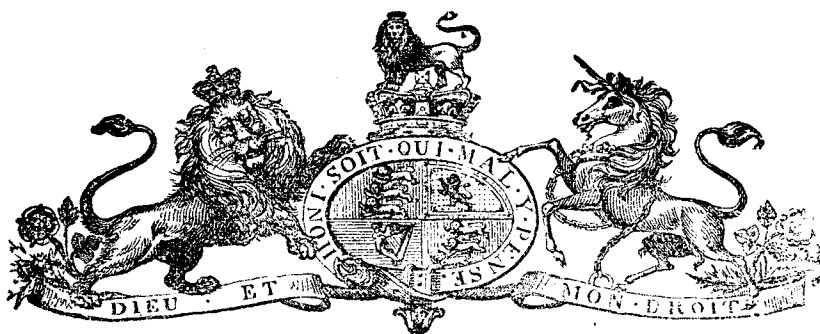


T A S M A N I A



1885.

ANNO QUADRAGESIMO-NONO

VICTORIÆ REGINÆ,

No. 15.



AN ACT to make more adequate Provision A.D. 1885
for Public Education. [5 December, 1885.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

- 1 This Act may be cited as “The Education Act, 1885.” Short title.
- 2 This Act shall come into operation on the First day of *January*, Commencement.
1886.”
- 3 In the construction and for the purposes of this Act, unless Interpretation.
inconsistent with the context—
 - “Board of Education” shall mean the Board which, prior to the 32 Vict. No. 14.
First day of *January*, 1885, existed under “The Public Schools Act” :
 - “Minister” shall mean the responsible Minister of the Crown administering this Act :
 - “Parent” shall include guardian and every person who is liable to maintain or has the actual custody of any child, and every person with whom, or who is the occupier of a house in which, any child resides :
 - “Teacher” shall include assistant and pupil teacher and every person forming part of the educational staff of a school :
 - “Compulsory Standard of Education” shall mean and include proficiency in reading, writing, and arithmetic to the satisfaction of an Inspector of Schools :

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“School” shall mean State School, and shall include Infant School, Provisional School, Half-time School, Model School, Night School, and every other State School established, or receiving aid from the Public Funds, under the provisions of this Act :

“School House” shall include the teacher’s dwelling and all necessary buildings :

“Gazette” shall mean the *Hobart Gazette*.

Public Education.

Education Department.

4 For the better carrying out of the provisions of this Act an Education Department shall be formed under one of the responsible Ministers of the Crown, and shall consist of a Director of Education, Inspectors, Teachers, and such other officers as may be deemed necessary ; and such Director of Education, Inspectors, Teachers, and other officers shall be appointed and removed by the Governor in Council at pleasure.

Appointment and removal of officers.

Sums appropriated by Parliament for Education how to be expended.

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

Minister of Education to hold property.
48 Vict. No. 25.

6 All property formerly vested in or held in trust for or belonging to the Board of Education, and which by virtue of “The Public Schools Amendment Act, 1884,” vested in the Crown, and all other property vested in the Crown or the Chief Secretary upon the commencement of this Act for the purposes of Education, shall vest in the Minister and his successors for the time being administering this Act ; and all property acquired under this Act, or by grant, purchase, or bequest in future, for the purposes of Education shall be conveyed or transferred to or vested in the Minister and his successors ; and every such Minister for the time being may, with the approval of the Governor in Council, sell or otherwise dispose of any such property, and may do and execute all necessary acts, deeds, and assurances for that purpose ; and the proceeds of every such sale or disposition shall be paid into the Consolidated Revenue Fund.

No action or suit shall be maintained against the Minister of Education.

7 No action or suit shall be brought or maintained against any person who shall be or who shall have been a Minister in charge of the Education Department for any nonfeasance or misfeasance in connection with the duties imposed upon him by this Act.

Existing Schools and Schools to be established.

