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AND

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CHARLOTTETOWN, SATURDAY, MAY 22, 1841.

[No. 199.]

SCHOOL ACT.

AN ACT relating to Schools, and for the Encouragement of Education.

[Passed April 29th, 1841.]

WHEREAS the Act now in force for the encouragement and support of District and other Schools, is about to expire, and it is expedient to make further, and in some respects, other provisions for these purposes: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for the Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Council, to nominate and appoint Five fit and proper persons, of whom Three shall be a Quorum, which Five persons so appointed shall constitute a Board of Education, and shall meet Four times in each year, (that is to say)—on the last Thursday in the Months of January, April, July and October, respectively, and on such other and further days as the said Board shall deem necessary; and shall give notice of the place and hour of such Quarterly Meetings in the Public Newspapers, at least thirty days previous to each Meeting.

2. And be it enacted, That the said Board, when so constituted, shall nominate and appoint one of their number as Secretary of the Board; and the said Secretary shall be paid the sum of Fifteen Pounds annually, for his services, and to reimburse him for Stationery and other contingent expenses; and each individual of the said Board, exclusive of the Secretary, shall be paid the sum of Four Pounds for his services, subject to the deduction of Twenty Shillings each, for each of the aforesaid Quarterly days they shall be absent.

3. And be it further enacted, That when and so often as any vacancy shall occur in the said Board, by death, removal, or otherwise, it shall and may be lawful for the Administrator of the Government for the time being, by and with the advice as aforesaid, to appoint a fit and proper person to fill up such vacancy.

4. And be it enacted, That any person who may be a Candidate for the situation of Schoolmaster for any District School in this Island, shall, on one of the days of the said Meetings, or on such other day as any of the said Board shall appoint, present himself for and submit to an examination of his qualifications in the branches hereinafter mentioned; and if the Board be satisfied with the Candidate's qualifications, they shall give him a Certificate of having passed such Examination.

5. Provided always, and be it further enacted, That the said Board shall in no case examine or grant a Certificate to any person whomsoever who shall not have first produced to the said Board a satisfactory Certificate of good moral character.

6. And be it enacted, That there shall be in future only two Classes of District Schoolmasters, who shall be licensed by this Act to teach in this Island; that Teachers of the First Class shall possess a competent knowledge of, and be qualified to teach Book-keeping, English Grammar, Reading, Writing, and Arithmetic; that Teachers of the Second Class, in addition to the above qualifications, shall be competent to teach the Latin Language, Geometry, Trigonometry, Mensuration, Land Surveying, and Navigation, together with Geography and the use of the Globes—and the Board of Education, after having examined and ascertained the qualifications of such Candidates as may appear before them, shall specify in the Certificate to be given them, to what Class of Teachers the said Candidates are duly entitled to belong.

7. And be it enacted, That the Teacher of the National School in Charlottetown shall be entitled to the same amount as is intended to be paid to the First Class Teachers, under and by virtue of this Act.

8. And be it enacted, That every School-house within the meaning of this Act, if erected for, and used as such, before the passing thereof, shall be not less in clear area than one hundred and sixty-eight square feet; and if erected after the passing of this Act, shall not be less in clear area than Two hundred and fifty-six square feet; and every such School-house shall be kept in thorough repair.

9. And be it enacted, That no Schoolmaster or Teacher of the first or lowest Class shall be entitled to any allowance by virtue of this Act, excepting Teachers mentioned in the Nineteenth and Twenty-fifth sections thereof, unless the inhabitants of the District comprising his School shall have first provided a sufficient School-house, to be exclusively used for that purpose; except as is hereinafter provided in and by the Thirteenth Section of this Act; and also, that he shall have had under his tuition the number of Twenty Scholars, during the space of Twelve Months immediately preceding the period of his claiming such allowance, or where in default of such number of Scholars, the amount of tuition money raised by subscription, and the amount assessed on the inhabitants, shall together amount at least to Twenty Pounds, exclusive of Boarding and Lodging.

10. And be it enacted, That no Schoolmaster of the Second or highest Class of Teachers, shall be entitled to receive any allowance

under and by virtue of this Act, unless the Inhabitants of the District comprising his School shall have provided a sufficient School-house; and that he shall have had under his tuition the number of Twenty Scholars during the period of Twelve Months for which he claims to be entitled to such allowance; or where, in default of such number of Scholars, the amount of tuition money raised by subscription, and the amount assessed on the Inhabitants shall together amount at least to Thirty Pounds, exclusive of Boarding and Lodging.

