

*The Provincial Statutes of Canada*, passed in the year 1841. Kingston: Stewart Derbishire & George Desbarats, 1841.

4 & 5 Victoria – Chapter 18

**An Act to repeal certain Acts therein mentioned, and to make further provision for the establishment and maintenance of Common Schools throughout the Province. 18th September, 1841.**

Whereas the Laws now in force for the maintenance and regulation of Common Schools, are insufficient, and it is necessary to make provision for the establishment and maintenance of such Schools throughout the Province; 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, and intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the Act of the Legislature of the late Province of Upper Canada, passed in the fifty-sixth year of the Reign of His late Majesty King George the Third, and intituled *An Act granting to His Majesty, a sum of Money to be applied to the use of Common Schools throughout this Province, and to provide for the regulation of the said Common Schools*, and the Act of the said Legislature, passed in the sixtieth year of the Reign of His said late Majesty, and intituled *An Act to amend and continue, under certain modifications, an Act passed in the fifty-sixth year of His Majesty's Reign, intituled, An Act granting to His Majesty a sum of money to be applied to the use of Common Schools throughout this Province, and to provide for the regulation of the said Common Schools*, and the Act of the said Legislature passed in the fourth year of the Reign of His late Majesty King George the Fourth, intituled *An Act to maize permanent and extend the provisions of the Laws now in force for the establishment and regulation of Common Schools throughout this Province, and for granting to His Majesty a further sum of money to promote and encourage education within the same*, and a certain Act of the Legislature of the late Province of Lower Canada, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled *An Act to repeal certain Acts therein mentioned, and for the further encouragement of Elementary Schools in the Country parts of this Province*, and all other Acts and parts of Acts of the said Legislatures, repugnant to or inconsistent with the provisions of this Act, be and the same are hereby repealed.

II. And be it enacted, that for the establishment, support and maintenance of Common Schools in each and every Township and Parish in this Province, there shall be established a permanent fund which shall consist of all such monies as may accrue from the selling or leasing of any lands which, by the Legislature of this Province, or other competent authority, may hereafter be granted and set apart for the establishment, maintenance and support of Common Schools in this Province, and of such other monies as are hereinafter mentioned; and all such monies as shall arise from the sale of any such lands or estates, and certain other monies hereinafter mentioned, shall be invested in safe and profitable securities in this Province; and the interest of all monies so invested, and the rents, issues and profits arising from such lands or estates as shall be leased or

otherwise disposed of without alienation, shall be annually applied in the manner hereinafter provided, to the support and encouragement of Common Schools.

III. And be it enacted, that for the establishment, support and maintenance of Common Schools in this Province, there shall be granted to Her Majesty, annually, during the continuance of this Act, the sum of fifty thousand pounds, currency, to be distributed among the several Districts in the manner hereinafter provided, and such sum shall be composed and made up of the annual income and revenue derived as aforesaid, from the said permanent fund, and of such further sum as may be required to complete the same, out of any unappropriated monies which are now raised and levied, or which may hereafter be raised and levied by the authority of the Legislature, to and for the public uses of this Province; and the said annual grant shall be, and be called, The Common School Fund.

IV. And be it enacted, that it shall be lawful for the Governor of this Province, by Letters Patent under the Great Seal thereof, to appoint from time to time, one fit and proper person to be Superintendent of Education in this Province; and such Superintendent shall hold his office during pleasure, and shall receive such yearly salary, not exceeding the sum of seven hundred and fifty pounds, currency, as the Governor may appoint; and the duties of the said Superintendent shall be:

Firstly: To apportion in each and every year, on or before the third Monday in May in such year, the money annually granted by the Legislature as aforesaid, among the several Municipal Districts, in the ratio of the number of Children over five and under sixteen years of age, that shall appear by the then last census of the Province, to be resident within such District, respectively.

Secondly: To furnish the Receiver General of the Province, for his rule and guidance, with a certified statement or list of the apportionment of the money granted by the Legislature, under the provisions of this Act as aforesaid, among the several Districts.

Thirdly: To certify the apportionment of the public money as aforesaid, to the Treasurer of each and every of the said Districts, respectively, who shall lay the same before the District Council, to the end that such District Council may direct, and they are hereby authorised and required to direct, such a sum to be raised and levied for the purposes of this Act, and within their respective Districts, over and above all rates laid for other purposes, as shall be equal in amount to the money so apportioned from the Provincial Treasury.

Fourthly: To visit annually each of the Municipal Districts in the Province and ascertain the state of the Common Schools therein, and for so doing he shall be allowed his reasonable expenses.

