



A N N O N O N O

V I C T O R I Æ R E G I N Æ .

C A P . X X V I I .

An Act to repeal certain Enactments therein mentioned, and to make better provision for Elementary Instruction in Lower Canada.

[9th June, 1846.]

WHEREAS the establishment of Common Schools for the instruction of youth is of paramount importance, and it is necessary to ensure more ample and less precarious funds, and to make better Legislative provision, and to adopt more effective measures than have been heretofore made or adopted for this purpose in Lower Canada, substituting such measures for those heretofore in force : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the 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, 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, from and after the passing of this Act, there shall be in each of the Cities of Quebec and Montréal, and in each Municipality, Town or Village in Lower Canada, one or more Common Schools for the elementary instruction of youth, to be managed by School Commissioners in the manner hereinafter provided.

Preamble.

Common Schools to be established in the local divisions of Lower Canada.

II. And be it enacted, That each Municipality existing at the time of the passing of this Act, or which may be legally established hereafter, shall be a Municipality for the purposes of this Act: Provided nevertheless, that the inhabitants of any Town or Village Municipality, other than the Municipality of the Town of Three-Rivers, shall, for the purposes of this Act, be subject to the jurisdiction of the School Commissioners elected for the Municipality of which the Town or Village makes or did formerly make part, and shall have the right of voting at the election of such School Commissioners.

What shall be a Municipality for the purposes of this Act. Proviso, as to Villages.

III. And be it enacted, That no failure to elect any officer, or to assess or levy any rate, shall be construed to prevent the effect of any of the provisions of this Act, which shall be carried into effect by the Governor in Council, by the means of the Superintendent of Schools hereinafter mentioned, and of School Commissioners, Assessors, Collectors, Teachers and other Functionaries, who may be requisite according to the true intent and meaning of this Act, which Commissioners shall

Failure to elect School Officers in any local division provided for.

shall be appointed by the Governor in Council, at the instance of the Superintendent of Schools, and shall have the right of naming the Assessors, Collectors, Directors and other Functionaries, all of whom, in their several capacities, shall each have all the rights, powers and authority, which, under this Act, would have been possessed by the persons who ought to have been elected or to act, under the like names of office or with similar functions, and shall have the same duties and be liable to the same penalties.

Times of the first and other meetings for the election of School Commissioners.

IV. And be it enacted, That from and after the passing of this Act there shall be held each year, on the first Monday in July, a general meeting of all the landholders and householders of each Municipality, which meeting, if it be the first which is to be held in the Municipality for the election of a body of School Commissioners, shall be called by the Senior Justice of the Peace, or, in his default, by any other Resident Justice of the Peace, or, in their default, by any three landholders, by giving eight days previous public notice at the door of the Churches or places of Public Worship, or if there be no Church or place of Public Worship, then by a notice posted at two of the most public places in such Municipality; and at such meeting the Senior Justice present, or in his default such other person as shall be appointed by the meeting shall preside, and that thereafter, at the general annual meeting for the election of School Commissioners, one of the Senior acting School Commissioners shall preside, provided that he be not a Minister of the Gospel, and if two Commissioners then present are of the same date in office, then the oldest by age shall preside; if, nevertheless, from some cause or causes, such general meeting shall have been prevented from taking place on the first Monday in July, and the election in consequence could not be proceeded with, such meeting may be held and the election may take place on any of the ensuing Mondays in the same month: Provided, that if any such election shall have been commenced on the first or any subsequent Monday in July, and shall not have been closed on that same day, it may be continued on the morrow, and the day after the morrow, if necessary, but not longer: Provided, that for the present year the elections to take place, in accordance with this Act, may be made at any time before the first of October next: And provided also, that the time of holding these meetings shall be from ten o'clock in the forenoon until five in the afternoon.

Failure of election provided for.

Proviso. Election may be continued two days.

Election of School Commissioners.

V. And be it enacted, That at such meeting the persons qualified to vote thereat shall elect five School Commissioners, or shall elect the number of Commissioners required to fill the vacancies caused by the retiring of such of the present Commissioners who may go out of office as herein provided for.

Poll may be demanded.

How contestations shall be decided.

VI. And be it enacted, That if the choice of the said School Commissioners shall be contested, any three of the electors present may demand a poll, which shall be held in conformity to the regulations established in the Act then in force with regard to the election of Municipal Councillors; and all contestations with regard to such elections and to the functions and powers assumed by the School Commissioners, or any of them, or their officers, or by any persons claiming to be such Commissioners or officers, may, by any person having authority as Visitor or otherwise over the School in the locality, or by any person assessed for their support, be brought by a petition (*requête libellée*) setting forth the case, of which a copy shall have been served on the parties concerned, before the Court of Queen's Bench for

for the District, sitting in Superior or Inferior Term, or before the nearest Circuit Court, and shall there be determined in a summary manner on the evidence which shall be adduced.

VII. And be it enacted, That the School Commissioners elected in the general meeting, or appointed by the Governor or Superintendent of Schools, as above mentioned, shall remain in office for three years, except that after the first election or nomination of a Board of Commissioners, two of them (to be determined by lot) shall go out of office at the end of one year, and two more (to be determined in like manner) shall go out at the end of two years, and the remaining one at the end of three years; the Chairman shall be liable, in common with the other School Commissioners, to go out of office if it be thus determined by lot, and such Commissioners going out of office shall be replaced by election in the general meeting, or else appointed by the Governor.

Period during which School Commissioners shall serve.

VIII. And be it enacted, That no School Commissioner shall be a Teacher of any School in his Municipality.

Not to be Teachers.

IX. And be it enacted, That the School Commissioners in office at the passing of this Act, shall continue to act as such until they shall be replaced by others under the provisions of this Act, but may, with their own consent, be re-elected under it: Provided nevertheless, that in those Municipalities in which there are at present more than five Commissioners elected, the said Commissioners, being assembled for that purpose in the course of July next, shall decide by lot the Commissioners who are to resign office, besides those designated under a preceding section of this Act, so that the number of the former Commissioners, elected or appointed as above stated, may be then reduced to three.

