the trustees approved of the one catechism, and *disapproved of* the other, and therefore he had refused to admit it. I told him he had erred, as there are very few purely Roman Catholic Schools, he ought so to conduct himself in regard to sectarian prejudices, that he might not become *personally* implicated; that he ought to have thrown the whole responsibility on the Trustees, and have received and taught the church of England catechism, since the Roman Catholic one was already in school; and that when the Trustees ordered him to reject the church of England one, he should have obtained *their signature*, to the order and transmitted *that* to Mr. Bowes.

When I visited the school in December, I explained in my address or lecture the rights and privileges of parents and trustees in such matters; that the school house being built, and the teacher supported by tax levied equally on the property of all the inhabitants of the section, there was no privilege to be claimed by *one*, that was not to be extended to all; that if the trustees resolved to exclude one catechism, they must exclude every catechism, or if they resolve to admit one, they must admit all.

One of the trustees being a Protestant told me at the close of the visitation that he knew nothing about it, and had never been consulted on the subject; afterwards on the same day, he told me that another, (a Roman Catholic) told him that *he* had not been consulted—I then told him, that the teacher in that case had told Mr. Bowes and myself a lie, and had slandered them, and that the only evidence of the truth of what he now reported to me, would be the *dismissal* of the teacher; he and that other trustee being a majority, and that having the clearest and most satisfactory evidence of his having lied, and slandered them, they ought to dismiss him, and the Protestants would be satisfied. Instead of this, these same *two* trustees together with the third, engaged the *same* teacher for *another* year, (on that evening or next day.)

In these circumstances, Mr. Bowes, and fourteen other families petitioned the township council to be acknowledged as a separate school.

Upon the second Wednesday in January they met, elected three trustees; agreed upon a site for the new school house, which is now being erected, and they expect to have a teacher during six months of the present year.

I have the honor, &c.

(Signed)

W. LOCHEAD,
Local Supt.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

*No. 106. The Trustees of the Protestant Separate School No. 5, Osgoode
to the Chief Superintendent.*

Continuance of the separate school, and liability of its supporters for public school rates.

[L. E. 4744, 1854.]

WEST OSGOODE, CARLETON CO.

21st December, 1854.

DEAR SIR,

We the trustees of the separate Protestant school in section No. 5 in the township of Osgoode, would humbly solicit a reply from you to a few questions which we have to propose:—In the year 1852 the Protestant Inhabitants of section No. 5 considering they did not receive justice from the Roman Catholic teacher employed, legally separated from the Roman Catholic inhabitants, built a school house and have since maintained a separate school.

The first question therefore is:—If the Roman Catholic trustees have a Protestant teacher in their portion of this section, will we be compelled to close our school, and assist to pay their teacher? And again:—The school house in the Roman Catholic part of this section was built before the township was apportioned into school sections, and is now sadly out of repair; and likewise the occupier of the land on which the school house is erected cannot give a deed for the site of the house; therefore we do not wish to repair it, as we are uncertain how long we can keep it; but, however, if we are compelled to unite again with them, will we be compelled to hold the school in their school house, or in the one which the Protestant inhabitants have erected?

If it is determined by the majority of the inhabitants in the section, the Protestant inhabitants are by far the most numerous.

Please answer our letter as soon as possible as we would wish to have your answer before the annual school meeting.

We have the honor, &c.

(Signed,) JOHN C. BOWES,
BENJAMIN WRIGHT, } Trustees.
GEORGE KERR,

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

No. 107

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[No. 24, M.]

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Messrs. J.

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No. 108.

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[L. R. 329, 1854.]

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No. 107. The Chief Superintendent to the Trustees of the Protestant Separate School No. 5, Osgoode.

The Separate school continues as long as supporters desire; but its house may be used for a public school if the inhabitants wish.

[No. 24, M.]

EDUCATION OFFICE,

Toronto, 4th January, 1855.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 21st ultimo, and to state in reply that when a separate school is *once established* I do not think its *continuance* depends upon the religious faith of the teacher of the common school.

But if the majority of the inhabitants are Protestants, and it is proposed to employ a Protestant teacher, the trustees can use the Protestant school house if they think proper, provided a majority of the electors at a regular school meeting agree to the change of the site of the section school house. See proviso in the 6th section of the supplementary school act.

I have the honor, &c.

(Signed)

E. RYERSON.

Messrs. JOHN C. BOWES,

BENJAMIN WRIGHT, and

GEORGE KERR,

Trustees Protestant Separate School,

No. 5 Osgoode, West Osgoode.

No. 108. The Trustees of School Section No. 5, Osgoode, to the Chief Superintendent.

Continuance of a separate school in a section after employment in the public school of a Teacher of the same faith as Separatists.

[L. R. 329, 1855.]

OSGOODE, 16th January, 1855.

SIR,

In December 1852, 12 heads of Protestant families in school section No. 5 in the township of Osgoode, petitioned the municipal council to set off their property for a separate school, (the teacher being Roman Catholic) which was granted. This so enfeebled the section that we have had no school this last nine months.

Previous to the last annual school meeting we agreed that we would engage a Protestant teacher and thereby remove the obstacle.

At the last annual school meeting it was unanimously agreed that the teacher's salary and all other expenses attending the support of said section should be raised by a tax upon all rateable property within the section for the year 1855.

Now we beg you will be so good as to let us know, if the property set off for the separate school can be taxed this year as part of the section.

They will oppose it if in their power. We have no teacher as yet. Please address your letter to Gloucester Post Office.

We have the honor, &c.

(Signed) NICHOLAS MURPHY, }
 WILLIAM CLELAND, } Trustees.
 WILLIAM MUNRO, }

The Rev. E. RYERSON, D. D.,
 Chief Superintendent of Schools,
 Toronto.

No. 109. The Chief Superintendent to the Trustees of School Section No. 5 Osgoode.

Separate school continues, and its supporters are exempted from public school rates, if its Trustees employ a Teacher for six months of each year.

[No. 307, N.]

EDUCATION OFFICE,

Toronto, 24th January, 1855.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 16th instant, and to state in reply that, the inhabitants formed into a separate school section cannot be taxed for the support of any other teacher than the one employed by them, provided they employ one during at least six months of each year.

A separate school cannot be *established* unless the teacher of the section school is of a different religious faith from the persons establishing such school; but when the separate school is once established—whether Protestant or Roman Catholic—it can be continued as long as its supporters desire.

I have the honor, &c.

(Signed)

E. RYERSON.

Messrs. NICHOLAS MURPHY,
 WILLIAM CLELAND and
 WILLIAM MUNRO,
 Trustees No. 5, Osgoode,
 Gloucester.

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The Rev. E. R

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SIR,—

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No. 110. *The Local Superintendent of Osgoode to the Chief Superintendent.*

Continuance of a separate school when established, and liability of its supporters for public school rates.

[L. R. 700. 1855.]

OSGOODE, 10th February, 1855.

REVEREND SIR,

A Protestant school exists in No. 5 Osgoode—that school engaged the teacher for this the 3rd year of its existence, towards the latter part of December.

At the annual meeting of the section held on the 2nd Wednesday in January, it was resolved to employ a *Protestant* teacher, and so put an end to the *cause* which originated the separate school.

Can they tax the property of those composing the separate school for the support of their teacher this year? Or must the change take place only after the 25th of December and so take effect next year?

I have declared my own opinion to be that the separate school must exist this year, and that its property cannot be taxed for the support of the teacher of the section.

If the separate school should cease next *year* in consequence of the section engaging a Protestant teacher—and then at the end of one year engage a Roman Catholic teacher, and resume *their intolerance* towards the Protestant portion, how can the separate school be again erected?

Must they petition the town council again, or can they go into operation in consequence of the old grievance being repeated?

I have the honor, &c.

(Signed,)

WILLIAM LOCHEAD.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

No. 111. *The Chief Superintendent to the Local Superintendent of Osgoode.*

The Separate school when established, continues as long as its supporters desire.

[No. 571. N.]

EDUCATION OFFICE,

Toronto, 19th February, 1855.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 10th instant, and to state in reply, that when a separate school is once *established*, it may *continue*

as long as the parties establishing it desire, whatever may be the faith of the teacher employed in the common school.

This I have communicated to the parties whom you mention.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. WILLIAM LOCHEAD,
Local Superintendent of Schools,
Township of Osgoode.

School Section No. 10, Kitley.

(County of Leeds.)

No. 112. *The Teacher of the Roman Catholic Separate School No. 10, Kitley, to the Chief Superintendent.*

Complaining of Local Superintendent's not paying him the Municipal School rate.

[L. R. 810, 1854.]

KITLEY, 14th February, 1854.

REVEREND SIR,

May I hope you will take my case into consideration and have it adjusted, as I am but very poor to tell the thoughts of my mind in writing? I hope you will excuse me if any fault is inserted here, but to make a long story short, I will open on my subject—I have taught school in separate school section No. 10, in the township of Kitley, in the year 1853, for ten months. I got government money £5 12s., and for municipal assessment only £2 10s., to collect the municipal assessment was left in the hands of the township council, as usual, and the Inspector has not given me my apportionment, the average attendance for the last five months and seven days were 29 pupils; I expect you will shew favor to me and have me to get my right; the plea the Inspector had, that I did not give in the semi-annual return in time, and also that the number of children in attendance were not in the school.

These are the grounds on which he has not given me my apportionment; he might have some other grudge against me; I have a great deal more to say concerning this affair, but it is no use to take-up your reverence's time in perusing my pitiful story. I risked the government and municipal assessment money myself, and earned it hard in cold and stormy weather; and now how I am treated does not look well.

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No. 113.

[No. 745, K.]

SIR,
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I look for sympathy and favor from your humane and generous heart, for which your humble servant will ever pray; the Inspector's name is Mr. Samuel Graham, lives in Kitley, the name of the Post Office is Kitley, Leeds County; the amount of the municipal assessment for this township, I don't exactly know, but to the best of my opinion, it is near £95 currency.

Do favor for your humble servant, as my words are true, as to this statement excuse my feeble pen.

Dear and reverend sir, it lies in your power to give me my money, which I hope you will. Adieu, reverend sir.

I remain,

(Signed,)

EDWARD CAREY.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

P.S.—I gave the Inspector the semi-annual return on the 15th January, 1854, it is what kept it so long was, because I was not well, and has always only very poor health, the annual report has been given as usual.

N.B.—The cheque the Inspector gave me for £2 10s. currency, on the township sub-treasurer, I have it yet, until I get the amount of the municipal assessment apportionment of money coming to me, when I do, I will give it to him; he caused myself to write it, and then he would not sign his own name to it, but got his daughter to sign the order, this does not look well, so I hope you will see to it.

The Inspector thought, I believe, he would get me in a snare, but he did not; for the last half year of 1853, I have been wronged, and for the first half year of 1854, I have also been wronged, that is, for the number of months taught in these respective terms, to be baffled out of part of my earning, so reverend sir, I trust you will order me my lawful share of money.

Mr. Samuel Graham is not Inspector this year, but he has the account as yet.

(Signed,)

EDWARD CAREY.

No. 113. *The Deputy Superintendent to the Teacher of the Roman Catholic Separate School No. 10, Kitley.*

Appellant must notify the party against whom he complains.

[No. 745, K.]

EDUCATION OFFICE,

Toronto, 22nd February, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 14th instant, and to state in reply, that from the printed regulations of this department (on the

4th page of this letter)* you will perceive that I cannot entertain your complaint, until I hear from the party of whom you complain.

I have the honor, &c.

(Signed,) J. GEORGE HODGINS,
Deputy Superintendent.

Mr. EDWARD CAREY,
Teacher R. C. Separate School,
No. 10, Kitley.

No. 114. The Deputy Superintendent to the Local Superintendent of Kitley.

For Report on the complaint of Teacher of the Separate School.

[No. 746, K.]

EDUCATION OFFICE,
Toronto, 22nd February, 1854.

SIR,

I will thank you to return me the enclosed at your earliest convenience, with such remarks as may appear to be necessary.†

From the 4th section of the supplementary school act of 1853, you will perceive that "separate" schools are not entitled to any part of the municipal assessment.

I have the honor, &c.

(Signed,) J. GEORGE HODGINS,
Deputy Superintendent.

SAMUEL GRAHAM, Esq.,
Local Superintendent of Schools,
Township of Kitley.

No. 115. The Local Superintendent of Kitley to the Chief Superintendent.

Legislative Grant and Municipal Assessment have been paid to the Separate School in the same ratio as to other Schools.

[L. R. 810, 1854.]

KITLEY, 13th March, 1854.

REVEREND SIR,

I have the honor of acknowledging the receipt of your letter bearing date 22nd February, 1854, and in reply I have to apologize for delay, as it did not come to

* See regulations in regard to appeals in note on pages 43 and 69.

† The letter from the complaining teacher, No. 112 *ante*.

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The Rev.
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No. 116.

[L. R. 1506.]

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hand till the 10th instant, as I did not expect any communication through Kitley Post Office,—Smith's Falls being more convenient to me.

In reply to the charge contained in Mr. Carey's letter, I have to state with regard to the legislative grant I apportioned to the separate school upon the same ratio that I did to all other schools in the township; and that I had neither design nor intention in withholding the apportionment of the municipal assessment from Carey, other than not considering him entitled to receive it for a separate school; but, as I was informed that the assessment was collected in the separate school section No. 10, as in the rest of the township, I gave Carey a cheque for the amount of the municipal assessment, that I considered he would have been entitled to receive according to attendance. Upon visiting his school twice during the half year ending 31st December, 1853, I found only eight children in attendance; upon both occasions, which together with information received from credible sources, led me to believe that his report was not correct as to number of children in attendance; and instructions to me in the report from Carey to correct any errors that I found therein, caused me to correct the number reported for the last half year, as I considered it an exaggeration; but I have now written to the treasurer not to pay the cheque until I receive further information from you.

I have the honor, &c.

(Signed,) SAMUEL GRAHAM.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

No. 116. The Local Superintendent of Kitley to the Chief Superintendent.

Separate School was open for only five months of the year.

[L. R. 1506.]

KITLEY, 13th March, 1854.

REVEREND SIR,

I should have remarked in my reply to Carey's charges, that his school was in operation only 5 months during the last half year, which would still lessen his claim.

I remain, &c.

(Signed,) SAMUEL GRAHAM.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

No. 117. The Chief Superintendent to the Local Superintendent of Kitley.

Separate School to be paid what is equitable according to the best attainable evidence.

[No. 994, K.]

EDUCATION OFFICE.

Toronto, 25th March, 1854.

SIR,

I have the honor to acknowledge the receipt of your letters of the 13th instant, and to state in reply, in respect to claims of Edward Carey, that you should, according to the best evidence obtainable, decide upon the sum due the separate school section in question for the last six months of 1853, and on the order of the trustees give a cheque for it.

In my circular to local superintendents in 1850, and which is printed with the act, I suggested to them, not only to examine the registers of all the schools visited by them, but also to note the number of pupils they found in attendance, so as to judge of the correctness of the returns made to them.

I have the honor, &c.

(Signed,) E. RYERSON.

SAMUEL GRAHAM, Esq.,
Local Superintendent of Schools,
Township of Kitley,
Smith's Falls.

No. 118. The Teacher of the Roman Catholic Separate School, No. 10, Kitley, to the Chief Superintendent.

Further about his complaint against the Local Superintendent.

[L. R. 1507, 1854.]

KITLEY, 13th March, 1854.

REVEREND SIR,

I have the honor to acknowledge the receipt of your letter of the 22nd of last month, I went to Mr. Samuel Graham about what I wrote you, and gave him the particulars of the letter I sent you. He was going to beat me; I wonder why he did not, I don't like to go to him any more about that money, for I think I am not safe to have anything to do with that man, he caused to lessen the municipal assessment money in the annual report of 1853, and then to insert the same amount in the trustees order, I did as he told me, I knew he could not hurt me for it, because the money part belonged to myself.

He visited this separate school section, No 10, in midsummer, and the attendance was only eight or nine pupils when he came, on account of the day being wet;

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[No. 905, K.]

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but after he examined the scholars there were a great many more; his other visit was in the month of December, he came on a hard, cold, freezing day, there were not many in attendance, the term for which I was employed was expired a fortnight before he came, so I kept no account of the children attending school them days, he said he would not credit the average attendance.

I done as he told me in all cases. He thought he would get me into a gin; but did not succeed in so doing; I think he will say everything he can remember concerning me as relating to the school.

I would have written these few particulars in my former letter, but I did not think of them, so I hope you will do justice for me as I am tired, I got more trouble to get this money than its value is worth, I went to Mr. Samuel Graham many a cold and wet day, and he had not the least compassion for me; I also was at some cost by him. What do you think I can charge him for my time and expenses? if so your reverence will let me know, I am confident your reverence will let me have my money, as it's only right the laborer should have his hire, by which you will oblige your humble servant. It's no use to waste too much sweet oil, but I rely on your fidelity, dear and reverend sir.

I remain, &c.

(Signed,) EDWARD CAREY.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

P.S.—The number of the last letter you wrote to me by your secretary, was No. 745, and the letter I wrote to you was dated for the 14th of last month, the copy of which I lost, Mr. Graham said he would write to you. Whether or no, I expect you will tell him to state why he has kept my apportionment of the municipal assessment money, and also I hope you will order him to give it to me before this month is expired, because if not there will be a delay again.

(Signed,) EDWARD CAREY.

No. 119. The Chief Superintendent to the Teacher of the Roman Catholic Separate School, No. 10, Kitley.

Reliable evidence must be procured to prove the large School attendance claimed for.

[No. 995, K.]

EDUCATION OFFICE,

Toronto, 25th March, 1854.

Sir,

I have the honor to acknowledge the receipt of your letter of the 13th instant, and in reply to enclose you a copy of the letter, I have addressed to your local superintendent on the subject of your representation.* You do not say whether you

* No. 117 ante. [No. 994, K.]

kept a daily register of the attendance of pupils in your school as required by law, containing the names and attendance of each pupil; and that this has been attested by your trustees as well as yourself.

The average attendance which you state is so much larger than that of schools generally, much more of separate schools, that I should suspect the correctness of your return very much, unless I were satisfied of its correctness.

The attendance of both days that the local superintendent visited your school, is in such direct contrast with your statements, (notwithstanding your excuse about the bad weather) that I should doubt the correctness of your returns without strong corroborating testimony and circumstances, among which your daily school register throughout the period in question should be indispensable.

I have the honor, &c.

(Signed,) E. RYERSON.

Mr. EDWARD CAREY,
Teacher R. C. Separate School,
No. 10, Kitley.

No. 120. The Ex-Local Superintendent of Kitley to the Chief Superintendent.

Reporting settlement of dispute with Carey.

[L. R. 1007, 1854.]

KITLEY, 10th April, 1854.

REVEREND SIR,

With respect to Edward Carey, I cannot conscientiously think him entitled to more than £2 10s., being the amount of the cheque I gave him, which he was then well pleased with. My report shows the state of his school, having visited it twice in five months of the last half-year.

Should he trouble you again, please write to my successor, Mr. Ferguson, Kitley post office, as he (Carey) thinks I am prejudiced against him.

I have the honor, &c.

(Signed,) SAMUEL GRAHAM.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

No. 12

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No. 121. *The Chief Superintendent to the Local Superintendent of Kitley.*

Investigation of complaint of Teacher of the Separate School.

(No. 1032, L.)

EDUCATION OFFICE,
Toronto, 17th April, 1854.

SIR,

Your predecessor, Mr. Samuel Graham, has requested me to desire you to investigate the doings of Mr. Edward Carey, a teacher of a separate school in the township of Kitley, as he (Carey) thinks that Mr. Graham is prejudiced against him, Mr. Graham has doubtless provided you with copies of the official correspondence between him and this department on the subject.

I have the honor, &c.

(Signed,)

E. RYERSON.

ROBERT FERGUSON, Esq.,
Local Superintendent of Schools,
Township of Kitley.

No. 122. *The Teacher of the Roman Catholic Separate School No. 10, Kitley, to the Chief Superintendent.*

Further about complaint, and requesting investigation by newly appointed Local Superintendent.

(L. B. 1990, 1854.)

KITLEY, 11th April, 1854.

REVEREND AND DEAR SIR,

I have the pleasure and honor to have received your letter, dated for the 25th of last month, I am very sorry to give you so much trouble about so small a trifle of money, and it lawfully due the school; I went to Mr. Samuel Graham, the local superintendent, and he told me not to go to him any more demanding the money due the separate school section No. 10, in Kitley.

I don't know what to say, if things carry on in this way; poor teachers may as well give up the idea of teaching.

Altogether he does not much care about the laws of this country, I believe he sets her most gracious majesty's power at defiance; such a clubbing system I don't like at all. I went twice to him since I received your last letter, and it's of no effect; I suppose he told you that he would get witnesses to prove that my account was not correct, as relating to the school returns, and also that the trustees were illiterate men, and that he did not wish to have them brought before a magistrate, and fined for wrongly signing a false report; I believe he would do it if he could.

I have a register for this school and also the names and addresses of the pupils as for testimony, what more can there be done than is? I don't see it required, I only want the benefit of the laws of my country and its protection, and nothing else.

He does not value your reverence's instructions to him a great deal, but if you order Mr. Ferguson, our present superintendent, to see me justified, I think he will do it, and give the sum due the separate school section No. 10, in question.

Mr. Graham has given me very abusive language, have given me a great many journeys to him, but of no avail; am at great expenses in comparison to my poor means, but the Lord — him for it, he has said some things not very agreeable; there is no use in using rough means, the easiest is the best, but hope you will use some measure that may get my money and have no more trouble about it. The number of your last letter was 995, and wish that I may have no more trouble with this affair.

Mr. Samuel Graham has the account as yet. Your reverence should put an end to this at once, and cause me no more trouble, if I went working at any other sort of labor I should get my wages at the time I would have earned it, but I am now treated like a poor slave. Oh, good fortune turn on me, and don't forsake me. Excuse me, reverend sir, for this expression.

Direct to Edward Carey, teacher of separate school section No. 10, Kitley.

Your last letter was No. 995, written by yourself, your reverence, and that written by your secretary, was 745, so I expect to see all things right by your next letter.

Reverend sir, money so hard earned should be got when due, I cannot express the state of my mind with how I am served, there is no use in giving vent to one's mind only to make bad worse; going a journey of nine or ten miles does not agree well with me, and that double to the house of Mr. Samuel Graham in cold and wet weather, several times done this, and all to no purpose; if your reverence orders Mr. Ferguson to give me the cheque for the last half year of 1853, he will do it.

I remain, &c.

(Signed,) EDWARD CAREY.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

P.S.—Your reverence told Mr. Samuel Graham to give me the cheque on the order of the trustees, and to pay the sum due the separate school in question; no, he would not put an end to this epistolary correspondence all at once, and let it be on the one side or the other.