Fifthly: To prepare suitable forms for making reports and conducting the necessary proceedings under this Act, and to cause the same to be communicated to all such persons as shall be employed in carrying the provisions of this Act into effect; and to address to the said persons such suggestions as may tend to the establishment of uniformity in the conduct of the Common Schools throughout this Province: And the said Superintendent shall submit annually to the

Governor of the Province, on or before the thirty-first day of December in each year, a Report on the actual state and condition of Common Schools throughout the Province, shewing the monies expended on such Schools, and from what sources derived, with plans for their improvement, and stating such other matters respecting Education generally, as the Superintendent may deem useful and expedient, in order that the same may be laid before the Legislature at the meeting thereof then next following.

V. And be it enacted, that the District Council of each District, shall be a Board of Education of such District, and their duties as such Board shall be:

Firstly: To divide the several Townships and Parishes within their District into School Districts, to be designated by numbers, as one, two, three, and so on; (provided always, that no such School District shall be established in which there shall be fewer than fifteen children between the ages of five and sixteen resident therein,) and forthwith to furnish a full Report of such division of the District with a proper description and designation of boundaries to the Superintendent of Education; and also to furnish a specification of the School Districts, in each Parish or Township, to the School Commissioners, to be appointed for the same, in the manner hereinafter provided.

Secondly: To apportion and distribute to each of the said School Districts its share of the School Fund, which share shall be proportioned to the number of children between the ages of five and sixteen, resident in such School Districts, respectively;

Thirdly: To apportion and cause to be assessed on the inhabitants of such School District a sum not exceeding fifty pounds, for the erection of a School house in each School District in which none exists;

Fourthly: To apportion to each Township and Parish, a sum not exceeding ten pounds, in any one year, to be expended in the purchase of such Books as may be recommended by the Common School Commissioners for distribution among the Schools;

Fifthly: To report their proceedings in matters relating to common Schools, and the state of such Schools within the District, to the Superintendent, annually, on or before the first Monday in December in each year.

VI. And be it enacted, that if the District Council of any District shall at any time refuse or neglect to comply with the foregoing requirements of this Act, such District shall not be entitled to receive any sum of money out of the Common School Fund until such requirements shall have been duly complied with, or a good and sufficient cause for non-compliance shall have been shewn to the satisfaction of the Superintendent of Education.

VII. And be it enacted, that at the annual Township or Parish meetings to be held in the month of January, one thousand eight hundred and forty-two, and at each succeeding annual meeting, for the election of Township and Parish Officers, there shall be elected in the manner prescribed by Law for the Election of such Officers, five Commissioners for each and every Township and Parish

entitled to elect one District Councillor, and seven Commissioners for each and every Township entitled to elect two District Councillors; and the said Commissioners shall be called "Common School Commissioners," and their duties shall be:

Firstly: To choose, and whenever funds shall be provided for that purpose by the District Council, to acquire a site for a Common School House in each School District in their Township or Parish in which no such School House shall exist at the time this Act shall come into force, and to make an estimate of the cost of such site and of the expense of building a School House and of keeping the same in repair, and an estimate of the cost of furnishing each Common School in the Township or Parish with the necessary fuel and appendages; and to transmit such estimates to the Clerk of the District Council, in order that the Inhabitants of the respective School Districts may be assessed accordingly:

Secondly: To appoint for each of the School Districts within the Township or Parish one or more of their number to superintend the building and repairing of the Common School House in such School District, and the furnishing it with fuel and other necessary things, and generally to manage the concerns of the School and report to the School Commissioners, once in three months, that is to say: on or before the first Monday in each of the months of March, June, September and December, the state of such School, the amount of monies received for it, the manner in which such money has been expended, the number of Children above five and under sixteen years of age taught in it, and the number of days that each Child has attended.

Thirdly: To agree with and appoint, from time to time, Teachers in the said Common Schools, and to remove such Teachers when they shall find just cause for so doing: Provided always, that no person, except he be one of the persons known as Les Freres de la Doctrine Chretienne, shall be appointed a Teacher in any of the said Schools unless he be a subject of Her Majesty by birth or naturalization, of good moral character, and shall have been examined before the said Commissioners as to learning and ability.

Fourthly: To regulate for each School, respectively, the course of study to be followed in such School, and the Books to be used therein, and to establish general rules for the conduct of the Schools, and communicate them in writing to the respective Teachers.

Fifthly: To hear and determine all disputes which may arise out of the proceedings of the managing or visiting Commissioners hereinafter mentioned, or other matters of dispute in respect to Common Schools within their Township or Parish.

