

Laws of Her Majesty's Province of United Canada, passed in the year 1856. Quebec: Stewart Derbishire and George Desbarts, 1856.

20 Victoria – Chapter 14

An Act to amend the Common School Laws, and further to promote Elementary Education in Lower Canada. Assented to 16th May, 1856.

Whereas it is expedient further to amend the Common School Laws of Lower Canada, and to make further provision for the promotion of Elementary Education therein: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. It shall be lawful for the School Commissioners or Trustees of Dissentient Schools, to cause to be levied by assessment and rate, in the manner now by law provided, such additional sum as they may think proper beyond that which they may now cause to be levied under the tenth sub-section of the twenty-first Section of the Lower Canada School Act of 1846, provided such additional sum do not exceed that which they may now cause to be levied; and they may also raise an additional sum, not exceeding thirty per cent, upon the total sum so raised as aforesaid, for the purpose of making good any deficiency which may arise in the collection of the assessment and any unforeseen or contingent expenditure; any thing in the thirty-seventh section of the said Act limiting such additional sum to fifteen per cent, to the contrary notwithstanding: And further, it shall be lawful for the Corporations of the Cities of Quebec and Montreal to pay out of their funds an additional sum equal to that which they are authorized to pay under the forty-third section of the Lower Canada School Act of 1846, to the Boards of School Commissioners appointed by them, and also an additional sum of thirty per cent, to make good any unforeseen or contingent expenditure.

II. The School Commissioners and the Trustees of Dissentient Schools, shall cause to be made by their Secretary-Treasurers, between the first day of September and the first day of October, of every year, a census of the children in each School Municipality, distinguishing those who are from five to sixteen years of age, those from seven to fourteen years, and those actually attending school; and shall transmit such census to the Superintendent of Schools within ten days after its completion.

III. The School Commissioners and the said Trustees, in the semi-annual accounts and reports which they are bound to transmit to the Superintendent of Schools, shall state the amount of monthly fees fixed for each child, and the amount of such fees actually collected, either directly by them or by the teacher, under the twenty-first Section of the Lower Canada School Law Amendment Act of 1849; and if the School Commissioners or Trustees fail to fix the amount of monthly fees to be paid for each child, or to cause the same to be collected, it shall be lawful for the Superintendent of Schools with the approval of the Governor in Council, to refuse the School allowance for the year, to the School Municipality represented by such Commissioners or Trustees in default.

IV. From and after the first day of July 1856, it shall be lawful for the Superintendent of Schools, with the approval of the Governor in Council, out of the School moneys to which any Municipality may be entitled, to retain the sum of twenty pounds towards the support of a Model School in such Municipality, as intended to be established under the fourteenth section of the said Act of 1849.

V. After the first day of July 1856, the Trustees of Dissentient Schools shall alone have the right of fixing and collecting the assessments to be levied on the inhabitants so dissentient; and thereafter such Trustees shall be exempt from attesting upon oath the statement required of them by the eighteenth section of the said Act of 1849.

VI. After the first of July 1857, any female not being a Member of any religious community, who shall desire to become a Teacher in a Common School, shall undergo the required examination before the Board of Examiners; Provided always, that any female Teacher desiring to obtain a certificate or diploma of qualification before the first of July, 1857, may undergo the required examination before that time.

VII. Out of the Legislative School grant, permanent and additional, for Common School purposes in Lower Canada, the following sums may be set apart and expended yearly by the Superintendent of Schools with the approval of the Governor in Council, for the following purposes, that is to say: 1st. — A sum not exceeding one thousand pounds, for special aids to Common Schools in poor School Municipalities; 2nd. — A sum not exceeding four hundred and fifty pounds, to encourage the publication and circulation of a Journal of Public Instruction; and 3rdly, A sum not exceeding five hundred pounds, towards forming a fund for the support of superannuated or worn out Common School Teachers in Lower Canada, under such regulations as may be adopted from time to time by the Superintendent of Schools, or by the Council of Public Instruction of Lower Canada as soon as such Council shall be established therein, and approved by the Governor in Council: Provided always, that no such Teacher shall be entitled to share in the said Fund who shall not contribute to such Fund at the rate of one pound per annum at the least, for the period of his teaching School or receiving aid from such Fund, and who shall not furnish satisfactory proof of his inability from age or loss of health in teaching, to pursue that profession any longer: Provided also, that no such allowance to any Teacher shall exceed the rate of one pound ten shillings per annum for each year during which such Teacher shall have taught a Common School in Lower Canada.