Reverend sir, I believe Mr. Samuel Graham could not pick any false evidences to false swear for him as to the returns I made belonging to separate school section No. 10, Kitley. Oh why, why, alas, alas, woe, woe, many are the changes in this world; look to the revolution of time.

(Signed,) EDWARD CAREY.

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No. 123. The Chief Superintendent to the Teacher of the Roman Catholic Separate School, No. 10, Kitley.

Complaint to be investigated by the present Local Superintendent.

[No. 1032, L.]

EDUCATION OFFICE,

Toronto, 17th April, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 4th instant, and to state in reply, that I have requested your present local superintendent, Mr. Ferguson, to investigate your claims to a larger apportionment than has been allowed by Mr. Graham to the separate school of which you are a teacher.

I may add that Mr. Graham, so far from evincing the calumnious spirit so manifest in your letter, has requested me to desire Mr. Ferguson to dispose of the question relative to your claim, as you supposed that he (Mr. Graham) was prejudiced against you.

I have the honor, &c.

(Signed,) E. RYERSON.

Mr. EDWARD CAREY,
Teacher R. C. Separate School,
No. 10, Kitley.

No. 124. The Local Superintendent of Kitley to the Chief Superintendent.

Result of investigation of Carey's complaint.

[L. E. 2319, 1854.]

KITLEY, (no date)

REVEREND SIR,

Having received a communication from you stating that I should settle the affair that is now pending between Mr. Graham, my predecessor in office, and Mr. Carey, teacher of separate school section No. 10, Kitley, I wish to give you all the information I can gain from the parties, and then abide by your decision how I am to act.

In the first place, Mr. Graham states that he returned Carey's return for correction, and according to his statement he has allowed him the sum which he thought was his due, according to the numbers present at the time of his visits.

And Mr. Carey states that as Mr. Graham did not make the corrections in the return, he should have paid him the amount due him as teacher of said school.

So that for my part I cannot think what to do, as Mr. Graham states the return was incorrect, and Mr. Carey states, if so why did not Mr. Graham correct it? No more at present.

I remain, &c.

(Signed,)

ROBERT W. FERGUSON.
Local Superintendent.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools,
Toronto.

No. 125. The Chief Superintendent to the Local Superintendent of Kitley.

Decision on the appeal.

[No. 1246, L.]

EDUCATION OFFICE,
Toronto, 17th June, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter, without date, (received the 14th instant,) and to state in reply, in regard to Edward Carey's appeal against the decision of Mr. Graham, the late local superintendent of Kitley, that Mr. Carey's sending back his returns uncorrected was no correction of it, but a virtual submission to whatever the local superintendent might decide respecting it; and that the local superintendent had authority to recognize the return as far as he thought proper, but was under no obligation to correct it. Nor did his not correcting it affect his decision respecting it.

Under such circumstances, and as the circumstances and evidence are against the correctness of the return, and no evidence whatever in its support, except the assertion of the teacher, I think you can do nothing more in the case.

I have the honor, &c.

(Signed,)

E. RYERSON.

ROBERT W. FERGUSON, Esq.,
Local Superintendent of Schools,
Township of Kitley.

No. 126

[L.R., 2085, 18

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School Section No. 15, Hallowell.

(County of Prince Edward.)

No. 126. *The Local Superintendent of Prince Edward to the Chief Superintendent.*

Queries respecting a Separate School.

[L.E., 2935, 1854.]

PICTON, P. E., 21st June, 1854.

REVEREND SIR,

Will you have the goodness to inform me whether separate school No. 15 Hallowell, which has now been in operation two months, is entitled or not to a share of the government money, and likewise exemption from municipal taxation for 1854?

I have the honor, &c.

(Signed,)

JOHN B. DENTON,
County Superintendent.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools, C. W.

No. 127. *The Chief Superintendent to the Local Superintendent of Prince Edward.*

The Separate School referred to was not reported as such by the former Local Superintendent.

[No. 1279, L.]

EDUCATION OFFICE,

Toronto, 28th June, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 21st instant, and to state in reply that no reference is made in the local superintendent's report to school section No. 15 in the township of Hallowell, as a separate school section; but it is returned as vacant two years. I must, therefore, have further information relative to its establishment, date, &c., before I can answer your questions.

I have the honor, &c.

(Signed,)

E. RYERSON.

JOHN B. DENTON, Esq.,
Local Superintendent of Schools,
County of Prince Edward, Picton.

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No. 128. The Local Superintendent of Prince Edward to the Chief Superintendent.

Separate School rates on non-residents.

[L.R. 1365, 1855.]

PICTON, Prince Edward, 8th January, 1855.

REVEREND SIR,

An individual who resides without the limits of a separate school section, refuses to pay a school rate on the property situated within.

Will you have the goodness to inform me if he can be compelled to pay under any and every circumstance?

I have the honor, &c.

(Signed,)

J. B. DENTON,
Local Superintendent.

The Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools.

No. 129. The Chief Superintendent to the Local Superintendent of Prince Edward.

Separate School rates can only be levied on supporters of such schools.

[No. 237, M.]

EDUCATION OFFICE,

Toronto, 15th January, 1855.

SIR,

I have the honor to acknowledge the receipt of your letter of the 8th instant, and to state in reply that the property of no person can be taxed to aid a separate school except a supporter of it. If the individual to whom you refer is a supporter of the separate school in question, either by sending children or subscribing to it, then his property within its limits is liable to be rated the same as that of other supporters of the separate school. See 4th proviso in the 4th section of the Supplementary School Act.

I have the honor, &c.

(Signed,)

E. RYERSON.

J. B. DENTON, Esq.,
Local Superintendent of Schools,
County of Prince Edward,
Picton.

No. 13

[L. R., 835,]

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No. 130. The Local Superintendent of Prince Edward to the Chief Superintendent.

Formation of a Separate School Section from parts of two Townships.

[L. E., 835, 1855.]

PICTON, 19th February, 1855.

REVEREND SIR,

The Roman Catholic inhabitants of a village are anxious to establish a separate school, but there are not a sufficient number of rate-payers belonging to that denomination in the township where the main part of the village is situated, without crossing the boundary of the township into the next, in which the other part of the village is located; upon these grounds the municipal council have refused their petition, and the said separatists have appealed to your decision and wish to know how to proceed.

I have the honor, &c.

(Signed,) JOHN B. DENTON,
Local Superintendent of Prince Edward.

To the Rev. E. RYERSON, D.D.,
Chief Superintendent of Schools, C. W.

No. 131. The Chief Superintendent to the Local Superintendent of Prince Edward.

A Roman Catholic Separate School may be established in one Township for benefit of inhabitants in both.

[No. 614, N.]

EDUCATION OFFICE,
Toronto, 22nd February, 1855.

SIR,

I have the honor to acknowledge the receipt of your letter of the 19th instant, and in reply to recommend that the twelve heads of families, in one of the townships mentioned by you, petition the municipal council for a separate school; and the inhabitants of the other township can send to it, and be exempted under the 12th section of the Supplementary School Act.

I have the honor, &c.

(Signed,) E. RYERSON.

JOHN B. DENTON, Esq.,
Local Superintendent of Schools,
County of Prince Edward, Picton.

School Sections Nos. 3 and 5, Seymour.

(County of Northumberland.)

No. 132. The Reeve of Seymour to the Chief Superintendent.

Effect of a resolution to constitute a Protestant Separate School the Public School of the section.

[L. R., 1127, 1853.]

SEYMOUR WEST, 9th March, 1853.

SIR,

One of our school sections is in great embarrassment. It appears they had a school kept by a Romanist; the Protestants petitioned the old district council to grant them a separate school, which was agreed to by resolution, but the council never passed the necessary by-law. When the present municipal act came into force, the township council, ignorant of their duties, took no action in the matter. The Protestants in the meantime elected their trustees and commenced the school, under the impression that all the legal steps had been taken by the district council. The section, soon finding the expense of keeping open both schools too burdensome, called a meeting to decide which school should be kept, and a resolution was carried to support the second established or Protestant one. The difficulty appears to me to be this: that the meeting was called by the trustees of the second school (only one of the trustees of the first established school signing the requisition); the minority were dissatisfied with this measure; upon which the majority named an arbitrator to decide, but the other party did not do so, and nothing was decided. Since then (1850) they have annually elected their trustees, and acted up to the law as near as they could. The local superintendent has always considered it as the legal school, and they have had the public money; the Roman Catholics have attended and voted at their annual and other meetings, and this year they proposed and seconded the trustee who was elected, and he a Protestant. Since the establishment of this school, no qualified teacher has been employed in the original school, although they pretend to have annually elected trustees, and also have occasionally hired a female to teach in it at their own expense. It is now necessary to levy some £20 to pay the teacher of what I call the Protestant or second school established, and the trustees being afraid of committing themselves, have applied to the township council, who are equally afraid to do so, as only a few years ago, through a mistake, one of our sections got into a lawsuit which cost them some £25, although they gained the suit. The parties who oppose the collection are equally Protestants and Romanists.

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If, with your usual good nature, you could advise the section, through me, how to conduct the business, we shall feel greatly obliged.

I have the honor, &c.

(Signed,)

HENRY ROWED,
Reeve.

The Rev. E. RYERSON,
Toronto.

No. 133. *The Chief Superintendent to the Reeve of Seymour.*

The vote of a public meeting cannot change a Separate School corporation into a Public School corporation.
[No. 188, H.]

EDUCATION OFFICE,

Toronto, 2nd April, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 9th ultimo, and to state in reply that, according to your statement, I doubt whether the school to which you refer, or rather the trustees of it, are, in law, any other than trustees of a separate school, as the law makes no provision for changing trustees of a separate school into trustees of a school section by a vote of any public meeting. Under the circumstances, I could not advise the township council to levy a property school rate on the application of the trustees in question.

If the trustees of what is termed the Roman Catholic school have been regularly elected from year to year, it appears to me that they are the lawful trustees of the school section, and, as such, have of course forfeited all right to the school fund for the current year, as they have not employed a qualified teacher; nor, as far as I know, made their reports according to law. But on this point I can form no opinion without further information. I cannot, however, doubt but that if it were agreed by all parties at a public meeting, that but one school should be kept open in the section—that school, to be regarded as the legal common school of the section, should have been under the management of the school *section* trustees, and not the trustees of the *separate* school.

I have the honor, &c.

(Signed,)

E. RYERSON.

HENRY ROWED, Esq.,

Reeve, Township of Seymour
Seymour West.

No. 134. The Trustees of the Roman Catholic Separate School No. 3 Seymour, to the Chief Superintendent.

That a share in the Legislative Grant may not be forfeited.

[L. E., 1538, 1853.]

SEYMOUR WEST, 13th April, 1853.

REVEREND SIR,

We humbly beg leave to inform you that in the township of Seymour, the municipal council thereof was pleased in their wisdom to grant a separate school to the Roman Catholics of school section No. 3, in the aforesaid township. We, the trustees of the said separate school section, most humbly request that your reverence will please to take into your charitable consideration, and not deprive us of our portion of the government donation.

There are fifteen families belonging to said school section, and said families have twenty-five children that are not able to go to the distance of from four to five miles to the school from which we separated.

We hope you will let us know without delay, if we are entitled to our portion of government allowance for the present year. And petitioners, as in duty bound, will ever pray.

(Signed,)

PATRICK DONAVAN,
PATRICK CASSIDY.

To the Rev. EGERTON RYERSON, D.D.,
Toronto, C. W.

No. 135. The Deputy Superintendent to the Trustees of the Roman Catholic Separate School No. 3, Seymour.

General conditions for sharing in Legislative grant.

[No. 268, H.]

EDUCATION OFFICE,

Toronto, 27th April, 1853.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 13th instant, and to state in reply, that unless you have complied with the law in regard to keeping open your school the requisite time by a duly qualified teacher, and have properly reported to your local superintendent, your school is, of course, not legally entitled to any portion of the school fund. As you have given me no information

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upon the subject, I can express no opinion upon it. Your local superintendent is quite competent to give you advice in the matter.

I have the honor, &c.

(Signed.)

J. GEORGE HODGINS,
Deputy Superintendent.

MESSRS. PATRICK DONAVAN and
PATRICK CASSIDY,
Trustees R. C. Separate School,
No. 3 Seymour,
Seymour West.

No. 136. The Deputy Reeve of Seymour to the Chief Superintendent.

Proceedings of council and trustees relative to a Protestant Separate School in No. 5.

[L. R., 1508, 1855.]

SEYMOUR WEST, 17th March, 1855.

SIR,

I have been requested by a number of the inhabitants of school section No 5, in this township, to apply to you to inform them how they are to proceed with respect to their school.

You will observe by the subjoined plan of the section, that the original school-house was built nearly at one corner of the section, before the remainder of the section was much settled, the inhabitants of that corner being mostly Roman Catholics. In 1849, the other inhabitants, finding that they could not get the school-house removed to a more central place, petitioned the district council for a separate Protestant school, which was granted them, and the school-house was built as near the centre of the section as possible in 1851,—finding two schools very expensive, 39 out of 44 householders of the section petitioned the township council to unite the schools into one; the town council wrote to the county clerk to know if the Protestant school had been established, and he answered them that he could not find that it had; the reason for which is plain, as nearly all the documents in the county council office relating to schools have been lost; but when I was in Cobourg in January last, in looking over the papers in the clerk's office relating to schools, I found it. The council, then, instead of passing a by-law to unite the schools, recommended the two boards of trustees to call a special meeting of the inhabitants for the election of three new trustees for the section, which was done, a majority of the trustees elected being in favor of keeping the Protestant school-house for the general school. A special meeting was called to decide on the site, at which it was also carried by a majority; the minority being dissatisfied, it was left to the local superintendent of schools, who also decided on the same site; the site wished by the minority was only three-quarters of a mile further to the east, but no deed for a site could be procured

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April, 1853.

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there without paying £10 for it. The school has been continued until the present year, when the trustees, finding the deed was given for a Protestant school only, are afraid to act. The minority, finding they could not get the school where they wanted, refused to give up their old school, but have elected trustees at different times, but not regularly. In 1853, at the annual meeting, they all voted at the central school-house. They have never kept a qualified teacher, until some time last summer. They held a meeting and elected one trustee some time in April. If they are the legal school, and can keep it in one corner of the section, the other inhabitants, though unwillingly, will have to start the Protestant separate school again, and a number of Roman Catholic children in the west end of the section will be deprived of a school.

I remain, &c.

(Signed,)

J. M. LE VESCONTE.

Deputy Reeve, Seymour.

The Rev. E. RYERSON,
Chief Superintendent of Schools,
Toronto.

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School Section No. 5 within the dotted lines.
School Section No. 7 petitioning for lots Numbered 19.

P.S. No deed has been given for the original school-house.

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No. 137. *The Deputy Superintendent to the Deputy Reeve of Seymour*

The union of the Public and Separate School sections by the Council, as requested by both parties, dissolved former corporations.

[No. 1182, N.]

EDUCATION OFFICE,

Toronto. 5th April, 1855.

Sir,

I have the honor to acknowledge the receipt of your letter of the 29th ultimo, and to state in reply that not more than one set of trustees can legally exist for the same school section; neither can two schools be legally contained in the same school section, except as provided by the 5th clause of the 12th section of the School Act of 1850. Separate schools can only be established and maintained as provided by the 19th section of the School Act of 1850, and the 4th section of the supplementary Act of 1853. Two separate schools cannot exist in the same section, one must be the public and one the separate school. The deed of a public school cannot be either Protestant or Roman Catholic; and although the trustees of a common school can hold school property under "*any title whatsoever*," still, denominational restrictions cannot be maintained in the administration of the trust. It must be held and exercised for common school purposes exclusively. See 3rd clause of the 12th section of the School Act of 1850.

From your statement of the case, it appears to me that the trustees elected in pursuance of the action of the township council, and their lawful successors, are the only legal trustees of the school section in question.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS.

Deputy Superintendent.

J. M. LE VESCONTE, Esq.,

Deputy Reeve, Seymour,
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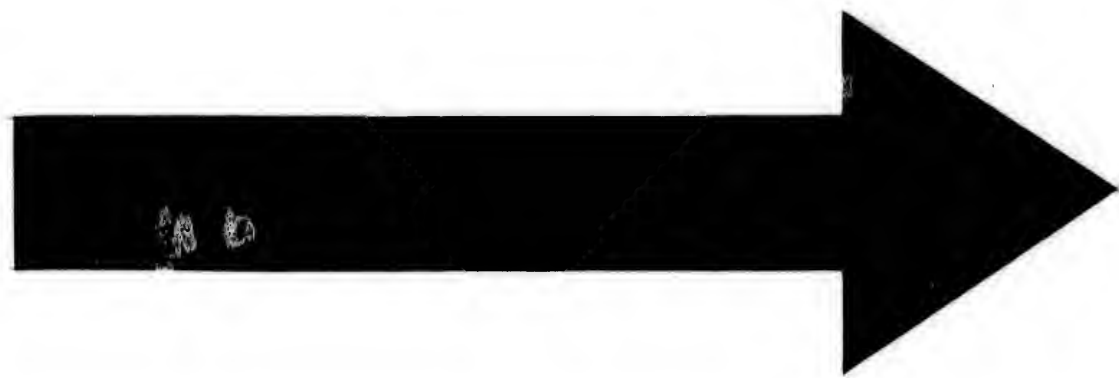
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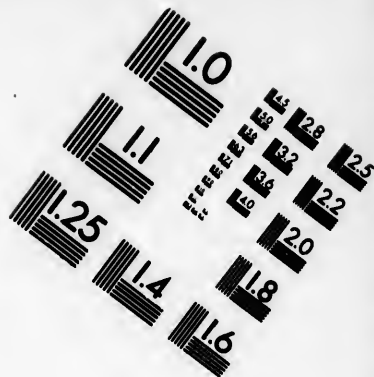
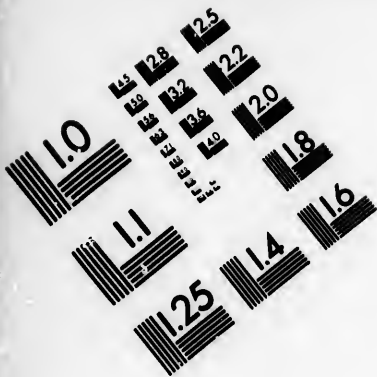
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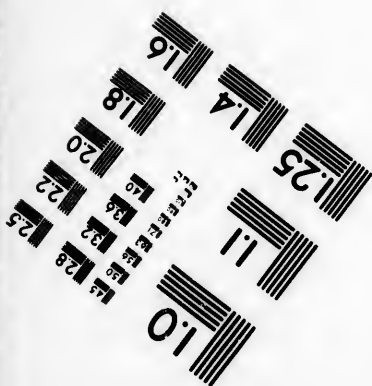
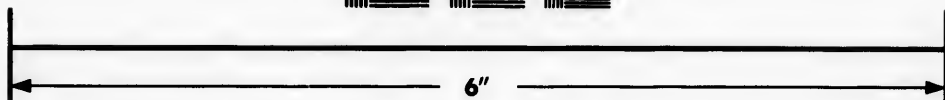
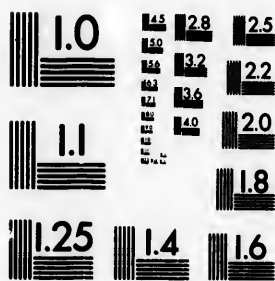
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**IMAGE EVALUATION
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School Section No. 6, Brock.

(County of Ontario.)

No. 138. *Certain Protestant Inhabitants of School Section No. 6, Brock to the Chief Superintendent.*

Liability for Separate School Rates.

[L. R., 906, 1853.]

BROCK, 26th February, 1853.

REVEREND SIR,

As a trial of strength between Roman Catholic and Protestant schools is likely to take place, we consider it our duty to give you full information of the subject as far as we can go.

Reverend Sir,—About the fall of the year 1846, the Roman Catholics composing part of our section, number six, for some reason best known to themselves, left us and soon after put up a school-house for themselves; they then came and took from the old school-house the stove and furniture, which they have appropriated to their own private use, particularly the stove, and are about to sue for the site, for which, together with the stove and things connected with school property, the Protestant community paid wholly for. Reverend Sir,—Some time after this occurred, the Protestant part of the section petitioned the district superintendent, in Toronto, for leave to put up a school-house for themselves, which was readily granted, and was put up at the expense of £50, and yet they say with great audacity that we are no school at all, because leave was not asked and granted by said Roman Catholics for so doing. Reverend sir, within these two years back some cutting and carving has been made on the section No. 15, and leaves the three undersigned as yet in the Roman Catholic section, and at present they have put a tax on us above our annual tax, for which we do not see any reason for paying such a tax, as we neither ever were used, nor ever consented, to pay such a tax; we have many sound reasons for objecting to pay said tax or having anything to do with them in such matters; pay for their schools to-day, and to-morrow we must pay for their chapels, &c., till by and by we get quite initiated, and then, reverend sir, where are we? By supine servility we lose the privileges that our fathers fought hard to gain. Reverend sir, they say they are not a sectarian school, but what else can they be? They are Roman Catholics, taught by Roman teachers, they deny the use of the Holy Bible in their school, they must have certain books in their school; and if they are not sectarian, we do not know what they are. Reverend sir, this is done with an intent to understand from your reverence whether or not they have the right to levy taxes on us to pay for things we certainly do not believe in. This perhaps may give your reverence a little knowledge of our position with our Catholic neighbour

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Rev. Dr. Ry
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No. 139.

[No. 118 H.]

GENTLEMEN,

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Messrs. JAS.
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in this part of the world. We, the undersigned, would be under many obligations to your reverence as early as possible, as we do not know what course to pursue, to let us know what to do to do right in the matter, and your humble petitioners will ever pray.

(Signed,)

JAMES WADDELL, Sen.
JAMES WADDELL, Jun
ANDREW HILL.

Rev. Dr. RYERSON,
Chief Superintendent of Education,
Upper Canada.

*No. 139. The Deputy Superintendent to certain Protestant Inhabitants in
School Section No. 6, Brock.*

Both parties must be heard before decision.

[No. 118 H.]

EDUCATION OFFICE,

Toronto, 8th March, 1853.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 26th ultimo, and in reply, to express my regret that your inattention to the regulations of this department, printed on the 4th page of this letter,* prevents me from expressing any opinion upon the complaint which you make of the conduct of certain parties in your section.

I have, however, referred your letter to the local superintendent for his report thereon.†

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,
Deputy Superintendent.

MESSRS. JAS. WADDELL, Sen.,
JAS. WADDELL, Jun., and
ANDREW HILL,
School Section No. 6, Brock.

* See the regulations in a note on pages 43 and 69.

† In the next letter, [No. 119 H.] No. 140.

No. 140. The Deputy Superintendent to the Local Superintendent of Brock

For report on affairs of No. 6, Brock.

