c 76 The Separate Schools Amendment Act, 1972 (No. 1)

Ontario
An Act to amend The Separate Schools Act

Assented to June 23rd, 1972
Session Prorogued December 15th, 1972

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

1. Subsection 4 of section 7 of The Separate Schools Act, being chapter 430 of the Revised Statutes of Ontario, 1970, is amended by striking out "assessor" in the first line and inserting in lieu thereof "clerk".

2.-(1) Clauses b and c of section 17 of the said Act as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 64, subsection 1, are repealed.

(2) Clauses e and h of the said section 17 are repealed.

3. Section 18 of the said Act is repealed and the following substituted therefor:

18. Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within,

(a) one former school section of a township; or

(b) a city, town or village,

that is not within an area designated by the regulations made under subsection 2 of section 81, may, for the purpose of the election of trustees, convene a public meeting of persons desiring to establish a separate school therein.

4.-(1) Subsection 1 of section 21 of the said Act is repealed and the following substituted therefor:

(1) Notice in writing of the holding of the meeting referred to in section 20 and of the election of trustees shall be delivered by one of the trustees so elected to the clerk of the municipality and to the secretary of the board
(2) Subsection 2 of the said section 21 is amended by striking out "trustees" in the third line and inserting in lieu thereof "trustee".

5. Subsection 1 of section 22 of the said Act is amended by striking out "In unorganized townships and in any part of Ontario not surveyed into townships" in the first and second lines and inserting in lieu thereof "In territory without municipal organization that is not within an area designated by the regulations made under subsection 2 of section 81".

6. Subsection 15 of section 34 of the said Act is repealed and the following substituted therefor:

School sites for combined board

(15) A board of a combined separate school zone may, without the approval of the supporters, acquire a school site that is within the combined separate school zone.

7. Subsection 1 of section 38 of the said Act is amended by striking out "with one-half of the trustees retiring each year" in the third and fourth lines.

8. Subsection 1 of section 39 of the said Act is amended by striking out "one of whom shall retire each year" in the third line and by adding at the end thereof "for a term of two years".

9. Section 41 of the said Act is repealed.

10. — (1) Clauses b and c of subsection 4 of section 44 of the said Act are repealed.

(2) Clause e of subsection 4 of the said section 44 is amended by striking out "The Municipal Act with respect to elections, except with respect to the nomination of candidates" in the first, second and third lines and inserting in lieu thereof "The Municipal Elections Act, 1972".

11. The said Act is amended by adding thereto the following section:

Residents other than supporters entitled to vote

1953, c. 119
1972, c. 85

46a. Notwithstanding the provisions of this or any other Act including The Metropolitan Separate School Board Act, 1953, a Roman Catholic who is not an owner or tenant as defined in The Municipal Elections Act, 1972 but who,
(a) is a Canadian citizen or other British subject;

(b) is of the full age of eighteen years; and

(c) resides within a separate school zone,

and who wishes to be a separate school elector at an election may cause his name to be entered on the preliminary list of electors of the polling subdivision in which he resides as a separate school elector, and for such purpose is entitled to be enumerated as such and to have entered opposite his name on the preliminary list of electors for the polling subdivision in which he resides that he is a separate school elector and, where the name of such person appears on the polling list, he shall be deemed to be a separate school elector for the purpose of voting at such election.

12. Section 48 of the said Act is repealed.  
13. Clause e of subsection 1 of section 50 of the said Act is repealed.  
14. Section 51 of the said Act is repealed.  
15. Section 52 of the said Act is amended by adding thereto the following subsection:

(6) Notwithstanding the provisions of subsections 3, 4 and 5, an urban separate school board or a combined separate school board that has passed a resolution under section 44 may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of The Municipal Elections Act, 1972 that pertain to an election to fill a vacancy shall apply.

16. Subsection 4 of section 53 of the said Act is repealed and the following substituted therefor:

(4) Any person who, if he were resident in a separate school zone, would be entitled to be a supporter of a separate school and who is the owner of unoccupied land situate in the separate school zone, may, on or before the 30th day of September in any year, by written notice to the clerk of the municipality in which the land is situate or, where the land is not in a municipality, to the secretaries of the public and separate school boards, direct that all such land in
the separate school zone shall be assessed for the purposes of the separate school.