VIII. The remuneration of Secretary-Treasurers may, in the discretion of the School Commissioners or Trustees, be increased to an amount not exceeding seven per cent, on the moneys received by them as such, instead of four per cent, as provided by the twenty-second section of the said Act of 1849; but such remuneration shall include every service which the Commissioners shall require from time to time from the Secretary-Treasurer and shall cover all contingent expenses whatever, except such as may be specially authorized by rules and regulations to be made by the Superintendent of Schools from time to time, and shall not exceed thirty pounds in one year in any case.

IX. In addition to the Boards of Examiners constituted under the said Act of 1846, and the Lower Canada School Law Amendment Act of 1853, there shall be others established for such Counties, and to hold their meetings at such places, as may be fixed and determined by the Superintendent of Schools with the approval of the Governor in Council, such Boards to consist of not less than five nor more than seven members, to be governed by the provisions of the said Act of 1846, to be established for such portions or sub-divisions of districts or territorial divisions where Boards are already authorized to be established under the said Act of 1846 and the said Act of 1853, and in mixed religious communities, one to be composed of Roman Catholics and another of Protestant members.

X. It shall be lawful for the Superintendent of Schools to cause special assessments to be levied in any School Municipality, for the payment of lawful debts admitted by such Municipality or adjudged by a Court of Justice to be due by such Municipality, and which debts such Municipality could not otherwise pay: and whenever such debts shall have been contracted by a Municipality subsequently divided into several Municipalities, or the limits of which may have been subsequently altered, the said Superintendent shall apportion the payment of such debt or debts equitably among the several Municipalities liable for the same.

XI. Notwithstanding any thing to the contrary in the forty- seventh Section of the said Act of 1846, the sums constituting the Lower Canada Common School Fund may be paid to the Superintendent of Schools in two semi-annual payments, under two accountable Warrants to the Receiver General to be issued by the Governor for that purpose; and the Superintendent shall deposit the said sums in such Bank as the Governor in Council shall direct and apportion the same according to law among the Municipalities, and pay to the School Commissioners and Trustees of Dissident Schools the respective shares belonging to the Municipalities they represent, by Checks drawn upon such Bank and made payable to their order, and shall account according to law for such moneys.

XII. The Superintendent, with the approval of the Governor in Council, may refuse to pay the whole or any part of the share in the said fund, of any School Municipality where his lawful instructions or those of the Council of Public Instruction shall have been disobeyed, or where unqualified teachers shall have been employed by the Commissioners or Trustees, or where a qualified teacher shall have been dismissed by the School Commissioners or Trustees, before the time of his engagement and for no valid or just cause, and may pay out of the said share of such Municipality such indemnity as shall appear to him justly due to any teacher so unjustly dismissed.

XIII. The Superintendent of Schools shall also have power, with the approval of the Governor in Council, to authorize the School Commissioners or Trustees in any Municipality, to apply the share coming for any one year to any School District the inhabitants of which shall have contributed nothing or too little during the same year to the common fund of such Municipality for school purposes, in such manner as the said Superintendent shall direct for the advancement of education in such Municipality, instead of depositing the said share in a Bank as now provided by law: and the amounts already placed in any Bank for any School District in like cases, shall be liable

to be dealt with in like manner, and the shares coming to any such School District which may have been in like cases applied by the School Commissioners or Trustees in any Municipality, with the consent of the said Superintendent, are hereby declared to have been legally and properly dealt with; any law, usage or custom to the contrary notwithstanding.

XIV. And whereas in some Counties School Municipalities have sprung up which did not exist at the time of the taking of the now last census, and it would be unjust to withhold from them their fair share of the Legislative grant, therefore it shall be lawful for the Superintendent of Schools, with the approval of the Governor in Council, to allow to any such School Municipality its fair share of the amount of the said Legislative grant coming to the County, in proportion to the actual population of such School Municipality at the time, according to the best evidence he shall be able to procure, whenever he shall be of opinion that the said census would not be a fair basis of apportionment.