11. And whereas differences of opinion and difficulties may at times arise among the Inhabitants of Districts or Settlements, whereby the sites of School-houses, as well as the extent and boundaries of School Districts, cannot be judiciously chosen and defined: Be it therefore enacted, that it shall and may be lawful for any one of the nearest of Her Majesty's Justices of the Peace, or Commissioners for the recovery of Small Debts, not being parties interested in the expense of such School-house, or of the salary and support of the Teacher to be employed therein, to fix and define the sites for School-houses, and the extent and boundaries of School Districts; and when and so often as the Inhabitants of any Settlement, Township or District, cannot among themselves agree to any place as most eligible for the site of a School-house, or upon the requisite number of School-houses required by such Inhabitants, or upon the extent of or limits and bounds proper to comprise any School District; and any number of such Inhabitants being house-holders, not less than Five, shall make request in writing to any such Justices of the Peace, or Commissioners as aforesaid, it shall be the duty of such Justice or Commissioner to attend at such place, and there personally to make such inquiry, in such manner, and to such extent, as to him shall be deemed requisite; and thereupon to fix and determine on the proper and most eligible site or sites of such School-house or School-houses, and the proper limits and boundaries to the District or Districts thereof; and his decision thereon, made in writing, under his hand, and returned to the Secretary of the Board of Education, shall be conclusive, unless the Inhabitants of the District comprising such School or Schools, and being interested therein, shall unanimously agree to alter or vary the same.

12. And be it enacted, That every Justice of the Peace, or Commissioner who shall be applied to for the purpose or purposes in the preceding clause mentioned, shall be entitled to demand and receive of the applicants, for his trouble, the sum of Eight-pence per mile for each mile travelled, to and throughout such School District, and the sum of Five Shillings for his decision in writing, and transmitting the same to the said Secretary of the Board of Education.

13. And be it enacted, That any such School-house as aforesaid may be used as a place of public Worship, or for any other lawful public meeting, by and with the consent of the majority of the Trustees thereof, when the same shall not interfere with the teaching of the Scholars therein, as is contemplated by this Act.

14. And be it enacted, That the inhabitants of any School District within this Island, who shall have provided the School house as aforesaid, shall and may, and they are hereby required, to nominate and appoint Five Trustees, three of whom shall be a Quorum, whose duty it shall be to examine the said School quarterly, and inquire into the order, and direct the discipline and regulation of such School, and give to such Licensed Teacher who has had the management thereof the necessary certificates required by this Act.

15. And be it enacted, That when and so often as it shall happen that in any Settlement, Township or District wherein no School shall at any time have been kept, or wherein the public School or Schools established in such Settlement, Township or District, shall have ceased to be kept and taught for the space of Twelve Months, and the Inhabitants thereof shall neglect to nominate and appoint Trustees for the establishment of or continuance of a school or schools as prescribed by this Act, it shall be the duty of the Visiter of Schools, and he is hereby required, to attend at some public place, in such Settlement, Township or District, after having caused notice to be posted up in three of the most public places within such School District, at least Six days previous to the meeting of such Inhabitants, stating the time and place and purpose of his attendance, and then and there to take the names of such five and any additional like number of Persons as shall be elected by the said interested Inhabitants, then and there attending as Trustees of a school or schools to be kept therein; and in case any District for which such Trustees shall be so elected as aforesaid shall have no School-house situate therein, then such Trustees shall cause a sufficient School-house to be erected and completed for the District for which they shall be so elected as aforesaid; and such Trustees shall be and they are hereby further empowered and directed to assess the costs and expense of erecting such School-house upon such District, and to apportion such costs and expenses

upon the respective Inhabitants of such District, being Householders, and having a Child or Children between the ages of Seven and Fourteen years,—regard being had to the amount of property and number of Children of such inhabitants, as such Trustees shall in their discretion think just and reasonable: Provided, that no one Inhabitant shall be assessed in any sum exceeding Forty shillings for the cost and expense of erecting any such School-house, and such Assessment shall be recoverable in like manner as is expressed in the Seventeenth Section of this Act; and such Trustees shall also have such further powers, and be liable to such further duties and offices, in all respects, as other Trustees appointed under and by virtue of this Act.

16. And be it enacted, That two of the Trustees of every school appointed in pursuance of this Act, shall in rotation go out of office in each year, commencing with the two members first nominated and appointed; and the Inhabitants of the District comprising such School for which they shall have been appointed, shall from time to time, appoint others in their stead, having the like powers and authority: Provided, that in case such Inhabitants shall neglect to elect two Trustees in the room of such Trustees so to go out of office as aforesaid, then and in that case such Trustees shall not go out but continue in office until others shall be elected in their place.

