

No. XXIII.

PUBLIC
INSTRUCTION.An Act to make more adequate provision for
Public Education. [16th April, 1880.]

BE it 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:—

Act 30 Vic. No. 22
repealed and Council
of Education dis-
solved.

1. The Act thirty Victoria number twenty-two known and cited as "The Public Schools Act of 1866" shall be and is hereby repealed and the Council of Education created by the provisions of that Act is hereby dissolved and all the powers and authorities hitherto exercised by the said Council shall be and are hereby transferred to the Minister of Public Instruction or the member of the Executive Council acting on his behalf. And all the lands moneys securities and personal property vested in or held in trust for or belonging to the Council of Education shall by virtue of this Act revert to and be held by the Crown under the direction control and authority of the Minister for the time being subject however to the contracts liabilities and claims lawfully made or incurred by the said Council at the date of the passing of this Act.

Sums appropriated
by Parliament for
Education how to be
expended.

2. All sums of money appropriated by Parliament for the purposes of Public Instruction except such as are otherwise appropriated by special enactment shall be expended by the Minister under the provisions of this Act.

Appointment of
officers.

3. All persons employed under the Department of Public Instruction shall be appointed and removed by the Governor and all Inspectors and Teachers of Schools and all officers connected therewith so appointed shall be Civil Servants of the Crown Provided that until such inspectors teachers and other officers as may be necessary shall be so appointed the persons employed by the Council of Education shall be continued in their respective offices.

Land for the
purposes of
Education.

4. All lands acquired under this Act or by grant purchase or bequest in future for the purposes of Public Instruction shall be held by the Crown in trust for the maintenance of the several classes of schools herein provided for and for no other except in cases wherein other conditions shall be imposed by law and the Minister shall have power subject to the Governor to sell any such lands and to convey the same to the purchasers thereof and to invest the proceeds arising therefrom in the purchase of other lands or in the erection of school buildings for the purposes aforesaid.

Public Schools.

5. All schools hitherto established and maintained by the Council of Education as Public Schools shall become and are hereby declared to be Public Schools under the provisions of this Act.

Classes of schools to
be established and
maintained.

6. The several classes of schools herein defined may be established and maintained under this Act as fully organized schools namely—

- (I.) Public Schools in which the main object shall be to afford the best primary education to all children without sectarian or class distinction.
- (II.) Superior Public Schools in towns and populous districts in which additional lessons in the higher branches of education may be given under such regulations for the purpose as may be approved by the Governor.
- (III.) Evening Public Schools in which the object shall be to instruct persons who may not have received the advantages of primary education.

(IV.)

Public Instruction.

- (iv.) High schools for boys in which the course of instruction shall be of such a character as to complete the Public School curriculum or to prepare students for the University.
- (v.) High Schools for girls.
7. In all schools under this Act the teaching shall be strictly secular instruction. non-sectarian but the words "secular instruction" shall be held to include general religious teaching as distinguished from dogmatical or polemical theology and lessons in the history of England and in the history of Australia shall form part of the course of secular instruction.
8. A Public School may be established in any locality where after due inquiry the Minister shall be satisfied that there are at least twenty children who will regularly attend such school on its establishment. Public Schools may be established.
9. On the advice of the Minister after due inquiry any Public School may by proclamation in the *Gazette* by the Governor be appointed to be a Superior Public School. Superior Public Schools.
10. If in any locality where a Public School has been established the parents guardians or other residents apply by petition on behalf of not fewer than ten persons for the establishment of an Evening Public School the Minister may on being satisfied of all the circumstances establish such school Provided that all such schools shall be in the charge of a properly trained teacher Evening Public Schools.
11. In all Public Schools the weekly fee shall not exceed threepence for each child up to four children of one family and for four or any larger number of the same family the total amount of fees shall not exceed one shilling And in every case the fees shall be payable to the teacher in charge of the school or other person appointed by the Minister to receive them and may be recovered by the person so appointed in a summary way before any Justice of the Peace and under regulations to be made for such purpose shall be remitted to the Colonial Treasurer and shall be paid into the Consolidated Revenue Fund. Public School fees.
12. The fees for the teaching in Evening Public Schools shall be fixed by regulations approved by the Governor and all such fees shall be paid to the teachers performing such special duties and may be recovered by such teacher in a summary way before any Justice of the Peace. Fees in Evening Public Schools.
13. The Minister or the Public School Board of the District under regulations to be made for that purpose may relieve parents or guardians from the payment of school fees in any case where their inability to pay such fees is satisfactorily shown. Payment of school fees not enforced in certain cases.
14. It shall be lawful for any station-master on the Government Railways to issue a free pass to any child to travel in a suitable railway carriage or van to and from any school established or declared to be certified under this Act Provided that such school if a Public School shall be the one nearest to the residence of the parents or guardians of such child. Free Railway passes to school children.
15. Every Public School where there is a regular attendance of not fewer than fifty pupils shall have attached to it a class-room adapted for the more efficient conduct of the said School and the buildings of larger Public Schools shall have attached to them one or more similar class-rooms as may after due inquiry be considered necessary for the number of pupils attending such schools. Class-rooms to be provided for Public Schools.
16. In the construction of all Public Schools the apportionment of space inside the building shall not be less than one hundred cubic feet for each child ordinarily in attendance Provided that no child shall be refused admission to or be entitled to claim exemption from attendance at any such school by reason of the space for each child falling temporarily below such rule of apportionment. Apportionment of space in school buildings.
17. In every Public School four hours during each school-day shall be devoted to secular instruction exclusively and a portion of each day not more than one hour shall be set apart when the children of Religious instruction may be given.

