



ANNO TRICESIMO OCTAVO ET TRICESIMO NONO

VICTORIÆ REGINÆ.

A.D. 1875.

No. 11.

An Act to amend the Law relating to Public Education.

[Assented to, 12th October, 1875.]

BE it Enacted by the Governor of the Province of South Australia, by and with the consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. An Act of the Governor and Legislative Council of the said Province, being No. 20 of the fifteenth year of Her Majesty's reign, and intituled "An Act to Promote Education in South Australia, by aid towards the Erection of Schools and the Payment of Stipends to Teachers," is hereby repealed: Repeal of 15 Vict., c. 20. Provided that until the appointment of the Council of Education, as hereinafter mentioned, the Board of Education, and its officers shall continue their duties as if this Act had not been passed.

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

"Council" shall mean "The Council of Education":

"Prescribed" shall mean prescribed by any Regulation made under the authority of this Act:

"Compulsory Standard" shall mean competency in reading, writing, and arithmetic to the satisfaction of an Inspector of Schools or other person authorized by the Council:

"Parent" shall mean and include father, mother, guardian, and every person who is liable to maintain, or has the actual custody of, any child. 3. A

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Council of Education
incorporated.

3. A Council of Education, to be constituted of not less than five nor more than seven persons, shall be appointed, as hereinafter provided. The Council shall be a body politic and corporate, and shall, by the style or title of "The Council of Education," have perpetual succession, and be able and capable to sue and be sued in all Courts of Law and Equity, and shall have and use, as occasion may require, a common seal: And the Council shall and may accept, purchase, and hold, to them and their successors, as members of the said Corporation, to and for the uses thereof, real and personal estate, and property of every kind. Upon the appointment of the Council the Central Board of Education shall be and is hereby dissolved.

Council of Education,
how appointed.

4. The members of the Council shall be appointed by the Governor, and (except the President, who shall be a salaried officer appointed during pleasure) shall hold office for the term of two years, subject to removal by the Governor, but two of the Members first appointed shall be appointed for one year only. In case of the death, resignation, or removal from office of any member of the Council other than the President, the appointment to fill the vacancy so arising shall be for the rest of the term of office for which such member was appointed. Any three members of the Council shall form a quorum competent to transact business at any meeting of the Council. The President or other member presiding shall have a deliberative and also a casting vote. The members of the Council, other than the said President, shall be remunerated by fees, not exceeding One Guinea each, for every meeting of the Council at which they shall be present.

Lands to vest in
Council.

5. All land and property which may be acquired for the purposes of this Act shall be conveyed or assigned to the Council, and all land and property vested in, or belonging to, the Central Board of Education at the commencement of this Act, and all land heretofore granted or dedicated by the Governor, and now vested in trustees for school purposes, shall, from and after the passing hereof, vest in the Council. The trustees, or a majority of the trustees, of any land held subject to or upon the trusts expressed in the declaration of trust heretofore required by the Central Board of Education before advancing public money towards the erection of any school-house upon such land, or the trustees, or a majority of the trustees, of any land held upon any trusts for school purposes, not being denominational, and not expressly restraining alienation, may convey such land to the Council. The Council may take and acquire lands which may be required as sites for school buildings or for school purposes, either compulsorily or by agreement, and for the purpose of enabling the Council to take and acquire such land, "The Lands Clauses Consolidation Act," except sections 10, 11, 16, 17, 20, 136, and 137 thereof, is hereby incorporated with this Act. The Council may sell, or otherwise dispose of any land or property vested in it, not being endowed lands hereinafter referred to, and may do and execute all necessary acts, deeds, and assurances for that purpose,

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purpose, and the proceeds of every such sale or disposition shall be paid into the Treasury, and be applied as mentioned in section 24; and the Council may purchase, or lease, or hire such buildings and premises as may be suitable and necessary for school buildings.

6. The Council, subject to the provisions hereinafter contained, shall be entrusted with the expenditure of all sums of money appropriated by Parliament for elementary education, and shall have authority to establish and maintain public schools, to appoint and remove teachers and School Inspectors and other officers, to make and prescribe regulations for holding meetings of the Council and the performance of its duties under this Act, for defining the course of instruction and character of school books, for the establishment of scholarships open to be competed for by scholars at public or other schools, the training, examination, appointment, and classification of teachers, for fixing the salaries and fees to be paid to teachers, for the examination of scholars, the discipline to be enforced and observed in schools, the times and mode of teaching, for defining the duties of Boards of Advice, for the occasional use of schoolrooms after school hours for other purposes; and the Council shall also have power to do all other matters and things necessary to be done for carrying out the provisions of this Act: Provided that the Council shall in all matters whatsoever be subject to the like control by the Governor as any other department of the Public Service, and that no regulations made and prescribed as aforesaid shall have any force until approved by the Governor.