17. Subsection 5 of section 60 of the said Act is amended by striking out “assessor” in the first line and inserting in lieu thereof “clerk”.

18. Subsection 1 of section 61 of the said Act is amended by striking out “assessment roll that through mistake or inadvertence a ratepayer has been entered on the roll” in the second and third lines and inserting in lieu thereof “list supplied to the clerk under section 23 of The Assessment Act that through mistake or inadvertence a ratepayer has been entered on the list”.

19. Subsection 1 of section 63 of the said Act is amended by striking out “Where land is assessed against both owner and occupant, or the owner and tenant, the occupant or tenant” in the first and second lines and inserting in lieu thereof “The occupant or tenant of land”.

20. — (1) Subsection 2 of section 64 of the said Act is amended by striking out “assessor” in the first line and inserting in lieu thereof “clerk” and by striking out “assessment” in the second line and inserting in lieu thereof “collector’s”.

(2) Subsection 5 of the said section 64 is amended by striking out “an assessment” in the third and fourth lines and inserting in lieu thereof “a collector’s”.

(3) Subsection 6 of the said section 64 is amended by striking out “assessor shall in each year, before the return of the assessment roll” in the first and second lines and inserting in lieu thereof “clerk shall in each year, before the final revision of the list supplied to the clerk under section 23 of The Assessment Act”.

21. Section 65 of the said Act is amended by striking out “and” at the end of clause e, by adding “and” at the end of clause d and by adding thereto the following clause:

(e) may provide for expenditures for permanent improvements and for an allocation to a reserve fund provided that, where separate school rates or taxes are collected by a municipal council, the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of The Schools Administration Act, together with any sum allocated to
a reserve fund, shall not exceed a sum calculated at one mill in the dollar upon the total equalized assessment of the property rateable for separate school purposes within the area of jurisdiction of the board in the manner provided for public school purposes in respect of a divisional board of education in clause d of subsection 1 of section 31 of The Secondary Schools and Boards of Education Act, which clause shall apply mutatis mutandis.

22. Subsection 1 of section 66 of the said Act is amended by inserting after “may” in the first line “in respect of the estimates adopted under section 65”.

23. Section 70 of the said Act is amended by striking out “appearing upon the assessment roll for the current year who have given the notice required by section 53” in the fourth and fifth lines and inserting in lieu thereof “who are separate school supporters”.

24. Section 72 of the said Act is repealed.

25. Subsection 5 of section 73 of the said Act is repealed and the following substituted therefor:

(5) Where the debt is not payable by instalments, the board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable.

(5a) The sum referred to in subsection 5 shall be deposited with a chartered bank or a trust company that is registered under The Loan and Trust Corporations Act, and such sum and any income resulting therefrom shall be invested by such bank or trust company in the manner provided in The Municipal Act for sinking funds, and subsections 4 to 9 of section 291 of The Municipal Act apply mutatis mutandis except that reference therein to the Ministry of Treasury, Economics and Intergovernmental Affairs shall be deemed to be a reference to the Ministry of Education.

26. (1) Clause j of subsection 1 of section 80 of the said Act is repealed and the following substituted therefor:

(j) “separate school supporter” in respect of an area for which one or more trustees of a county or district
combined separate school board are to be elected, means a separate school elector under *The Municipal Elections Act, 1972* who is qualified to vote at the election of such trustee or trustees in such area.

(2) Subsection 4 of the said section 80 is amended by striking out “and the County of York does not include the area municipalities as defined in *The Municipality of Metropolitan Toronto Act*” in the second, third and fourth lines.

(3) Subsection 7 of the said section 80 is amended by striking out “the preparation of a voters’ list and the election of members of a district combined separate school board under *The Municipal Act and The Voters’ Lists Act*, which apply mutatis mutandis” in the ninth, tenth, eleventh and twelfth lines and inserting in lieu thereof “the election of members of a district combined separate school board under *The Municipal Elections Act, 1972*”.

27. Subsection 3 of section 81 of the said Act is amended by inserting after “21” in the second line “or 22”.

28. The said Act is amended by adding thereto the following sections:

81a.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within one former school section in an area designated by the regulations made under subsection 2 of section 81, may convene a public meeting of persons desiring to establish a separate school zone in such section.