Present Commissioners continued for a certain time.

Proviso: Where there are now more than six.

X. And inasmuch as since the passing of the late Act for providing more effectively for Elementary Instruction, several elections of School Commissioners and Trustees have been made without the observance of all the formalities required by the said Act or not within the time prescribed: Be it enacted, That all proceedings of any such School Commissioners or Trustees, anterior to the passing of this Act, shall be considered as if the said School Commissioners or Trustees had been legally elected, and that they shall be entitled to act as such respectively until they are replaced in the manner provided by this Act; provided that the School Commissioners or Trustees thus elected have not been replaced by others appointed by the Governor or by the Superintendent of Schools: provided, that nothing in this Act contained shall interfere with the rights of any School Commissioners which at the time of the passing of this Act may be in litigation.

Elections under former Act confirmed though informal

Proviso.

XI. And be it enacted, That the Chairman of any general meeting shall, within eight days thereafter, report the proceedings thereat to the Superintendent of Schools, and transmit to him a list of the persons elected thereat as Commissioners, under a penalty of twenty-five shillings.

Report of proceedings at any meeting.

XII. And be it enacted, That for the Municipalities in which no election of School Commissioners shall have been had within the time hereby prescribed, the Superintendent of Schools shall, *ex officio*, upon an order from the Governor in Council, appoint them, and also a Secretary-Treasurer.

In default of election.

XIII.

Proviso:
Certain Func-
tionaries may
recommend
persons as
Commission-
ers.

To be approved
by the Super-
intendent.

Vacancies
how filled.

Re-election.

Chairman and
Secretary-
Treasurer.

Temporary
Chairman.

Decisions.

Chairman.

School Dis-
tricts.

Alteration of
limits.

Requisite
number of
children.

XIII. Provided always, and be it enacted, That within fifteen days after the time when the said election ought to have been had, the School Commissioners for the then last year, three of the School Visitors, the acting Church-Wardens, Elder, Class-Leader or Trustees of the several religious denominations, and the Clergyman or Minister of the most numerous congregation, may meet and submit to the Superintendent of Schools the names of so many persons as School Commissioners as are provided by this Act; and on the approval of the Superintendent, signified to the Chairman of such meeting, such persons shall become School Commissioners for the purposes of this Act.

XIV. And be it enacted, That if one or more vacancies shall happen among the School Commissioners, by reason of the permanent absence from the Parish, death or incapacity from sickness of any Commissioner, he shall be replaced by the electors for the locality, called together for that purpose by the Chairman or Temporary Chairman of the School Commissioners, and at which he himself, or in his absence one of the School Commissioners by him named, shall preside.

XV. And be it enacted, That no School Commissioner shall be re-elected, except by his own consent, during the four years next after his going out of office.

XVI. And be it enacted, That the School Commissioners shall meet on the first Monday after their appointment or after notice of their election, for the purpose of choosing a Chairman and a Secretary-Treasurer, which latter shall give sufficient security to the Commissioners, himself for one half and two sureties each for one quarter of the sum arising from the local and general School fund, and place at their disposal for the support of the Schools of their locality; and in case of the absence, whether permanent or temporary, of the said Chairman, the assembled School Commissioners shall name one of themselves as Chairman for the time being, who shall then be vested with the same powers and privileges as the ordinary Chairman.

XVII. And be it enacted, That at the meetings of the School Commissioners all questions shall be decided by the majority of votes; and that when the votes upon any question proposed are found to be equal on both sides, without the vote of the Chairman, then and in such case only the Chairman shall be entitled to give his vote, as a casting vote, but in no other case shall the Chairman be entitled to vote.

XVIII. And be it enacted, That the Commissioners shall divide the Municipality into School Districts in all places where this shall not have been already done, and shall designate them by the numbers one, two, &c., and the limits assigned by them to each District shall be entered in the Registers of their proceedings; they may also at their discretion alter the limits of Districts already existing, and erect new ones from time to time, so as to suit the wants of the population and local circumstances.

XIX. And be it enacted, That no School District shall contain less than twenty children between the ages of five and sixteen years; except that the Commissioners may allow one School District in each Municipality to contain less than the aforesaid number of children.

XX. And be it enacted, That the School Commissioners shall take care that there be a School in each School District, and may, when they shall deem it expedient, unite two or more Districts, and again separate them, and shall give notice to the Superintendent of Schools of their having done so.

A School to be in each District.
United Districts.

XXI. And be it enacted, That it shall be the duty of the School Commissioners in each Municipality :

Duties.

Firstly. To take possession of lands and School Houses which may have been acquired, given to, or erected by the School Trustees or Commissioners, and to which the Province may have contributed in virtue of any former Act, or by the Royal Institution (which Institution is hereby authorized to surrender the same), under any Act for the encouragement or promotion of Education, and in case of opposition, to give notice thereof to the Superintendent of Schools, who shall advise them as to the means of removing or overcoming such opposition.

As to present School property.

Secondly. To acquire and hold for the Corporation, by any title whatsoever, all real or personal property, monies or income for the purposes of Education, until the power hereby given shall be taken away or modified by Law, and to apply the same according to the instructions of the donors.

School property.

Thirdly. To do whatever it may be expedient to do with regard to building, repairing, keeping in order or renewing all School Houses, lands, fences and moveable property which shall be held by them, or to hire temporarily or accept the gratuitous use of Houses and other buildings for the purpose of keeping Schools therein: Provided that no rate shall be levied for the building of a Superior or Model School to exceed the sum of one hundred and fifty pounds, nor for a Common School to exceed the sum of seventy-five pounds; and all accounts relative to the objects aforesaid shall be transmitted annually to the Superintendent of Schools.

Keeping such property in order.

Proviso.

Accounts.

