

No. XXII.

PUBLIC SCHOOLS.

An Act to make better provision for Public Education. [22nd December, 1866.]

Preamble.

WHEREAS it is expedient to make better provision for the administration of the Public Funds devoted to Education 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 New South Wales in Parliament assembled and by the authority of the same as follows:—

Council of Education to be constituted.

1. Five persons shall be appointed as hereinafter provided who shall constitute a Council of Education And such Council shall be a body politic and corporate and shall by the style and title of "The Council of Education" have perpetual succession and be able and capable to sue and be sued in all Courts of law and equity and shall have and use as occasion may require a common seal And shall and may accept purchase and hold to them and their successors as members of the said Corporation to and for the uses thereof real and personal estate and property of every kind.

Acts 11 Vic. No. 48
16 Vic. No. 16 and
22 Vic. No. 11 re-
pealed and Board of
National Education
dissolved.

2. The Acts eleven Victoria number forty-eight sixteen Victoria number sixteen and twenty-second Victoria number eleven shall be and the same are hereby repealed and the Board of National Education incorporated by the first recited Act shall be and the same is hereby dissolved And all lands moneys securities and personal property vested in or held in trust for or belonging to the said Board shall by virtue of this Act become the property of and be vested in the Council of Education subject to the contracts liabilities and claims then existing under the Board of National Education.

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3. The Denominational School Board created by the Governor of New South Wales in the year one thousand eight hundred and forty-eight shall be and the same is hereby dissolved And all lands and school buildings held by Trustees under grants from the Crown or otherwise and used for educational purposes under the regulation and inspection of the said Board shall subject to the then subsisting trusts remain vested in such Trustees respectively Provided that in any such case with the consent in writing of the religious denomination with which the school is connected under the hand of its head or authorized representative and the approval of the Governor with the advice of the Executive Council a majority of the Trustees may either transfer the school and land to the Council of Education for the purposes of this Act or may sell the same and apply the proceeds to educational purposes of like character connected with such religious denomination.

Denominational
Board dissolved.

4. All personal property belonging to the Denominational School Board shall become the property of and the same is hereby transferred to and vested in the Council of Education for the purposes of this Act.

Personalty of
Denominational
Board transferred
to Council of
Education.

5. The members of the Council of Education shall be appointed by the Governor with the advice of the Executive Council and shall hold office for the term of four years but each member shall be liable to removal at any time by the Governor with the like advice Provided however that of the first five members so appointed two shall be appointed for two years instead of four And provided further that any member may resign office by writing under his hand addressed to the Governor in which case or in the case of the death or removal of any member the appointment to supply the vacancy so arising shall be for the remaining fractional part of the term for which such member so resigning dying or removed was appointed.

Council of Education
how members thereof
to be appointed.

6. The Council of Education shall be intrusted with the expenditure of all sums of money appropriated by Parliament for elementary instruction and shall have authority to establish and maintain public schools to grant aid to certified denominational schools and subject to the provisions hereinafter contained to appoint and remove teachers and school inspectors and to frame regulations for appointing their own President for holding their own meetings and the performance of their duties under this Act for defining the course of secular instruction the training examination and classification of teachers the examination of scholars the discipline to be enforced and observed and to do all other matters necessary to be done in carrying out the provisions of this Act And any three members of the said Council shall form a quorum and shall be competent to transact business at any meeting thereof regularly convened Provided always and it is hereby declared that the Council of Education shall in all matters be subject to the like control by the Governor and Executive Council as any other Department of the Public Service.

Power of Council of
Education.

Quorum.

Subject to Governor
in Council.

7. All regulations framed by the Council of Education shall be laid before both Houses of Parliament within one month if Parliament be then sitting and if Parliament be not then sitting then within one month after the commencement of the next ensuing Session thereof and if not disallowed by express resolution of both Houses within one month from their being so laid before Parliament such regulations shall have the force of law and shall be published in the *Government Gazette* for general information And two copies of such regulations shall within ten days after their publication be sent to each teacher and one of such copies shall be by such teacher posted in a conspicuous place in the school for public inspection Provided that if Parliament

Regulations to have
the force of law.

be

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be not in session at the commencement of this Act all regulations made as aforesaid shall until the expiration of one month after the next meeting thereof or until disallowance have the force of law on publication thereof in the *Government Gazette*.