Sixthly: To appoint two or more of their number to visit each Common School in the Township or Parish, once at least in each month, and to report the state of such School, whether the rules and regulations established by the Commissioners are duly observed, the number and proficiency of the Scholars, the character and ability of the Teachers, the conduct of the managing Commissioner, and all other matters connected with the management and well-being of such School.

Seventhly: To grant warrants, from time to time, upon the District Treasurer for such sums of money as may be required for paying the Teachers and defraying the expenses of the several Common Schools within the Township or Parish: Provided always, that such warrants shall be signed by a majority of the Commissioners, of which the Chairman shall be one; and that the sums of money to be paid under the same shall in no case exceed the amount then appropriated by law and collectively for the said Schools, respectively.

Eighthly: To exonerate such poor persons as they may deem fit, not exceeding ten in each School District, from the payment of the wages of Teachers in this Act established and required to be paid for each every Child attending any Common School.

Ninthly: To record and preserve all their proceedings in a Book to be provided for that purpose, the proceedings of each meeting, with the names of the Commissioners present, being authenticated by the signature of the Chairman; and such Book shall be delivered over by the Commissioners to their Successors in Office; and it shall be the duty of the Town Clerks, to attend all such meetings for the purpose of making such record.

Tenthly: To report all their proceedings, and all matters connected with the several Common Schools in the Township or Parish, to the District Council, annually, on or before the third Monday of November, such report being in the form to be furnished by the Superintendent of Education.

Eleventhly: It shall be the duty of the said Common School Commissioners, within ten days after the expiration of their respective periods of service, to deliver to their Successors in Office, any and all books, accounts, vouchers, papers, reports and other documents in their possession as such Commissioners, and they may in case of default be thereunto constrained by all lawful ways and means.

VIII. And be it enacted, that the said Commissioners shall remain in office until the annual Parish or Township meeting next following the time of their election, and until others shall be elected in their places; and in case the office of one or more Commissioners shall be vacated by death, refusal to serve, removal out of the Township or Parish, or incapacity, the vacancy shall be supplied by an appointment to be made by the remaining Commissioners at their first meeting after such vacancy shall occur.

IX. And be it enacted, that the Common School Houses in each Township or Parish, now acquired, or hereafter to be acquired under the provisions of this Act, with the ground whereon they are situate, and all the appendages and furniture thereof, and books and other things thereunto appertaining, shall henceforward vest in and be held and possessed by the Commissioners of such Township or Parish, and their Successors in office for ever, as Trustees, for the purposes of this Act: Provided always, that no such School House or other thing thereunto appertaining, shall be sold or disposed of, or the site of any School changed, otherwise than by the consent of a majority of such Commissioners, of which majority the Chairman shall be one.

X. And be it enacted, that it shall be the duty of the Township or Parish Collector, to collect, within the several School Districts, respectively, all such rates as shall be assessed for the support of the several Common Schools within his Township or Parish; and also the sum of one shilling and three pence, monthly, as additional wages for the Teacher, for each and every child attending any School, save and except for those children whose parents shall, by reason of their indigence have been exempted from the payment of such sum; and such rates, and the said sum of one shilling and three pence for each child, may, if not paid, be recovered by the Collector or his Successors in office in any Court of Competent Civil Jurisdiction; and the Collector shall pay over all such sums, (after deducting therefrom such fees as he may be by Law allowed) into the hands of the District Treasurer, and shall at the same time deliver to the said District Treasurer, a copy of the assessment roll or other statement, shewing the amount collected for such School Districts, respectively, within his Township or Parish; and the said District Treasurer shall keep separate accounts of all monies so paid in, and of all other monies, appropriated to the several School Districts, respectively.

XI. Provided always, and be it enacted, that whenever any number of the Inhabitants of any Township or Parish professing a religious faith different from that of the majority of the Inhabitants of such Township or Parish, shall dissent from the regulations, arrangements, or proceedings of the Common School Commissioners, with reference to any Common School in such Township or Parish, it shall be lawful for the Inhabitants so dissenting, collectively, to signify such dissent in writing to the Clerk of the District Council, with the name or names of one or more persons elected by them as their Trustee or Trustees, for the purposes of this Act; and the said District Clerk shall forthwith furnish a certified copy thereof to the District Treasurer; and it shall be lawful for such dissenting Inhabitants, by and through such Trustee or Trustees, who for that purpose shall hold and exercise all the rights, powers and authorities, and be subject to the obligations and liabilities, hereinbefore assigned to and imposed upon the Common School Commissioners, to establish and maintain one or more Common Schools in the manner, and subject to the visitation, conditions, rules and obligations, in this Act provided with reference to other Common Schools, and to receive from the District Treasurer their due proportion, according to their number, of the monies appropriated by Law, and raised by assessment for the support of Common Schools, in the School District or Districts in which the said Inhabitants reside, in the same manner as if the Common Schools so to be established and maintained under such Trustee or Trustees, were established and maintained under the said Common School Commissioners, such monies to be paid by the District Treasurer upon the warrant of the said Trustee or Trustees.