Fourthly. To appoint and engage from time to time School-masters and School-mistresses duly qualified to teach in the Schools under their control, and to remove them on account of incapacity, neglecting faithfully to perform their duties, insubordination, misconduct or immorality, after mature deliberation at a meeting of Commissioners called for this purpose.

Engaging Teachers.

Fifthly. To regulate the course of study to be followed in each School, to provide that no other books be used in the Schools under their jurisdiction but those approved and recommended by the Board of Examiners hereinafter established, and to establish general rules for the management of the Schools, and to communicate them in writing to the respective Teachers; to fix the time of the annual public examination, and to attend at the same: Provided that the Curé, Priest, or officiating Minister, shall have the exclusive right of selecting the books having reference to religion or morals, for the use of the Schools for children of his own religious faith.

Regulating the courses of instruction.

Sixthly. To hear and decide every dispute which may arise relating to the public Schools in their Municipality, between the parents or children and the Teachers, and others of like nature.

Deciding disputes.

Visiting the
Schools and
reporting.

Seventhly. To name two or more from among themselves to visit each public School in the Municipality, at least once in six months, and report to the Corporation of which they are members, the state of the School, and whether the rules and regulations of the Commissioners are strictly observed, also the progress of the scholars, the character and capacity of the Teachers, and every other matter relating to the management of the Schools.

Management,
discipline, &c.

Eighthly. To comply as regards the accounts and register to be kept by the Secretary-Treasurer, with all instructions, whether special or general, which may from time to time be given them by the Superintendent of Schools, to whom they shall report their proceedings yearly, before the first day of July.

To keep Re-
gisters and Ac-
counts.

Ninthly. To keep and cause to be kept registers of their proceedings, signed for each sitting by the Chairman and Secretary; and also correct accounts of their receipts and expenditure, with reference to the Schools in each District under their control, mentioning specially what relates to each School; and such accounts shall be open to all persons, contributors to the support of the Schools, at all seasonable hours.

To levy by
assessment a
sum equal to
that allowed
out of the
Common
School Fund.

Tenthly. To cause to be levied by assessment and rate, in the manner hereinafter provided by this Act, in each Municipality, a sum equal to that allowed out of the Common School Fund for each Municipality, and to report their proceedings in this respect to the Superintendent; and to enable the School Commissioners to receive from the Superintendent of Education, their share of the Common School Fund, they shall furnish him with a declaration from the Secretary-Treasurer, that he has actually and *bonâ fide* received, or that he has placed in the hands of the School Commissioners for the purposes of this Act, a sum equal to the said share accruing to such Commissioners.

Superior or
Model Schools.

Eleventhly. Out of the monies arising from the School Fund, or from assessments imposed to raise a like sum in the Municipalities, or from any other source, not specially appropriated by disposition of the donors or vendors or otherwise, they may, if they think proper, allow a sum not exceeding twenty pounds yearly for the support of any Superior School or Model School, at the most thickly settled place in the Municipality, over and above the share which would otherwise come to such School, and the remainder or whole of the said monies, if there is no Model School, shall be distributed in equal shares among the School Districts, the Model School being counted alone as one.

Fixing rates to
be paid by pa-
rents for their
children.

Twelfthly. They shall fix the Fees per month to be paid during the eight School months for each child of age to attend School, by each father or mother of a family, tutor or curator, to the Secretary-Treasurer above and over the rate levied, and for the use of the School District (*arrondissement*) paying the same; such fees not to exceed in any case two shillings per month, and to be diminished at the discretion of the Commissioners, according to the means of the parents, age of the children, and course of instruction, but not to be less than three pence per month; the Commissioners nevertheless may ask higher monthly fees, in Model Schools, and for the whole time the same may be in active operation.

Thirteenthly.

Thirteenthly. They may wholly or in part exempt indigent persons, lunatics or idiots from paying such fees, and shall fix the times of payment.

Indigent persons.

Fourteenthly. They shall cause any party neglecting or refusing to pay his portion of any School-rate, to be prosecuted before any Justice of the Peace in the Municipality, or if there be no Justice of the Peace in the Municipality, then before the Commissioners' Court for the trial of Small Causes nearest to the place of their sittings and having jurisdiction in the Municipality; and all Justices of the Peace or Commissioners' Courts are hereby authorized and required to hear and adjudge upon such prosecution in a summary manner, and to cause the sum for which judgment shall have been given to be levied by the seizure and sale of the goods and chattels of the defendant, under a Warrant to be granted by such Justice of the Peace or Commissioner of Small Causes.

To direct prosecutions.

Fifteenthly. They may associate with themselves, permanently, or for a time only, Managers to aid them in matters connected with the administration of the School Houses, the erection and repair, warming and cleaning thereof, and the keeping in good order the property, moveable and immoveable, belonging to the Schools, and other like matters.

Managers.

XXII. And be it enacted, That if in any School District there shall be no School in operation, the School Commissioners shall deposit the money to which such District would be entitled in some Savings or Chartered Bank at interest, where, with the consent of the inhabitants of such District, they shall allow it to accumulate during a term which shall not exceed four years, to be thereafter by them used either in the purchase of ground for or in building a School House, or towards other Educational purposes in or for such School District.

Deposit of monies.

Application of the same.

XXIII. And be it enacted, That the School Commissioners in each Municipality shall be a Corporation under the name of *The School Commissioners for the Municipality of* , in the County of ; shall have perpetual succession and a common seal, if they think proper to have one; may sue and be sued, and shall, generally, have the same powers which any other body politic or corporate has, or ought to have with regard to the purposes for which it is instituted; but they shall not at any time hold real property to the value of more than five hundred pounds yearly in the Cities and Municipalities of Quebec or Montreal, or of three hundred pounds yearly value in any other Municipalities: Provided, nevertheless, that the Chairman of the School Commissioners shall not engage in any suit at Law, as plaintiff, without a special authorization from the Commissioners, duly entered in the Register after deliberation, and that all and every action may be brought either by the said President or by the Secretary Treasurer in the name of the Corporation, at the discretion of the Board.