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of any one religious persuasion may be instructed by the clergyman or other religious teacher of such persuasion but in all cases the pupils receiving such religious instruction shall be separated from the other pupils of the school. And the hour during which such religious instruction may be given shall be fixed by mutual agreement between the Public School Board in consultation with the teacher of such school and the clergyman of the district or such other person as may be duly authorized to act in his stead and any class-room of any Public School may be used for such religious instruction by like agreement. Provided that if two or more clergymen of different persuasions desire to give religious instruction at any school the children of each such different persuasion shall be so instructed on different days. Provided also that the religious instruction to be so given shall in every case be the religious instruction authorized by the Church to which the clergyman or other religious teacher may belong. Provided further that in case of the non-attendance of any clergyman or religious teacher during any portion of the period agreed to be set apart for religious instruction such period shall be devoted to the ordinary secular instruction in such school.

Objection to religious instruction.

18. Notwithstanding anything to the contrary in the last preceding section no pupil in a Public School shall be required to receive any general or special religious instruction if the parents or guardians of such pupil object to such religious instruction being given.

Public School Districts and Boards.

19. The Governor by proclamation in the *Gazette* may constitute and define Public School districts containing one or more Public Schools and may appoint a Public School Board for any such district to consist of not more than seven persons. And the duties of every Public School Board shall be—

- (I.) To regularly visit inspect and report upon the school placed under their supervision.
- (II.) To suspend any teacher for misconduct in cases not admitting of delay and to report immediately the cause of such suspension to the Minister.
- (III.) To use every endeavour to induce parents to send their children regularly to school and to report the names of parents or guardians who refuse or fail to educate their children.

Duty of parents enjoined.

20. After the expiration of three months from the passing of this Act it shall be obligatory upon the parents or guardians of all children between the ages of six and fourteen years (unless just cause of exemption can be shown) to cause such children to attend school for a period of not less than seventy days in each half-year. But any of the following reasons shall be held to be a just cause of exemption—

- (I.) That the child is being regularly and efficiently instructed in some other manner.
- (II.) That the child has been unable to attend school from sickness or infirmity or from fear of infection or other unavoidable cause.
- (III.) That there is no school maintained under this Act within two miles by the nearest road of the residence of the child.
- (IV.) That the child has been educated up to the standard of education required.

Punishment for neglecting to send children to school.

21. The Governor by proclamation in the *Gazette* may declare any Public School District to be a portion of the Colony where the obligation upon parents enacted by the last preceding section may be enforced and any parent or guardian in such proclaimed district who shall neglect to send his children to school without just cause of exemption may be summoned by any person appointed for that purpose

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purpose by the Minister before two or more Justices in Petty Sessions assembled and on conviction of the first offence shall forfeit and pay a sum not exceeding five shillings and for every succeeding offence a sum not exceeding twenty shillings and in default the person so offending may be imprisoned for a term not exceeding seven days.

22. In remote and thinly populated districts where no Public School may exist the Minister may establish schools which shall not be classed as fully organised but as provisional only under regulations for that purpose to be approved by the Governor Provided that in all such schools the course of instruction shall be wholly secular and that all such schools shall be subject to the same control and inspection as are prescribed for Public Schools Provided further that so soon as twenty children shall have been in regular attendance at any such school for three months the said school shall be converted into a Public School.

Provisional Schools may be established in certain cases.

23. In districts where from the scattered state of the population and from other causes it is not practicable to collect a sufficient number of children to form a permanent school the Minister may appoint itinerant teachers under regulations to be approved of by the Governor.

Itinerant teachers may be appointed.

24. Training Schools shall be established for the education of teachers both male and female and the teachers so trained and educated shall be classified according to their attainments and skill in teaching and shall receive certificates of competency which shall qualify them for corresponding grades in the school service.

Training Schools to be established.

25. High Schools for boys may be established in which instruction shall be given in ancient and modern languages in history in literature in mathematics and in physical science together with such other subjects as the Minister may from time to time direct.

High Schools for boys to be established.

26. High Schools for girls may be established in which instruction shall be given in modern languages history music the elements of mathematics and physical science together with such other subjects as the Minister may from time to time direct.

High Schools for girls to be established.