[No. 119 H.]

EDUCATION OFFICE,

Toronto, 8th March, 1853.

SIR,

I will thank you to return me the enclosed letter from No. 6, Brock,* at your earliest convenience, with such remarks thereon as may appear to you necessary.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,

Deputy Superintendent.

THOMAS NIXON, Esq.,

Local Superintendent of Schools,
Township of Brock,
Newmarket.

No. 141. The Local Superintendent of Brock to the Deputy Superintendent.

Report adverse to the claims of certain Protestants in No. 6, Brock.

[L. R. 1258, 1853.]

NEWMARKET, 22nd March, 1853.

SIR,

I beg to acknowledge the receipt of yours of the 8th instant, which, had I been at home, would have been sooner attended to. With respect to the letter sent to the education office by Messrs. Waddell and Hill, my opinion is, that although school section No. 6, in the township of Brock, rejoices in the cognomen of the "Catholic section," yet, it must be regarded as a distinct school section, and not as a separate school in another section. The variations in the boundaries of the two sections, numbers 6 and 15, were made principally by my appointment as local superintendent, and I cannot, therefore give you as much information on the matter, as under other circumstances, I might have been enabled to do. You may I presume receive from Mr. Elliott, county clerk, a statement of the boundaries of the several school sections in the township referred to, and you can then judge for yourself how far my information on the matter may be found to be correct.

With respect to the stove being taken by a Roman Catholic, from what I learned in my late visit to the township, I believe the statement relative thereto to be correct.

In dealing with the subject you will bear in mind that there are Roman Catholics living within the boundaries of school section No. 15, as well as Protestants

* No. 138, ante. [Letters Received 908, of 1853.]

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J. GEORGE HO
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THOMAS NIXON
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[L. R. 1287, 1853.]

SIR,
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...ing within the boundaries of school section No. 6, (the "Catholic section,") and, under such circumstances, I see no way of dealing with the matter unless the Catholics of No. 15 be permitted to regard themselves as belonging to No. 6, (which I have been informed some of them do,) and in like manner the Protestants of No. 6 as belonging to No. 15; this arrangement if it can be made, will give the Protestant party satisfaction.

I have the honor, &c.

(Signed,)

THOS. NIXON,
Local Superintendent.

J. GEORGE HODGINS, Esq.,
Deputy Superintendent,
Toronto, C. W.

No. 142. The Deputy Superintendent to the Local Superintendent of Brock.

Concurring in report on claims of certain Protestants in No. 6, Brock.

[No. 166 H.]

EDUCATION OFFICE,

Toronto, 29th March, 1853.

Sir,

I have the honor to acknowledge the receipt of your letter of the 22nd instant, and on behalf of the Chief Superintendent to concur in your recommendations in regard to school section No. 6, Brock. You can therefore communicate with the parties concerned in such manner as you may see fit.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,
Deputy Superintendent.

THOMAS NIXON, Esq.,
Local Superintendent of Schools,
Township of Brock,
Newmarket.

No. 143. The Clerk of Brock to the Clerk of the united Counties of York, Ontario and Peel.

For documents relating to a supposed Roman Catholic Separate School in No. 6, Brock.

[L. B. 1837, 1853.]

Brock, 18th April, 1853.

Sir,

I am instructed by the municipal council of Brock to communicate with you on the subject of a Roman Catholic or sectarian school established in this township.

They are imposing on their Protestant neighbours by claiming the whole of school section No. 6, and forcing them to support their school, although the Protestants of the above section furnished a school-house, and kept a school in operation for some length of time. They found it so expensive to support their school on account of the other school in the same section, that they attached themselves to two other schools which were most convenient for their children to attend. There have several complaints been made by the Protestants to the council on the Catholic trustees; the council wants to know by your earliest opportunity if you have any document, in your office, to shew whether the said sectarian school have a legal school sections or otherwise, or any other information you may be able to give on the premises.

I remain, &c.

(Signed,)

JOHN METCALFE,
Town Clerk.

To J. ELLIOT, Esq.,
Toronto.

TORONTO, 20th April, 1853.

Memorandum.—Will the Chief Superintendent be so good as to advise on the matter herein contained? There are no documents on the subject in my possession.

(Signed,)

J. ELLIOT,
Clerk York, Ontario & Peel.

No. 144. The Deputy Superintendent to the Clerk of Brock.

The case has been referred to the Local Superintendent for settlement.

[No. 270 H.]

EDUCATION OFFICE,
Toronto, 27th April, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 18th instant, transferred to this department by your county clerk, and to state in reply, that as your local superintendent (Thomas Nixon, Esq.,) has already been written to on the subject stated in your letter, I would refer you to him for a plan of settling the difference existing in school section No. 6, Brock.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,
Deputy Superintendent.

Mr. JOHN METCALFE,
Clerk, Township of Brock,
Cannington.

No. 145. 2

[L. E. 2005, 1853.]

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To the Chief

School Section No. 11, Wellesley.

(County of Waterloo.)

No. 145. *The Local Superintendent of Wellesley to the Chief Superintendent.*

Distribution of school documents to public and separate schools.

[L. R. 2005, 1853.]

HAWKESVILLE 1st June, 1853.

REVEREND SIR,

It is with feelings of deep gratitude that I acknowledge the receipt of your correspondence with the Roman Catholic Bishop of Toronto, in which all his objections to the common school system are met in so conclusive a style as cannot fail to allay feeling of a similar kind, and raise the common school system in the mind of every candid person.

Since I wrote to the Education Office requesting a dozen school registers, I have received ten registers and an equal number of copies of the report of 1851, from the clerk of the united counties of Wellington and Grey, which I have distributed among the English schools in Wellesley, so that with the exception of the German, the schools in Wellesley and Woolwich are all supplied with registers. A few days ago I had an interview with the Roman Catholic teacher in the separate school, No. 11, Wellesley, who spoke favorably of the national school books, and referred to the late Bishop Power, of Toronto, who highly recommended them; on the whole he seemed pleased with the school system, and so do all the Catholics here, if their clergy would let them alone. In conversing with him, I found that he laboured under an impression that partiality had been shown in supplying each of the English schools with a copy of the act in the report of 1850, and a register, while the Roman Catholic and German schools had been neglected; I told him that impure motives could not be attributed to any of the government agents, as I understood that reports and registers had been sent from the Education Office to the clerk of the united counties of Wellington, Waterloo and Grey, for gratuitous distribution among the schools, and that it remained with Mr. Schuler, who was their local superintendent at that time, and who himself became a Roman Catholic, while in that office, to whom the blame was to be attached; however, if you could send me six copies of the act and six of the registers, I shall see that the German schools (which include the Roman Catholic) are supplied also.

I have the honor, &c.

(Signed.)

JAMES SIM,
Local Superintendent.

To the Chief Superintendent of Schools,
Toronto.

No. 146. The Chief Superintendent to the Local Superintendent of Wellesley.

Public and Separate Schools share alike in school documents.

[No. 359, H.]

EDUCATION OFFICE,

Toronto, 15th June, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 1st instant, and to state in reply that I intended that no distinction should be made between the German and English, the separate and mixed schools, in the distribution of school documents. I regret that any omissions have taken place, and I shall be happy to supply them. I will forward the registers you desire, as soon as the new edition of them is printed, the old one having been exhausted.

I thank you for your kind references to the correspondence.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. JAMES SIM,

Local Superintendent of Schools,
Townships of Wellesley and Woolwich,
Hawkesville.

No. 147. The Local Superintendent of Wellesley to the Chief Superintendent.

Can separate school limits be extended to include residents in other school sections?

[L. R. 2608, 1854.]

HAWKESVILLE, 15th May, 1854.

REVEREND SIR,

The town reeve of Wellesley has instructed me to submit the following question to your decision:

Would it be agreeable to the common school act to establish a separate school in a school section, if some of the petitioners were residing in various other school sections?

I have the honor, &c.

(Signed,)

JAMES SIM.

Rev. E. RYERSON, D. D.,

Chief Superintendent, &c.

No. 148.

The

[No. 1124 L.]

SIR,

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The Rev. JA
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No. 149. 2

[L. R. 3004, 1854.]

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No. 149. The Chief Superintendent to the Local Superintendent of Wellesley.

The limits of a Separate School may extend over the whole township or any part of it.

[No. 1124 L.]

EDUCATION OFFICE,

Toronto, 20th May, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 15th instant, and to state in reply that the applicants for a separate school must be residents of the school section within the limits of which they desire a separate school; but the township council can extend the limits of a separate school section over a whole township, or any portion of it, as it may think proper; and pupils of the persuasion of the separate school may attend it from any school section so included in it.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. JAMES SIM,
Local Superintendent of Schools,
Township of Wellesley,
Hawkesville.

School Section No. 15, Wilmot.

(County of Waterloo.)

No. 149. The Roman Catholic Pastor of Wilmot to the Chief Superintendent.

Extension of Separate School privileges beyond the limits of the Section.

[L. E. 3904, 1854.]

ST. AGATHA, County of Waterloo,

8th September, 1854.

MOST HONORABLE SIR,

I think it my duty to apply myself to you for a decisive answer on account of a school matter. We have here a Roman Catholic separate school—section 15—lawfully established in the township of Wilmot, county of Waterloo; and very near this our separate school, are residing some Roman Catholic families, but belonging

to a common school section. These Roman Catholic families desired since long time to be joined to our separate school; and I wrote on this matter to our local school superintendent, Mr. Martin Rudolph. He answered in a negative way, but looking to the supplementary school act of 1853—especially section 4 and 12—I cannot restrain myself from thinking, that those Roman Catholic family-fathers have a right, according to the law, to join our separate school. I take, therefore, the liberty to beg your honor to solve my doubt, and to inform me whether they can be united with our separate school or not.

Expecting that your honor will shortly favor me with an answer.

I am, &c.

(Signed,)

RUPERT EBNER, S. J.,
Roman Catholic Pastor of St. Agatha.

To the Hon. EGERTON RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto, C. W.

No. 150. The Deputy Superintendent to the Roman Catholic Pastor of Wilmot.

Both sides must be heard before decision.

[[No. 1834, M.]

EDUCATION OFFICE,

Toronto, 18th September, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 8th instant, and in reply to express my regret at not being able to give you a decisive answer in regard to the point which you submit, in consequence of your apparent neglect of the regulations of this department printed on the 4th page of this letter, and in the annual report for 1852, page 275.*

I have, however, enclosed your letter to your local superintendent for his explanation and report.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,
Deputy Superintendent.

The Rev. RUPERT EBNER, S. J.,
R. C. Pastor, Township of Wilmot,
St. Agatha.

* See the regulations in a note on pages 48 and 69.

No. 151.

[No. 1833, M.]

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MARTIN RUDOLPH
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No. 152. T

[L. R. 3968, 1854.]

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No. 151. *The Deputy Superintendent to the Local Superintendent of Wilmot.*

Complaint of the Rev. Rupert Ebner, S. J.

[No. 1833, M.]

EDUCATION OFFICE,

Toronto, 18th September, 1854.

SIR,

I have the honor to request that you will, at your earliest convenience, return me the enclosed letter from the Rev. Rupert Ebner, S. J., with your explanation and report thereon.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,

Deputy Superintendent.

MARTIN RUDOLPH, Esq.,

Local Superintendent of Schools,

Township of Wilmot.

No. 152. *The Local Superintendent of Wilmot, to the Deputy Superintendent.*

Has advised that Separate Schools cannot extend their powers beyond limits.

[L. R. 3968, 1854.]

HAMBURG, Wilmot, 20th September, 1854.

SIR,

I beg to acknowledge the receipt of your letter of the 18th instant, together with a letter from the Rev. Pater Rupert Ebner, and beg leave to state: The township of Wilmot is divided into twenty school sections; in one of them (section No. 15) is a separate school for Roman Catholics established. The Rev. Pater Rupert Ebner, a Jesuit of the purest water, labors again under the impression, that all the Roman Catholics in the township of Wilmot have the privilege to be exempted from all taxation for common school purposes, so soon as they send their children to the above mentioned separate school, or declare that they support the said school. It is my opinion, and that of the board of public instruction for the county of Waterloo, that the common school act of 1850, as well as the supplementary school act of 1853, are so plain and clear in regard to separate schools, that it is quite impossible to give them another interpretation, namely, that the privileges of any separate school cannot be extended beyond the limits of the division or section in which such separate school is established.

The section 4th of the supplementary school act, to which the Rev. Pater refers, speaks only of cities, towns, or incorporated villages, and school sections, *but not of*

townships, and therefore persons living in another section than such in which a separate school is established, they never can be exempted from paying school taxes in their own section.

The section 12th of the same act, to which the Rev. Pater also refers, reads:— but this clause shall not be held to apply to persons sending children to, or supporting "separate schools." This only can mean, if there is such a separate school in the section, or the section is included within the limits of a separate school.

The common school act of 1850, section 19, stipulates that in establishing separate schools, "*the limits of the divisions or sections for such schools shall be prescribed.*"

The limits of the established separate school for the Roman Catholics in the township of Wilmot, are those of school section No. 15, in the said township, and therefore this separate school has no power to extend its privileges beyond its limits, which would be over the whole township, and even over the whole county of Waterloo, as the Rev. Pater Ebner would like to do, and to which he would have a perfect right, if it was allowed to him to extend the privileges of the separate school in school section No. 15, over the adjoining sections.

In the month of February last, a correspondence took place between the Rev. Pater Ebner and myself, on the very same subject. I stated to him my own views of the meaning of the acts, and proposed to him to lay the matter before the Chief Superintendent for his decision, if he (Pater Ebner) should not be satisfied with my interpretation of the acts. Pater Ebner admitted then, that he was fully convinced that the views I had were correct, and therefore the matter rested. But now, as it is the intention of the Roman Catholics in school section No. 15, to build a new school house, they wish to lay this burden on as many shoulders as possible, and, therefore, to extend their separate school over the whole township.

All the schools in the township of Wilmot, are not so troublesome as the one separate school we have, and I hope the day may come soon, on which such institutions are unknown to the people of Canada.

I have the honor to return Pater Ebner's letter, and remain respectfully,

Yours, &c.

(Signed) MARTIN RUDOLPH.

To J. GEORGE HODGINS, Esq.,
Education Office,
Toronto.

P.S.—I wish you would have the kindness to inform me if I am right or wrong in my opinion.

(Signed)

M. R.

No. 153.

[L. R. 4078, 1864.]

MOST HONORABLE

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[L. R. 4612, 1864.]

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No. 153. The Roman Catholic Pastor of Wilmot to the Chief Superintendent.

Will notify the Local Superintendent of his appeal.

[L. R. 4078, 1854.]

ST. AGATHA, 28th September, 1854.

MOST HONORABLE SIR,

I have the honor to acknowledge the receipt of your answer of the 18th instant, No. 1854, (or 1834—it was not very legible) to my letter 3004, of the 8th instant, and to express my regret at having over-looked the department's regulations.

Now, about the very same letter I wrote to your honor on the 8th instant, I will write again, and at once send to the local superintendent a correct copy of that my communication, although your honor had done so.

We have here, in the township of Wilmot, county of Waterloo, a Roman Catholic separate school, section 15, lawfully established, and very near this our school section are residing some Roman Catholic families, but belonging to a common school section 14. Those Catholic families desired since long time, to be joined to our Roman Catholic school section; and I wrote on this matter to our local school superintendent, Mr. Martin Rudolph. He answered in a negative way. But looking on the Upper Canada supplementary school act of 1853, especially the sections 4 and 12, I cannot restrain from thinking that those Roman Catholic family-fathers have a right, according to law, to join our separate school. I take therefore the liberty to beg your honor to solve my doubt, and to inform me whether they can be joined to our separate school or not. Expecting that your honor will shortly favor me with an answer,

I remain, &c.

(Signed,)

RUPERT EBNER, S. J.,
Roman Catholic Pastor,
St. Agatha.

The Most Hon. EGERTON RYERSON,
Chief Superintendent of Common Schools
in Upper Canada, Toronto, C. W.

No. 154. The Roman Catholic Pastor of Wilmot to the Chief Superintendent.

Further on appeal from the Local Superintendent.

[L. R. 4312, 1854.]

ST. AGATHA, Township of Wilmot,
27th November, 1854.

HONORABLE SIR,

It was on the 8th of September that I wrote a letter to your honor, to beg your advice in regard to some Roman Catholic family-fathers residing in the common

school section No. 14, and desiring since long time to be joined to our Roman Catholic separate school, No. 15, the limits of both sections being contiguous.

I received from your honor on the 18th September, under the number 1834, an answer to my previous application, in which you expressed your regret at not being able to give me a decisive answer in regard to the submitted point, in consequence of my apparent neglect of the regulations of the department of public instruction printed in the annual report for 1852, in this your letter was signed the name of J. George Hodgins.

About two weeks (I cannot exactly recollect) after having received this reply I wrote again to your honor, in accordance with all the regulations for such communications; especially I took care to transmit an exact copy of my letter to our local superintendent, Mr. Martin Rudolph, but since that time I received no answer at all from your honor, neither received such one the local superintendent, as he lately, on my request, informed me. I take therefore the liberty to beg again, your honor, to give me a decisive answer; whether the Roman Catholic families, according to law, can or cannot be joined to our separate school section No. 15.

I have the honor, &c.

(Signed,) RUPERT EBNER, S. J.,
Roman Catholic Pastor of
St. Agatha.

The Hon. E. RYERSON,
Chief Superintendent of Schools
in Upper Canada, Toronto.

*No. 155. The Chief Superintendent to the Roman Catholic Pastor of
Wilmot.*

Separate Schools have no authority beyond their section, but the Township Council can enlarge the limits.

[No. 2464, M.]

EDUCATION OFFICE,
Toronto, 6th December, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 27th ultimo, and after having perused the correspondence to which it refers, I have to return you the following answer on the question which you have submitted:

The 19th section of the school act of 1850, and the 4th section of the supplementary school act, provide for separate school sections, to which limits are to be prescribed, the same as to other school sections; and all the subsequent provisions of those sections of the act, are based upon the existence of separate school sections, as well as of other school sections.

Now, if school section needless and persons residing of school sections of the supplement-

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Now, if the supporters of a separate school beyond the limits of the separate school section are entitled to the same exemptions as residents in such section, it is needless and absurd to prescribe any boundaries to such section. And if others than persons resident in a separate school section are to be exempted from the payment of school assessments, how shall the municipal council know them? The exemptions of the supporters of a separate school prescribed by the 4th section of the supplementary school act, relate to those who reside within the limits of such section.

The only other exemptions are mentioned in the 12th section of the supplementary school act. The object of that section was to *prevent* the sending of children from the school of the section in which they reside to the school of another section; and it therefore provides in case of their doing so, that their parents shall pay the same school rates in their own section, as if they sent their children to its school. But it specifies two exceptions to the application of this rule:

The one is in regard to those parents who have taxable property in the section to which they wish to send their children, and in which they do not reside. But it will be observed, that such persons are not exempted from paying school-rates on *their property* situated within the limits of the section in which they reside, and for the purposes of that section; they are only exempted from their payment of school-rates imposed *in consequence of their sending their children to its school*. Rates on *property* in a school section are levied on the *property* of such section, according to the assessor's roll, without reference to the owners of it sending or not sending to any school, and even without reference to their residing or not residing in the section.—(See 22nd section of the supplementary school act.)

The second exception made in the 12th section of the supplementary act, relates to those parents who are supporters of a separate school, and who have the same exemption and privileges as persons owning property in another section than that in which they reside. They can send their children abroad to school and be exempted from paying rates for their attendance at school at home; but are not exempted from school-rates levied on property.

The 12th section of the supplementary school act has no reference to school assessments levied by the county or township council, for making up its part of the general school fund; nor does it relate to any *school section rates*, except those which are imposed for the attendance of children at school.

The cause of this section of the supplementary school act will at once show its scope and design. It happened in several cases, but especially in the township of Scarborough, near this city, that of two school sections situated beside each other, the one had a *free* school and the other a *rate bill* school. Some of the resident voters in the latter, strongly and successfully insisted at their annual school meeting upon having their section school supported by rate on parents sending their children to the school. Immediately after carrying this vote at their annual meeting of their own section, these parties sent their children to the *free* school of the neighboring section, where there was no rate for children attending the school, and for the support of which no property could be taxed except that which was situated within the section of such school. Thus these parties got their children taught for nothing, and

escaped paying any school-rate in either section—having voted against a *property* rate in their own section, and not being liable to one in the neighboring section. The 12th section of the supplementary school act was intended to put a stop to such a proceeding, and to protect the interests of each school section,—exempting only supporters of separate schools and persons paying property school rates in more than one section, to exercise their discretion as to which section they would send their children to school, without being liable to pay the rate for their attendance in any other school section.

If the parties to whom you refer wish to be included in the separate school section of which you speak, let them petition the township council to enlarge the limits of that section so as to include them.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. RUFERT EBNER, S. J.,
R. C. Pastor of Wilmot,
St. Agatha.

School Section No. 4, Nichol.

(County of Wellington.)

No. 156. *The Clerk of Nichol to the Chief Superintendent.*

How Separate Schools should be established.

[L.R., 3050, 1853.]

FERGUS, Township of Nichol, 22nd November, 1853.

REVEREND SIR,

As I am aware that on all matters connected with the working of the common school act you are willing to afford advice, I beg to trouble you with the following communication.

In a part of this township there are several Roman Catholic settlers, who have, I understand, occasionally maintained a Catholic school, although not set off into a separate section or division, according to the condition specified in the 19th section of the act of 1850. About the middle of July last, a person named Greene, residing in the adjoining township of Pilkington, handed me a written notice, of which the following is a copy :—

“ NICHOL, July 13th, 1853.

“ Mr. JAMES McQUEEN, Town Clerk of the township of Nichol,

“ SIR,

“ This is to notice you to call a school meeting at the school-house on lot No. 1, 8th concession, township of Nichol, formerly called No. 13 school section, for the

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[No. 701, L.]

SIR,

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purpose of electing a board of trustees to establish a Roman Catholic separate school in said school-house in accordance with the present act of separate schools in Upper Canada.

"Yours truly, in behalf of the inhabitants of said school section.

(Signed.)

JOHN P. GREENE."

When Mr. Greene called upon me, I examined the June number of the *Journal of Education*, which I had just received, and found that it is in villages and towns not divided into wards, &c., that it is the duty of the returning officer to call the first meeting for the election of trustees, and consequently did not consider it my duty to call the meeting, as by reading your remarks I perceived (page 88 of the *Journal* referred to) that separate schools can only be established, *still*, under the conditions specified in the 19th section of the act of 1850, which requires an application in writing from twelve or more resident heads of families to the municipal council, to authorize the establishment of separate schools. Now, although Mr. Greene states in his notice that it is in behalf of the inhabitants of said school section, I did not consider a notice signed by one person, in behalf of others, an application according to the act, and besides, the notice was merely to call a meeting for the election of trustees. Whether they called such a meeting themselves, I do not know, but I understand a separate school is at present in operation, and am informed that the parties sending children do not consider themselves liable to pay any tax imposed by the trustees of the section for payment of the Protestant teacher, or any general school rate; no return has been made to me by the superintendent, or any one else, of the names of those sending children to the separate school, and as I am now preparing the collectors' roll, my object in writing you at present, is to ascertain whether I am justified in *including all in the general school rate, &c.* If not too troublesome I shall feel highly obliged by being favored with your answer, as early as possible.