School Commissioners to be a Corporation.

Their powers:

Limitation.

Proviso.

XXIV. And be it enacted, That no such Corporation shall alienate any portion of the property held by it without the express authority of the Superintendent of Schools; and no such Corporation shall cease by reason of the want of School Commissioners in any Municipality at any time, but in such case the powers of the Corporation, as regards the possession of any property real or personal, shall become vested in the Superintendent of Schools, and in his default in the Governor

Proviso: As to alienation of School property.

Corporation may be in abeyance.

of

School property vested in the Corporation.

of the Province in trust, until it shall be otherwise provided by law; and all Lands, School Houses or other property, real or personal, belonging to Common Schools in any part of the Province, formerly Lower Canada, under any law or by any title whatsoever, is hereby vested in the Corporation of the School Commissioners respectively, of the Municipality in which such property may be situated.

Fabrique Schools.

XXV. And be it enacted, That the *Fabrique* of any Parish, and the School Commissioners thereof, may, by mutual agreement in due form made, unite for one or more years the *Fabrique* Schools in operation, with any of the Schools to be kept under this Act; and any *Fabrique* contributing not less than twelve pounds ten shillings by the year, towards the support of any School under the management of School Commissioners, shall thereby acquire a right to the *Curé* and Church-warden in office to be Commissioners, if they were not so before; but no *Fabrique* shall so unite its School to those managed by Commissioners of another faith, except under an express and formal agreement with the School Commissioners or Trustees of such other faith.

Proviso.

Dissentients.

XXVI. And be it enacted, That when 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 the 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 shall be under their control; and such dissentient inhabitants may, by the intervention of such Trustees, establish in the manner provided with regard to other Schools, one or more Schools, which shall be subject to the same provisions, duties and supervision, and they shall be entitled to receive from the Superintendent or from the School Commissioners, such sum out of the general or Local School Fund as shall be proportionate to the dissentient population they represent: 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 so long as the number of children taught in such School shall amount to the number required by this Act to form a School District, and the entire amount of monies raised by assessment on such dissentients shall be paid to the Trustees of such School, together with a due proportion of the building fund.

Trustees.

May establish one or more Schools.

Proviso.

On what condition a School shall be entitled to an allowance out of the School Fund.

XXVII. And be it enacted, That to entitle any School to its allowance out of the general or Local School Fund, it shall be requisite and sufficient that such School has been under the management of School Commissioners or Trustees appointed in the manner provided by the next preceding section; that it has been in actual operation during at least eight calendar months; that it has been attended by at least fifteen children (periods of epidemic or contagious diseases excepted); that the returns have been certified to the School Commissioners or Trustees by the Master, Mistress or Teacher, and at least two of the Commissioners or Trustees; that a public examination of the Schools has taken place; that a report signed

signed by the majority of the School Commissioners or Trustees, and by the Master has been transmitted to the Superintendent of Schools, according to the form prescribed by him for that purpose, every six months, that is to say, before the first day of July, and the first day of January, in each year; and finally, that a sum equal to the allowance made by the Legislature for the Municipality, has been raised as hereinbefore provided.

XXVIII. And be it enacted, That if any School Commissioner or Trustee or other person, shall make any false certificate or return, by means of which he may have fraudulently obtained or sought fraudulently to obtain money from the public School Fund, such Commissioner, Trustee or other person shall not only restore the money so obtained, but shall also incur a penalty not exceeding ten pounds, currency, nor less than two pounds, ten shillings, which shall go to the local School fund, and which shall be recoverable at the suit of any person having an interest in the right administration of the Common Schools, on the oath of one credible witness, and before any Justice of the Peace; and if such penalty be not paid within ten days after judgment, it shall be levied, with the costs of suit and of sale, by seizure and sale of the goods and chattels of the defendant under the warrant of such Justice of the Peace, and in default of sufficient goods and chattels, the defendant may be committed to the common gaol, and detained therein one day for each three shillings of the amount of the fine and costs, or of the balance which may be due.

Penalty on persons using false certificates, &c.

How levied.

XXIX. And be it enacted, That the Trustees of dissentient minorities shall also be elected for three years, except that at the end of each of the two first years one of the Trustees shall retire and be replaced or re-elected by such dissentients; children from other School Districts, of the same faith as the dissentients for whom the School was established, may attend the same whenever such dissentients shall not be sufficiently numerous in any District to support a School alone: Provided that the individuals of the dissentient minority shall not be elected nor serve as School Commissioners, nor vote at the election of the School Commissioners; and that in like manner the individuals of the majority shall not be elected nor serve as School Trustees, nor vote at their election.

Trustees of dissentient Schools.

Proviso.

XXX. And be it enacted, That the School Commissioners may, if they deem it expedient, establish in the Municipality a Girls' School distinct from that for Boys, and such Girls' School shall be deemed to form a School District; if any religious community shall have already established a Girls' School for elementary education, such community may place its School, from year to year, or as may be agreed upon, under the management of the Commissioners, and it shall then be considered as entitled to all the advantages hereby granted to Common Schools.

Girls' School.

XXXI. And be it enacted, That the Secretary-Treasurer shall receive a sum not exceeding two and a half per cent. on all monies by him received, but this allowance shall cover all his contingent expenses, except the purchase of the book used as a Register, the price of which shall be paid out of the monies in his hands.

Allowance to the Secretary-Treasurer.

XXXII. And be it enacted, That the Schools established under this Act or any other Act, in each Municipality, whether in town or country, shall be visited at least

Common Schools to be visited.

least

least once in every year by one of the Visitors hereinafter mentioned, and oftener, if they deem it requisite; they shall be entitled to have communication of the regulations and other documents relative to each School, and of all other information concerning it.

Visitors.

XXXIII. And be it enacted, That the Visitors for each Municipality shall be :

First. The Resident Clergymen, of whatever denomination.

Secondly. The Judges of the Court of Queen's Bench, and of the Circuit Courts.

Thirdly. The Members of the Legislature.