8 All Public Schools hitherto established and maintained by the Board of Education or by the Chief Secretary, or hereafter to be established and maintained under the provisions of this Act shall become, and are hereby declared to be, State Schools under this Act.

Schools may be established.

9 A State School may be established in any locality where after due inquiry the Minister shall be satisfied that there are at least Twenty children of Five years of age and upwards who will regularly attend such school on its establishment : Provided that when the average daily attendance of children at any State School shall have fallen, for a period of Six months, below the number of Twenty, such School shall thereupon be classed as a Provisional School.

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- 10** Provisional Schools may be maintained or established by the Minister in remote and thinly populated districts, under Regulations for that purpose to be made by the Governor in Council. A.D. 1885.
Provisional Schools.
- 11** In districts where from any cause it is inexpedient to establish or maintain Schools, the Minister may appoint itinerant teachers under Regulations for that purpose to be made by the Governor in Council. Itinerant teachers may be appointed.
- 12** If the parents or other residents of any locality apply to the Minister for the establishment of a Night School, the Minister, upon the recommendation of the Board of Advice for the District, may establish such Night School. Night Schools.
- 13** The Minister may, if he see fit, establish Model Schools in any locality he may approve of, and in every such school special provision shall be made for the training of teachers both male and female; and the teachers so trained shall be classified according to their attainments and skill in teaching, and shall receive certificates corresponding thereto. Model Schools may be established.
- 14** In all Schools fees shall be charged to the parents of children attending school in accordance with a scale to be fixed by Regulations to be made by the Governor in Council under this Act, and the teacher shall be entitled to such fees or to such portion thereof as may be fixed by such Regulations; and all such fees may be recovered in a summary way before any Justice of the Peace, in the name of the Chairman of the Board of Advice for the District or of any person authorised by him in that behalf: Provided that nothing in this Section contained shall preclude the Minister from establishing or maintaining, under Regulations for that purpose to be made by the Governor in Council, Free Schools for the education of the children who have been relieved from the payment of school fees in localities where the number of such children is sufficient to warrant the employment of a separate staff of teachers. School fees.
- 15** The fees for the teaching in Night Schools shall be fixed by Regulations as aforesaid; and all such fees shall be paid to the teachers performing such special duties, and may be recovered in like manner as School fees are recoverable. Fees in Night Schools.
- 16** It shall be lawful for any Station Master on the Government Railways to issue a free pass to any child to travel in a suitable railway carriage or van to and from any School under this Act: Provided that such School shall be the one nearest by railway to the residence of the parents of such child. Free railway passes to school children.
- 17** It shall be lawful for the Minister to determine from time to time what shall be the maximum number of children allowed to attend any school: Provided that whenever the children ordinarily in attendance at any school shall exceed the maximum number so determined, the prior right of attendance shall in all cases belong to the children whose parents reside nearest to such school: Provided also, that no child shall be refused admission to, or be entitled to claim exemption from attendance at any school, by reason of the attendance Maximum number to attend schools.

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of children at such school temporarily exceeding the maximum number determined as hereinbefore mentioned.

Secular instruction.

18 In all schools under this Act the teaching shall be strictly non-sectarian ; and in all such schools lessons in History shall form part of the course of secular instruction.

Hours for secular instruction.

Religious instruction may be given.

19 In every State School not less than four hours during each school-day shall be devoted to secular instruction exclusively, and a portion of time not exceeding an hour in any one day in each week shall be set apart when the children of any one religious persuasion may be instructed by the clergyman or other religious teacher of such persuasion ; but in all cases the pupils receiving such religious instruction shall be separated from the other pupils of the school : Provided that if Two or more clergymen of different persuasions desire to give religious instruction at any school, the children of each such different persuasion shall be so instructed on different days : Provided also that in case of the non-attendance of any clergyman or religious teacher during any portion of the period agreed to be set apart for religious instruction such period shall be devoted to the ordinary secular instruction in such school.

Objection to religious instruction.