17. And be it enacted, That in all cases when the Trustees of any School shall enter into an agreement with the subscribers to the School, on behalf of the master, they are hereby empowered either in their own names, or in the name of such one or more of them, or of such other person as a majority of them shall appoint, to sue for and recover in the Supreme Court of Judicature, such sum or sums, being above Five Pounds, as the said subscribers shall be liable for by virtue of such agreement; and when such sum shall be beneath or not exceeding Five Pounds, and the same shall not be paid within ten days after a demand thereof made upon or at the residence of the debtor, and after an order for payment thereof made in writing, under the hands of a majority of said Trustees, and produced to the said debtor, or after the said order or a copy thereof shall have been left at his dwelling-house, that then and in every such case the said Trustees, or any one or more of them, or such other person as the majority of them may appoint, may sue and prosecute the said debtor before any one or more of Her Majesty's Justices of the Peace or Commissioners of Small Debts residing within the County where such debtor may live: Provided, that the party Defendant shall be entitled to an appeal, as is regulated by the Thirteenth Section of an Act passed in the Second year of the Reign of King William the Fourth, Chapter the First.

18. And be it enacted, That a majority of the Trustees of any District School so appointed as aforesaid, may, and they are hereby empowered, whenever occasion may require, to assess the Subscribers and persons interested in such Schools in just proportions, for the necessary repairs and supply of fuel which may be required for such Schools; and such Assessments shall be recoverable with Costs, before any Commissioner for the recovery of Small Debts, by and in the name of any one Trustee authorized by a majority of such Trustees; and such Assessments when recovered shall be applied for the purposes for which the same shall be levied.

19. And whereas it sometimes happens that certain Inhabitants of School Districts in this Island, although having children of between the ages of Seven and Fourteen years, and being in circumstances of sufficient ability to afford some one or more of such their children considerable advancement in education, nevertheless refuse to contribute any amount towards the support or establishment of any School, or to the erection of any School-house for such purpose, by which means the remaining Inhabitants of the same Settlement, Township or District otherwise inclined, are not of themselves numerous enough for the support of a School: Be it therefore enacted, That in all School Districts, where the Boundaries thereof shall be defined under the provisions of this Act, or distinguished and agreed to by the mutual consent of the Inhabitants within the same, such Inhabitants, being not less than Ten in number, and being persons having within their families respectively any child or children between the ages of Seven and Fourteen years, when and so often as two thirds in number at least of such Inhabitants shall subscribe for, and send from among themselves the number of Twenty Scholars to any School within the same, or shall raise and subscribe two thirds at least of the amount of Salary agreed to be received by a Teacher of either class, for the tuition of at least Twenty Scholars; and also when and so often as a like proportion of such Inhabitants shall raise and subscribe two thirds at least of any amount by them estimated or expended in the erection of a sufficient School-house for the District wherein they reside, that then and in every such case such proportion of Inhabitants are hereby empowered to assess the remaining part of such Inhabitants to the extent or amount of one-third, or any less part of

such third not voluntarily subscribed, of the yearly salary or tuition money agreed to be received by such Master, or to the extent of the remainder one third, or any less part thereof not subscribed, of the amount estimated or expended in the erection of any School-house as aforesaid, in case such School-house shall be required, the said third or less part thereof to be apportioned and levied on the respective Inhabitants so to be assessed as aforesaid, in such proportion as, according to the number of his or her children, and ability in circumstances, such other two thirds or more subscribers of such Inhabitants may deem just and equitable: Provided always, that the sum to be assessed upon any one Inhabitant in any one year toward the yearly salary of any Master, shall not exceed the amount of tuition money actually payable by such Inhabitant for his child or children, being between the age of Seven and Fourteen years, and at the time of the imposing of such Assessment actually going to any other School; and after six days notice shall be posted up at three public places at the least, within such School District, specifying the time and place, and purpose of a Meeting of such Inhabitants; when they shall proceed in order to apportion and levy such Assessment; and if any person so assessed shall, on demand made by the Trustees of the School for such District, or by such person as they, or the majority of them, shall appoint, refuse or neglect to pay the amount so assessed upon him or her as aforesaid for the space of ten days from the time of making such demand, then it shall and may be recovered before such Commissioners, and in like manner, and subject to such forms and proceedings as Small Debts now are and may be recovered, and in the name of the Trustees of the School for such District, or of a majority of such Trustees, or in the name of any person appointed for that purpose by such majority.