Fourthly. The Justices of the Peace.

Fifthly. The Mayor or the Warden of the Municipality.

Sixthly. The Colonels, Lieutenant Colonels and Majors, and the Senior Captain of Militia resident in the locality.

Ecclesiastics of one persuasion not to visit Schools of another.

The Superintendent of Schools shall be *ex officio* Visitor General of all Public Schools, and as such may take cognizance of contestations arising between the School Commissioners and School Masters, and give a final decision; and no Priest, Minister or Ecclesiastic shall be entitled to visit any School belonging to any inhabitants not of his own persuasion, except with the consent of the Commissioners or Trustees of such School.

Superintendent of Schools for Lower Canada to be appointed.

XXXIV. And be it enacted, That the Governor may, from time to time, appoint by Letters Patent under the Great Seal of the Province, a fit and proper person to be Superintendent of Schools for Lower Canada, and to hold his office during pleasure; the said Superintendent shall receive five hundred pounds, currency, salary, per annum, and shall be allowed one hundred and seventy-five pounds per annum for a Secretary, and sixty pounds for a Clerk, and the contingent expenses of his office to be by him accounted for according to the terms of this Act; and the said Superintendent shall give security to Her Majesty, Her Heirs or Successors, to the satisfaction of the Governor in Council, to the amount of two thousand pounds, currency.

His duties.

XXXV. And be it enacted, That it shall be the duty of the Superintendent of Schools:

Distribution of monies.

First. To receive from the Receiver General all sums of money appropriated for the purposes of this Act, and to distribute the same among the School Commissioners of the respective Municipalities, according to law, and in proportion to the population of the same, as ascertained by the then last Census.

Preparing Forms.

Secondly. To prepare and cause to be printed and distributed all necessary Forms.

Thirdly.

Thirdly. To prepare and cause to be printed recommendations and advice on the management of Schools, as well for the School Commissioners as for the Secretary-Treasurers, Trustees, School-masters and School-mistresses.

To prepare recommendations, &c.

Fourthly. To keep correct books and distinct Schedules of all the matters subjected to his superintendence and control, so that all requisite information may be clearly and promptly obtained by the Government, the Legislature, or the School Visitors.

To keep books.

Fifthly. To examine and control the accounts of all parties, corporations or associations accountable for any public monies appropriated and distributed under the authority of this Act, and to report whether the said monies are *bonâ fide* applied for the purposes for which they were granted.

To examine Accounts.

Sixthly. To lay annually before the three branches of the Legislature, a detailed report of the actual state of education in Lower Canada, tables of Schools, number of children attending them, and other like matters.

Annual Report.

XXXVI. And be it enacted, That the assessment mentioned in this Act, shall be laid equally accordingly to valuation, upon all rateable real property in the Municipality, and shall be payable by and recoverable from the owner, occupant or possessor of the property liable to be rated, and shall, if not paid, be a special charge bearing *hypothèque* and not requiring registration to preserve it on all immoveable property; any law or usage to the contrary notwithstanding.

The rate to be laid equally on all property.

To bear *hypothèque* if not paid.

XXXVII. And be it enacted, That the School Commissioners shall cause the assessment required for raising the sum equal to that which they shall receive or ought to receive from the Common School Fund, to be equally rated upon all the immoveable property situate within the extent of their jurisdiction, in proportion to the value of such property, and that they shall, at the same time and in the same manner, cause an additional sum not exceeding fifteen per cent. upon the former, to be raised for the purpose of making good any deficiency which may arise in the collection of the assessment, and to cover the expenses of collection: Provided, that unconceded lands in Seigniories shall be free from assessment under this Act, but that all Seigniors shall pay, on account of their lucrative rights, one-fortieth part of the sum assessed in the Municipality or Municipalities, or portions of Municipalities of which they are Seigniors, in proportion to their Seigniority in the same: Provided also, that all buildings set apart for purposes of education, or of religious worship, Parsonage Houses, and all charitable Institutions or Hospitals incorporated by Act of Parliament, and the ground or land on which such buildings are or shall be erected, and also all burial grounds, shall be exempt from all rates imposed for the purposes of this Act.

Immoveable property to be equally rated.

Seigniories.

Proviso as to certain public buildings, &c.

XXXVIII. And be it enacted, That in all places where a valuation of property shall have been made by order of the Municipal authorities, under the Act of the last Session, intituled, *An Act for repealing certain Ordinances therein mentioned, and to make better disposition for the establishment of the Local Municipal Authorities in Lower Canada*, or under the authority of any other subsequent Act, such valuation shall serve as the basis of the rates which shall be made under the authority

Basis of valuation.

Penalty on
Commissioners
failing to
make such
valuation.

authority of this Act, a copy of which valuation the Secretary-Treasurer of the Municipal Council shall, on demand, furnish to the Corporation of School Commissioners; but if no such valuation shall have been made as above mentioned, the School Commissioners are hereby authorized to cause the same to be made by three fit and proper persons; and if the said Commissioners refuse or neglect to cause such valuation to be made within the two months following the receipt of this Act, (of which they are required to acknowledge the receipt, as soon as received, to the Superintendent of Schools,) such Commissioners shall be liable to a fine of not less than two pounds, ten shillings, or more than five pounds, currency, (to be recovered in the same manner and form, and before the same tribunals, as provided by this Act for the recovery of School-rates and monthly dues,) and the Governor shall name fit and proper persons to make the proper valuation with as little delay as possible, which said valuation, made either by order of the Commissioners or by order of the Governor, shall be certified by the persons having made the same, before a Justice of the Peace, which said Justice of the Peace shall transmit, within eight days, a copy of the certificate to the School Commissioners for the Municipality, and to the Provincial Secretary.

School-rates.

Receipts in
Produce.
Notice for in-
spection.

Provisions as to
rates for the
present year.

Rates always
to be imposed
for the then
next year.