27. The fees to be charged and the discipline to be maintained in High Schools and for the higher classes in superior Public Schools and all other matters necessary to be done for the efficient conduct of such schools shall be determined by Regulations approved by the Governor.

Fees and discipline in High Schools.

28. Subject to the provisions hereinafter contained all Denominational Schools certified by the Council of Education at the passing of this Act shall be continued and held to be so certified until the thirty-first day of December one thousand eight hundred and eighty-two after which date all aid to such schools from the Consolidated Revenue shall wholly cease Provided that all such certified Denominational Schools shall in the meantime be subject to the same course of secular instruction the same regulations and the same inspection as may be prescribed by this Act or by the Regulations made thereunder in respect to Public Schools.

Aid to Denominational Schools to cease.

29. It shall be lawful for the Minister at any time to withdraw the certificate from any Denominational School for either of the following reasons:—

Withdrawal of certificate.

(I.) The regular attendance of pupils falling below the minimum of thirty.

(II.) The dilapidated or unhealthy state of the building in which the School is held.

30. In all Denominational Schools held to be certified under this Act and during the currency of the certificates the fees payable for pupils attending such schools shall be the same as those payable at Public Schools and shall in like manner be remitted by the teacher in charge of the school to the Colonial Treasurer and shall be paid into the Consolidated Revenue Fund.

Fees payable at Denominational Schools.

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Public Schools to supply the place of Denominational Schools.

31. At the expiration of the term allowed for the continuation of Certified Denominational Schools the place of such schools shall be supplied where necessary by Public Schools and steps shall be taken previous to the thirty-first day of December one thousand eight hundred and eighty-two wherever it may be deemed expedient for the establishment of such Public Schools.

Buildings of discontinued Denominational Schools may be purchased.

32. It shall be lawful for the Minister to purchase the buildings of such Denominational Schools as may be discontinued after the Government aid shall have been withdrawn the value of such buildings in every such case to be ascertained by arbitration in accordance with Regulations under this Act Provided that in every such case the building shall be suitable for the purposes of a Public School.

Scholarships and exhibitions.

33. In addition to any sum which may be specially appropriated by Parliament for any such similar purpose any private person may collect raise or give a sum of money towards founding a scholarship or exhibition at the University of Sydney in connection with any Public School and money or land or both may be bequeathed for that purpose And every such scholarship or exhibition shall be open to any child on the roll of such school and in the event of any school for which a scholarship or exhibition shall be founded being discontinued the Minister may direct that the scholarship or exhibition shall attach to some other Public School.

Notification of new schools.

34. Notices of all proposals to establish schools as classified under section six of this Act shall be published four times in the *Gazette* previous to the final decision thereon of the Minister.

Certificate to pupils.

35. When any child attending a Public School is educated up to the standard of education required by this Act such child shall receive a certificate in the form of Schedule A hereto.

Annual report.

36. On or before the thirty-first day of March in every year the Minister shall lay before the Governor his report on the condition and progress of the several classes of schools established and maintained under this Act together with a detailed statement of the expenditure in the maintenance of such schools and copies of the same 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.

Regulations to have the force of law.

37. It shall be lawful for the Governor to make Regulations for carrying out the provisions of this Act and copies of all such Regulations 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 resolution of both Houses within one month of their being so laid before Parliament such Regulations shall have the force of law and shall thereupon be published in the *Gazette* for general information.

No action or suit shall be maintained against the Minister.

38. No action or suit shall be brought or maintained against any person who may have held or shall hold office as Minister of Public Instruction for any nonfeasance or misfeasance in connection with the duties imposed upon him by this Act.

Interpretation of terms.

39. In the construction and for the purposes of this Act the following terms shall if not inconsistent with the context or subject matter have the respective meanings hereby assigned to them that is to say—

“Governor” shall mean the Governor with the advice of the Executive Council.

“*Gazette*” shall mean the *Government Gazette* of the Colony.

“Denominational School” shall mean the Schools certified as such under the ninth section of the “Public Schools Act of 1866.”

“Minister”

Obscene Publications Prevention.

“Minister” or “Minister of Public Instruction” shall mean any member of the Executive Council holding a political office who may administer this Act.

“Teacher” shall include assistant or pupil teacher or any person forming part of the educational staff of a school.

“Guardian” shall mean any person legally appointed as such or any person known to have habitual charge of a child.

“History of England” shall mean and include the History of Great Britain and Ireland.

“Standard of Education” shall mean and include competency in reading writing and arithmetic to the satisfaction of a duly appointed Inspector of Schools.

40. This Act shall come into operation on the first day of the month next following its passing and becoming law and shall be called and may be cited for all purposes as the “Public Instruction Act of 1880.”

Commencement of Act.

Short title.

SCHEDULE A.

Certificate of a Child being sufficiently educated.

I HEREBY certify that _____ has been educated up to the standard of education required by the “Public Instruction Act of 1880.”

Dated at _____ the _____ day of _____ A.D. 188 .

Inspector.