XV. Whenever any School Commissioner, Trustee, or Secretary-Treasurer, after his dismissal, resignation or ceasing to hold office, shall detain any book, paper or thing belonging to the School Commissioners or Trustees of any Municipality, he shall thereby incur a penalty of not less than five dollars nor more than five pounds for each day during which he shall retain possession of any such book, paper or thing after having received a notice from the Superintendent of Schools requiring him to deposit the same in the hands of some person mentioned in such notice; and the said penalty shall be recoverable with costs before any Court of competent civil jurisdiction, in the name of the Superintendent of Schools, and the same when levied shall be paid into the hands of the said Superintendent, and shall form part of the unexpended balance of the Common School grant, and be dealt with accordingly.

XVI. And inasmuch as it will be conducive to the furtherance of Education in Lower Canada to establish therein a Council of Public Instruction, — the Governor shall have authority to appoint not more than fifteen and not less than eleven persons (of whom the Superintendent of Schools for Lower Canada shall be one) to be a Council of Public Instruction for Lower Canada, and such persons shall hold their office during pleasure, and shall be subject to all lawful orders and directions in the exercise of their duties, which shall from time to time be issued by the Governor in Council.

XVII. The Superintendent of Schools shall provide a place for the meetings of the Council of Public Instruction, shall call the first meeting thereof, and may call a special meeting at any time by giving due notice to the other Members; the expenses attending the proceedings of the said Council shall be defrayed and accounted for by the Superintendent of Schools as part of the contingent expenses of the Education Office; a Recording Clerk to the said Council shall be appointed by the Governor in Council, and such Clerk shall enter all its proceedings in a book to be kept for that purpose, and shall, as may be directed, procure the requisite maps, books and stationery, and shall keep all the accounts of the said Council.

XVIII. Five members of the said Council at any lawful meeting thereof, shall form a quorum for the transaction of business; and it shall be the duty of the said Council, —

1. To appoint one of its members to be Chairman thereof, and with the approval of the Governor in Council to establish the time of its meetings and its mode of proceeding; the Chairman shall have a second or casting vote in case of an equality of votes on any question.

2. To make from time to time, with the approval of the Governor in Council, such rules and regulations as at the time of the establishment of the Council the Superintendent of Schools shall have the power to cause to be made with the approval of the Governor in Council, for the management of the Normal School or Normal Schools which may be established, and for prescribing the terms and conditions on which students shall be received and instructed therein, the course of instruction to be gone through, and the mode and manner in which Registers and Books shall be kept, Certificates of Study shall be granted to Students, and the reports of the Principal of any such Normal School shall be made to the Superintendent of Schools.

3. To make from time to time, with the approval of the Governor in Council, such regulations as the Council shall deem expedient for the organization, government and discipline of Common Schools, and the classification of Schools and Teachers.

4. To select or cause to be published, with such approval as aforesaid, books, maps and globes, to be used to the exclusion of others, in the Academies, Model and Elementary Schools under the control of the Commissioners or Trustees, due regard being had in such selection to Schools wherein tuition is given in French and to those wherein tuition is given in English; but this power shall not extend to the selection of books having reference to religion or morals, which selection shall be made as provided by the fifth sub-section of the twenty-first section of the said Act of 1846, so much of which sub-section as may be inconsistent with the provision herein made, is hereby repealed.

5. To make from time to time with such approval as aforesaid, rules and regulations for the guidance of the Boards of Examiners.

6. To cause to be inserted by the Recording Clerk, in a book to be kept for that purpose, in such manner and form as the Council may direct, the names and classes of all Teachers who have received or shall hereafter receive certificates or diplomas of qualification from the Boards of Examiners already established or to be hereafter established, also the names of all Teachers, who after having gone through the regular course of instruction in any Normal School to be hereafter established, shall have received certificates or diplomas of qualification from the Superintendent of Schools; And to ensure compliance with the immediate foregoing provision, it shall be the duty of the Superintendent of Schools — Firstly, To report to or cause to be laid before the Council, if it be in his power, the names and classes of all Teachers admitted by the different Boards of Examiners since their establishment; Secondly, The names and classes of all Teachers hereafter to be admitted by the different Boards of Examiners; Thirdly, The names of all Teachers who may hereafter receive from him certificates or diplomas of qualification after going through the proper course of instruction in any Normal School.