20 Notwithstanding anything contained in the last preceding Section, no child in a School shall be required to receive any religious instruction if the parent of such child object to such religious instruction being given.

Children of school age to be instructed.

21—(1.) The parents of children of not less than Seven years nor more than Thirteen years shall cause such children (unless just cause of exemption be shown, as hereinafter provided) to attend school Three school-days in every week in each year while the school is open. Any of the following reasons shall be held to be a just cause of exemption :—

- i. That the child is being regularly and efficiently instructed in some other manner :
- ii. That the child has been prevented from attending school by sickness, danger of infection, temporary or permanent infirmity, or any unavoidable cause :
- iii. That there is no School which the child can attend within a radius of Two miles, or such greater distance as may from time to time be fixed by the Board of Advice for the District, measured from the residence of such child :
- iv. That the child has been educated up to the compulsory standard of education : Provided that this cause of exemption shall only apply to the case of a child who has attained the age of Eleven years :
- v. That the child has been exempted from attendance by the Board of Advice for the District, and that the period of such exemption has not expired.

(2.) For the purposes of this Act, attendance at school for Four hours in any one day, or for Two hours before noon on any Two days, or for Two hours after noon on any Two days, shall respectively be deemed to be one school-day's attendance.

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22 The parent of any child who neglects to cause such child to attend school as provided in the last preceding Section, may be summoned by any person authorised by the Minister or the Board of Advice for the District before any Two Justices of the Peace, and on conviction of such offence shall forfeit and pay a sum not exceeding Five Shillings for a first offence, and not exceeding Twenty Shillings for every succeeding offence, to be enforced by distress only and not by imprisonment.

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Parent neglecting to send a child to school to be liable to a penalty.

Boards of Advice.

23 The Governor may, by Proclamation in the *Gazette*, constitute and define School Districts, containing one or more Schools, assigning to each District some specific name, and may appoint a Board of Advice for any such District, to consist of not more than Seven persons, and may remove any of such persons at pleasure.

Districts may be defined and Boards of Advice appointed.

24 The powers and duties of every such Board of Advice shall be—

Powers and duties of Boards of Advice defined.

- i. To allow the school buildings to be used for other than school purposes after the children are dismissed from school, or on days when no school is held therein, subject to the terms and conditions prescribed by the Regulations made under this Act, the Board being held responsible for the safe keeping of the school furniture and appliances, and for the proper cleansing of the school-room :
- ii. To suspend any teacher for misconduct in cases not admitting of delay, and to report immediately the cause of such suspension to the Minister :
- iii. To exercise general supervision over the schools in the District ; to visit such schools from time to time, to inspect the School Registers, and to record the number of children present ; and to report to the Minister, in the months of *May* and *November* in each year, the condition of the school-houses, books, furniture, or other appliances, and whether new schools are required :
- iv. To appoint, during pleasure, one or more qualified persons, whether members of the Board or not, as Special Visitors to each school within the District, to advise the Board in reference to any of the matters mentioned in this Section.
- v. To cause—
 - (a.) Any necessary small repairs to the school-house to be effected ;
 - (b.) Fuel to be supplied to maintain sufficient fire in the school-rooms during the winter months ;
 - (c.) Provision to be made for the cleansing of the school-rooms and out-offices ;
 the cost of such repairs, fuel, and cleansing not to exceed in any year an amount to be fixed by the Minister.
- vi. To use every endeavour to induce parents to send their children regularly to school, and, subject to the provisions of this Act, to institute legal proceedings, in the name of the Director, against parents who neglect to cause their children to attend school :
- vii. To recommend the establishment of Night Schools in accordance with the provisions of this Act :

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- viii. To alter from time to time, subject to the provisions of this Act, the radius within which parents are by this Act required to cause their children to attend school, whenever circumstances render an alteration desirable :
- ix. To close any school in the District temporarily if in the discretion of the Board it is expedient or necessary at any time so to do ; to grant exemptions from attendance at school to any child or children for any period not exceeding Four consecutive weeks ; and from time to time to grant to any school a holiday either for the whole day or for a half day.