XXXIX. And be it enacted, That each School rate shall be fixed and laid between the first day of May and the first day of July, and shall be paid in each year at any time on demand, provided public notice be given at least thirty days before enforcing payment of the same; and the Commissioners and Secretary-Treasurer may, in their discretion, receive the amount of such rates and of the monthly payments for the children, in produce at prices to be fixed by them; and notice given in the manner hereinbefore prescribed with regard to the holding of general meetings, that the roll of the rates so fixed lies for inspection in the hands of the Secretary-Treasurer, shall be sufficient publication and notification thereof; and it shall lie in his hands for inspection at least thirty days after notice, during which time it may be amended by the Municipal Authority, after which it shall be in full force, and shall be conclusive evidence as to the rate of School-rates payable into the office of the Secretary-Treasurer by any party or on any property subject thereto: Provided that any School-rate which may have been imposed in the course of the present scholastic year, agreeably to the true sense and meaning of this Act, shall be held legal and valid for the purposes of this Act, at whatever time it may have been imposed: Provided also, that for the scholastic year which will commence on the first day of July next, the rates may be imposed at any time during the months of July, August, September and October of the present year, if they have not been imposed by the present Commissioners: Provided always, that the present School Commissioners may, between the passing of this Act and the first day of October of the present year, validly impose the rates as well for the present year as for the next, and also for any future year, and it shall always be the duty of such Commissioners to impose the rates for the then next-year.

Provisions as
to the Cities
of Quebec and
Montreal.

Powers of
School Officers

XL. And be it enacted, That in each of the Cities of Quebec and Montreal the provisions of this Act, with regard to the establishment of Common Schools in each Municipality, shall have effect and be applied according to the true intent and meaning of this Act, except in so far as it may be otherwise herein provided or enacted; and all persons appointed or called upon to carry this Act into effect in the said Cities, shall have the same powers as the corresponding functionaries in

in the Municipalities by whatever name they may be designated, and shall be subject to the same obligations and penalties.

in the said
Cities.

XLII. And be it enacted, That for all purposes relative to the distribution and apportionment of School monies, and for all other purposes of this Act where it shall not be repugnant to the other provisions thereof, each of the Cities of Quebec and Montreal shall be considered as one Municipality; and it shall not be necessary to divide them into School Districts, but each School established by the said Commissioners or put under their control by virtue and in accordance with this Act, shall be considered as a District and may be attended by children from any part of the City.

Each to be
deemed one
Municipality.

Division into
Districts not
necessary.

XLIII. And be it enacted, That in Quebec and Montreal the Corporation shall appoint twelve School Commissioners (if they have not already been named under the authority of the Act passed in the last Session of the Provincial Parliament concerning Elementary Education), six of whom shall be Roman Catholics and six Protestants; and such Commissioners shall form two separate and distinct Corporations, the one for the Roman Catholics and the other for the Protestants; and one half of each of the said Corporations shall be renewed annually by the said Corporation: Provided, that in case the Corporation of the City of Quebec or that of Montreal, shall refuse or neglect to nominate such Commissioners or to renew them at the time prescribed, that is to say, in the month of July in each year, the Superintendent of Schools shall appoint them *ex-officio*, with the approval of the Governor in Council.

Appointment
of Commis-
sioners there-
in.

Proviso:
Superinten-
dent to appoint
Commission-
ers if the Cor-
poration do
not.

XLIII. And be it enacted, That in the said Cities no rate shall be levied for the Schools, but the Treasurer of each City shall pay out of the funds thereof to the said Boards of Commissioners, and in proportion to the population of the religious persuasion represented by them, a sum equal to that coming to such City out of the Common School Fund, to be employed by them for the purposes of this Act; and if such payment be refused, the School Commissioners or their Secretary may apply by petition to the Court of Queen's Bench sitting in Superior Term, who, upon proof of the service of such Petition upon the Treasurer, shall take cognizance of the matter and shall determine the same in a summary manner, and may, if right shall require it, compel payment by all legal means and process.

School Funds.

Payment, how
enforced if re-
fused.

XLIV. And whereas the Cities of Quebec and Montreal possess Educational Institutions which do not and cannot exist in the Country parts: Be it enacted, That the said City of Montreal shall be entitled to receive out of the Common School Fund only one fourth, and the City of Quebec two thirds of the sums they would have been respectively entitled to according to their population.

Proportion of
public monies
to be allowed
for each City:

XLV. And be it enacted, That the School Commissioners for Quebec and Montreal shall, in their intercourse with the Superintendent of Education, be guided by the same rules and regulations as other School Commissioners.

City School
Commission-
ers.

XLVI. And be it enacted, That any sum of money whatever arising from the general or local School Fund, from whatever source derived, which shall not have been employed or paid by the School Commissioners, Trustees or Secretary-Treasurer

Deposit of
School monies
belonging to
any locality

and not immediately required.
Proviso.

Treasurer during the year in which it shall have been received, shall be by them or any one of them deposited or placed out at interest, to be employed in forming and creating revenue for the Corporation: Provided nevertheless, that this provision shall not be construed to extend to the deposit directed by this Act to be made of the share belonging to any School District, in which there shall not then be any School in operation.

Mode of paying public monies out of the Common School Fund.

XLVII. And be it enacted, That the sums annually paid out of the Common School Fund, shall be paid by the Receiver General, on the Warrant of the Governor, to the Superintendent of Schools, from time to time, as they can be apportioned and distributed by that Officer, and the Superintendent shall pay their respective shares to the several School Commissioners in two semi-annual payments, and the School Commissioners shall have power to direct the payment out of the general or local School Fund in their hands, of such contingent expenses as may not have been specially provided for by this Act; and the due application of all public monies shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and accounts of the yearly expenditure thereof shall be laid before the Legislature at the then next Session thereof.

Accounts to Her Majesty.

And to the Legislature.

Indemnity for payments made out of the Common School Fund before the passing of this Act.