XIX. It shall be lawful for the Council of Public Instruction to revoke any certificate or diploma of qualification granted or to be granted by any Board of Examiners, to any Teacher, or any certificate or diploma of qualification to be granted hereafter by the Superintendent of Schools to any student in any Normal School which may be established, for any want of good conduct as Teacher, of good morals, or of temperate habits, in the holder thereof; such revocation not to take place, however, unless a charge in writing be made by some complainant, or upon the report, of any School Inspector, submitted by the Superintendent of Schools to the said Council, nor unless such charge be fully proved: such charge shall be addressed to the Recording Clerk, who shall lay it before the Council at its then next meeting; and if the Council be of opinion that the charge is of such a nature as not to require any investigation, it shall be dismissed *in limine*; but if it be of opinion that the charge is of so grave a nature and character as to require investigation, it shall be the duty of the Recording Clerk to cause the Teacher complained of to be served by any Bailiff of the Superior Court for Lower Canada, with a copy of the charge, accompanied by a notice on behalf of the Council, summoning him to be and appear, either in person or by proxy, before the Council on such day and hour as the Council shall determine, to answer the charge made against him. If the Teacher denies the charge, the Council shall forthwith, or on a subsequent day, proceed to receive the evidence, oral or in writing, which each party shall have to offer, and the Recording Clerk is hereby authorized to administer the oath to any witness who may be produced; and it shall be his duty to take and keep of record the notes of the evidence taken.

It shall be lawful for the said Council to appoint one or two Commissioners to receive the evidence, when the parties shall reside at a great distance, or when the Council may see that by so doing a saving of unnecessary expense will be effected.

The instrument appointing such Commissioner or Commissioners shall be issued on behalf and in the name of "the Council of Public Instruction," and under the signature of the Recording Clerk.

Upon the receipt of such instrument, the Commissioner or Commissioners shall notify to the parties the time at which they will have to produce their witnesses; the Commissioner or Commissioners shall swear the witnesses, and are hereby authorized to that effect, and the evidence shall be taken by such Commissioner or Commissioners and afterwards transmitted by him or them to the Recording Clerk, who shall lay it before the Council.

If the Teacher do not appear, and neglect to answer the charge, the Council shall proceed by default against him, and shall receive and take the evidence, or cause it to be received and taken, in the manner above provided.

If the charge be not proved, the Council shall dismiss it, and if it be proved, the Council shall order as a penalty that the certificate or diploma of qualification of such Teacher be revoked, and that his name be struck from the book containing the names of the qualified Teachers.

XX. This Act shall be called and known as "The Lower Canada School Law Amendment Act of 1856."

XXI. In construing this Act, the words "Teacher" and "Student" shall apply to Female as well as Male Teachers and Students; and any power given to or any obligation imposed upon School Commissioners, shall apply to Trustees of the Dissentient Schools in reference to the schools and school districts under their control: the expression "Common School" shall apply to Dissentient School, and the words "Municipality" or "School Municipalities" shall apply to Dissentient Schools or School Districts under the control of Trustees as well as to Municipalities and Schools under the control of Commissioners; the Act passed in the ninth year of Her Majesty's Reign, and chaptered twenty-seven, shall be understood to be intended by the expression, "the Lower Canada School Act of 1846," or "the said Act of 1846," — the Act passed in the twelfth year of Her Majesty's Reign, and chaptered fifty, shall be understood to be intended by the expression, "the Lower Canada School Law Amendment Act of 1849," or "the said Act of 1849," — and the Act passed in the sixteenth year of Her Majesty's Reign, and chaptered two hundred and eight, shall be understood to be intended by the expression, "the Lower Canada School Law Amendment Act of 1853," or "the said Act of 1853."

XXII. So much of the said Acts of 1846, of 1849, and of 1853, or of any of them, as may be inconsistent with this Act, is hereby repealed.