I have the honor, &c.

(Signed.)

JAMES McQUEEN,
Township Clerk, Nichol.

P.S. Supposing a separate school had been lawfully established, or set off, in the month of July, would it affect the present liability to a general school tax.

No. 157. The Chief Superintendent to the Clerk of Nichol.

A Separate School must be established on application from 12 heads of families and go into effect 25th December next after.

[No. 701, I.]

EDUCATION OFFICE,
Toronto, 24th November, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 22nd instant, and to state in reply, that the application to which you refer being made as required

by law, the act of the township council fixing the boundaries of a separate school, could not have taken effect before the 25th December, and therefore could not have made any difference in preparing the assessor's roll for school rates for the current year.

But the application for a separate school must be signed by twelve heads of families—then the township council *must* prescribe the boundaries of the *separate* school section, and make provision for holding the first meeting for the election of trustees; and of which election the local superintendent must be notified, as in the case of the election of other trustees. But such act of the municipal council cannot take effect until the 25th of December of the year in which it is passed. It will, perhaps, be well for you to transmit to Mr. John P. Greene a copy, or the substance, of this letter, that there may be no just reason of complaint, and that if he and others, to the number of twelve heads of families, wish to have a separate school next year, they may take the proper steps to obtain one before the 25th of next month.

I have the honor, &c.

(Signed,)

E. RYERSON.

JAMES McQUEEN, Esq.,
Clerk, Township of Nichol,
Fergus.

No. 158. The Clerk of Nichol to the Chief Superintendent.

How the boundaries of a Separate School Section should be described.

[L.R., 3876, 1863.]

FERGUS, Township of Nichol, 17th December, 1853.

REVEREND SIR,

The Catholics in this township have now applied to the council for the establishment of a separate school; the application states the lot and concession on which they wish it to be established, but it is signed by parties living in two adjacent sections, it also contains the lots or parts of lots on which they reside. As section 19 of the act of 1850, provides that (*inter alia*) the council shall "prescribe the limits of the divisions or sections for separate schools," they, the council, are at a loss to know whether they ought to prescribe said limits by describing the lots occupied by the parties who wish to be set off, or the boundaries of the present section in which it (the school) is desired to be established; or as parties from two sections, viz., 4 and 5, have applied, jointly, the boundaries of both sections. The application is as follows:

"To the Municipal Council of the township of Nichol,

"We, the undersigned Roman Catholic settlers in the township of Nichol, do hereby apply to your honorable body to authorize the establishment of a separate school for Roman Catholics on lot No. 1, in the 8th concession, and to set us off ac-

cordingly."

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The Separate f

[No. 61, K.]

SIR,

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JAMES McQ Clerk,

cordingly."—Here follow the names of more than twelve resident heads of families.

There are already six sections in the township; Query, should the separate school be numbered in succession?

As the council have appointed a meeting to be held on Tuesday, the 20th inst., to give effect to the application, it will be a great favor (if possible) to return an answer by the mail going westward on Monday.

I am instructed by the council to convey to you their sincere thanks for the kind manner in which you have replied to former communications.

I have the honor, &c.

(Signed.)

JAMES McQUEEN.

Township Clerk, Nichol.

P.S. I may mention that the section in which the separate school is desired to be established, is now called No. 4.

No. 159. The Chief Superintendent to the Clerk of Nichol.

The Separate School Section must include the lots of the applicants and whatever additional limits the Council desire.

[No. 61, K.]

EDUCATION OFFICE,

Toronto, 19th December, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 17th instant, and to state in reply, that the township council can include the whole township, or half or one-quarter of the township, or any number of lots, in the separate school section, as it may think proper. Mentioning the number of the lots included in the separate school section, or on which the applicants reside, is, I think, a sufficiently full description of the boundaries of the section. Or it may, perhaps, be as well to make the separate school section to include three or four of the existing school sections. But the council has no authority to prescribe the location of the school site.

The section may be designated separate school section No. 1.

I have the honor, &c.

(Signed.)

E. RYERSON.

JAMES McQUEEN, Esq.,

Clerk, Township of Nichol,
Fergus.

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No. 160. The Trustees of the Roman Catholic Separate School No. 4, Nichol, to the Chief Superintendent.

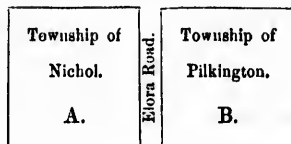
Power of Separate School Trustees to go beyond limits to tax property of non-resident supporters.

[L.R., 4430, 1854.]

GUELPH, November 20th, 1854.

REVEREND SIR,

There are two townships whose positions are according to the diagram which follows :



And we are the trustees of a separate school in the township of A, or Nichol, and there are subscribers from the township of B, or Pilkington, to our separate school; cannot we collect from the subscribers of our separate school in Pilkington the taxes which they "would be liable to pay to a common school," when there was no school teacher in their school at the time we hired our school teacher, but one of a different denomination to ours?

(Signed,)

TIMOTHY DUGGAN,
DENIS CLIFFORD,

Separate School Trustees.

P.S. We have this day requested the township clerk of the township of Pilkington to lay open the roll of the township that we might make a copy of the roll so far as it relates to the subscribers of our school from Pilkington, and he has refused us because the township reeve said we should not have it.

(Signed,)

D. C.
T. D.
Trustees.

No. 161. The Chief Superintendent to the Trustees of the Roman Catholic Separate School, No. 4, Nichol.

No school corporation, whether public or separate, can go beyond limits to tax property of supporters of the school.

[No. 2395. M.]

EDUCATION OFFICE,
Toronto, 25th November, 1854.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 20th instant, and to state in reply that no school corporation whatever can have authority to levy

and collect portions of one school

Messrs. Tm
Truste

No. 162.

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[L. R. 203, 1856.]

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Au Rév. E.
&c.

and collect school rates from any resident in a neighboring township, unless the portions of the two townships in which the respective parties reside, are formed into one school section, as provided by law in regard to union sections.

I have the honor, &c.

(Signed,)

E. RYERSON.

Messrs. TIMOTHY DUGGAN and DENIS CLIFFORD,
Trustees R. C. Separate School, No. 4, Nichol,
Fergus.

School Section No. 13, Pilkington.

(County of Wellington.)

No. 162. The Roman Catholic Pastor of Pilkington to the Chief Superintendent.

Inconvenience of certain heads of families on account of distance of School-house.

[L. R. 203. 1855.]

FREIBURG, le 11 Janvier, 1855.

MONSIEUR L' INSPECTEUR GÉNÉRAL,

Vingt-huit pères de familles appartenant à l'école de Pilkington payent chaque année leur taxe pour cette école sans en tirer aucun avantage. 1° Parcequ'ils en sont trop éloigner, les uns ayant 5, d'autres 4, d'autres 3, les plus proches 2 miles. 2° Parceque cette école est toute Anglaise et les susdits pères de familles ainsi que leurs enfans ne comprennent pas un mot d'Anglais. Leurs enfans croissent dans la plus grosse ignorance. Les parens et avec ceux tous aux qui connaissent le prix de l'éducation gemissent d'un si triste état des choses. Trois moyens pourraient rémédier à cet inconvénient: 1° Detacher ces 28 pères de familles et leur permettre de former une section à eux; 2° les attacher à l'école Allemande qui est dans leur vicinité; 3° faire batir la maison d'école de Pilkington dans le centre.

Veillez, Monsieur l'inspecteur, nous honorer d'un avis sur cé qu'il-y-a à faire pour que selon l'intention de la loi ces nombreux enfans puissent recevoir un peu d'instruction.

J'ai l'honneur, M. l'inspecteur général, d'être votre très humble et très obéissant serviteur.

(Signed,)

J. BTE. BAUMGARTNER,
Prêtre.

Au Rév. E. RYERSON,
&c. &c. &c.
Toronto.

No. 163. The Chief Superintendent to the Roman Catholic Pastor of Pilkington.

The Municipal Council has authority to remedy the inconvenience.

[No 281, M.]

BUREAU D'ÉDUCATION,

Toronto, le 18 Janvier, 1855.

MONSIEUR,

J'ai l'honneur d'accuser la réception de votre lettre du 11 courant, et de répondre à votre demande, que vous pouvez avoir une école séparée ou vous joindre à l'école Allemande dont vous parlez; mais il faut vous adresser à ce sujet au conseil municipal du township de Pilkington que seul a l'autorité d'établir et de changer les limits des arrondissements (school sections) de toutes les espèces, selon la loi des écoles, 13 et 14 Vic. ch. 48, sec. 18, clauses 3 et 4, et selon la 19ème section de la même loi, et la 4ème section de la loi supplémentaire des écoles.

J'ai l'honneur d'être, &c.

(Signed) E RYERSON.

Au Révérend J. BTE. BAUMGARTNER,
Prêtre, Pilkington,
Freiburg.

No. 164. The Roman Catholic Pastor of Pilkington to the Chief Superintendent.

Complaint against the Municipal Council.

[L. R. 831, 1855.]

NEW GERMANY, le 17 Février, 1855.

MONSIEUR ET TRÈS RÉVÉREND SEIGNEUR,

J'ai l'honneur de vous communiquer l'usage que j'ai fait de la lettre qu'il vous a plus de m'adresser et l'inutilité de ma démarche chez le conseil municipale. Je vous envoie la petition, que 27 habitans de Pilkington ont signé. Toute la réponse qu'on nous a donnéé consiste dans ces mots: Vous n'aurez point d'école, nous ferons ce que nous voulons. J'ai l'honneur d'observer que depuis long temps l'école dont nous voulons nous séparer n'a point d'instituteur et qu'elle n'en aura probablement point de long temps; dût elle en avoir un il nous est absolument impossible d'envoyer nos enfans a 3, 4 et 5 miles de distance. On nous a separé sans nous demander notre avis. Sommes nous donc les seuls qui doivent être exclus du bienfait de l'instruction? Commes nous ne pouvons absolument pas envoyer nos enfans dans

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Au Rév. E.
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[Enclosure.]

GENTLEMEN,

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No. 165.

[No. 624, N.]

SIR,

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cette école elle ne reçoit qu'un foible secours du gouvernement, et nous sommes surcharger de taxes.

Veillez avoir la bonté de nous guider dans cette tache si important. Si nous pouvons obtenir justice devant un tribunal nous sommes prêt a faire tous les sacrifices, car nos pauvres enfans sont dans une trop triste privation.

J'ai l'honneur, monsieur le surintendant-en-chef de vous prier d'accepter les hommages de votre devoué serviteur.

(Signed.)

J. BTE. BAUMGARTNER,

Prêtre à New Germany,
Frieburg, P. O.

Au Rév. E. RYERSON,
Surintendant-en-Chef,
Toronto.

[Enclosure.]

PILKINGTON, 23rd January, 1855.

To the Municipal Council of Pilkington.

GENTLEMEN,

The petition of the undersigned householders and freeholders of the township of Pilkington, of the county of Wellington,—Most humbly sheweth:

1st. That we have protested most energetically, these two years, for having been taken away from the school section No. 10, of the township of Woolwich, against our consent, and united to the school section No. 13, of the township of Pilkington, from which school we derive no benefit whatever.

2nd. That we appealed to the Chief Superintendent, E. Ryerson, D. D., in a letter dated 11th January, (1855) and have received his answer directing us to apply to the municipal council of Pilkington. The letter of the Chief Superintendent is numbered 281, and dated 18th January, 1855. In this letter he states explicitly, that we can have a separate school or join to the school section, from which we were cast off, by applying to the aforesaid council.

3rd. In compliance with the above instructions, we beg leave to present you with this petition, soliciting your kind favor to grant us the free establishment of a Roman Catholic separate school, and will as in duty bound ever pray.

No. 165. *The Chief Superintendent to the Roman Catholic Pastor of
Pilkington.*

Appellant must notify the Council of his complaint.

[No. 624, N.]

EDUCATION OFFICE,

Toronto, 23rd February, 1855.

SIR,

I have the honor to acknowledge the receipt of your letter of the 17th instant, and to state in reply, that as your present letter relates to the proceedings of the

township council, a copy of it should have been sent to the clerk of the council, as required by the regulations of this department, (see 4th page of this letter,*) since I cannot express an opinion on the conduct or proceedings of any council or individual without hearing both sides.

You will, therefore, please furnish the clerk of your township council with a copy of your letter.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Rev. J. BTE. BAUMGARTNER,
Priest, Pilkington,
Frieburg.

P.S.—I herewith enclose you a copy of a letter I have this day addressed to the clerk of the township of Pilkington.†

No. 166. The Chief Superintendent to the Clerk of Pilkington.

Establishment of a Separate School is compulsory on the Council.

[No. 623, N.]

EDUCATION OFFICE,

Toronto, 23rd February, 1855.

SIR,

I have received a letter from the Rev. J. Bte. Baumgartner, Roman Catholic Priest in Pilkington, complaining that 27 Roman Catholic inhabitants in a part of that township had applied to the township council for a separate Roman Catholic school, and that their application had been refused.

As the school act of 1850 leaves no discretion to a municipal council in regard to any application, such as is referred to above, when made according to the provisions of the 19th section, I will thank you to inform me at your earliest convenience, upon what grounds your township council rejected the application of the 27 inhabitants mentioned by Mr. Baumgartner.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Clerk of the
Township of Pilkington.

* See the regulations on pages 48 and 89.

† The following letter, No. 165, [No. 623, N.]

No

[L. E. 967, 1855]

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No. 168.

[L. E. 2368, 1855]

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No. 167. The Clerk of Pilkington to the Chief Superintendent.

Application for a Separate School has not been refused by the Council.

[L. R. 967, 1855.]

ELORA, 26th February, 1855.

SIR,

I beg to say that no such application as that alluded to in your letter of the 23rd instant, has been rejected by the council of the township of Pilkington.

Such an application (which may be that you allude to) has been left for consideration at the next meeting of the township council.

I have the honor, &c.

(Signed,)

U. P. NEUMAN,
Township Clerk.

The Rev. Dr. RYERSON,
Chief Superintendent of Schools,
Toronto.

Township of Williams.

(County of Middlesex.)

No. 168. The Rev. Th. Kirwan, of London, to the Chief Superintendent.

For aid to certain Roman Catholic settlers in the Township of Williams.

[L. R. 2368, 1852.]

LONDON, C. W., 16th October, 1852.

SIR,

Being informed that it is in your power to appropriate a certain amount of aid annually, from the legislative school grant, towards the support of poor schools in parts of the country partially unsettled, I hereby take the opportunity of soliciting a portion of the funds at your disposal, for the above purpose, in order that a certain portion of the inhabitants of the township of Williams, in the county of Middlesex, may be enabled to support a school which is at present in operation, and has a daily attendance of about fifty pupils.

The locality is newly settled by Scotch emigrants, who arrived from the Highlands within the last two years, in a very destitute condition, and number between eighty and one hundred families. It has been represented to me by the teacher and the trustees of the school, that they have applied to the school superintendent for aid from the common school fund appropriated to the township, and that he refused any aid, on the grounds that he had received no notification from the township clerk of the legal erection of a school section in that locality.

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I am further informed that the township councillors encouraged the inhabitants of the aforesaid locality to erect a school-house, and that they (the township councillors,) would do all in their power to enable them to support it. Not being conversant with the requirements of the school act, and relying on the promises of the councillors, they (the said inhabitants,) neglected to petition the council to have their locality erected into a distinct and separate school section. Under the foregoing circumstances I think it my duty to make this application, convinced as I am that a school amongst these people, who are under my spiritual care, and whose children are destitute of the rudiments of a common school education, is essentially necessary to fit them for the duties of society which may hereafter devolve on them.

Hoping that you will take the case into consideration, and make such allowance from the legislative grant as will enable these poor people to keep their school open during the ensuing season,

I have the honor, &c.

THT. KIRWAN,
Rural Dean.

Rev. EGERTON RYERSON,
Chief Superintendent Education, U. C.,
Toronto.

No. 169. The Chief Superintendent to the Rev. Tht. Kirwan, of London.

The power of aiding poor schools has been transferred to County Councils.

[No 777 G.]

EDUCATION OFFICE,
Toronto, 19th October, 1852.

SIR,

I have the honor to acknowledge the receipt of your letter of the 16th instant, and to state in reply that the power to which you refer of affording aid to poor school sections in new and scattered settlements, authorised by a former school law, has, by the present act (13 & 14 Victoria, chapter 48, section 27, clause 1,) been transferred to the municipal council of each county.

I regret, therefore, that it is not in my power to comply with your request. All that I can do is to refer you to the municipal council of your county for assistance.

I have the honor, &c.

(Signed,) E. RYERSON.

The Rev. THT. KIRWAN,
R. C. Rural Dean,
(*In re Township of Williams,*)
London, C. W.

No. 170.

Considers for

[L. R. 2347, 18

SIR,

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No. 170. The Rev. Th. Kirwan, of London, to the Chief Superintendent.

Considers former letter as calling attention to certain charges against the local school authorities of the Township of Williams.

[L. R. 2347, 1852.]

LONDON, C. W., 26th October, 1852.

SIR,

Your favor of the 19th instant was received by me on my arrival home after an absence of a few days.

I regret to learn that the pecuniary aid required for the support of the poor school in the township of Williams, to which I referred, cannot be directly granted by you. I have reason to do so the more as the daily attendance is rapidly increasing, for by the last report received from the teacher, I find that he has a daily average of sixty pupils.

When I applied to you I was under the impression that a certain amount of funds remained in your hands for such purposes as that stated in my letter, and that in all cases where a grievance exists in school matters it was my proper course to apply to you, as Chief Superintendent, to have it redressed or removed. I am further confirmed in the latter impression by reading the 13th and 14th Victoria, chapter 48, section 35, fifth paragraph. I considered that the terms of my letter of the 16th instant were sufficiently explicit to call your attention to the dereliction of duty on the part of the township council of Williams, and also of the local superintendent, but as it seems you have not considered their conduct of sufficient importance to even allude to it in your reply, I am now reluctantly compelled to give a more ample statement of the entire facts and circumstances as reported to me, that you will exercise the powers vested in you by the act referred to, in order that evenhanded justice may be meted out to the aggrieved.

The majority of the people who reside in the locality where the school is situated have paid the public school taxes for the last two years or more, although they had not the benefit of a school themselves, and now that they have one of their own, they are refused their proper and just proportion of the school funds to which they contribute themselves, and this in consequence of the township council having failed to perform the duty imposed on them by the third paragraph of the 18th section of the school act. You are aware, as stated in my last, that the township councillors encouraged the erection of a school-house, and promised to do all in their power to support the school when built. The reason they have not fulfilled their promises and performed their duty, is the manly stand the people had taken to prevent the introduction of proselytism into the school section, for there had been an attempt made to force an unqualified teacher on them, who inculcated during school hours, religious doctrines at variance with those of the people in general, and even announced that he would hold religious service on Sundays in their school-house. When the present teacher, (Mr. Charles McKinnon,) who is employed by the provisional school trustees, with the approbation of the whole people, applied to the Rev. Mr. McPherson, the local superintendent, for a portion

of the legislative grant, he was replied to (as stated to me by Mr. McKinnon,) in the following terms: "*They are ungrateful wretches, who did not accept the teacher sent to enlighten them in the bible; and he consequently declined to afford them any aid except the benefit of a long religious controversy, occupying fully three hours.*"

On the whole, I consider the matter requires a serious investigation, and I therefore respectfully demand it of you. A true copy of this communication will be furnished to the parties concerned.

I have the honor, &c.

(Signed,)

THT. KIRWAN,
Rural Dean, R. C. Pastor of
London & Williamstown.

Rev. E. RYERSON,
Chief Superintendent,
Toronto.

P. S.—May I respectfully request that you will furnish me with a copy of my first letter sent you, as I have mislaid the one I had?

(Signed.)

THT. K., R. D., &c.

No. 171. The Deputy Superintendent to the Rev. Tht. Kirwan, of London.

The implied charges cannot be investigated until the opposite parties have been furnished with a statement of the complaint, and heard in reply.

[No. 820 G.]

EDUCATION OFFICE,

Toronto, 4th November, 1852.

SIR,

I have the honor to acknowledge the receipt of your letter of the 26th ultimo, and to state in reply that from the tenor of the printed remarks contained in the fourth page of this letter, it would clearly have been improper for this department to have entertained the complaint implied (as you state,) in your previous letter of the 16th ultimo, until it was evident that the directions therein given had been followed.*

Until I receive an explanation from the local superintendent to whom you refer, no opinion can be expressed upon the case you submit.

* See regulations on the subject of appeals in a note on pages 43 and 69.

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I herewith enclose a copy of your communication of the 16th ultimo, as you request.

I have the honor, &c.

(Signed,)

J. GEORGE HODGINS,
Deputy Superintendent.

The Rev. TH. KIRWAN,
Rural Dean and R. C. Pastor,
Townships of Williams & London, C.W.

No. 172. The Rev. Th. Kirwan, of London, to the Chief Superintendent.

Considers his complaint entertained, and furnishes additional charges.

[L. R. 2361, 1852.]

LONDON, C.W., 16th November, 1852.

SIR,

I have the pleasure to acknowledge your reply dated the 4th of November, together with a copy of my first letter to you, for which I beg to return you my thanks.

As it seems by your last favor of the 4th, that your department has entertained the complaint lodged by me against the conduct of the township councillors of Williams, and of the local superintendent, I feel it my duty to furnish you with some extracts of a letter written to me, bearing date the 22nd of September, 1852, by Mr. Charles McKinnon, the school teacher employed by the trustees, in order that you might understand that I have presented the case to you in its less aggravated shape, and that you may likewise be the better able to render impartial justice to the parties concerned:

“REV. FATHER,

“I have no doubt but you will be surprised to learn on receipt of this, that I have to my regret, given up teaching school here. As it is the duty of the municipal council to form new school sections, and to give instructions accordingly, I actually thought, when I commenced teaching here, that everything was legally arranged according to the requirements of the school act, until I went to see the Rev. Mr. McPherson, who is the local superintendent. He said that he was not furnished by the trustees of this school section with a legal notification describing the boundaries of said section. To this I replied, that the school trustees were not acquainted with the legal regulations of the school act, and therefore it was the duty of the township council to direct them in the proper course to be pursued; and especially as the council voluntarily imposed this duty on themselves by promising to do so. No arguments could prevail on the reverend Free Church gentleman. His quarrel with these poor Catholics was, that they were ungrateful and ignorant—because they did not accept of the teacher and preacher sent to them for the purpose of enlightening

them in a knowledge of the Bible. To this I replied, that no law authorized him or any other person to force a teacher or preacher on any school section against the consent of the school trustees and of the people in general; further, that the Catholics held the Bible as sacred as he did, and that they have one great advantage over them; that is, the infallible voice of the church of Christ, to guide them in preaching and expounding the scriptures in the spirit of unity and truth, as they ought to be; they did not interpret the scriptures according to the private interpretation of every — who could scarcely read a passage in the Bible. This led me into a warm controversy, which detained me three hours. I went away fully convinced that his reverence met with one who knew more about the fruits of Protestantism than he did himself.