Powers of Council of Education.

Subject to Governor in Council.

7. All regulations made and prescribed by the Council shall be laid before both Houses of Parliament within one month if Parliament be sitting, and if Parliament be not sitting, then within one month after the commencement of the next ensuing Session thereof; and if not disallowed by express resolution of either House of Parliament within one month from their being so laid before Parliament, such regulations shall, after the expiration of such month, be conclusively deemed to be valid, and shall have the force of law, and shall be judicially noticed: All regulations, when so made and prescribed shall be published in the *Government Gazette* for general information; and the production of a copy purporting to be a copy of the *Government Gazette* in which such regulations shall be published, shall, until the same shall have obtained the force of law as aforesaid, be *prima facie* evidence that all the provisions of this Act in respect thereof have been complied with.

Regulations to have the force of law.

8. A public school may be established in any locality where the Council shall be satisfied that there are at least twenty children who will attend such school.

Public schools to be established.

9. In every public school four and a-half hours at least shall be set apart during each school-day for secular instruction only; and such schools may open in the morning a quarter of an hour at least before the time fixed for such secular instruction to commence, for the purpose

Four and a-half hours secular instruction.

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purpose of reading portions of the Holy Scriptures in the authorized or Douay version. The attendance of children at such reading shall not be compulsory, and no sectarian or denominational religious teaching shall be allowed in any school.

Itinerant teachers.

10. In districts, where from the scattered state of the population or other causes it is not practicable to establish a public school, the Council may appoint itinerant teachers under regulations to be prescribed for that purpose, or may grant assistance as may be prescribed to other schools, not being denominational or sectarian, established by private persons, notwithstanding that the children in attendance at any such school may not number twenty.

Private schools may be assisted.

Provision for boarders.

11. The Council may authorize provision to be made for the boarding and lodging, either daily or weekly, of such children as, by reason of the remoteness of their home, may not otherwise be able to attend at any school.

Training schools.

12. The Council may establish a training school for the education of teachers, and the teachers so educated, shall be classified according to their attainments and skill in teaching, and shall receive certificates, which shall qualify them for corresponding grades in the school service, and the Council may also establish infant schools, evening schools, schools for the teaching of any branch of science or art, and advanced schools for continuing the education of scholars who shall have obtained prizes at public schools, or otherwise proved themselves qualified for admission: Provided that the course of training in all such schools shall be secular.

School fees.

13. The Council shall authorize a scale of fees to be paid for pupils, and the amount of all fees collected in any school shall be paid to the teacher thereof for his own use, or if there be more than one teacher, then in such proportion between the teachers as the Council may determine: Provided that it shall be in the discretion of the Council to authorize a special or distinct scale of fees in any case in which the general scale may appear to them inapplicable, or to authorize the payment of a special stipend without fees in exceptional cases.

Fee when remitted.

14. Notwithstanding any regulation for the payment of school fees, any child whose parent shall be unable to pay such fees shall not on that account be refused admission into a public school, but shall, on the inability being shown in the prescribed manner, be received and instructed in the same manner as the other pupils attending such school.

Child not to be refused admission, but parents to be summoned for fees.

15. No child shall be refused admission into a public school on account of the refusal or neglect of the parent of such child to pay the fees due for the education of such child; but all fees so due may be recovered from the parent in the name of the Council or of any person authorized by the Council, before any Justice of the Peace,

in

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in a summary way, under Act No. 6 of 1850, or any other Act in force for the time being in that behalf. Children residing within a distance of two miles from any school shall, on vacancies happening in the attendance of scholars thereat, have a prior claim to admission to such school over children residing beyond that distance.

16. The Council may dispense with any examination or attendance at the Training School in the case of teachers already licensed or employed by the Board of Education, or in the case of teachers holding certificates of competency from any training or examining body approved by the Council.

Teachers when exempt from examination.

17. The Governor may constitute and define school districts, by Proclamation in the *Government Gazette*, and may appoint a Board of Advice for any school district, such Board to consist of not fewer than three persons, and who shall hold office for three years, or such less term as the Governor may appoint. The Governor may appoint persons to vacancies that may from time to time occur in any such Board from death, resignation, or otherwise; and the said Board shall visit, and report upon the schools in the school district for which they are so appointed. Three members, when such Board shall consist of five or more, and two members when the Board shall consist of three or four members, shall form a quorum: Provided that of the first members of every such Board one shall be appointed for one year and one for two years, and any member of such Board may be removed by the Governor.

School districts and Boards of Advice.