XII. And be it enacted, that no Common School shall be entitled to any apportionment of money out of the Common School Fund, except on the terms and conditions following, that is to say: Such School shall have been open for at least nine months during the year then last past, and shall have been during the said term, and shall continue to be at the time such apportionment is made, regularly attended by at least fifteen children, between the ages of five and sixteen;—the Reports hereinbefore required shall have been regularly made with regard to such Common School; and the sum paid by the Inhabitants, by assessment or otherwise towards the support of such Common School, for the period for which the apportionment shall be made, shall have been at least equal to the sum apportioned: Provided always, that it shall be lawful for the School

Commissioners in each Township or Parish, with the approval of the District Council, to exempt in whole or in part any number of School Districts, not exceeding two, from the payment of such sum towards the support of their Common Schools, on account of the poverty of their inhabitants; and the School Districts so exempted, shall nevertheless receive their apportionment from the School Fund: And provided also, that nothing in this section contained shall prevent or be construed to prevent the apportionment and payment of monies under this Act, towards the establishment and maintenance of any Common School for the first year after the passing of this Act.

XIII. And be it enacted, that if any monies having formed part of the annual Grant made under this Act out of the public funds of the Province, shall by reason of any non-compliance with the requirements of this Act, or from any other cause, remain unapplied to any of the purposes for which they are granted, after the expiration of the time during which they ought to be so applied, such monies shall, on demand, be returned and delivered by the person or persons in whose possession they may respectively be, to the Receiver General of this Province, and together with all monies forming part of the annual grant aforesaid which shall remain in his hands unapplied to the purposes of this Act, after the expiration of the time during which they ought to be so applied, shall be so invested by him in the manner hereinbefore prescribed with respect to the monies forming the permanent fund for the maintenance and support of Common Schools, and shall form part of the said fund.

XIV. And be it enacted, that if any Common School Commissioner, or other person, shall wilfully make a false Certificate or Report, by means whereof any monies shall be fraudulently obtained from and out of the said Common School Fund, such Commissioner or other person shall not only restore the money so fraudulently obtained; but shall be liable to a penalty not exceeding ten pounds, currency, for the benefit of the said Fund, to be recovered at the suit of the District Clerk, or of the City Clerk as the case may be, on the oath of one or more credible witness or witnesses, before any two of Her Majesty's Justices of the Peace, and if not paid, to be levied with costs by distress and sale of the Defendant's goods and chattels, under the warrant of such two Justices, or of either of them.

XV. And be it enacted, that in each of the Cities and Towns corporate in this Province, all and every the powers, rights and duties conferred and imposed by this Act upon District Councils, with respect to Common Schools in their Districts, are hereby vested in and shall be henceforward exercised and performed by the Corporation of each of the said Cities or Towns, respectively, subject to all the conditions and regulations hereinbefore established with respect to the said District Councils.

XVI. And be it enacted, that it shall be lawful for the Governor of this Province, to appoint from time to time, in each of the Cities and Towns corporate therein, not less than six nor more than fourteen persons, (one half of whom shall in all cases be Roman Catholics and the other half Protestants,) to be a Board of Examiners for each City or Town corporate; of which said Board the Mayor shall be Chairman, but shall have no vote other than a casting vote; and the said Board shall be divided into two Departments, one of which shall consist of Roman Catholics, and shall exercise

the duties hereinafter assigned to the Board of Examiners in and over the Common Schools attended by Roman Catholic children, only and shall in such case appoint their Chairman, and the other Department shall consist of Protestants, and shall exercise their said duties in and over the Common Schools, attended by Protestant children, only, and shall in such case appoint their Chairman, and in all cases in which the said Common Schools are attended by Roman Catholic children and Protestant children together, the said duties shall be exercised in and over the same by the whole Board of Examiners; and the duties of the said Board and of the said Departments thereof, in the several cases above mentioned, in and for the said Cities and Towns corporate, respectively, shall be to examine the persons recommended as Teachers by the Corporation, and reject them if unqualified on the ground of character or ability, and to regulate for each School separately the course of study to be followed in such School, and the books to be used therein, and to establish general rules for the conduct of the Schools, and communicate them in writing to the respective Teachers; in addition to which duties the Board of Examiners in any City or Town corporate shall be Visitors of the Common Schools in such City or Town corporate, and as such Visitors it shall be the duty of the Board to appoint two or more of their number to visit each of the Common Schools in such City or Town corporate, at least once in every three months and to report to the Corporation upon all matters connected with each of the said Common Schools, in detail, as fully as Common School Commissioners and the Visitors by them appointed are bound to report to the District Councils under the provisions hereinbefore contained.