"Next day I called a meeting of the school trustees and householders, at which they unanimously declared that Mr. Gray, the councillor, requested them to *build the School house*, and that they (the council) would do all they could for them. This they certainly would have done, had the people accepted of the services of the inspired teacher, whom they had sent to them for no other purpose than to *convert* them! When the people opposed their erroneous presumption, they (the councillors) immediately resolved that whereas the people did not make a legal application to the council for the dividing and formation of their school section, as required by the school act, *no provision* could be made for them this year. Here I must appeal to reason, justice, humanity and the sacred laws of christianity, and ask, with confusion and astonishment, has there been manifested, since Cromwell's time, such injustice, hypocrisy, intolerance and ungodly ill will, in any one civilized country or place,— that these poor destitute and harmless Catholics should be compelled to pay school tax for the last three years, without having the benefit of a school for themselves, and now deprived of what they had to obtain, because they did not immediately comply with the requirements of a school act which they knew nothing about; and with which they could not, on account of the course pursued by the township councillors,—is, in my opinion, an injustice, the parallel of which cannot be found in any christian country or community. As the poor people had thus been deceived, they could not keep me any longer; but it was with difficulty I could get away; for many of them preferred to sell the only corn they had, to make up my salary. I am determined, please God, to return next year to Nova Scotia, my dear native land, where freedom, every spiritual blessing, and religious privileges abound, and where such intolerance over Catholics would not be attempted. 'Blessed are they who suffer persecution for justice sake, for theirs is the kingdom of heaven.'

"I remain, reverend father,

"Your obedient servant,

(Signed,)

"CHARLES McKINNON.

"Rev. T. KIRWAN, R. D.
"London."

P.S.—I have stated in my last letter that the householders of this colony have paid school tax for the last two years and upwards. The reason I have done so is,

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though the majority of the ratepayers are residents for the last three years, some few have settled on the land within the last two years. The number of Catholics of which this colony is composed, is about seven hundred, they live in one continuous settlement in the north-west part of the township of Williams; I may safely say, that the nearest school to them, which is on the old settlement, and is decidedly sectarian, for the parents of the children who attend it, without exception, belong to the Presbyterian creed, is four miles distant from the majority of the inhabitants of the new Catholic colony.

I have the honor, &c.

(Signed,)

TH. KIRWAN,
Rural Dean, R. C. Pastor of
London & Williams.

Rev. EGERTON RYERSON,
Chief Superintendent,
Toronto.

No. 173. The Rev. Th. Kirwan, of London, to the Chief Superintendent.

Requesting a decision on his complaints against the local school authorities of Williams.

[L.R., 456, 1853.]

LONDON, C. W., 4th February, 1853.

SIR,

In my first letter to you, dated 16th October, 1852, I called your attention to the conduct of the township councillors of Williams, and of the local superintendent, the Rev. Mr. McPherson, in the full expectation of obtaining immediate redress. In my subsequent letters I gave a fuller explanation of the subject of complaint, as represented to me by the teacher and the Catholic inhabitants in whose behalf I took the liberty of addressing you. I did expect that the matter would be fully investigated before this time, as it seemed to me that the true facts of the case might have been easily elicited and an impartial decision in accordance therewith given by you.

I would not be anxious to press for a final decision, but as it is a source of anxiety to the Catholic inhabitants, who are much interested in the education of their children, I feel that I would not be worthy of the trust reposed in me if I did not again solicit you to bring the matter to a final conclusion.

The Catholic inhabitants complain that the usual time for the distribution of the school funds is now passed, and as there has been no decision given as yet, that they are likely to be deprived of their just portion, to which they would have been entitled by law, were it not for the obstructive course pursued towards them by the township councillors and the local superintendent. What still more aggravates the disadvantages arising to the inhabitants from a delay in the decision, is the fact that they are unable to pay the school teacher the stipulated salary. So convinced was

the school teacher (Mr. Charles McKinnon) of it, that as soon as he discovered the obstructive course pursued by the township councillors and the local superintendent, he wrote to me, stating that "as the poor inhabitants are unable to maintain the school for want of funds, he would be obliged, though with reluctance, to give up teaching." The school would have been discontinued had not I written to him, and taken upon myself the responsibility of maintaining it by promising him an adequate remuneration for his services. I did so with the hope that no quibble would deprive the school of its just proportion of the funds to which it was entitled by the spirit and purport of the school law, if justly and impartially administered. I further relied on a speedy and equitable decision from you, to whom, as the law directs, I referred the matter.

Up to the present time the school has been continued, principally at my expense, and I trust that the above reasons will be a sufficient excuse for me to urge you to give a final decision on this much vexed and agitated question.

Expecting the favor of a reply as soon as convenient,

I have the honor, &c.

(Signed,)

THT. KIRWAN,
Rural Dean.

Rev. E. RYERSON,
Chief Superintendent of Education.

No. 174. The Chief Superintendent to the Rev. Thl. Kirwan, of London.

There is no assurance that the charges have been furnished to the parties complained of; nor are there specific facts adduced to warrant an official decision.

[No. 40, H.]

EDUCATION OFFICE,

Toronto, 15th February, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 4th instant, and to state in reply that I have no assurance that copies of any of your letters of complaint against the council and local superintendent of the township of Williams have been furnished to the parties concerned, as required by the regulations of this department, and as intimated to you in the letter of the 4th November. Nor do your letters furnish me with any facts on which it is possible to found any official decision.

You do not say when the school section to which you refer was established, or how established. You do not furnish me with any copies of the proceedings of the township council of Williams, containing the promises which you say it made and violated; nor whether the returns required by law have been made to the local

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[L. R., 896, 1853.

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superintendent, on which alone he could act, were the section entitled to receive what you claim for it.

As far as I can gather from your letters, and from an extract in one of them, some of the township councillors encouraged the building of a *public* school-house, but not a *denominational* or separate one: nor has any council authority to levy any *assessment* for the erection of a separate school-house; such a house must be built by the denomination requiring it.

A separate school, whether Protestant or Roman Catholic, cannot be established before the 25th December of any one year, and on the written application of twelve heads of families, as required by the 19th section of the school act.

You complain that the township council did not instruct the Catholic inhabitants, to whom you refer, how to proceed in their school affairs, so that they might fulfil the requirements of the law; but surely such a duty no more devolves upon a municipal council, than it devolves upon the government or parliament to teach all parties concerned how to obey the law in order to secure its advantages.

If, according to your representation, the whole or great majority of the inhabitants in the part of the township to which you refer, are Roman Catholics, they could elect trustees, employ a teacher, and erect a school-house, according to their own wishes, under the general provisions of the school act. But if, instead of doing so, they have preferred to have their section and school organised and established as a separate one, they can only receive assistance according to the provisions of the 19th section of the school act.

I have the honor, &c.

(Signed)

E. RYERSON.

The Rev. TH. KIRWAN,
Roman Catholic Priest,
Township of Williams and London.

No. 175. *The Rev. Th. Kirwan, of London, to the Chief Superintendent.*

Thinks himself aggrieved at not receiving a decision on his partial statement of charges; and appeals to the Governor General.

[L. R., 890, 1853.]

LONDON, C. W., 29th February, 1853.

SIR,

I have received your letter of the 15th instant, and am bound to acknowledge that its contents have not a little surprised me.

It was my impression since the receipt of your letter dated the 4th of November last, that you had taken steps to hold an investigation into the case as demanded in my letter of the 26th of October, and in which I stated that the parties concerned had been furnished with a true copy of the complaint preferred against them. Yet

after a lapse of upwards of three months you reply that you "have no assurance that copies of my letters of complaint have been furnished to the parties concerned;" and, also, that my letters do not furnish you with any "facts on which it is possible to found any official decision."

Some men are in the habit of estimating the character and veracity of others by their own personal standard; and I am, therefore, not much astonished at the insinuation you seem willing to cast upon me. But, setting aside your implied allusions as a matter to be attributed to your peculiar mode of controversy, let me for a moment refer to the statements and reasoning contained in your letter now before me. It is apparent from the wording of your reply, dated the 4th November last,* that you were then under the impression I had complied with the tenor of the printed remarks contained on its 4th page. You stated then that you could express no opinion upon the case I submitted, until you had received an explanation from the local superintendent, thereby implying that you awaited his explanation before you could proceed further in the matter. It seems now that you have not thought it worth your while to require the local superintendent to furnish you with any explanation, or that he has failed to do so. This is the only inference I can deduce from your remarks.

Referring to the second paragraph of your present reply, where you state I did not "say when the school section to which I referred was established," &c., I have to remark that you might readily have perceived from my letter of the 26th October, that I complained of the township council for not fulfilling the duties imposed upon it by the 3rd clause of the 18th section of the school act, where it is expressly enacted that it shall be the duty of the municipality of each township in Upper Canada, "to form portions of the township where no schools have been established into school sections." Had the municipal council performed its duty I would have been right in the legal acceptance of the term *school section*, but as the council had not fulfilled the requirements of the law, the term which I thought fit to use was only meant to describe the part of the township for which I was claiming fair play and justice. The local superintendent could have acted, and did act, when the people did not require his interference, but when he would not be permitted to tamper with the faith of the children, through the agency of the teacher whom he had introduced for proselytising purposes, then he could easily find a subterfuge in the technicalities and intricacies of your school law; and you, as Chief Superintendent, seem inclined to shield him with your evasive logic. The local superintendent might possibly, by a quibble of the law, try to justify himself in refusing aid to the school; but no law in the Canadian statute book could sustain him, as a public officer, in using the language which he employed towards the unfortunate people who had been the victims of his bigoted and persecuting policy.

You endeavor to explain away the charge which I preferred against the township councillors for not fulfilling their promises and duty, by saying, "nor has any council authority to levy any assessment for the erection of a *separate* school-house." A *separate* school, let me distinctly say, was not asked. The people wanted a school

* See the letter on page 212.

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of their own, and claim the management of it without the unjust dictation or interference of the township council or local superintendent. And because they have not allowed such dictation and interference, you can "gather from my letters, and from an extract in one of them," that the school is a *denominational* or *separate* one. It is very unfair on your part to sustain your argument by hypothetical deductions which have no foundation in the *facts* stated for your consideration.

You go on to say,—“a separate school, whether Protestant or Roman Catholic, cannot be established before the 25th December of any one year;” although I look upon this statement as unnecessary under the circumstances of the case, I may observe that it seems to me a very strange provision in the law regulating the common school system of this section of the Province, but quite consistent with many other equally strange provisions of the same school act. According to the above quotation, there are only six days in the year set apart for establishing separate schools, and supposing Christmas day should fall on Monday, then only five can be used for that purpose. Well, I hope the legislature of the Province will see the necessity of extending the time to be used for this important purpose beyond the present illiberal bounds.

You say that I “complain that the township council did not instruct the Catholic inhabitants to whom I refer how to proceed in their school affairs, so that they might fulfil the requirements of the law.” I am not aware that I have complained of any such thing; it is a supposition on your part, as far as my letters go.* I said in my first letter that the inhabitants neglected to petition the council to have their locality erected into a distinct and separate school section; that is, separate and distinct from the portion of the township and the school section with which it is geographically connected, but from which it extends to such a distance as to render it utterly impossible for one school to answer the whole, on account of the great distance. But when I referred to the school act, which I had not then at hand, I found that the inhabitants were not required by law to present a petition. The council had their duty to perform without any petitioning about it.

I add another extract from your reply, which fully proves the justice of the claims I advanced, and which firmly establishes the illegality and impropriety of the conduct of those against whom I appealed to you. You remark, “if, according to your representation, the whole, or great majority, of the inhabitants in the part of the township to which I refer are Roman Catholics, they could elect trustees, employ a teacher, and erect a school-house, according to their own wishes, under the general provisions of the school act.” This is exactly that for which they have been contending; but the bigotry and unchristian spirit of sectarianism adopted towards them, by those who have been entrusted with the local administration of the law, has prevented them from obtaining their just and constitutional rights. I appealed to you against a masked system of persecution; you try to evade the question by technicalities; I demanded an investigation; you have delayed for months, and at length attempt to impugn my veracity. I now consider that it would be unbecoming on my part to hold any further correspondence with you through your department; I

* See letter No. 172, page 213.

will accordingly appeal to his Excellency the Governor General, to whom it seems by the 34th section of the school act, you are responsible for your official conduct. I forward herewith a copy of my letter of complaint against you, which I have forwarded to his Excellency in council;* and, in the meantime, I wish to inform you that for the public information, I will have the correspondence inserted in the public press.

It is well the people should see some of the features of that boasted municipal system, which to an almost unlimited and intolerable extent controls the education of the children of the country, and which usurps parental duties and responsibilities, to an extent far beyond the limits which divine or natural law would seem to define.

I remain, &c.

(Signed,)

THT. KIRWAN,
Rural Dean.

Rev. E. RYERSON,
Chief Superintendent of Schools,
Toronto, C. W.

No. 176. Rer. Tht. Kirwan to the Secretary of the Province.

Appeals to the Governor General against the Chief Superintendent for not deciding upon his complaints against the local authorities of Williams.

[*Enclosed.*]

LONDON, C. W., 28th February, 1853.

HON. SIR,

A case of great grievance occurred in the township of Williams, in the united counties of Middlesex and Elgin, during the past year, between the Roman Catholic inhabitants residing in the north-west part of said township, and the local school superintendent and township councillors of the same.

The part of the township to which I allude is peopled by Scotch emigrants who came from the Highlands within the last three years, and are under my spiritual jurisdiction. The settlement occupies six miles in extent and comprises, at least, between six and eight hundred inhabitants. They had no school till last summer, when by the encouragement of the township councillors, they erected a school house at their own expense. The then local superintendent, the Rev. Mr. McPherson, is a minister of the Presbyterian Free Church, and so were and are, I believe, all the township councillors. When the school was built, a young man, who represented himself as having been sent by the Free Church society of Toronto, to give gratuitous education to the children who might attend, presented himself as teacher. Certain of the inhabitants suspecting that a private conspiracy had been formed for

* The next letter No. 176, [Letters received 1163, of 1853.]

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[L. E. 1163, 1853.]

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proselytising purposes, consulted me on the propriety of allowing him to conduct the school, and although I knew that nothing good could come out of Nazareth, I advised them, in consideration of their poverty and want of school conveniences, to send their children to him, provided he would not attempt to interfere with their religious belief. Scarcely had he occupied the school four days, when he commenced to introduce religious exercises at variance with the religious principles of the children and parents. The first Saturday, he announced to the pupils that he would hold religious service in the school, and at which he desired them and their parents to attend. The people at once discovering that he was a preacher withdrew their children, and employed Mr. Charles McKinnon, who is a legally qualified teacher, and conducts their school to the entire satisfaction of the people.

The township councillors, who had previously promised aid, refused to do their duty when the former teacher was discarded, and the local superintendent, of course, in concert with the councillors, refused aid from the public school funds, alleging that they were "*ungrateful wretches who would not accept the teacher sent to enlighten them in the Bible.*"

On behalf of the people, I appealed for aid to the Chief Superintendent of Schools, the Rev. E. Ryerson, Toronto.

The application was unsuccessful, and I then appealed for an investigation into the matter, and had reason to believe, from the tenor of a letter dated 4th November last, that he would fully investigate the case. But to my astonishment, I find by a letter of his dated the 15th instant, that he did not think proper to give even the satisfaction of a mock investigation, after a delay of more than three months. I am, therefore, reluctantly compelled to appeal to his Excellency the Governor General in council, against the extraordinary conduct of the Rev. Egerton Ryerson, Chief Superintendent of Schools for this section of the province, and hope that his Excellency, in whose wisdom, spirit of justice and impartiality, I place the fullest confidence, will take the matter into consideration.

A copy of this complaint, I this day transmit to the Chief Superintendent aforesaid, and would most respectfully request you to call on him for a copy of the whole correspondence existing between him and me on this subject, for the better information of his Excellency, under whose notice I hope you will bring the matter at your earliest convenience.

I have the honor, &c.

(Signed,)

THT. KIRWAN,

Rural Dean.

Hon. A. N. MORIN,
Provincial Secretary,
Quebec.

[*Endorsed.*]

[L. E., 1168, 1853.]

SECRETARY'S OFFICE, 11th March, 1853.

Referred to the Chief Superintendent of Education for Upper Canada for report.

By command,

(Signed,)

E. A. MEREDITH,

Assistant Secretary.

No. 177. The Chief Superintendent to the Secretary of the Province.

Report on the appeal of the Reverend Tnt. Kirwan to the Governor General.

[No. 285, II.]

EDUCATION OFFICE,
Toronto, 4th May, 1854.

SIR,

In reference to the letter of the Rev. Tnt. Kirwan, Roman Catholic rural dean, at London, Upper Canada, addressed to you the 28th February, and transferred to me the 11th March, for my explanations as to the complaints and statements contained in that letter against me, I must apologize for the length of time which I have suffered to elapse before transmitting, for the information of his Excellency, the explanations or report required. The reasons of this delay are, that I did not return from my tour of the several counties of Upper Canada, until about a month since, and there have been so many questions and duties requiring immediate attention, and which appeared to me to be more important than the vindication of myself from the imputations contained in Mr. Kirwan's letter, that I have allowed his charge to remain unanswered until I could attend to them without prejudice to the public interests and duties of this department.

Mr. Kirwan has not furnished you with copies of his correspondence with me. Had he done so, that correspondence would have contained sufficient proof of the groundlessness of his charges and the propriety of the course which I have pursued. I herewith enclose, for the information of his Excellency, copies of that correspondence.*

1. Before remarking on this correspondence, I may observe, that up to the present moment I have not received any communication whatever from the only parties with whom I am officially required to correspond on the subject—namely, the trustees and teacher of the school in question—that whatever letters I have addressed to Mr. Kirwan, have been from courtesy and respect for his position, and not from any right which the law gives him to interfere in a matter of this kind, or any obligations on my part to correspond with others than local school authorities and parties personally interested. The only instance of non-residents of municipalities assuming functions which belong to local school authorities in correspondence with this department, are those which are furnished by this correspondence, and that which was laid before the legislature some months since on the subject of "separate schools."† And these instances shew to what inconveniences this department has been subjected, in yielding from motives of delicacy and courtesy to correspond on school matters with parties who are wholly irresponsible in such matters, who appear to be wholly uninformed as to the provisions of the school act,

* The preceding letters, Nos. 168 to 175, pages 209-220.

† "Correspondence between the Roman Catholic Bishop of Toronto and the Chief Superintendent of Schools, on the subject of Separate Common Schools in Upper Canada." Printed by order of the Legislative Assembly, September, 1852.

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and when informed of their omissions and errors, as I informed Mr. Kirwan in my letter of the 15th February, immediately begin to assail me and attack the school law.

2. Now, had Mr. Kirwan acquainted himself with the school law, he would have known that I had no power to do a single thing that he has demanded—that the utmost I could do, in regard to his complaints, even were his allegations well founded, would be to offer friendly advice with a view of allaying differences and inducing useful co-operation. In my last letter to Mr. Kirwan, dated 15th February, 1853, I pointed out to him the kind of information necessary to enable me even to form an opinion on the subjects of his representations; but instead of supplying that information, he replies in a long, and in several respects, offensive letter, dated 28th February; and on the same day that he sends that letter to me, he sends a copy of it with copies of the preceding correspondence, to the "*Toronto Mirror*" newspaper, and another letter to you complaining of me, and at the same time assailing other parties.

3. A reference to Mr. Kirwan's complaint and statements will, I think, abundantly justify the foregoing remarks; he complains that I would not institute an investigation into his complaints against the municipal council of the township of Williams. In reply, I observe that the law nowhere provides me with means or gives me the least authority to institute the investigation demanded; that municipal councils are in no way responsible to me, and that the local superintendent (who is so unscrupulously assailed, as well as the religious denomination to which he belongs) could not act in respect to the parties referred to without the previous action of the township council. Mr. Kirwan says that in my letter to him, dated 4th November, 1852, (addressed to him by Mr. Hodgins during my absence at Quebec), I gave him to understand that I would institute an investigation into his complaint against the municipal council and local superintendent of the township of Williams; but it will be seen by referring to Mr. Hodgins' letter of that date, that nothing of the kind was intimated. All I had authority or could hope to do, was to offer suggestions and advice to each of the parties concerned, after having heard their respective statements.

4. Mr. Kirwan complains that "the Free Church Society of Toronto sent a teacher to give gratuitous education" to the children of the new settlers of whom he speaks; but surely I had no right to interfere with the operations of that society, nor even to express an opinion respecting them, however anxious Mr. Kirwan himself might be to stigmatize and repress them. It appears, according to Mr. Kirwan's own statements, that he "knew nothing good could come out of Nazareth;" yet he "advised them (the settlers in question) in consideration of their poverty and want of school convenience to send their children" to the gratuitous school of the Free Church teacher. I certainly had no more right to inquire into the nature and grounds of the Free Church Society's proceedings among the newly arrived emigrants referred to, than into those of Mr. Kirwan's advice to these same emigrants.

5. Mr. Kirwan states to you that the emigrants (speaking of them as a "colony," on whose behalf he has appealed, have come "from the highlands of Scotland within the last *three* years;" in his letter to me of the 16th October, it will be seen that he states that these emigrants "arrived from the highlands of Scotland within the last *two* years, in a very destitute condition;" while in his letter to me dated only two weeks later, (28th October) he states that the majority of these people "had *paid the public school taxes for the last two years and more*;" and he adds, in a third letter, dated 16th November, 1852, that "although the majority of the rate-payers are residents for the last two years, *some few* have settled on the land within the last two years;" a statement which ill accords with the first one which Mr. Kirwan made to me, and the last one which he has made to you. These varying statements require no comment from me.

6. Mr. Kirwan also states to you that these inhabitants "had *no school till last summer*, when, by the encouragement of the township councillors, they erected a school-house at their own expense;" yet, on the 16th and 28th October, Mr. Kirwan prefers a complaint to me against the township council and local superintendent, for a "dereliction of duty," on the score of money which he claims for this school, which, according to his own statement, could not have been in operation over two or three months, and which must have commenced after the period at which the law required the local superintendent to make the apportionment of the school money for the year; and when it is known that a township council cannot levy and collect school money from any school section without the application to be taxed from the majority of inhabitants of that section, as expressed at a public meeting called for that purpose.