Proceedings of Boards.

25 The Rules contained in the Schedule (1.) with respect to the proceedings of Boards of Advice, and the other matters therein contained, shall be observed.

Erection of School Houses.

Governor in Council may cause School Houses to be erected.

26 It shall be lawful for the Governor in Council, upon the application of the Board of Advice for the District, and upon the recommendation of the Minister, to cause School Houses to be erected and built, added to, improved, or repaired : Provided that when the estimated cost of any School House shall exceed the sum of One thousand Pounds the erection of such School House shall not be proceeded with unless Parliament shall approve of the same.

Land may be purchased.

27 The Minister may purchase, acquire, and take such land as may by the Governor in Council be deemed necessary for the purposes of this Act.

Power to enter upon lands.

28 The Minister, his officers and workmen, may at all reasonable times in the day-time, upon giving Twenty-four hours' previous notice in writing to the owner or occupier of any land which is proposed to be taken for the purposes of this Act, enter into and upon such land for the purpose of surveying or valuing the same.

21 Vict. No. 11 incorporated.

29 *The Lands Clauses Act*, except as hereby expressly varied, shall, for the purposes aforesaid, be incorporated with this Act, but—

- i. There shall not be incorporated with this Act the Sections and provisions of the said Act hereinafter mentioned ; that is to say,—Section Eight, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put into force ; Section Nine, whereby it is provided that the certificate of the Justices shall be evidence that the capital has been subscribed ; Section Twenty-three, whereby the mode in which the costs of arbitration are to be borne is prescribed :
- ii. In the construction of this Act and the said incorporated Act this Act shall be deemed to be the Special Act, and the Minister shall be deemed to be “the Promoter of the undertaking.”

Notices.
21 Vict. No. 11.

30 Any notice required to be given by or on behalf of the Minister or the Governor in Council by virtue of the provisions of *The Lands Clauses Act* or this Act, shall be sufficient if signed by the Minister.

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31 In any case where land is required for the purposes of this Act, if the Minister, before any steps are taken under *The Lands Clauses Act*, tender to the person entitled to receive the same compensation for such land, and such person refuse to accept the same and to convey the land so required, and a reference to arbitration take place under *The Lands Clauses Act*, and the Arbitrators or Umpire award a sum not exceeding the amount of compensation so tendered, all the costs of the reference, arbitration, and award shall be paid by such person, and payment thereof may be enforced by action in any Court of competent jurisdiction on a count for money paid at the request of such person.

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Costs of arbitration, how to be borne.

21 Vict. No. 11.

32—(1.) Notwithstanding anything to the contrary contained in any Act, if either party is dissatisfied with the award of the Arbitrators or Umpire where the sum awarded for compensation exceeds the sum of One hundred Pounds, and either party desires to have the compensation settled by a Judge of the Supreme Court, and shall, within Ten days after the making of such award and notice thereof, signify such desire by notice in writing to the other party, then the amount of such compensation shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose; and such Judge may also in his discretion make any order as to the person by whom the costs of such proceeding shall be borne.

If either party to an award is dissatisfied therewith a Judge of the Supreme Court may decide thereon.

(2.) Where the party dissatisfied with the award gives notice to the other party as aforesaid, then such award shall not be made a Rule of Court until such Judge by an order in writing under his hand determines the matter in dispute.

(3.) The Rules made and to be made by the Judges of the Supreme Court under "The Main Line of Railway Amendment Act, No. 2," shall be applicable to all proceedings which shall be taken for carrying out the provisions of this Section.

36 Vict. No. 19.

33 The Minister may pull down any buildings or other erections on any land which may be taken for the purposes of this Act, or on any other land vested in the Minister, and may construct thereon such buildings and works, and do all such other things as may be necessary or expedient in order to carry into effect the purposes of this Act.