Public schools to be established.

8. A public school may be established in any locality where after due inquiry the Council of Education shall be satisfied that there are at least twenty-five children who will regularly attend such school on its establishment.

Denominational schools may be certified.

9. It shall be lawful for the Council of Education in any locality where a public school may be established which has in attendance thereat not less than seventy children to certify as a denominational school any school situated not more than five miles from such public school on such Council being satisfied after due inquiry that there are at least thirty children in regular attendance at such school Provided that no school shall be so certified in any case where such school shall be within two miles by the shortest highway of any public school unless there shall be in regular attendance at such school and at the nearest public school together not less than one hundred and twenty children Provided also that all certified denominational schools shall be subject to the same course of secular instruction the same regulations and the same inspection as may be prescribed in reference to public schools with such modifications not being inconsistent with any express provision of this Act as may be judged to be expedient by the Council of Education.

Teachers of same persuasion to be appointed to denominational schools.

10. In all such certified denominational schools unless application be made from the authorized heads of the denomination to the contrary teachers of the same religious denomination as that to which such schools shall belong respectively shall be appointed and such teachers shall be subject to such examination and approval as may be prescribed for the teachers in public schools.

Religious instruction not interfered with.

11. In all certified denominational schools the religious instruction shall be left entirely under the control of the heads of the denomination to which any such school may belong.

Itinerant teachers to be appointed.

12. In districts where from the scattered state of the population or other causes it is not practicable to establish a public school the Council of Education may appoint itinerant teachers under such regulations as may be framed by them for that purpose.

Private schools may be assisted.

13. In remote and thinly populated districts where no public school may exist the Council of Education may grant assistance to other schools established by private persons under regulations to be framed by such Council for that purpose notwithstanding that the children in attendance at any such school do not number twenty-five Provided that all such schools shall be subject to the inspection prescribed by the Council of Education.

Provision may be made in public schools for boarders.

14. It shall be lawful for the Council of Education to authorize provision to be made in any Public School building for the boarding and lodging either weekly or monthly of such children as by reason of the remoteness of their homes may not otherwise be able to attend at any such school Provided that a sum be charged for such board and lodging which shall in no case exceed the estimated cost thereof.

Training schools to be established.

15. The Council of Education shall establish a training school or schools for the education of teachers both male and female and shall prescribe the course of studies and the examinations in such school or schools and the teachers so educated shall be classified according to their attainments and skill in teaching and shall receive certificates which shall qualify them for corresponding grades in the school service Provided that the course of training in every such school shall be secular.

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16. The Council of Education shall authorize a scale of fees School fees. to be paid for pupils alike in public schools and in certified denominational schools and the amount of all fees collected in any school shall be paid to the teacher thereof for his own use or if there be more than one teacher in such school then in such proportion between the said teachers as the Council of Education may determine. Provided that it shall be in the discretion of the said Council to authorize a distinct scale of fees in any case in which the general scale may appear to them inapplicable.

17. Notwithstanding any regulation for the payment of school fees any child whose parents or guardians shall be unable to pay such fees shall not on that account be refused admission into a public school or certified denominational school but shall on such inability being shewn in such manner as to the Council of Education shall seem reasonable be received and instructed in the same manner as the other pupils attending such school. Education free in certain cases.

18. No child shall be refused admission into a public school or a certified denominational school on account of the refusal or neglect of the parent or guardian of such child to pay the fees due for the education of such child but all fees so due may be recovered by a proceeding in the name of the Council of Education before any Justice or Justices of the Peace in a summary way. School fees may be recovered.