7. It will be seen by referring to Mr. Kirwan's letter of the 16th October, that he applied to me to grant aid to the settlement in question, having, as he states, been informed that I had power to apply a certain amount of aid annually from the legislative school grant, towards the support of poor schools in parts of the country partially unsettled." Within three days, 19th October, 1852, I informed him that the power which he had supposed to be vested in me, had been transferred to the county councils—referred him to the clause of the statute bearing upon the subject—expressed my regret at not being able to comply with his request, and recommended him to apply to the municipal council of his county. In Mr. Kirwan's letter, to which this was a reply, he made no formal complaints against the township council or local superintendent of Williams. He states, indeed, that the inhabitants had not even applied to be formed into a legal school section, though, as he says, "not being conversant with the requirements of the school act," and relying on the promises of councillors to do all in their power to support the school in case of their erecting a school-house. Nor did Mr. Kirwan apply to me for aid to pay the teacher for last year's services, as he demanded in subsequent letters, but concluded his first letter in the following words: "Hoping that you will take the case into consideration, and make such allowance from the legislative grant as will enable these poor people to keep their *school open during the ensuing season*." Mr. Kirwan, instead of acting upon my friendly suggestion, and applying to the only body who could aid "these

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poor people" under the circumstances, changes the whole aspect and issue of the question by proceeding to prefer formal charges against the township council and local superintendent for "dereliction of duty," and to the letter (20th October, 1852,) containing these charges, Mr. Hodgins, during my absence at Quebec, addressed the note of the 4th November, and to which Mr. Kirwan makes such frequent reference. But finding nothing on which I could form an opinion or give advice in Mr. Kirwan's reply of the 10th November, and hearing nothing from any other party, I left the matter without further notice until I could visit the counties to the west—which was in January or February; but no party applied to me on the subject, nor did I hear anything more respecting it, until, on my return from the western part of my tour, I received Mr. Kirwan's letter of the 4th February, to which I replied the 15th—pointing out his omissions and how impossible it was for me to form any opinion on the question under such circumstances, and that I had no authority, under any circumstances, to do what he demanded. To his insulting reply of the 28th February, which I first read in the Toronto newspapers, I have not thought proper to return any answer.

From a review of the whole correspondence, it will, therefore, be seen,

1. That Mr. Kirwan applied to me for assistance to the school, as a poor school, —assistance which appertains to the county council, and not to me, to give.

2. That instead of applying to the county council for the assistance sought, Mr. Kirwan commences formal complaints against the municipal council and local superintendent of the township of Williams, demanding of me the exercise of powers which the law does not confer upon me.

3. That Mr. Kirwan has made a variety of charges against the councillors and local superintendent of the township of Williams, and when informed that he must, in order to receive an opinion on the matter, adduce some official proceedings of the parties of whom he complains, he furnishes not the copy of a single act of council, or councillors or local superintendent—not the application of a trustee, or even a rate-payer, to them, nor the statement of any one of them to me, but forthwith enters a complaint to His Excellency of my non-compliance with his demands.

I may remark, in conclusion, that if the school trustees or inhabitants of the settlement in question had represented their circumstances and wants to me, I should have felt it my duty to refer to their local superintendent, and council if necessary; but when, first, an application is made in their behalf as paupers, I had only to advert to the provisions of the law on that point, namely, that application must be made to the county council for assistance on that ground; and when, secondly, a complaint is made to me against the councillors and local superintendent of a township—the latter a clergyman—by a clergyman who is *not a resident* in the township, I think it would be partial and insulting on my part to call upon one clergyman to answer to the charges of another clergyman made under such circumstances, or to refer to the councillors in regard to charges made against them in such a manner, or to adopt any other course than that which I explained to Mr. Kirwan in my letter of the 15th February, 1853.

I think Mr. Kirwan would have evinced a more charitable spirit and a more discreet and intelligent zeal in behalf of the poor people for whose interests he professes so much concern, had he gone among them and advised and aided them in applying to the council to be formed into a separate school section, and to have a tax imposed upon themselves for their needful school purposes, rather than to counsel them in a course which can secure them no benefit, but must be injurious to them, and which puts it out of my power to aid them, as I should be happy to do, by advice and recommendation for special assistance.

The Rev. Mr. McPherson is not the local superintendent of schools for the township of Williams for the current year. Whether he has received copies of the letters addressed to this department against him, I do not know from himself, as he has never written me a word on the subject. If he had received copies of those letters, I suppose he has thought himself only obliged to answer to representations of parties with whom he was officially connected in the township, but did not feel himself called upon to notice the gratuitous representations of a non-resident clergyman.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Hon. A. N. MORIN, M.P.P.,
Secretary of the Province,
Quebec.

School Section No. 4, Metcalfe.

(County of Middlesex.)

No. 178. *The Trustees of School Section No. 4, Metcalfe, to the Chief Superintendent.*

Effect of the establishment of a Separate School.

[L.R., 2607, 1853.]

METCALFE, Napier P. O., 24th September, 1853.

Sir,

Some of the inhabitants of this section wish to have a separate school, and have a house built for the purpose. Can their doing so have any effect on this section, as settled by the municipal council of the township?

(Signed,)

WILLIAM HENRY,
JOHN LEWIS,
DAVID BROWN,
Trustees School Section No. 4.

The Rev. Dr. RYERSON,
Chief Superintendent of Schools,
Toronto.

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[No. 444 G.]

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*No. 179. The Chief Superintendent to the Trustees of School Section
No. 4, Metcalfe.*

Provisions of the law relating to Separate Schools.

[No. 444 G.]

EDUCATION OFFICE,
Toronto, 3rd October, 1853.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 24th ultimo, and to state in reply that no separate school can be established before the 25th of December, nor without the act of the township council; nor will persons establishing a separate school be exempted from the payment of rates for the erection of a school-house commenced before the establishment of such separate school. See the 1st proviso in the 4th section of the Supplementary School Act.

I have the honor, &c.

(Signed)

E. RYERSON.

MESSRS. WILLIAM HENRY,
JOHN LEWIS, and
DAVID BROWN,
Trustees School Section No. 4, Metcalfe,
Napier.

School Sections Nos. 4 and 8, Sandwich.

(County of Essex.)

No. 180. The Local Superintendent of Sandwich to the Chief Superintendent.

Time at which the operations of a Separate School, and the exemption of its supporters commence.

[L. R. 3014, 1853.]

SANDWICH, 12th October, 1853.

SIR,

In school section No. 4, in the township of Sandwich, the Roman Catholic inhabitants were set off in July last as a separate school; but the trustees of the school section have since that (*and after trustees had been elected and a teacher employed for the separate school*) levied a tax upon the whole section, Roman Catholics as well as the rest, to pay for a school house, and for the rates in their section.

though no agreement for the school house had been entered into before the Roman Catholic school was set apart and the trustees elected therefor.

Are not the persons, being Roman Catholics who subscribed for, and those who send children to, the separate school, exempt from the rates levied by the trustees of the section for this year?

And under the 4th section of the supplementary school act, 16 Vic., cap 185, those who subscribe seem to be required to subscribe the exact amount of what would be their school tax for the current year; do you think it necessary that the subscription should be exactly equal?

If so, how can a party know what amount to subscribe until the school section tax is actually made out, and then he will be too late—this looks like a *dilemma*.

I have been repeatedly applied to about these questions and would feel much obliged by your opinion upon them, with any suggestions that you may be kind enough to offer with respect to them.

I have the honor, &c.

(Signed,) J. A. VERVAIS,
Local Superintendent,
Sandwich.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

No. 181. The Chief Superintendent to the Local Superintendent of Sandwich.

Separate School goes into operation and exemption takes effect the 25th December following the establishment of the school.

[No. 502 G.]

EDUCATION OFFICE,

Toronto, 18th October, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 12th instant, and to state in reply, that if the separate school section to which you refer was not formed or set off the 25th of last December, it cannot be so set off before the 25th of next December—as no school section can be altered, nor separate school section formed, except at that period of the year: See school act of 1850, section 19, 2nd proviso, and the 4th clause of the 18th section.

Persons supporting a separate school may subscribe as large a sum as they please in support of such school, but the sum subscribed must be at least equal to what they have to pay of the county tax in order to receive the legislative grant.

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J. A. VERVAIS,
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No. 182.

[L. R. 3138, 1853]

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The Rev. E.
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No. 183.

[No. 551 G.]

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It can always be ascertained how much in the pound the *county* school tax for the year amounts to.

I have the honor, &c.

(Signed)

E. RYERSON.

J. A. VERVAIS, Esq., M. D.,
Local Superintendent of Schools,
Township of Sandwich.

No. 182. The Honorable John Elmsley, of Toronto, to the Chief Superintendent.

Complaints from a Separate School in Sandwich.

[L. R. 3139, 1853.]

TORONTO, 19th October, 1853.

SIR,

The Rev. F. Point, of Sandwich, has written to his lordship, the Bishop, to inform him that the local authorities have refused to let the Catholic separate school trustees of that place have their portion of the government grant for this year; on the ground that the separate school, for which such portion is claimed, has not been in operation six months.

I have been requested by his lordship to bring the subject under your official consideration, in order that the complaint of the parties may receive redress at your hands

If you will oblige me with your decision upon this matter, I will transmit it to the parties interested.

I have the honor, &c.

(Signed)

J. ELMSLEY.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

No. 183. The Chief Superintendent to the Honorable John Elmsley, of Toronto.

Parties requiring the interference of the department should apply directly.

[No. 251 G.]

EDUCATION OFFICE,

Toronto, 24th October, 1853.

SIR,

I have the honor to acknowledge the receipt of your letter of the 19th instant, and to state in reply, that I received a letter from Dr. Vervais, the local superinten-

dent of schools for the township of Sandwich, referring, as I suppose, to the case mentioned by you, as well as to some other questions of dispute. I answered him the 18th instant.*

I may remark that the parties concerned should address me on the subject of their complaints, and furnish a copy of their letters to those of whom they complain, if they wish any official interference on my part in their affairs.

I have the honor, &c.

(Signed,)

E. RYERSON.

The Hon. JOHN ELMSLEY,
(*In re* Sandwich.)
Toronto.

*No. 184. Certain Protestant Inhabitants of School Section No. 8, Sandwich,
to the Chief Superintendent.*

Non-resident supporters of a Protestant Separate School desiring exemption from public School rates.

[L. R. 4702, 1854.]

SANDWICH, 17th December, 1854.

REVEREND SIR,

I beg leave to bring before you the case of John Herdman, Robert Herdman William Radcliffe and myself, residents of the township of Sandwich, trusting that you will be pleased to take it under your consideration and direct us how to proceed in the matter.

Our case stands thus:—We the aforementioned reside in and own property in school section (I think it is No. 8,) it is almost exclusively French, and as they have not before called upon us for any purpose relating to their school, together with the fact that we are residing in a distant corner of said section, we have never troubled ourselves to know even the number of the section. We are Protestants; and as there is a separate Protestant school taught in the section adjoining us, No. 9, which is more convenient to us than the school of the section in which we reside, we have for several years sent our children to and supported the said separate school.

Our names, together with the sums subscribed, have been duly sent in the half-yearly report.

Our school has been kept open this current year, six months; we have also subscribed both time and money for the erection of a new separate school house in the section adjoining us, as the building in which the school had formerly been kept, was in too distinct a part of the section to suit the wants of the people.

We were not a little surprised therefore when called upon a few days ago by the collector for our taxes, to find that we were taxed for the support of the school in the section in which we reside.

* See letter No. 181, *ante*, [No. 502, G.]

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The Rev.
Chief

No. 185.

Supporters of

[No. 2337, M.]

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We complained thereof to the township council, stating that we considered the clause in the 12th section of the supplementary school act for 1853, exempted us as separatists. As they could not arrive at a satisfactory decision, they agreed to let the case stand over until we should be able to learn your decision on the subject. We have, therefore, taken the liberty of bringing our case before you, begging that you will be pleased to take it under your consideration and soliciting the favor of an answer as soon as convenient.

If we are to support the school of the section in which we reside, and which is different to us not only in religion but even in language, we would, sir, knowing the interest that you have always taken in the cause of education, beg of you for your advice as to the best way for us to proceed to have our children educated; for as to us new settlers in the back woods to have to support two schools would be a case of extreme hardship, and we are not enough in number to establish a separate school in the section in which we reside.

If you will be pleased therefore to give the subject your consideration, and return us an early answer, you will greatly oblige your humble servants.

(Signed,) JAMES CLAUQUE.

The Rev. E. RYERSON, D. D.,
Chief Superintendent of Schools,
Toronto.

No. 185. The Chief Superintendent to certain Protestant Inhabitants of School Section No. 8, Sandwich.

Supporters of a Separate School cannot be exempted from Public School rates unless included in separate Section.

[No. 2337, M.]

EDUCATION OFFICE,

Toronto, 22nd December, 1854.

SIR,

I have the honor to acknowledge the receipt of your letter of the 17th instant, and to state in reply that, according to your letter, you seem to have been considered for years' past as forming a part of the separate school section, the school of which you have supported. But if you have simply, as a matter of fairness, justice and usage, and not by any formal act of the township council, been considered as belonging to the separate school section, you can, of course, send your children there under the authority of the 12th section of the supplementary school act, but you cannot claim exemption from the payment of a *property school rate* in the section in which you reside.

The simplest and most effectual mode of proceeding in order to accomplish the objects you have in view, is to apply to the township council, in connection with the

trustees and others in the separate school section (to the number of twelve heads of families) to include you in one school section. According to the 19th section of the act, the council will be obliged to comply with your request; and according to the 4th section of the supplementary school act, you will be exempted from the payment of school rates, except for the support of your own separate school.

I have the honor, &c.

(Signed.)

E. RYERSON.

Mr. JAMES CLAQUE,
School Section No. 8,
Sandwich.

No. 186. Extract from the Chief Superintendent's Report for 1852.

On the provisions of the law relating to Separate Schools and Religious Instruction.

1. *Objections of Certain Opposers of the Separate School clauses of the Law.*—The first objections which I shall notice, relate to that feature of the school law which permits, under any circumstances, the establishment of a Protestant or Roman Catholic separate school.

On the theory involved in this provision of the law, or on the policy of introducing it in the first place, I have nothing to say. But it is my deliberate and decided opinion—greatly strengthened by the experience and observation of the last year or two—that the abolition of this provision of the school law would greatly impede the advancement of the system, and do injury to all parties concerned; and I entreat every friend to the continued and unparalleled prosperity of our school system, to abstain from all agitation and opposition against the provision of the school law for separate schools. I think it necessary, and but respectful, at the same time, to give my reason for this opinion and counsel.

1. Let it be observed, that it is only when the teacher or teachers are Roman Catholics, that a Protestant separate school can be established, and only when the teacher or teachers are Protestants, that a Roman Catholic separate school can be established. When once established each school can be continued, as long as the parties establishing it shall comply with the requirements of the law.

2. This provision for separate schools was introduced into the school law in 1841, and has been continued in each of the four school acts which have since been passed by the legislature.

3. This and all other provisions of the school law, have been considered from time to time, as unconnected with party politics or political parties. It is a singular fact, that four of the five school acts by means of which our school system has been thus far developed and sustained, were brought into the Legislature, and passed, under the auspices of four different administrations of government. Especially in

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1850, when the whole school law underwent the most careful scrutiny and revision, and was placed upon its present foundation, it was agreed by the leading men of different political parties, that the interests and politics of parties should not be allowed, in any way whatever, to influence the consideration and interests of the school system. To that fact, and to the influence of the noble example thus given, upon the country at large, is our school system largely indebted for its unrivalled success. I deprecate any departure from such a course; I deprecate making this or any other provision of the school law, a political party watchword, or a "plank" in a political party "platform." The bitterest enemy of our school system could not devise a more effectual method of impairing its usefulness and impeding its progress, if not ultimately subverting it altogether, than by drawing it into the vortex of political partizanship, and engulfing it in the whirlpool of political passions and sectarian animosities.

4. It is at variance with the principles of sound legislation and government to deprive any class of persons of any rights or privileges (whether rightly or wrongly conferred in the first instance) from the possession of which no public evils or wrongs have resulted. Now no evils have resulted or are likely to result from the legal provision for separate schools. Though this provision has been in existence *twelve* years, the number of separate schools, both Protestant and Roman Catholic, never exceeded 50. According to the last official returns, (1852,) their number is only 25, of which *four* are colored, *three* are Protestant, and *eighteen* are Roman Catholic. Were they twice as numerous as they are, they would not affect the general operations and success of the school system. That system never had so strong a hold upon the public mind, and never was so prosperous, as at the present time. If the existence of the provision of the law for separate schools has not subverted, nor weakened, nor impeded the progress of the school system during twelve years of its infancy and weakness, it is absurd to suppose that that provision will endanger the system now that it has acquired strength and maturity, and is becoming interwoven with the warmest sympathies and dearest interests of the people generally.

5. The existence of this provision for separate schools, while it is practically harmless to the school system, prevents opposition and combinations which would otherwise be formed against it. Were there no such provision, how easily could the whole of one large religious persuasion be wrought up into vehement opposition to the school system; how readily would individuals and small sections of other parties of the community, unite with such an opposition upon similar grounds, but with opposite objects in view; how promptly would a large number of persons in every county, opposed upon selfish grounds, to all school rates on property, rise up under the pretexts of religious zeal against "state schoolism." In such circumstances, the school system would indeed be in danger, if not speedily overthrown. The existence of the provision for separate schools averts such opposition and renders such combinations impossible; it furnishes a safety valve for the explosion and evaporation of those feelings which would otherwise be arrayed against any national school system. The exemption of our school system from such opposition and combinations

for its subversion and overthrow, has no doubt contributed to its more rapid growth and wider success.

6. The existence of the provision for separate schools has, in my opinion, averted and does avert, evils from other parties—parties among whom the few separate schools chiefly exist. We have only to look to other states and countries to find examples of prohibitions, by ecclesiastical authority, to the youth of a large portion of the community from attending the public schools at all, because of their alleged danger to religious faith and morals; and in consequence of such prohibitions, many thousands of youth have been seen growing up deprived of all school education;—it being maintained that it is better for our youth to grow up without ability to read or write, than to have their religious faith corrupted or endangered. From official intimations given, there is every reason to believe that such prohibitions would be made in Upper Canada, as they have, indeed, been made in several places. The result would be the growing up amongst us of many thousand youth wholly uneducated, and inveterately hostile to their fellow citizens of other religious persuasions. But with the provision in the law for the establishment of separate schools, those ecclesiastics who prohibit the youth of their flocks from attending the public schools are morally and literally compelled to see them provided with other schools; and where they neglect or fail to do the latter, they cannot honorably prohibit youth from the advantages of the former. Thus does this provision of the law afford a protection, as well as means, for securing to great numbers of youth a school education of which they would otherwise be deprived.

7. Religious minorities in school municipalities of Lower Canada, have the protection and alternative of a separate school; and those minorities (being there chiefly Protestants) attach importance to this provision. Religious minorities in Upper Canada, whether Protestant or Roman Catholic, cannot be fairly denied that relative protection or right which, under the same legislature, they enjoy in Lower Canada.

8. The most, and, in my opinion, only effectual method of causing the ultimate discontinuance and abandonment of separate schools, is to retain the existing provisions of the law on the subject.* That provision secures all that is granted to the dissenting minority of any municipality in Lower Canada, all that can be equitably asked for by such minority in any municipality of Upper Canada. I do not think the grounds on which separate schools are established, are valid; I do not think there is any reasonable necessity for such schools; I think the law provides amply for the protection of the religious faith and morals of all classes in the public schools; I think those who establish separate schools voluntarily and needlessly place themselves and their children at a disadvantage in regard to sound education and in relation to the community at large; I think it is impossible to make, as a general rule, the separate schools as efficient and cheap as the public schools; I think no other schools can stand long in competition with the public free schools, especially in our cities, towns, and villages. But it is for the parties concerned to judge of their own interests and

* See the extract of the law as it existed before the passage of the Roman Catholic separate school law of 1855, in No. 1 of this correspondence.

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inclinations, not me. I am persuaded nothing but actual experiment will satisfy them; and I am equally persuaded that that experiment, the longer and more extensively it is tried, will produce only the deeper and wider conviction as to the disadvantage and inexpediency of separate schools. Experience and observation will teach the parties concerned, that their fellow citizens of other religious persuasions are not the unbelievers and dangerous characters they are represented to be; that they have more interests and feelings in common with them, than in opposition to them; that the tendencies of the age, and of all the institutions and enterprises of our country, are to coöperation and union among all classes of citizens, rather than to isolation and estrangement from each other; that there is no part of the civil and social economy in which this general coöperation and unity are more important and advantageous to all parties, than in the mental development of the whole youthful population of the country, and the diffusion of general knowledge; that as all situations of public trust and emolument in our country are directly or indirectly depending upon the elective voice of the people, every man is inflicting an injury upon his children, who seeks to isolate them from that acquaintance and intercourse and community of feeling with their fellow citizens, which, in the very nature of things, is necessary to secure general confidence and favor. These silent and natural, but powerful, influences and obvious considerations will be more decisive and effective, as to the multiplication and perpetuation of separate schools, than all the arbitrary legislation that can be invoked on the subject. The burdens and disadvantages which are voluntarily embraced and self-incurred, cannot be complained of as a grievance, and will not be long regarded as a privilege.