XLVIII. And whereas it is expedient to indemnify all officers and persons who, before the passing of this Act, have, under orders of the Governor in Council, acted in the apportionment, distribution and application of monies out of the Common School Fund, in any manner which, though consistent with the spirit and intention of the laws then in force, may not have been strictly in accordance with the letter thereof: Be it enacted, That all officers or persons in any manner concerned in the making of any Order in Council made before the passing of this Act concerning the distribution, apportionment, payment or application of any such monies as aforesaid, or in distributing, apportioning, paying or applying such monies under the said Orders in Council or any of them, shall be and are hereby indemnified and held harmless for all acts so done or advised by them; any thing in any Act or Law to the contrary notwithstanding; and the distribution, apportionment, payment and application so made as aforesaid, shall be held to have been legally and validly made and performed: Provided always, that all such officers and persons entrusted with the distribution and application of any such monies in the various Districts, Counties and other subdivisions of the Province, shall duly account for the same.

Provision for accounting.

Balance how to be applied.

XLIX. And be it enacted, That the balance remaining unexpended or unclaimed out of the proportion of the Common School Fund belonging to Lower Canada, shall be appropriated by the Superintendent of Schools under the authority of the Governor in Council, in aiding to finish School Houses actually commenced, or to build new ones, or to make extensive repairs to old ones, in such manner as he shall deem most conducive to the advancement of Elementary Education.

Boards of Examiners appointed in Quebec and Montreal.

L. And be it enacted, That there shall be in each of the Cities of Quebec and Montreal, a Board of Examiners composed of fourteen persons chosen in as fair and equitable a manner as possible from among the different religious denominations, the

the members of which Board shall be appointed by the Governor in Council, through the Superintendent of Schools, and of whom one half shall consist of Roman Catholics, and one half of Protestants, and who shall compose a Board of Examiners, to examine Teachers and to deliver or refuse to each, as the case may require, a license or certificate of qualification, after due examination; and the said Board shall be divided into two divisions, one of which shall be composed of seven Roman Catholics, and the other of seven Protestants, each of which division shall separately perform the duties hereinafter imposed upon them, that is to say :

How compos-
ed.

Their duties

Firstly. To meet at the Court House in either City, as the case may be, at ten o'clock, A. M., on the twentieth day after their nomination, (and this enactment shall be for each member of the said Board, a sufficient notification to that effect,) to choose a President, Vice-President and Secretary: Provided nevertheless, that if the said twentieth day after their nomination be a Sunday or holiday, (*fête d'obligation*,) they shall meet on the day following, not being a Sunday or holiday.

To meet at a
certain time
and place.

Secondly. To meet once in three months (on the application of one or more Teachers made in writing to the Secretary of the Board at least fifteen days beforehand,) that is to say, on the first Tuesday in March, June, September and December, after sufficient public notice to that effect, and whenever there shall be any application.

Subsequent
meeting on ap-
plication of
Teachers.

Thirdly. To admit to examination those candidates only who shall be each provided with a certificate of good moral character signed by the *Curè* or Minister of his own faith, and by at least three School Commissioners or Trustees of the locality in which he shall have resided for the last six months, and also with a certificate of his age, which must be at least eighteen years.

Whom only
they shall ex-
amine.

Fourthly. To return to the bearer the said certificate, after having entered an exact copy thereof on their minute of proceedings, if the candidate shall have passed a satisfactory examination.

To return the
certificate.

Fifthly. To deliver a certificate or *diploma* of qualification as a Teacher to each candidate found qualified, signed by the President or Vice-President and the Secretary, bearing the seal of office, dated, and distinctly specifying the particular kind of instruction to which the candidate intends devoting himself; whether he can teach English and French, and if not, which of these two languages; as also his age, his latest residence, and the religious denomination to which he professes to belong; mentioning also that the certificates of age and good moral character required by this Act have been produced to the Board; mentioning also the names of the persons signing the said certificates, and that a copy thereof has been taken; and the said Secretary or his deputies may demand from each candidate obtaining a certificate or *diploma* of qualification, for fees and office charges, the sum of five shillings, currency, and no more.

To deliver cer-
tificates of
qualification to
Candidates
found quali-
fied.

Fees.

Sixthly. To keep a correct list of candidates admitted to the right of teaching.

To keep Lists.

Seventhly. To give notice to the Superintendent of Schools of the admission of each candidate to the right of teaching, within fifteen days after such admission.

To notify Su-
perintendent.

Eighthly.

To divide Teachers into classes.

Eighthly. To divide the Teachers into three classes, namely : those of the Schools purely elementary ; those of Model Schools, and those of the educational establishments called Academies.

To enter names of Teachers.

Ninthly. To enter the names of each Teacher admitted, as well as the class to which he belongs.

Qualifications required of Teachers.

Tenthly. To require, in the course of the examination, proof of the following qualifications, namely : For the Teachers of Elementary Schools, such acquirements as will enable them to teach with success, Reading, Writing, the Elements of Grammar and of Geography, and Arithmetic as far as the Rule of Three, inclusively ; For the Teachers of Model Schools, in addition to the foregoing, the acquirements requisite to enable them to teach Grammar, the Analysis of the parts of speech, Arithmetic in all its branches, Book-keeping, Geography, the use of the Globes, Linear Drawing, the elements of Mensuration, and Composition ; For the Teachers of Academies, besides the qualifications required for the above-mentioned two classes of Teachers, all the branches of a classical education, inasmuch as they are destined to prepare their scholars for the same : Provided always, that until the first day of July of the year one thousand eight hundred and fifty-six, Teachers may, if they prefer it, undergo an examination before the School Commissioners of the respective localities where they are to teach ; but that after the first Monday in July, one thousand eight hundred and fifty-six, all Teachers acting as such under this Act, or under any special Act passed for the encouragement of Education, shall be required to undergo an examination before one of the said Boards of Examiners, and to be each provided with a certificate of qualification as above mentioned ; and that after the said day, the School Commissioners, and all persons entrusted with the management of Schools, shall be required to employ as Teachers such persons only as shall be so provided with a certificate of qualification given by one of the Boards of Examiners as above mentioned, on pain of losing their share of the grants made for the encouragement of education : Provided nevertheless, that every Priest, Minister, Ecclesiastic, or person forming part of a religious community instituted for educational purposes, and every person of the female sex, shall be in every case exempt from undergoing an examination before any of the said Boards ; and provided also, that neither the possession of a certificate of examination before one of the said Boards, nor any exemption from examination, shall oblige the School Commissioners or Trustees to accept a Teacher who does not suit them.