19. In every public school four hours during each school-day shall be devoted to secular instruction exclusively and of such four hours two shall be in the morning and two in the afternoon and a portion of each day not less than one hour shall be set apart when the children of any one religious persuasion may be instructed by the clergyman or other religious teacher of such persuasion. Provided that in case of the non-attendance of any clergyman or religious teacher during any portion of the period hereby set apart for religious instruction such period shall be devoted to the ordinary secular instruction in such school. Provision for secular and religious teaching.

20. No applicant shall be refused admission into any public or certified denominational school on account of the religious persuasion of such applicant or of either of his parents. No religious disability.

21. Notwithstanding anything to the contrary contained in this Act the Council of Education may dispense with any examination or attendance at the training school in the case of teachers already appointed to schools by the Board of National Education or the Denominational School Board should it be considered expedient to continue such teachers in charge of such schools. Present teachers may be continued in charge of schools.

22. In every locality where a public school is established the Governor with the advice of the Executive Council may appoint a Public School Board to consist of not fewer than three persons whose names shall be submitted for that purpose by the Council of Education and in like manner shall appoint persons to vacancies that may from time to time occur in such Board from death resignation or otherwise and the said Board shall in order to its more efficient maintenance regularly visit inspect and report upon the school placed under their supervision and three members thereof where such Board shall consist of five or more shall form a quorum. Provided that any member of such Board shall be liable to removal by the authority aforesaid. Public School Boards to be appointed.

23. No money shall be appropriated under this Act in aid of building or repairing school premises unless the site of such premises shall be vested for the promotion of public schools in the Council of Education. Aid to building.

24. Notices of all proposals for the establishment of public schools and of all applications for aid in the maintenance of certified denominational New schools.

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denominational schools shall be published four times in the *Government Gazette* previous to the final decision thereon of the Council of Education.

Council of Education may dispose of school property.

25. It shall be lawful for the Council of Education to sell or otherwise dispose of all school property which shall be or become vested in them and to re-invest the proceeds of such sale or disposal in the purchase of land or in the erection of buildings for educational purposes under the provisions of this Act.

Proceeds of property sold under sections 3 and 25 how disposed of.

26. The proceeds of the sale of any property acquired either wholly or in part by means of local contributions which shall be effected by virtue of the preceding sections three and twenty-five shall be expended in the township or neighbourhood in which the property sold or disposed of may be situated. But no person claiming title in virtue of such sale shall be bound to see to this application.

Annual reports.

27. The Council of Education shall on or before the thirty-first day of March in every year lay before the Governor in Council separate reports of the condition of the public schools and the certified denominational schools and a general statement of accounts and copies of such reports and statements of accounts shall be laid before both Houses of Parliament within one month if Parliament be then sitting and if Parliament be not sitting then within one month after the commencement of the next ensuing Session thereof.

Existing schools preserved.

28. All existing denominational schools shall be entitled to be certified under this Act and existing national schools whether vested or non-vested are hereby declared to be public schools within the meaning of this Act subject nevertheless in the case of non-vested schools to the same trusts which have been hitherto applicable to them as national schools and no certificate shall be withdrawn before the first day of January one thousand eight hundred and sixty-eight from any existing denominational school on account of the number of children attending thereat being less than the number required by this Act so long as such number shall not be less than the number required by any existing regulations of the Denominational School Board nor shall such certificate be withdrawn at any time thereafter so long as there shall be in regular attendance at such denominational school not less than thirty children.

Certificate not to be withdrawn from denominational school by reason of the falling off in the attendance at public school.

29. No certificate granted by the Council of Education to any denominational school shall be withdrawn by reason of the attendance at the public school with reference to which such certificate was granted falling below the number required by the ninth section of this Act so long as the number of children in regular attendance at such denominational school shall not be less than thirty.

Interpretation clause.

30. In the construction of this Act the words "secular instruction" shall be held to include general religious teaching as distinguished from dogmatical or polemical theology.

Commencement of Act.

31. This Act shall come into operation on the first day of January one thousand eight hundred and sixty-seven.

Short title.

32. This Act may be cited for all purposes as the "Public Schools Act of 1866."