Power to Minister to execute works.

34 The cost of the erection of School Houses, and of the purchase of land as aforesaid, and of generally carrying into effect the purposes of this Act relating thereto, shall be defrayed out of moneys provided and to be provided by Parliament for such purposes.

Defrayment of cost.

Miscellaneous.

35 When any child attending a State School is educated up to the compulsory standard of education required by this Act, such child shall upon application receive a Certificate in the form in the Schedule (2.)

Certificate to pupils.

36—(1.) The Governor in Council may from time to time make and rescind Regulations for all or any of the following purposes:—For regulating the terms and conditions upon which School Houses may be used for other than school purposes; the secular and religious instruction to be given in all schools under this Act; the system upon

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which the compulsory standard of education shall be determined ; the drilling and other physical training of children ; the establishment of the Kindergarten method of instruction ; the teaching of the principles of technical education ; the inspection of schools ; the examination and classification of teachers ; the salaries to be paid to teachers ; the scale of fees to be paid by parents ; the exemption of parents from the payment of fees ; the distribution of such fees amongst the teachers ; the granting of railway passes ; and generally for carrying this Act into effect.

(2.) All such Regulations shall be published in the *Gazette*, and shall take effect from the date of such publication, unless otherwise provided in such Regulations ; and in all legal proceedings the production of the *Gazette* containing such Regulations shall alone be sufficient *primâ facie* evidence that such Regulations have been duly made, and the onus of proving the contrary shall in every case be on the person disputing the validity of such Regulations.

(3.) All such Regulations shall be laid before both Houses of Parliament within Fourteen days from the making thereof, if Parliament is then in Session, and if not, then within Fourteen days after the commencement of the next Session.

Proprietor, principal head master, or principal teacher of school, to furnish return to Minister.

37 The proprietor, principal head master, or principal teacher of every school for the education of children, not being a State School or *Sunday* School, shall, in the month of *January* in each year, furnish to the Minister a return showing the name and surname, sex, age last birthday, residence, and number of school-days' attendance of each child who attended his school during the preceding year ; and if such proprietor, principal head master, or principal teacher refuse or neglect to furnish such return, he shall be guilty of an offence against this Act, and may be summoned by any person authorised by the Minister before any Two Justices of the Peace, and on conviction forfeit and pay a sum not exceeding Five Pounds, to be enforced by distress only, and not by imprisonment.

Application of Police Act to School Houses.

38 A School House under this Act shall be deemed and taken to be a public place within the meaning of *The Police Act* and Acts amending it, and the provisions of Section 179 of the said Act, so far as the same can be applied thereto, shall be applicable to every such School House, whether situated in a Town or not.

Legal proceedings.

19 Vict. No. 8.

Appeal.

19 Vict. No. 10.

39—(1.) All proceedings for offences against this Act or for school fees or penalties under this Act, where no other mode of proceeding is by Law provided, may be had and taken in the manner prescribed by *The Magistrates Summary Procedure Act*, and any person who thinks himself aggrieved by the imposition of any such penalty may appeal against the same in the mode prescribed by *The Appeals Regulation Act* ; and in any information or complaint the allegation that a child is between the ages of Seven and Thirteen years shall be deemed sufficient *primâ facie* evidence of the fact until the contrary is proved ; and in every case the parent of any child may be a witness.

(2.) In any such proceeding, a certificate purporting to be under the hand of the Head Teacher of a school stating that a child is or is not attending such school, or stating the particulars of the attendance of a child at such school, shall be evidence of the facts stated in such certificate.