20. And whereas there are certain Settlements situate in remote parts of the Island, and containing but few inhabitants, who by the foregoing provisions of this Act would be excluded the benefits thereof: Be it therefore enacted, That when in any remote Settlement of this Island the respective Inhabitants thereof being at the extremes within three miles of one another, and not within one and a half mile of any established school, within the foregoing provisions of this Act, and the children of whom being between the ages of Seven and Fourteen years together shall not amount to twenty in number, the Master of any School taught therein shall be allowed, per year, at and after the rate of Eight shillings for every scholar by him taught in such School: Provided always, that no allowance to any Master within the meaning of this clause, shall be paid, unless it shall appear to the Secretary of the said Board of Education, upon the Affidavit of some one or more of the subscribers to the salary of such master, subscribed and sworn before some one of Her Majesty's Justices of the Peace for any County of this Island, that such Master had taught a certain number of scholars, to be mentioned in such Affidavit, in a good and sufficient School-house, for the period of the Twelve Months for which he shall claim to be entitled to such allowance; and also, that within twenty days after the establishment of any such School, a certificate in writing signed by at least three of the subscribers thereto, specifying the local situation of such School, the number of subscribers thereto, the number of scholars and the name of the Master engaged therefor, shall have been deposited with the Secretary of the Board of Education.

21. And be it enacted, That in the event of any dispute between any of the Subscribers, or any of the Trustees and the Teacher, as to his conduct as Teacher, the Subscriber or Subscribers, Trustee or Trustees, intending to prosecute such complaint, with the view of removing him from the School before the expiration of his engagement, shall be obliged to lodge in writing with any one or more of the adjacent Magistrates or Commissioners of Small Debts, a statement of such complaint, and at the same time to send a copy thereof to the Teacher; and such Magistrate or Magistrates, Commissioner or Commissioners, may inquire into such complaint, and examine Witnesses on Oath touching the same; and on such complaint being established, a majority of the Trustees or the Subscribers shall and may in their discretion supersede such Teacher, and engage any other in his stead, to whom the Subscribers shall be bound in equal liability as they were to such superseded Teacher for such term of his agreement as may be unexpired at his discharge; but all such Subscribers shall nevertheless be bound to pay him the proportion of his salary up to the period of lodging such complaint; and neither such payment made, nor such proceedings taken, shall be deemed to affect any claim in the said Teacher to the residue of such salary, on any grounds on the part of such Subscribers to resist the payment of the said residue which the parties respectively would have had in Law without the passing of this clause.

22. And be it enacted, That each and every licensed Teacher, on depositing, or on there being deposited on his behalf, with the Secretary of the said Board of Education, one part

of the original agreement made by him, or on his behalf, with the subscribers, or a true copy thereof, attested, on oath, with a Certificate thereon indorsed, or thereto annexed, under the hands of the Trustees of his School, that the provisions of this Act shall have been duly complied with, and also certifying to the good conduct, attention and sobriety of such Master, during the time he shall have kept his School pursuant to such agreement—which conduct shall thereon be also certified by one Justice of the Peace residing near such School—the said Secretary, by and with the concurrence of one other Member of said Board, shall thereupon certify the class to which such Teacher shall belong, and the amount to which, by Law, and as shall satisfactorily appear by such Certificates the said Teacher shall be entitled; and on the production of such Certificate last mentioned, such Teacher shall be entitled to receive from the Treasury of this Island the respective amounts following, (that is to say)—Teachers of the First Class the sum of Ten Pounds; and Teachers of the Second Class the sum of Fifteen Pounds—to be paid by Warrant under the Hand and Seal of the Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Council.

23. Provided always, and be it enacted, That the Teacher of one of the District Schools for Georgetown and Royalty, and the Teacher of one of the District Schools in Princetown Royalty, being duly qualified as Second Class Teachers, shall severally be entitled to receive from the Colonial Treasury the sum of Ten Pounds annually, in addition to the allowance to which they may be entitled by the foregoing section of this Act: And provided further, that the several District Schools in the Town and Royalty for Georgetown or Princetown Royalty respectively, towards which any allowance of money shall be granted by virtue of this Act, shall not exceed in either of the said Towns and Royalties the number of Two.

24. And be it enacted, That all Teachers, while conforming to the provisions and requisitions of this Act, shall be exempt from the performance of Statute Labour and Militia duty.

25. And be it enacted, That any Female Teacher who shall qualify for either Class, as directed by this Act, shall be entitled to the allowance herein provided for Male Teachers, subject to all the regulations and provisions contained herein respecting other Schools, and saving always, that Schools taught by Females may be situate in any place, and not be confined to a room used exclusively for that purpose: Provided, that the said School shall be limited to the instruction of Female Scholars, and to that of Boys under the age of Ten years: And provided also, that there shall not be more than two such Schools in Charlottetown, to be taught by those who shall first duly qualify for that purpose.

26. And be it enacted, That every French Academic Teacher, who shall teach in a school the chil