18. No money shall be appropriated under this Act in aid of building school premises, unless the site of such premises shall be vested in the Council.

Buildings to be vested in Council.

19. The Council shall, on or before the thirty-first day of March in every year, lay before the Governor a Report of the condition of the public schools, and a general statement of accounts up to the thirty-first day of December then next preceding, and copies of such report and statement of accounts shall be laid before both Houses of Parliament within one month if Parliament be sitting, and if Parliament be not sitting, then within one month after the commencement of the next ensuing Session thereof.

Annual reports.

20. Children of not less than five years of age may attend school. The parent of every child of not less than seven nor more than thirteen years of age shall cause such child to attend school for a period of not less than seventy days in each half-year (unless there is some reasonable excuse for non-attendance to be shown by the parent): Children of more than thirteen years of age may attend schools. Any of the following reasons shall be a reasonable excuse upon being shown as aforesaid—

Children to be sent to school.

i. That the child is under efficient instruction in some other manner:

ii. That

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- II. That the child has been prevented from attending school by sickness, danger of infection, temporary or permanent infirmity, or any unavoidable cause :
- III. That there is no public school which the child can attend within a distance of two miles, measured according to the nearest road from the residence of such child :
- IV. That the child has been educated up to the compulsory standard, and holds a certificate to that effect from an Inspector of Schools or other person authorized by the Council.

In the event of any child on the roll of a school being unable to attend for any reason, the parent shall inform the master of the school of the same.

Penalties for neglect.

21. The parent of any child, of not less than seven nor more than thirteen years of age, who neglects to send such child to school, may be summoned in the name of the Council, or of any person authorized by the Council, before a Justice, and on conviction of such offence shall forfeit and pay a sum not exceeding Five Shillings for a first offence, and Twenty Shillings for every succeeding offence ; and payment of the same may be enforced under the provisions of Act No. 6 of 1850, or any other Act in force for the time being in that behalf ; and the allegations that the proceedings are authorized by the Council, and that a child is not less than seven nor more than thirteen years of age, and that the parent thereof neglects to send such child to school, without reasonable excuse, shall be deemed *prima facie* evidence of the fact until the contrary is proved, and in every case the parents of a child may be witnesses : Provided that this section shall not come into operation within any school district until an order has been made by the Governor, to make which he is hereby authorized, directing that the provisions hereof shall extend to such school district, of the due making of which order publication thereof in a printed copy purporting to be a copy of the *Government Gazette* shall be sufficient evidence.

Penalty for disturbance.

22. Any person who shall wilfully disturb any school, or who shall upbraid, insult, or abuse any teacher in the presence or hearing of the pupils assembled in school, shall forfeit and pay a penalty of not less than Ten Shillings nor more than Forty Shillings.

Summary recovery of school premises.

23. If any teacher, Inspector, or officer of or under the said Board of Education or the Council, shall neglect or refuse to give and deliver up possession of any premises vested in the Council to any person named by the Council, at such time as the Council may direct, the Council may issue a warrant under its seal to any bailiff of a Local Court commanding him to enter into the premises and give possession of the same to the Council, or their officer or agent ; and such warrant may and shall be enforced in like manner and with the like protection as a warrant under section 155 of the " Local Court Act, 1861."

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24. The Governor may reserve, dedicate, and grant to the Council any waste lands of the Crown as sites for school buildings, and may also grant to the Council by way of endowment for education one hundred thousand acres of the said waste lands, and may also from time to time grant by way of such endowment such further portions of the said waste lands not exceeding in area in any one year twenty thousand acres. The Council may demise and let any of the lands so granted by way of endowment, either from year to year or for any term not exceeding twenty-one years at the best rental which can be obtained for the same, and upon such terms and conditions as to the Council shall seem fit; and the annual income derived therefrom shall be paid into the Treasury, and applied by the Treasurer in manner directed by the Council towards the erection of school-houses, payment of salaries, and other expenditure in carrying out the provisions of this Act.

Grant of school sites and endowment.

25. The Governor may grant to the Council, as a site for school buildings, any land included in any pastoral, mineral, or other lease of waste lands of the Crown, or in any agreement for the sale of land upon credit, under Act 14 of 1868-9, or any amendment thereof; or under "The Waste Lands Alienation Act, 1872," or any amendment thereof; or under any Act hereafter in force, with respect to the sale upon credit of waste lands of the Crown, with the consent in writing to such grant of the lessee or purchaser of such land; and after such grant the lease or agreement in which such land was so included shall be read and construed as if such land had been expressly excepted from the operation of such lease or agreement.

Grants for school buildings.

26. This Act may be cited as "The Education Act, 1875."

Short Title.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

A. MUSGRAVE, Governor.