9. But it has been objected, that by the 4th section of the Supplementary School Act, passed in June, 1853, a new principle has been introduced in regard to separate schools, and the public system is thereby endangered. The fact of the objection is true, but the inference is false. The new principle introduced is that which places the public school system beyond the reach of danger, instead of compromising it. This new principle is included in a fourfold provision:—*First*, That no municipal authority shall be employed, or municipal tax be applied, as heretofore, in support of any separate school. *Secondly*, That whatever is raised by local rate for the support of a separate school, must be levied and collected by and from the parties of the religious persuasion establishing and sustaining it. *Thirdly*, That these parties must individually tax themselves for their school in sums equal to what they would have to pay as a tax to the school fund of their municipality; and on this condition alone, and only as long as they fulfil it, are they exempt from the payment of public school tax. *Fourthly*, That the parties supporting separate schools are not permitted, as heretofore, to interfere in the elections and affairs of the public schools. Now, every candid person must admit, that by these provisions, the public school system is placed upon a firmer and safer foundation than heretofore, while the grievance alleged by the supporters of separate schools, is effectually removed. They demanded to share, not merely in what was held to be the legal school fund—namely, the legislative school grant, and an equal sum raised by local municipal assessment,—but on all moneys raised for school purposes; and complained that they were taxed for

moneys, in the advantages of which they could not participate. The 4th section of the Supplementary School Act says, in substance, "very well, you shall not be required to pay any public school tax at all, as long as you choose to separate yourselves from the public schools; but you shall not share in any municipal assessment for school purposes; you shall not interfere in public school elections; you must tax yourselves in sums equal to those of the required public school tax, and only so long as you do so, can you be exempted from the payment of such tax." In regard to this section of the Supplementary School Act; let it therefore be understood:—*First*, That no separate school can be established or continued otherwise than on the conditions and under the circumstances specified in the 19th section of the School Act of 1850, and which section is the same as corresponding sections in the School Acts of 1846, 1843, and 1841. *Secondly*, That no part of any municipal assessment can be applied, and no municipal authority or officer can be employed, to collect rates for the support of any separate school—a great improvement in the school law as it has hitherto existed on this subject. *Thirdly*, That if any persons, whether Protestant or Roman Catholic, demand a separate school in the circumstances under which it may be allowed, they must tax themselves for its support and they must make returns of the sums they raise and the children they teach—a regulation not before required, but rendered necessary in order to make out the school assessment roll, and to determine the collector's duties, as also to know whether the children reported are of the religious persuasion of the separate school;—a regulation required half-yearly of all trustees of public schools in respect to the attendance of children at school; and upon the basis of the returns thus required, is the school fund half-yearly distributed. *Fourthly*, That separate schools are subject to the same inspections as other common schools. *Fifthly*, That all ground and semblance of complaint of injustice is taken away from the supporters of separate schools, while they can no longer employ municipal authority and municipal assessments to sustain them. *Sixthly*, That the supporters of separate schools cannot, as formerly, interfere in the public school elections, while the supporters of the public schools cannot interfere in the elections of the separate schools. If, then, separate schools have not hitherto endangered our school system, there is still less danger of there being able to do so, under the Supplementary School Act, the provisions of which put it out of the power of any opposers to shake the foundations of the system, or get up a plausible pretext of agitation against it on the plea of religion or justice. The withdrawal of a few persons here and there from the support of the public schools, will scarcely be felt by the people at large—even in a pecuniary sense—while the disadvantage will be with the separatists; and the supporters of the public schools in such localities will have the advantage of promoting the interests of general education, free from the impediments of internal discord and opposition.

10. One other allegation has been made, calculated to excite prejudice and opposition against the 4th section of the supplementary school act in regard to separate schools. It has been represented as a party concession to ecclesiastical demands and Lower Canada influence. I am able to assert, from personal knowledge, that no part of that section was dictated, or suggested, or modified by

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any public man in Lower Canada. I can also affirm that it was prepared by myself, and submitted to the consideration of the government without previous consultation with any member of it on the subject;* and I constructed it according to what I had previously stated in an official correspondence, which was approved by those who have most objected to this provision of the act.† The responsibility of others, whether ministers of the crown or private members of the legislature, was in sanctioning substantially that which was submitted to them, and in what I submitted, I yielded to no other influence than of a simple desire to give effect to the already existing legal provision for separate schools, in such a way as would leave to the supporters of such schools not the slightest reasonable pretext of complaint, and yet maintained, unimpaired and secure, the great principles and interests of the public school system. I make these remarks, not with a desire to relieve any public man from his just share of responsibility in regard to the school law, or to object to the freest expression of opinion respecting it, but to prevent it from being brought into the arena of party politics—an occurrence which I should regard as most calamitous in the progress of our school system.

Upon the several grounds, therefore, thus stated, I think the existing provisions of the law respecting separate schools should be allowed to remain in the statutes, as most promotive of the stability, success, and general interests of the school system, in the existing state of society. In the efficiency of that system I have as deep an interest and concern as any other person in Upper Canada, and am, perhaps, as favorably situated for judging as to the real impediments to its progress; and such is the suggestion I feel it my duty to offer.

2. *Objections of Certain Advocates of Separate Schools.*—I now address myself to a brief notice of objections from an opposite quarter—objections from some of the promoters of separate schools, who, not content with the existing provisions of the law, (with which, nevertheless, they had heretofore expressed themselves fully satisfied,) are demanding further modifications; and as they have intimated an intention to bring the question again before the legislature, it is proper that I should notice it, that the members of the legislature, and the public at large, may fully understand the nature and grounds of the recent and proposed movements.

1. It is alleged as a reason for the fewness of separate schools, that unreasonable obstacles are opposed to their establishment by the provisions and administration of the law. On this allegation I remark that the time and mode of organizing a separate school section, is precisely the same as that of altering any common school

* See the original draft of this section as prepared by the Chief Superintendent, in No. 2 of this correspondence, page 22.

† "It is possible that the legislature may accede to the demands of individuals praying, on the grounds of conscience, for unrestricted liberty of teaching; exempting them from all school taxes, with a corresponding exclusion of their children from all public schools, and leaving them perfectly free to establish their own schools at their own expense; but I am persuaded the People of Upper Canada will never suffer themselves to be taxed, nor the machinery of their government to be employed, for the building and support of denominational school houses, any more than for denominational places of worship and clergy."—*Letter of the Chief Superintendent of Schools for Upper Canada, to the Roman Catholic Bishop of Toronto, dated 18th March, 1852.*

section,* with the single and only difference that the application of twelve resident heads of families of the religious persuasion of the separate school desired, is necessary in order to its establishment; and this application is *imperative* on the parties to whom it is addressed. The applications of persons for the alteration of a school section, and formation of a new one, may or may not be complied with, according to the pleasure of the body addressed; but an application, according to law, from twelve heads of families in a school division, for a separate school, cannot be refused; and there is no mode of procedure required for the election of the corporation for a separate school, which is not required for the election of the school corporation in every new school section in Upper Canada. The first and annual elections in both classes of sections, are conducted in the same manner, and at the same time.† There is, therefore, not the slightest foundation for the allegation referred to. The allegation that the law is administered to the disadvantage of separate schools, is as equally unfounded. In every instance, with one or two exceptions, where complaints on this subject have been made, it has appeared that the complaining parties have neglected to pay any regard to those simple and necessary provisions of the law by which school sections of all kinds are established; and then when their expectations and wishes are not realized, they ascribe the failure, not to their own irregular mode of procedure, but to the hostility of the administration of the law. The correspondence of this department will show how much pains have been taken to point out to these parties their mistakes, how they might be avoided or retrieved, and how all the advantages of the law could be secured to them. Before the least credit is given by any member of the legislature to such imputations upon the administration of the school law, let the cases on which they are based, be specified, and let the official correspondence of this department respecting them be called for; and I am persuaded every candid man will be satisfied that all such imputations are not only groundless, but the reverse of justice and truth.

2. It has also been objected to make the required statistical returns to the local municipal authorities, and a desire has been expressed to make such returns to the

* "Provided always that each separate school shall go into operation at the same time with alterations in school sections."—*First Provision, in 19th section of the School Act of 1850.*—"Provided secondly, that any alterations in the boundaries of a school section shall not go into effect before the Twenty-fifth day of December, next after the time when it shall have been made."—*Second Provision in fourth clause of 18th section of School Act of 1850.*

† "The municipal council or board of school trustees shall make the same provision for the holding of the first meeting for the election of trustees of each such separate school as is provided in the 4th section of this Act for holding the first school meeting in a new school section"—*19th section, Act of 1850.* "To form portions of the township where no schools have been established, into school sections; to appoint a person in each new school section to call the first school section meeting; and to cause such person to be notified in the manner prescribed in the fourth section of this act."—*18th section, Act of 1850.* "Whenever any school section shall be formed in any township, as provided in the 18th section of this act, the clerk of the township shall communicate to the person appointed to call the first school meeting for the election of trustees, the description and number of such school section; and such person shall, within twenty days thereafter, prepare a notice in writing, describing such section, and appointing a time and place for the first school section meeting, and shall cause copies of such notice to be posted in at least three public places in such school section, at least six days before the time of holding such meeting."—*4th section, Act of 1850.*

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Chief Superintendent of Schools alone, and receive directly from him, acting under the orders of the Governor General in Council, the apportionment and payment of moneys to separate schools. This would be placing separate schools in a different position from any other schools, would virtually exempt them from all inspection, and their returns from all enquiry as to correctness; for it is impossible that the head of the department can know anything as to the fairness of such returns, or the comparative half-yearly average attendances of pupils at the public and separate schools, without going and examining the register of the schools and the modes of keeping them; nor would it be possible for him to devote the time and labor necessary to perform these duties of the local superintendents, were he even able to investigate and judge of the correctness of the returns made. Unless such returns are made to the local superintendents, the municipalities would not have the requisite data to make the exemptions authorized by law. Nothing can be fairer than the present system of making the returns of both public and separate schools; and there is no reason why the only mode of securing correct returns should not be required of the one class of schools as well as of the other. In any possible case of difference between the local parties, arising out of these returns, or any other question, there may be an appeal to the Chief Superintendent of Schools, and afterwards, if need be, to the Governor in Council.

3. It has been further objected, that the apportionment of school money to the separate schools should be made according to the number of the religious persuasion establishing them, and not, as at present, according to the number of children of such persuasion attending them, as compared with the number of children attending the public schools. This demand involves legislating for a class or religious persuasion; it annihilates individual right of choice, and places the right of every individual of a religious persuasion in regard to the public schools, and his obligations as to the separate schools, at the disposal of such persons in each municipality as may demand a separate school; whereas the law provides public schools for all upon equal terms and under equal protection, and will separate no citizen from his rights and obligations in regard to these public institutions, except by his own voluntary request and on the fulfilment on his part of certain corresponding conditions. The law has to do with individuals and individual rights, not with religious persuasions or ecclesiastical authorities.

It will be seen that each of the three foregoing objections and demands involves directly or indirectly the placing of the church above the state, and making the latter the agent, tax-assessor, and collector for the former—a policy repugnant to the principles of free government, and at utter variance with the enlightened spirit of our country and age. These demands originate from a natural desire to counteract the disadvantages necessarily attendant upon the establishment of separate schools, and to place them in a position of peculiar advantage. But as long as a part is less and weaker than the whole, so long must those who isolate themselves from public schools and establish private or denominational ones, be prepared to bear additional expenses and burden for this distinction and gratification. Another reason for these demands is, the new grounds on which separate schools are advocated. Heretofore

they were only desired to meet the peculiar circumstances of extreme cases of neighborhoods, where religious bigotry and party spirit deprived the minority of protection from injustice and oppression; but, within the last year or two, separate schools have been demanded on the ground of theory, independent of any local circumstances, and upon the ground of avowed hostility to the principles of our whole public school system; and in this spirit the passing of the 4th section of the supplementary school act was celebrated by the newspaper advocates of separate schools as a fatal blow to the public school system. When, therefore, modifications in the law are sought for with the avowed purpose of subverting and destroying the system of public schools, the question assumes a new aspect and a new importance with all those who consider it the duty of the state to provide for the education of all the youth of the state.

4. It has lately been objected that injustice is done the parties establishing separate schools by the present mode of distributing the *school library grant*, and it has been insisted that the grant should be distributed to them according to the numbers of their religious persuasion, and not to the township and school municipalities, as is now done. On this objection and demand, I have to remark,—*First*. That these libraries are not established for denominational, but for general purposes,—*Secondly*. That the utmost fairness and impartiality have been exercised in the selection of the books,—*Thirdly*. That besides my own personal endeavors to procure as large a variety as possible of the best works, adapted to general reading, emanating from Roman Catholic, as well as Protestant, authors, application was made to the Roman Catholic Bishop of Toronto, (who is also a member of the council of public instruction,) for a list of historical works, such as he would recommend; and the historical books, thus recommended, have been inserted in the official catalogue. *Fourthly*,—That I have given official notice, that the trustees of separate schools would be aided upon the same terms as trustees of the public schools in the establishment of school libraries.* These facts have been kept from their readers by the publications which have assailed the school system and myself on this subject.

5. I think it my duty to advert here to the manner in which I have myself been treated by the advocates of separate schools above referred to. During the whole of my administration of this department, I have known neither religious sect nor political party; I have endeavored simply to serve my country. The first and only official correspondence which has partaken of a controversial character, was with the Roman Catholic Bishop of Toronto. That correspondence was called for, and printed by order of, the legislative assembly; and with a fairness characteristic of French manliness and honor, it was published entire by the principal French newspapers of Lower Canada. The effect was, I have reason to believe, a satisfactory conviction among public men generally, if not unanimously, in Lower Canada, that I had fulfilled my duties in an impartial manner. But the papers of the same religious persuasion, published in the English language, have pursued a very different course. To those journals I should make no allusion, were they not

* See letter No. 17 of this correspondence, page 64.

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acknowledged organs of certain parties, and had they not been commended by Episcopal authority, to the confidence and support of a large religious persuasion. In regard to the course pursued by those journals, I have to draw attention to two things. (1.) The invoking of Lower Canada interference in an exclusively Upper Canada question,—getting up discussions and petitions in Lower Canada, for legislation in the school matters of Upper Canada. No portion of the Canadian press is more sensitive and hostile than those journals, and the parties they represent, against any interference on the part of Upper Canadians with the religious and educational establishments of Lower Canada; and from the beginning I have avowed the same opinion, and pursued the same course,—believing, that an opposite course on the part of the inhabitants of either section of Canada, would sever the union of the two Provinces, if not produce more serious results. Yet these journals have commenced the example and advocacy of a course of proceeding which every friend of *united* Canada must deprecate, and which, if persisted in, is pregnant with disastrous consequences. (2.) These journals have not permitted their readers to see one paragraph that I had written in the official correspondence above referred to; but have systematically misrepresented the purport of it; have assailed me in terms most abusive, and still continue the demand for my removal from office. It is well known to every reader of it, that that correspondence had no reference whatever, (as represented by these journals) to the existence or non-existence of separate schools, but simply to the proportion of moneys appropriated and raised for school purposes, to which separate schools were legally and justly entitled. If, in the course of the correspondence, I remarked upon other topics, it was known to be in reply, and in vindication of the impugned principles, and character and institutions of the great majority of the people of Upper Canada. Then as to removal from office, I leave, as I always have done, to the responsible authorities of the country, the absolute disposal of an office, for appointment to which, or continuance in which I never made a request, and which I do not wish to fill any longer than I can do so to the satisfaction, and for the advantage of my country. But I have one request to prefer in regard to myself, and one in regard to the school law and system, to establish and extend which so much labor has been bestowed:

The first request is, that before even the slightest credence be given to the statements of the parties referred to, the official correspondence of the department may be called for, when it will be seen whether I am more entitled to the gratitude or abuse of such parties. The second request is, that before the existing settlement of the separate school question be allowed to be disturbed, let the complaining parties specify their charges against the present provisions and administration of the law, and the facts in support of such charges, and let a commission or committee of the legislative assembly be appointed to investigate them. I shrink from no investigation; I court every inquiry that can be made.

I should have passed over these attacks in silence, as I have done in regard to many others, were they not made by the organs of certain ecclesiastical parties, and made with the view of demanding and obtaining further provisions for separate schools, and with the avowed purpose of injuring and destroying a provincial system of universal education. Under such circumstances, I think the objects of these

parties in regard to myself and the public school system should be fully understood.* The attacks and efforts of these parties will not, I trust, induce me to depart one iota from that course of entire impartiality towards all persuasions and parties, which I have endeavored to pursue from the commencement, and which has been repeatedly acknowledged by many distinguished members of the persuasion of my assailants; but while I do so, it is equally my duty to guard the public school system against all attempts to weaken and subvert it.

Objections to religious instruction in the schools.—Nothing has been elicited by the experience, observations, and discussions of another year to modify the conclusions which had been adopted as to the regulations in respect to religious instruction and exercises in the schools. I explained and remarked on these regulations at some length in my last annual report. I need add but little to what I then stated, and which will be found in this report.† In the several petty and personal criticisms which have been published on my remarks, I have read nothing to weaken their force, or that has seemed to merit notice. All theories which transfer to the day-schoolmaster, between the hours of nine o'clock in the morning and four in the afternoon, during five days of the week, the obligations and duties which the holy scriptures, the primitive ages of the christian church, and the constitutions of all religious persuasions, enjoin upon parents and clergy, must be unsound and vicious in principle, and immoral in tendency. All theories which make the state the servant and creature of the church are as all history demonstrates, degrading to the former and corrupting to the latter. All theories which leave any portion of the population without a public provision for instruction in the elements of a practical education, are at variance with the principles and ends of good government, and hostile to the rights and interests of men. All theories which compel, by human enactment, states or communities of men in respect to forms and exercises of religion, infringe the prerogative of Jehovah himself; trample upon the individual responsibility of man to his Maker; and involve the assumptions on which have been based the most politico-ecclesiastical despotisms and cruel persecutions that have cursed mankind and crimsoned the church of God.

If the right of local self-government is invested or recognized in an incorporated community, that right is as inviolable in respect to the smallest school municipality as in respect to the largest Province or State. Facilities may be provided and recommendations may be given as to the mode of exercising that right; but the adoption of such recommendations is at the discretion of the municipality itself. Penalties, in the form of pecuniary losses, or in any other form, to enforce such recommendations in exercises of religion, are an infringement of a right sacred to every man as a moral agent, as well as to every free community. This principle is so obvious, that it was recognized and acted upon in Upper Canada, long before the creation of our present municipalities and the large discretionary powers with which they are invested. The utmost that a provincial board of education thought

* See extracts in letter No. 6, page 51.

† The next paper, No. 187.

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proper to do in those days, was to make the following recommendations, after the passing of the school law of 1816:—

- "1. That the labors of the day commence with prayer.
- "2. That they conclude with reading publicly and solemnly a few verses of the New Testament, proceeding regularly through the Gospels.
- "3. That the forenoon of each Saturday be devoted to religious instruction."

In those days there was nothing whatever in the school *law* on the subject of religious exercises and instruction, about which some persons talk so much now-a-days; the most intemperate and vicious characters were employed as teachers; there was no provision to give effect to the above recommendations, or even to put them in the hands of school trustees; they were scarcely known, if known at all, beyond the columns of one or two of the few newspapers that were then published; no steps whatever were taken to enforce them; and every person acquainted with the state and character of the schools of those times, knows that in not one school out of ten, if in one out of twenty, were there daily prayers and scripture reading, or religious instruction of any kind, and that where anything of the kind was practised, it was done at the option of the trustees and teacher of the school. Let any one compare the above quoted recommendations, with the existing regulations and recommendations on the subject, as given in the note to the next paper of this *Journal*, page 244, and he cannot fail to be impressed with the gross inconsistency of those who, though the architects and advocates of the former, are the assailants of the latter, as essentially defective and even irreligious! Perhaps a more remarkable example of blind partizanship could hardly be selected—an example, I believe, little approved of, or its spirit little participated in, by any considerable portion of the community.

I think, however, it is desirable, in addition to the existing regulations and recommendations, that the Council of Public Instruction should provide suitable *Forms of Prayer*, to be used in the schools as may be desired by the trustees and teachers; and I trust such forms will shortly be prepared for both the grammar and common schools. But the use of them, as well as all special religious instruction in the schools, must be at the discretion of the parents and trustees concerned. Compulsion on this subject is as impracticable as it is unreasonable and tyrannical. Every good man must desire the largest possible infusion of the principles, sentiments, and spirit of Christianity in our schools and in the entire management of the school system; and the great improvement in the schools in this, as well as in every other respect, is the best proof of the wisdom of the regulations and recommendations which have been made by the Council of Public Instruction in respect to religious exercises and instruction in the schools, and which will be found explained and vindicated at some length in the paper above referred to, under the head of "*Question of Religious Instruction, in connection with our System of Public Instruction.*"

It is worthy of remark, that although a few petitions (proposed and recommended for signature by one or two ecclesiastical dignitaries) have been presented to the legislature in favor of a denominational system of common schools, not a single member of the Legislative Assembly from Upper Canada, of any religious persuasion,

has been found to advocate such a system—an indication, the most decisive, of the strong and universal sentiments of the people on the subject.

(Signed)

E. RYERSON.

EDUCATION OFFICE,

Toronto, December 1853.

No. 187. Question of Religious Instruction, in connection with our system of Public Instruction.

The question of religious instruction has been a topic of voluminous and earnest discussion among statesmen and educationists in both Europe and America—has agitated more than one country on the continent of Europe—has hitherto deprived England of a national system of education, permitting to it nothing but a series of petty expedients in varying forms of government grants to certain religious denominations, while the great mass of the laboring population is unreached by a ray of intellectual light, and is “perishing for lack of knowledge,” amidst the din of sectarian war about “religious education,” and under the very shadows of the cathedral and the chapel. If I have not made this question a prominent topic of remark in my annual reports, it is not because I have undervalued or overlooked its importance. In my first and preliminary *Report on a System of Public Elementary Instruction for Upper Canada*, I devoted thirty pages to the discussion of this subject (pp. 22–52), and adduced the experience and practice of the most educating countries in Europe and America respecting it. In preparing the draft of the school law, I have sought to place it where it has been placed by the authority of government, and by the consent of all parties in Ireland—as a matter of regulation by a National Board, and with the guards which all have considered essential. These regulations* have been prepared and duly sanctioned, and placed in the hands of all school authorities; nor have I failed from time to time to press their importance upon all parties concerned. It is, however, worthy of remark, that in no instances

* The following are the regulations on the *Constitution and Government of Schools in respect to Religious and Moral Instruction*, prescribed by the Council of Public Instruction for Upper Canada:—

“As Christianity is the basis of our whole system of elementary education, that principle should pervade it throughout. Where it cannot be carried out in mixed schools to the satisfactions of both Roman Catholics and Protestants, the law provides for the establishment of separate schools. And the common school act, fourteenth section, securing individual rights as well as recognizing Christianity, provides, ‘That in any model or common school established under this act, no child shall be required to read or study in or from any religious book, or to join in any exercise of devotion or religion, which shall be objected to by his or her parents or guardians; Provided always, that within this limitation, pupils shall be allowed to receive such religious instruction as their parents or guardians shall desire, according to the general regulations which shall be provided according to law.’”

“In the section of the act thus quoted, the principle of religious instruction in the schools is recognized, the restriction within which it is to be given is stated, and the exclusive right of each parent and guardian on the subject is secured, without any interposition from trustees, superintendents, or the government itself.

“The common school being a day and not a boarding school, rules arising from domestic relations and duties are not required; and as the pupils are under the care of their parents and guardians on Sabbath, no regulations are called for in respect to their attendance at public worship.

“In regard to the nature and extent of the daily religious exercises of the school, and the special religious instruction given to pupils, the Council of Public Instruction for Upper Canada makes the following regulations and recommendations:—

“1. The public religious exercises of each school shall be a matter of mutual voluntary arrangement between the trustees and teacher; and it shall be a matter of mutual voluntary arrangement between the

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have those parties who have thought proper to assail the school system, and myself personally, on the question of religious instruction, quoted a line from what I have professedly written on the subject, or from the regulations which I have recommended; while such parties have more than once pretended to give my views by quoting passages which were not at all written in reference to this question, and which contained no exposition of my views on it.