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- 39** A certificate purporting to be under the hand of the head teacher of the State School nearest to the residence of any child, stating that such child did not during the period mentioned in such certificate attend that State School, shall be *prima facie* evidence that such child did not attend any State School during such period. A.D. 1885.
Certificate of non-attendance at nearest school to be *prima facie* evidence.
- 40** For the purpose of any proceeding taken for or in relation to the non-attendance at school of any child, the burden shall lie on the defendant of proving the grounds of exemption mentioned in the Twenty-first Section of this Act. Onus of proof of grounds of exemption.
- 41** No fee or fees shall be payable under *The Magistrates Summary Procedure Act* or otherwise by any person in respect of any proceedings instituted by such person against any other person for school fees or penalties under this Act, or for any breach of or non-compliance with the provisions of this Act. No fees payable by person instituting proceedings.
- 42** On or before the Thirty-first day of *May* in every year the Minister shall lay before the Governor his report on the condition and progress of the several classes of schools established and maintained under this Act, together with a detailed statement of the expenditure in the maintenance of such schools; and copies of the same shall be laid before both Houses of Parliament within One month after the commencement of the next ensuing Session thereof. Annual report.
- 43** The Acts set forth in the Schedule (3.) shall be repealed from the Thirty-first day of *December*, 1885, and all Regulations made under any of such Acts shall thenceforth cease to have any effect; but such repeal shall not affect anything duly done, or any offence committed, or any liability accruing before the commencement of this Act, but any such offence may be prosecuted and such liability may be enforced in all respects as if this Act had not been passed. Repeal.
- 44** Where in any Act any of the Acts hereby repealed may be referred to the same shall for the purposes of the first-mentioned Act be deemed to mean this Act, and all moneys provided by Parliament for the purposes of any such repealed Acts, and remaining unexpended upon the commencement of this Act, may be expended for the purposes of this Act, notwithstanding such repeal. Reference to former Acts.
Unexpended moneys.

SCHEDULE.

(1.)

PROCEEDINGS OF BOARD OF ADVICE.

1. The Board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the Board, as they think fit, subject to the following conditions:—
- (a) The first meeting shall be held not later than the third Thursday after the appointment of the Board, and if not held on or before that day shall be held on some day to be fixed by the Minister:

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- (b) Not less than one ordinary meeting shall be held in each month :
- (c) An extraordinary meeting may be held at any time on the written requisition of any Two members of the Board addressed to the Chairman :
- (d) The quorum to be fixed by the Board shall consist of not less than Three members :
- (e) Every question shall be decided by a majority of votes of the members present and voting on that question :
- (f) The names of the members present, as well as of those voting upon each question, shall be recorded.
2. The Board shall at their first meeting, and afterwards from time to time at their first meeting in each year, appoint some person to be Chairman for the ensuing year.
3. If any casual vacancy occurs in the office of Chairman the Board shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their members to fill such vacancy, and every such Chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such vacancy had not happened.
4. If at any meeting the Chairman is not present at the time appointed for holding the same the members present shall choose some one of their number to be Chairman of such meeting.
5. In case of an equality of votes at any meeting the Chairman for the time being of such meeting shall have a second or casting vote.
6. All proceedings of the Board shall be entered in a Book to be kept by the Board for that purpose, and be signed by the Chairman of the meetings at which such proceedings are, from time to time, had, or by the Chairman of any subsequent meeting ; and every such Book shall at all reasonable times be open to inspection by an Inspector of Schools.

(2.)

CERTIFICATE OF A CHILD BEING SUFFICIENTLY EDUCATED.

I HEREBY certify that _____ has been educated up to the compulsory standard of education required by "The Education Act, 1885."

Dated at _____ day of _____ A.D. 18 .

Inspector.

(3)

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
32 Vict. No. 14.	"The Public Schools Act."
37 Vict. No. 11.	"The Public Schools Amendment Act, 1873."
44 Vict. No. 6.	"The Public Schools Erection Act, 1880."
45 Vict. No. 27.	"The Public Schools Erection Amendment Act, 1881."
46 Vict. No. 28.	"The Public Schools Erection Act, 1883."
48 Vict. No. 25.	"An Act to further amend 'The Public Schools Act.'"