XVII. And be it enacted, that all and every the rights, powers and duties by this Act conferred and imposed upon the Common School Commissioners, with respect to the Common Schools under their authority and controul, and hereinbefore enumerated in the seventh section of this Act, under the first, third and eighth division of the said section, shall in each of the said Cities and Towns corporate, and with respect to the Common Schools therein to be established, vest in and be exercised and performed by the Corporations thereof, respectively; who in addition thereto are hereby empowered to appoint such and so many persons as they may deem fit severally to do and perform for and with respect to the Common Schools in the said Cities and Towns corporate, respectively, all and every the duties, matters and things hereinbefore by the seventh section of this Act required to be performed by one of the Common School Commissioners, with reference to the Common Schools under their authority and control, and specified in the first and second divisions of the second section; and to provide by By-law such rules and regulations for the conduct and guidance of such person as they may respectively deem expedient.

XVIII. And be it enacted, that the said Cities and Towns corporate respectively, shall be entitled to an apportionment of monies from the Common School Fund upon the same terms and conditions as are hereinbefore prescribed with respect to District Councils, and upon no other: and any monies so apportioned shall be paid to the City Treasurer or other officer performing the duties of Treasurer in the said Cities and Towns corporate, respectively, and be paid over by him upon such authority and subject to such regulations as are provided in the said several Cities and Towns corporate, respectively, for the payment of monies belonging to the Corporation in other cases, or as may be hereafter provided in that behalf.



XIX. And be it enacted, that the said Corporation shall on the first Monday of December in each and every year, report to the Superintendent of Education, all matters and things relating to Common Schools within the said Cities and Towns corporate, respectively, connected with the well being of such Schools, in the same manner and as fully in all respects as the District Boards of Education, and Common School Commissioners are by this Act bound to report with respect to Common Schools within their respective Districts, Townships and Parishes.

XX. And be it enacted, that any person chosen or appointed to any office under this Act who shall, without sufficient cause, refuse to serve therein, shall forfeit the sum of twenty five shillings, currency, and every person so chosen or appointed, and not having refused to accept, who shall neglect to perform the duties of his office, shall forfeit the sum of twenty five shillings; and all such forfeitures shall be paid to the Treasurer of the District, City or Town, as the case may be, in which they are so forfeited, for the benefit of the Common School Fund and may be recovered in the same manner as is provided with regard to fines incurred by making fraudulent reports and certificates as aforesaid.

XXI. And be it enacted, that the several sums hereby granted, or apportioned under the provisions of this Act, to the several Districts of this Province, shall be paid by the Receiver General, for the time being, to the Treasurer of each District, respectively, in discharge of such warrant or warrants as shall from time to time be issued by the Governor of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors, shall be pleased to direct.

XXII. And be it enacted, that whenever no special provision is made by this Act as to the particular members or as to the number of members by whom any act required to be done by any Board of Education, or by any Commissioners or Board of Examiners must be concurred in, it shall be understood that such act may be validly performed by any majority of the members of the Board.

XXIII. And be it enacted, that a solemn affirmation may be made instead of any oath in every case where an oath is required in this Act, if the person making the same be one of those persons authorized by law to make an affirmation instead of an oath; and that any false statement wilfully made on oath or affirmation in any case where an oath or affirmation is required by this Act, shall be wilful and corrupt perjury.

XXIV. And be it enacted, that the word "Governor" whenever it occurs in this Act, shall be held to mean and include the Governor, Lieutenant Governor and Person administering the Government of this Province, and the words "Parishes" and "Townships" wheresoever they occur in this Act, shall for all the purposes thereof be held to mean and include reputed Parishes and Townships, and unions of Parishes and Townships, and of reputed Parishes and Townships, in and for which meetings of the inhabitant householders now are or hereafter may be by law appointed to be held; and the words "Town Clerk" shall be held to mean and include as well the Clerks of Parishes as the Clerks of Townships; and the word "Corporation," shall be held to mean the Common

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Council, or other body or Municipal authority, by and through whom the powers of the Corporation are exercised.

XXV. And be it enacted, that this Act shall come into operation and have force and effect from and after the first day of January, in the year of our Lord one thousand eight hundred and forty two, and not before.