As some prominence has been given to this question during the year by individual writers, and some vague statements and notions put forth, I will offer a few remarks on it.

1. My first remark is, that the system of common school instruction should, like the legislature which has established, and the government that administers it, be non-sectarian and national. It should be considered in a provincial, rather than a denominational point of view—in reference to its bearing upon the condition and interests of the country at large—and not upon those of particular religious persuasions as distinct from public interests, or upon the interests of one religious persuasion more than upon those of another. And thus may be observed the difference between a mere sectarian and a patriot—between one who considers the institutions and legislation and government of his country in a sectarian spirit, and another who regards them in a patriotic spirit. The one places his sect above his country, and supports or opposes every public law or measure of government just as it may or may not promote the interests of his own sect irrespective of the public interests and in rivalry with those of other sects; the other views the well-being of his country as the great end to be proposed and pursued, and the sects as among the instrumentalities tributary to that end. Some, indeed, have gone to the extreme of viewing all religious persuasions as evils to be dreaded, and as far as possible proscribed; but an enlightened and patriotic spirit rather views them as holding and propagating in common the great principles of virtue and morality, which form the basis of the safety and happiness of society; and therefore as distinct agencies more or less promotive of its interests—their very rivalships tending to stimulate to greater activity, and, therefore, as a whole, more beneficial than injurious. I think a national system of public instruction should be in harmony with this national spirit.

teacher and the parent or guardian of each pupil, as to whether he shall hear such pupil recite from the scriptures or catechism, or other summary of religious doctrine and duty of the persuasion of such parent or guardian. Such recitations, however, are not to interfere with the regular exercises of the school.

"2. But the principles of religion and morality should be inculcated upon all the pupils of the school. What the Commissioners of National Education in Ireland state as existing in schools under their charge, should characterize the instruction given in each school in Upper Canada. The Commissioners state that 'in the national schools the importance of religion is constantly impressed upon the minds of children through the works calculated to promote good principles and fill the heart with love for religion, but which are so compiled as not to clash with the doctrines of any particular class of Christians.' In each school the teacher should exert his best endeavors, both by example and precept, to impress upon the minds of all children and youth committed to his care and instruction, the principles of piety, justice, and a sacred regard to truth; love to their country; humanity and universal benevolence; sobriety, industry, frugality, elasticity, moderation, temperance, and those other virtues which are the ornament of society and on which a free constitution of government is founded; and it is the duty of each teacher to endeavor to lead his pupils, as their ages and capacities will admit, into a clear understanding of the tendency of the above-mentioned virtues, in order to preserve and perfect the blessings of law and liberty, as well as to promote their future happiness, and also to point out to them the evil tendency of the opposite vices."

2. I remark again, that a system of public instruction should be in harmony with the views and feelings of the great body of the people, especially of the better educated classes. I believe the number of persons in Upper Canada who would theoretically or practically exclude christianity in all its forms as an essential element in the education of the country, is exceedingly small, and that more than nine-tenths of the people regard religious instruction as an essential and vital part of the education of their offspring. On this, as well as on higher grounds, I lay it down as a fundamental principle that religious instruction must form a part of the education of the youth of our country, and that that religious instruction must be given by the several religious persuasions to their youth respectively. There would be no christianity among us were it not for the religious persuasions, since they, collectively, constitute the christianity of the country, and, separately, the several agencies by which christian doctrines and worship and morals are maintained and diffused throughout the length and breadth of the land. If in the much that certain writers have said about and against "sectarian teaching," and against "sectarian bias" in the education of youth, it is meant to proscribe or ignore the religious teaching of youth by sects or religious persuasions; then is it the theory, if not the design of such writers to preclude religious truth altogether from the minds of the youth of the land; and thus prepare the way for raising up a nation of infidels! But if, on the other hand, it be insisted, as it has been by some, that as each religious persuasion is the proper religious instructor of its own youth, therefore each religious persuasion should have its own elementary schools, and that thus denominational common schools should supersede our present public common schools, and the school fund be appropriated to the denominations instead of to the municipalities; I remark that this theory is equally fallacious with the former, and is fraught with consequences no less fatal to the interests of universal education than is the former theory to the interests of all christianity. The history of modern Europe in general, and of England in particular, teaches us that when the elementary schools were in the hands of the church, and the state performed no other office in regard to schools than that of tax-assessor and tax-gatherer to the church, the mass of the people were deplorably ignorant, and, therefore deplorably enslaved. In Upper Canada, the establishment and support of denominational schools to meet the circumstances of each religious persuasion would not only cost the people more than five-fold what they have now to pay for school purposes, but would leave the youth of minor religious persuasions, and a large portion of the poorer youth of the country, without any means of education, upon terms within the pecuniary resources of their parents, unless as paupers, or at the expense of their religious faith.

3. But the establishment of denominational common schools for the purpose of denominational religious instruction itself is inexpedient. The common schools are not boarding but day schools. The children attending them reside with their own parents, and are within the charge of their own pastors; and therefore the oversight and duties of the parents and pastors of children attending the common schools are not in the least suspended or interfered with. The children attending such schools can be with the teacher only from nine o'clock in the morning until four o'clock in

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the afternoon of five or six days in the week, while during his morning and night of each week day and the whole of Sunday, they are with their parents or pastors; and the mornings and evenings, and Sabbath of each week, are the very portions of time which convenience and usage and ecclesiastical laws prescribe for religious studies and instruction—portions of time during which pupils are not and cannot be with the teacher, but are and must be under the oversight of their parents or pastors. And the constitution or order of discipline of each religious persuasion enjoins upon its pastors and members to teach the summary of religious faith and practice required to be taught to the children of the members of each such persuasion. I might here adduce what is enjoined on this subject by the Roman Catholic, and the several Protestant churches; but as an example of what is required, in some form or other, by the laws or rules of every religious persuasion, I will quote the 59th canon of the Church of England,—which is as follows:

“Every parson, vicar, or curate, upon every Sunday and holy day, before evening prayer, shall, for half an hour or more, examine and instruct the youth and ignorant persons in his parish, in the Ten Commandments, the Articles of the Belief, and the Lord’s Prayer; and shall diligently hear, instruct, and teach them the catechism set forth in the book of common prayer; and all fathers, mothers, masters and mistresses, shall cause their children, servants and apprentices, which have not learned the Catechism, to come to the church at the time appointed, obediently to hear, and to be ordered by the minister until they have learned the same. And if any minister neglects his duty herein, let him be sharply reprov’d upon the first complaint, and true notice thereof given to the bishop or ordinary of the place. If, after submitting himself, he shall willingly offend therein again, let him be suspended; if so the third time, there being little hope that he will be therein reformed, then excommunicated, and so remain until he will be reformed. And, likewise, if any of the said fathers, mothers, masters, or mistresses, children, servants, or apprentices, shall neglect their duties, of the one sort of not causing them to come, and the other in refusing to learn, as aforesaid, let them be suspended by their ordinaries, (if they be not children,) and if they so persist by the space of a month, then let them be excommunicated.”

To require, therefore, the teacher in any common day school to teach the catechism of any religious persuasion, is not only a work of supererogation, but a direct interference with the disciplinary order of each religious persuasion; and instead of providing by law for the extension of religious instruction and the promotion of christian morality, it is providing by law for the neglect of pastoral and parental duty, by transferring to the common school teacher the duties which their church enjoins upon them, and thus sanctioning immoralities in pastors and parents, which must, in a high degree, be injurious to the interests of public morals no less than to the interests of children and of the common schools. Instead of providing by law for denominational day schools for the teaching of denominational catechisms in school, it would seem more suitable to enforce by law the performance of the acknowledged disciplinary duties of pastors and members of religious persuasions by not permitting their children to enter the public schools until their parents and pastors had taught them the catechism of their own church. The theory, therefore,

of denominational day schools is as inexpedient on religious grounds as it is on the grounds of economy and educational extension. The demand to make the teacher do the canonical work of the clergymen is as impolitic as it is selfish. Economy as well as patriotism requires that the schools established for all should be open to all upon equal terms, and upon principles common to all—leaving to each religious persuasion the performance of its own recognized and appropriate duties in the teaching of its own catechism to its own children. Surely it is not the province of government to usurp the functions of the religious persuasions of the country; but it should recognize their existence, and therefore not provide for denominational teaching to the pupils in the day schools, any more than it should provide such pupils with daily food and raiment, or weekly preaching or places of worship. As the state recognizes the existence of parents and the performance of parental duties by not providing children with what should be provided by their parents—namely, clothing and food;—so should it recognize the existence of the religious persuasions and the performance of their duties by not providing for the teaching in the schools of that which each religious persuasion declares should be taught by its own ministers and the parents of its children.

4. But, it may be asked, ought not religious instruction be given in day schools, and ought not government to require this in every school? I answer, what may or ought to be done in regard to religious instruction, and what the government ought to require, are two different things. Who doubts that public worship should be attended and family duties performed? But does it therefore follow that government is to compel attendance upon the one, or the performance of the other? If our government were a despotism, and if there were no law or no liberty, civil or religious, but the absolute will of the Sovereign, then government would, of course, compel such religious and other instruction as it pleased,—as is the case under despotisms in Europe. But as our government is a constitutional and a popular government, it is to compel no farther in matters of religious instruction than it is itself the expression of the mind of the country, and than it is authorized by law to do. Therefore, in the "*General Regulations on the Constitution and Government of Schools respecting Religious Instruction*," (quoted in a note on a preceding page) it is made the duty of every teacher to inculcate those principles and duties of piety and virtue which form the basis of morality and order in a state, while parents and school teachers and school managers are left free to provide for and give such further religious instruction as they shall desire and deem expedient. If with us, as in despotic countries, the people were nothing politically or civilly but slaves and machines, commanded and moved by the will of one man, and all the local school authorities were appointed by him, then the schools might be the religious teachers of his will; but with us the people in each municipality share as largely in the management of the schools as they do in making the school law itself. They erect the school houses; they employ the teachers; they provide the greater part of the means for the support of the schools; they are the parties immediately concerned—the parents and pastors of the children taught in the schools. Who then are to be the judges of the nature and extent of the religious instruction to be given to the

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pupils in the schools, these parents and pastors, or the executive government, counselled and administered by means of heads of departments, who are changed from time to time at the pleasure of the popular mind, and who are not understood to be invested with any religious authority over the children of their constituents?

5. Then, if the questions be viewed as one of fact, instead of theory, what is the conclusion forced upon us? Are those countries in Europe in which denominational day schools alone are established and permitted by government, the most enlightened, the most virtuous, the most free, the most prosperous, of all the countries of Europe or America? Nay, the very reverse is the fact. And it were not difficult to show that those denominational schools in England which were endowed in former ages, have often been the seats of oppressions, vices, and practices, that would not be tolerated in the most imperfect of the common schools in Upper Canada. And when our common schools were formerly, in regard to government control, chiefly under the management of one denomination, were the teachers and schools more elevated in their religious and moral character, than at the present time? Is not the reverse notoriously the case? And if enquiry be made into the actual amount of religious instruction given in what are professedly denominational schools, whether male or female, (and I have made the enquiry,) it will be found to consist of prayers not more frequently than in the common schools, and of reciting a portion of catechism each week—a thing which is done in many of the common schools, although the ritual of each denomination requires catechetical instruction to be given elsewhere and by other parties. So obviously unnecessary on religious grounds are separate denominational schools, that two school houses which were built under the auspices of the church of England for parish schools of that church—the one at Cobourg, by the congregation of the Archdeacon of York, and the other in connection with Trinity church, Toronto East—have, after fair trial, been converted for the time being into common school houses, under the direction of the public boards of school trustees in Toronto and Cobourg.

6. I am persuaded that the religious interests of youth will be much more effectually cared for and advanced, by insisting that each religious persuasion shall fulfil its acknowledged rules and obligations for the instruction of its own youth, than by any attempt to convert for that purpose the common day schools into denominational ones, and thus legislate for the neglect of duty on the part of pastors and parents of the different religious persuasions. The common day school and its teacher ought not to be burthened with duties which belong to the pastor, the parent and the church. The education of the youth of the country consists not merely of what is taught in the day school, but also what is taught at home by the parents and in the church by the pastor. And if the religious part of the education of youth is, in any instance, neglected or defective, the blame rests with the pastors and parents concerned, who, by such neglect, have violated their own religious canons or rules, as well as the express commands of the holy scriptures. In all such cases pastors and parents are the responsible, as well as guilty parties, and not the teacher of the common school, nor the common school system.

7. But in respect to colleges and other high seminaries of learning, the case is different. Such institutions cannot be established within an hour's walk of every

man's door. Youth, in order to attend them, must, as a general rule, leave their homes, and be taken from the daily oversight and instructions of their parents and pastors. During this period of their education, the duties of parental and pastoral care and instruction must be suspended, or provision must be made for it in connection with such institutions. Youth attending colleges and collegiate seminaries are at an age when they are most exposed to temptation—most need the best counsels in religion and morals—are pursuing studies which most involve the principles of human action, and the duties and relations of common life. At such a period and under such circumstances, youth needs the exercise of all that is tender and vigilant in parental affection, and all that is instructive and wise in pastoral oversight; yet they are far removed from both their pastor and parent. Hence what is supplied by the parent and pastor at home, ought, as far as possible, to be provided in connection with each college abroad. And, therefore, the same reason that condemns the establishment of public denominational day schools, justifies the establishment of denominational colleges, in connection with which the duties of the parent and pastor can be best discharged.

Public aid is given to denominational colleges, not for denominational purposes, (which is the special object of denominational day schools,) but for the advancement of science and literature alone, because such colleges are the most economical, efficient, and available agencies for teaching the higher branches of education in the country; the aid being given, not to theological seminaries, nor for the support of theological professors, but exclusively towards the support of teachers of science and literature. Nor is such aid given to a denominational college until after a large outlay has been made by its projectors in the procuring of premises, erecting or procuring and furnishing buildings, and the employment of professors and teachers—evinced of the intelligence, disposition and enterprise of a large section of the community to establish and sustain such an institution.

It is not, however, my intention to discuss the question of recognizing and aiding denominational colleges in a system of public instruction. My object in the foregoing remarks is to shew that the objections against the establishment of a system of denominational day schools, do not form any objection to granting aid to denominational colleges as institutions of science and literature, and open to all classes of youth who may be desirous of attending them.

The more carefully the question of religious instruction, in connection with our system of common schools, is examined, the more clearly, I think, it will appear that it has been left where it properly belongs—with the local school municipalities, parents and managers of schools—the government protecting the right of each parent and child, but beyond this and beyond the principles and duties of moralities common to all classes, neither compelling nor prohibiting—recognizing the duties of pastors and parents; as well as school trustees and teachers, and considering the united labors of all as constituting the system of education for the youth of the country.

(Signed,)

E. RYERSON.

EDUCATION OFFICE,

Toronto, 27th September, 1852.

Return of
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	Days of M
JANUARY.	No. of resi- 5 and 10 No. of resi- ages atte- No. of no attending
FEBRUARY.	No. of resi- 5 and 10 No. of resi- ages atte- No. of no attending
MARCH.	No. of resi- 5 and 10 No. of resi- ages atte- No. of no attending
APRIL.	No. of resi- 5 and 10 No. of resi- ages atte- No. of no attending
MAY.	No. of resi- 5 and 10 No. of resi- ages atte- No. of no attending
JUNE.	No. of resi- 5 and 10 No. of resi- ages atte- No. of no attending

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Dated this—

No. 188. Forms of Returns from Common and Separate Schools.

(a) COMMON SCHOOL SECTIONS.

Return of the attendance of children at the School Section No. _____ in the Township of _____, for the half-year, from the first day of _____ to the _____ day of _____ 185 .

[Number of resident children of school age in Section _____.]

	Days of Month	1	2	3	4	5	6	7	8	9	30.	AVERAGE ATTENDANCE.
		to 31.										
JANUARY.	No. of resident children between 5 and 10 attending School.....											
	No. of resident children of other ages attending School.....											
	No. of Non-resident children attending School.....											
FEBRUARY.	No. of resident children between 5 and 10 attending School.....											
	No. of resident children of other ages attending School.....											
	No. of non-resident children attending School.....											
MARCH.	No. of resident children between 5 and 10 attending School.....											
	No. of resident children of other ages attending School.....											
	No. of non-resident children attending School.....											
APRIL.	No. of resident children between 5 and 10 attending School.....											
	No. of resident children of other ages attending School.....											
	No. of non-resident children attending School.....											
MAY.	No. of resident children between 5 and 10 attending School.....											
	No. of resident children of other ages attending School.....											
	No. of non-resident children attending School.....											
JUNE.	No. of resident children between 5 and 10 attending School.....											
	No. of resident children of other ages attending School.....											
	No. of non-resident children attending School.....											

We, the undersigned Trustees and Teacher of the section above named, do hereby certify that the foregoing statement is a full, correct and true account of the attendance of children at the said School on the several days stated above.

_____ Teacher.

Trustees of School Section

No. _____

Corporate Seal.

Dated this _____ day of _____ 185 .

(b) UNION SCHOOL SECTIONS.*

Return of the attendance of Children at the School of Union Section No. _____ in the Township of _____ for the half-year, from the first day of _____ to the _____ day of _____ 185 , to the Local Superintendent.

Number of resident children of school age in Township of _____ part _____.

Number in Township of _____ part _____ Total in Section _____.

Days of Month.....	1	2	3	4	5	6	7	8	9	10	Ac. to 21	Days School should have been kept open.	Total attendance.
JANUARY.													
No. of resident children from Township of _____	Sunday.												
No. of resident children from Township of _____													
No. of non-resident children attending School.....													
FEBRUARY.													
No. of resident children from Township of _____					Sunday.								
No. of resident children from Township of _____													
No. of non-resident children attending School.....													
MARCH.													
No. of resident children from Township of _____					Sunday.								
No. of resident children from Township of _____													
No. of non-resident children attending School.....													
APRIL.													
No. of resident children from Township of _____		Sunday.											
No. of resident children from Township of _____													
No. of non-resident children attending School.....													
MAY.													
No. of resident children from Township of _____							Sunday.						
No. of resident children from Township of _____													
No. of non-resident children attending School.....													
JUNE.													
No. of resident children from Township of _____				Sunday.									
No. of resident children from Township of _____													
No. of non-resident children attending School.....													
Total number of days in the half year, 1851.											Total.....		

We, the undersigned Trustees and Teacher of the section above named, do hereby certify that the foregoing return is a full, correct and true account of the attendance of children at the said School on the several days stated above.

_____ Teacher.
 _____ class Certificate.

Dated this _____ day of _____ 185 .

 _____ } Trustees of Union School
 _____ } Section No. _____

Corporate Seal to be attached here.

* Duplicate Returns are required from Union School Sections—See the the 4th instruction.

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2. In order to determine the *mean average* attendance, according to which the school fund should be apportioned, the local superintendent will divide the half-year's aggregate attendance of resident children at each school, either by the number of days such school *should have been kept open*, or by the *total number of days in such half-year*, whichever he considers most equitable; but *only one* of either modes must be adopted for the whole year, and applied to *all* the schools of the township. This instruction, however, does not apply to townships in which *length of time, only*, is adopted as the basis of distribution.

3. The general conditions upon which the school fund is apportioned and paid, are,—(1.) That the section shall have reported for the preceding year,—(2.) That it appear from such report that a school has been kept open in such section for at least six months of such preceding year, by a legally qualified teacher, and (3) That the semi-annual returns have been sent to the local superintendent. The *two first* conditions do not apply to *new* school sections,—that is, to sections not previously connected with any school municipality.

4. A section having a school open during any portion, or the whole, of one half year, and not any portion of the next, is entitled to share in only that portion (legislative school grant or municipal school assessment) of the school fund then payable;—subject, however, in all cases, to the preceding conditions. But there is no specified length of time required in any such half year to entitle a school to a share in such school fund;—all that has to be considered is—whether a school has been kept open by a qualified teacher during such half year, and whether the general conditions stated in section 3, have been satisfactorily complied with.

5. All cheques for school money due a section must be made payable to the teacher, or his order, and to no other person; nor can a cheque be given except on an order signed by a majority of the trustees of the school section concerned.

Examined by me, and found to be _____

Local Superintendent of Schools.

Received _____ day of _____ 185 .

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(c) SEPARATE SCHOOLS.

Half-yearly Return of the Trustees and Teacher of the _____ Separate School No. _____ in the _____ of _____ for the Six Months from the first day of _____ to the _____ day of _____ 185 _____, to the Local Superintendent.

PERSONS of the Religious Persuasion of the above named Separate School sending Children or Subscribing to such Separate School during the Six Months now ending.

CHILDREN of the Religious Persuasion of the above named Separate School, attending the same during the Six Months now ending.

NAMES.	RESIDENCE WHEN LAST ASSESSED.	AMOUNT SUBSCRIBED.	AMOUNT ALREADY PAID.	NAMES.	No. of Days in Attendance.

We, the undersigned Trustees and Teacher of the above named _____ Separate School, do hereby certify that the above is a full, true and correct statement of all matters contained therein.

Dated this _____ day of _____ 185 _____.

_____ } Trustees of the
 _____ Teacher. } Separate School.

The above Return has been examined by me, and found to be _____

_____ Local Superintendent of Schools.

General Instructions to the School Officers concerned in regard to Separate School Returns.

1. The Trustees of the Separate School are to transmit this Return, accurately and completely filled up, as required by the 4th section of the Supplementary School Act of 1853, signed by a majority of the trustees, and the teacher, to the local superintendent, within three days after the close of the half year to which it refers.

2. The local superintendent, on receipt of this return, will immediately check it, and, if found correct, notify the clerk of the municipality in which such separate school is established, of the names of all the persons who, being members of the same religious denomination, contribute or send children to such separate school, in order that such officers may comply with the other provisions of the section of the act referred to.

3. A separate school being entitled to share in the legislative school grant *almo*, on the basis of the average attendance, as defined in the 2nd section, and in accordance with the conditions stated in the 3rd section of the instructions to local superintendent in regard to the general half-yearly returns, the local superintendent concerned will pay one-half of the amount such separate school may be entitled to receive from such grant for the whole year, at the end of the first half-year, and the remaining half (more or less) at the end of the second half-year—in each case after receiving the half-yearly returns, and on being satisfied of their accuracy.

4. All cheques for school money due a separate school must be made payable to the teacher, or his order, and to no other person; and no cheque can be given except on an order signed by a majority of the trustees of the separate school concerned.

5. Separate schools are subject to the same inspections, visits, and regulations, in regard to reports, &c., as are the public common schools.

OBSERVATIONS.

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ued 1851.

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Superintendent re-
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