(2) Where such a meeting is held, the persons present,

(a) shall elect a chairman and a secretary for the meeting;

(b) may pass a motion to establish a new separate school zone, in which case they shall determine the centre of the zone; and

(c) where such a motion is passed and a centre determined, shall require the chairman to send a copy of the motion to,

(i) the Minister,

(ii) the secretary of the county or district combined separate school board,
(iii) the secretary of the divisional board of education affected, and

(iv) the appropriate municipal assessor.

and the zone so established shall forthwith become a part of the county or district combined separate school zone.

(3) Notwithstanding section 18, no trustees shall be elected at the meeting.

81b.—(1) Where a school site that is acquired by a county or district combined separate school board is not within the county or district combined separate school zone and the board operates a separate school on such site, a separate school zone having its centre as provided in subsection 2 of section 54 is deemed to have been established under subsection 2 of section 81a on the date on which final approval in respect of the construction or purchase of the school is given by the Minister for purposes of legislative grant.

(2) A separate school board under this Part may, with the approval of the Minister, acquire by purchase or lease a school site that is outside the area designated in respect of such board by regulation made under subsection 2 of section 81, and may operate thereon a separate school, but a separate school board shall not expropriate any such site.

(3) Notwithstanding section 54, the operation of a separate school on a school site acquired under subsection 2 does not, ipso facto, establish a separate school zone with a centre at such site.

29. Subsection 2 of section 85 of the said Act is repealed and the following substituted therefor:

(2) A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city as defined in subsection 1 of section 27 of The Secondary Schools and Boards of Education Act, is a corporation by the name of “The County Roman Catholic Separate School Board” (inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister).
30. — (1) Clause a of subsection 1 of section 90 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 64, subsection 2, is repealed and the following substituted therefor:

(a) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause b, as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

(2) The said section 90 is amended by adding thereto the following subsections:

Distribution of members within combined municipalities

(8a) Where two or more county municipalities that are not in a regional municipality are combined under subsection 8 for the election of two or more trustees and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may, before the 15th day of September in any year in which a determination is made under subsection 8, determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two trustees and, where the clerks of such combined municipalities so determine,

(a) the number of trustees to be elected in the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of the county municipality, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in each such combined area and in the remainder, if any, of the county municipality, bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities; and

(b) where the remainder of the county municipality is to be represented by two or more trustees, subsections 17 and 18 shall apply mutatis mutandis in respect of such remainder.

Appeal from determination under subs. 8a

(8b) Where the determination made under subsection 8a apportions to a combined area or to the remainder
of a county municipality a percentage of the total number of trustees to be elected in the combined municipalities as determined under subsection 8 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the combined area or in the remainder of the county municipality, as the case may be, is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after notice of such determination has been sent, appeal the determination to the judge who shall either reapportion the number of trustees in accordance with clause a of subsection 8a or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final.

(3) Subsection 10 of the said section 90 is amended by inserting after "the" where it occurs the second time in the fifth line "county".

(4) Subsection 19 of the said section 90 is repealed and the following substituted therefor:

(19) Where two or more county or district municipalities are combined for the election of one or more trustees, such trustee or trustees shall, except where a determination is made under subsection 8a, be elected by a general vote of the separate school supporters of the combined municipalities, and where, under subsection 8a or 8b, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two trustees, such trustee or trustees shall be elected by a general vote of the separate school supporters of such combined area, and

(a) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the trustee or trustees are to be elected, who shall send to the clerk of each municipality concerned, by registered mail
within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(b) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause a, who shall prepare the final summary and announce the vote.

(5) Subsections 21 to 26 of the said section 90 are repealed and the following substituted therefor:

(21) The election of members of a county or district combined separate school board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

31. Section 91 of the said Act is amended by adding thereto the following subsection:

(6) Notwithstanding subsection 5, a separate school board under this Part may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of The Municipal Elections Act, 1972 that pertain to an election to fill a vacancy shall apply.

32.—(1) Subsection 1 of section 93 of the said Act is amended by adding at the end thereof “for a supervisory officer”.

(2) Subsection 2 of the said section 93 is amended by adding at the end thereof “for a supervisory officer”.

33.—(1) This Act, except section 21, comes into force on the day it receives Royal Assent.

(2) Section 21 comes into force on the 1st day of January, 1973.

34. This Act may be cited as The Separate Schools Amendment Act, 1972.