Proviso as to Teachers examined before 1st July, 1856.

Priests, members of Religious Communities and females need not be examined.

Proviso.

Registers to be kept.

Duties of the Secretary.

Eleventhly. To keep or cause to be kept a Register of their proceedings, signed (for each meeting) by the President or Vice President and the Secretary, whose duty it shall be to keep the Register and to make the list of Teachers admitted to teach, the entry in the Register of their certificate of age, morality, character and qualification, the entry of all the proceedings of the Board in the minutes of their deliberations, and also to prepare, fill up and address the certificates of qualification, and to do all other writing requisite.

To have a seal.

Twelfthly. To have a particular seal, and to make use of that furnished them by the Superintendent of Schools, as well as the forms of certificates of qualification ; and every person entitled to act as School Visitor shall have the right of being

being present at examinations made by any of the Boards of Examiners, and of interrogating the Teachers who shall offer themselves for examination, and also of giving his opinion.

Rights of Visitors at examinations.

LI. And be it enacted, That no person shall be capable of being elected or appointed a School Commissioner, or named an Assessor under this Act, unless he shall be seized or possessed, to his own use, of real or personal estate, or both within this Province, of the value of two hundred and fifty pounds, currency, after payment or deduction of his just debts.

Qualification of School Commissioners.

LII. And be it enacted, That every person duly called upon to accept any office or perform any functions under this Act, who shall refuse to accept or neglect to perform the same, or shall in any way wilfully contravene the provisions of this Act, shall thereby for each such offence, whether of omission or commission, incur a penalty of not less than one pound five shillings, nor more than two pounds ten shillings, according to the gravity of the offence, in the discretion of the Court or authority having cognizance thereof; and any Justice of the Peace residing within the locality or county, or the nearest Court of Commissioners for the Trial of Small Causes shall have jurisdiction with regard to such offence, and may, after judgment, cause the penalty to be levied under Warrant, by the seizure and sale of the goods and chattels of the offender; and the amount of all penalties so levied shall be paid into the hands of the Secretary-Treasurer of the Corporation of the School Commissioners of the locality in which the offence shall have been committed, and shall make part of the Local School Fund; and all persons entrusted in any manner with carrying this Act into effect, or qualified to vote at the election of School Commissioners or Trustees, shall be competent to prosecute for the recovery of such penalties.

Penalty on persons refusing to accept office.

How such penalty may be enforced.

Application of penalties.

Who may prosecute.

LIII. And be it enacted, That the *quorum* of any Corporation, Board, or Body constituted by this Act shall be the absolute majority of all the Members thereof; and any majority of the Members present at any meeting regularly held, at which there shall be a *quorum*, may validly exercise all the powers of the Corporation.

Quorum.

Powers of majority.

LIV. And be it enacted, That nothing herein contained shall affect the rights of Her Majesty, Her Heirs or Successors, or of any Body Politic or Corporate, or of any person whomsoever, except in so far as may be herein specially provided and enacted.

Saving of rights not specially affected, &c.

LV. And be it enacted, That the words "Lower Canada," wheresoever they occur in this Act, shall mean all that part of this Province which formerly constituted the Province of Lower Canada; the word "Governor" shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province, and the words "Governor in Council" shall mean the Governor, Lieutenant-Governor, or person administering the Government of this Province, acting by and with the advice and consent of the Executive Council thereof; the word "Assessment" shall mean the determining of the total sum to be raised by a rate; the word "Rate" shall mean the proportionate sum to be paid by each party under any assessment; and all words importing the singular number or the masculine gender only, shall include several persons, matters and things of one kind,

Interpretation clause.

Lower Canada. Governor.

Governor in Council.

Assessment. Rate.

Singular number or masculine gender.

General rule. kind, as well as one person, matter or thing, and persons of either sex, unless there be something in the subject or context inconsistent with or repugnant to such construction, and generally all words, expressions and provisions herein occurring, shall receive such large, beneficial and liberal construction as will best insure the attainment of the objects of this Act, and the enforcement of its several enactments according to their true intent, meaning and spirit.

Present School officers. LVI. And be it enacted, That all School Commissioners, and other persons having any authority or power whatsoever over or with regard to Common Schools, by virtue of the enactments hereby repealed, shall continue in office, and shall and may act according to law and the true intent and meaning of this Act, until they shall be replaced, as if they had been elected, appointed or authorized under and by virtue of this Act itself.

Act of Canada 4 & 5 Vic., cap 18, repealed in part as to Lower Canada. LVII. And be it enacted, That the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to repeal certain Acts therein mentioned, and to make further provision for the establishment and maintenance of Common Schools throughout the Province*, shall remain repealed so far as relates to Lower Canada, in and with regard to which it shall have no force or effect, save and except always the first, second and third sections of the said Act, and so much of the twenty-first section as provides for the due accounting for the application of the monies appropriated by the second and third sections aforesaid, and shall not revive even if this Act shall cease to be in force ; and that the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to make better provision for Elementary Instruction in Lower Canada*, (in so far as may be consistent with the next preceding section of this Act,) shall be repealed from and after the time when this Act shall come into force.

Act of Canada 8 Vic., cap. 41, repealed.

Distribution of printed copies of Act. LVIII. And be it enacted, That it shall be the duty of the Provincial Secretary forthwith after the passing of this Act, to cause to be printed and distributed in the several Municipalities and localities of Lower Canada a sufficient number of copies of the same, without waiting for the usual and ordinary printing and distribution of other Acts of this Session.

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