

THE
EDUCATION ACT, 1902.

—...—

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SECOND EDITION

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THE EDUCATION ACT, 1902,

AND

THE EDUCATION (LONDON) ACT, 1903.

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THE
EDUCATION ACT, 1902,
WITH NOTES,

TOGETHER

WITH A SUMMARY OF THE EXISTING LAW AND OF THE PROVISIONS OF
THE EDUCATION ACT, 1902; HINTS TO EDUCATION COMMITTEES AND
VOLUNTARY SCHOOL MANAGERS AS TO STEPS NECESSARY BEFORE
THE ACT COMES INTO FORCE; MEMORANDA OF THE BOARD OF
EDUCATION; DRAFT SCHEMES FOR EDUCATION
COMMITTEES, AND FOR GROUPING
VOLUNTARY SCHOOLS, ETC.

AND EDUCATION (LONDON) ACT, 1903.

BY

MONTAGUE BARLOW, LL.D., M.A.,
OF LINCOLN'S INN, BARRISTER-AT-LAW:

*Late Senior Whewell Scholar and Yorke Prize Essayist, Cambridge; and Holder of a
Studentship of the Four Inns of Court; Official Principal to the
Archdeacon of London;*

AND

H. MACAN, M.A.,

Late Scholar of Queen's College, Oxford; Education Secretary to the Surrey County Council.

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TO
HIS MAJESTY'S ATTORNEY-GENERAL,

IN
REMEMBRANCE OF SERVICES
TO EDUCATION

AND
THE EDUCATION ACT OF 1902

THIS EDITION OF THE ACT IS BY PERMISSION RESPECTFULLY
DEDICATED

BY
THE AUTHORS.

P R E F A C E

TO THE SECOND REVISED EDITION.

THE passing of the Education (London) Act, 1903 (c. 24), has necessitated some revision: the London Act with notes is now added at the end of the volume, and also Mr. Long's short Education (Provision of Working Balances) Act, 1903 (c. 10); the pages containing these two recent Acts being edged with red.

The London Act comes into operation on May 1st, 1904, or at any later date within twelve months appointed by the Board: the London Act applies generally the provisions of the principal Act of 1902 to London, the London County Council being the Education Authority. The Board have issued a memorandum (E. A. 4 L) directing that the memoranda and forms as to the appointment of Foundation Managers under the principal

Act (App. A. below) are to apply, with the necessary modifications, to London. There are, however, considerable differences: for non-provided or *voluntary* schools the rules and machinery are generally the same as for non-provided schools in a county under the 1902 Act, the Metropolitan Borough Councils (and the Common Council in the City) being the minor Local Authorities; but special arrangements are made giving the Borough Councils in London a predominant voice in selecting the Managers of all *provided* schools. There are also special provisions as to the selection of sites, and as to Boundary Schools in the Metropolis: there is no limitation of the Higher Education rate to 2*d.* as in other counties, and there is a special provision as to the application of the income of endowments in London.

The Act of 1902 has been generally accepted with readiness throughout the country: the total number of Education

Authorities under the Act was 333: by the 31st July, 1903, 266 of these had got the scheme for their Education Committees in working order, and nineteen others were on the point of having theirs approved [Report of the Board of Education for the year 1902-3. Cd. 1763, p. 7]. An account has been inserted in the pages devoted to the Transition Period of how the authorities are proceeding to put the Act in operation, and of some of the difficulties encountered (pp. 81 to 86). Thanks are due to the Press for continued friendly criticism; and to the officials of the Board of Education, and especially to Mr. H. J. Simmonds, for much courteous help.

C. A. MONTAGUE BARLOW,

3, STONE BUILDINGS,

LINCOLN'S INN, W.C.

H. MACAN,

SURREY COUNTY HALL,

KINGSTON-ON-THAMES.

October 5th, 1903.

P R E F A C E.

THE primary object of the present volume is to give an explanation of the provisions of the Education Act, 1902, especially in their legal and financial aspects; and to indicate the steps which should at once be adopted by the various existing and future authorities, the Education Committees and Voluntary Managers, during the interim period up to March 26th next (*a*), when the Act is to come into force (Section II.). Most of the existing legal machinery affecting Elementary and Secondary Education, however, still continues in force; Section I. has, therefore, been devoted to a short summary of so much of the existing law as remains in force, and is necessary to explain the new Act.

(*a*) The Board of Education has, however, power to postpone this date. See s. 27 of the new Act.

While the Authors accept joint responsibility for the book, Mr. BARLOW is mainly answerable for the legal portion and the Notes to the Act; Mr. MACAN for the pages dealing with Finance, and the Suggestions for Local Authorities during the Transition Period.

For convenience and to save space, the short titles of Acts of Parliament have been used throughout; the form of short title authorised by Parliament is, however, inconvenient when referring to the Acts themselves, as, though the year is given, the chapter is not; the chapter has therefore been added in each case—thus, Education Act, 1902 (c. 42).

C. A. MONTAGUE BARLOW,

3, STONE BUILDINGS,

LINCOLN'S INN, W.C.

H. MACAN,

SURREY COUNTY HALL,

KINGSTON-ON-THAMES.

January 10th, 1903.

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THE EDUCATION ACT, 1902.

(2 EDW. 7, c. 42.)

INTRODUCTION.

THE Education Act of 1902 marks a new and welcome departure in the history of education in England. For the first time an attempt is made to secure for the children of this country of both sexes something like a comprehensive scheme of education of all kinds, elementary, secondary, technical and commercial, subject, though in varying degrees, to uniform central and local authorities.

It had been obvious for some years that the chaotic condition of education in England could not be allowed to continue. In the first place, there was no central educational authority, the field being covered by more or less competing bodies—the Education Office at Whitehall (a committee of the Privy Council), dealing mainly with elementary education, and the Science and Art Department at South Kensington, dealing mainly with secondary education, on its scientific side; while the endowed schools looked to the Charity Commissioners as the only central authority having legitimate control over them. In addition, three evils crying aloud for remedy were, the inefficiency and want of proper stimulus and control for the smaller

school boards in the country ; the financial difficulties of the voluntary schools ; and, with regard to secondary schools, the complete absence of any authority, central or local, to inspect, co-ordinate, and control them, or to give them help from public funds.

In 1896 the Government attempted a comprehensive solution of the problems involved in both branches of education, and failed. The present Act accomplishes, though on somewhat different lines, what was then attempted without success. The way had, however, been already prepared by the creation of a—

Board of Education.—By the Board of Education Act, 1899 (c. 33), the Education Department, and the Science and Art Department at South Kensington were abolished, and as from April 1st, 1900, a proper supreme education authority is set up in their place ; the Board consists of a President and of the Lord President of the Privy Council, unless they are the same person (*a*), all the five Principal Secretaries of State, the First Commissioner of the Treasury, and the Chancellor of the Exchequer.

Powers of the Charity Commissioners or of the Board of Agriculture relating to education may be transferred to the Board of Education by Order in Council (s. 2). By a succession of Orders most of the powers of the Charity Commissioners of a purely

(*a*) The Marquis of Londonderry, the Minister of Education, is President : in addition, the existing members of the Board are the Duke of Devonshire, Lord Lansdowne, Lord George Hamilton, Mr. Chamberlain, the Hon. St. John Brodrick, Mr. Akers-Douglas, Mr. Arthur Balfour, and Mr. Ritchie. The Board is represented in the House of Commons by a Parliamentary Secretary, Sir W. Anson.

educational nature have now been absorbed by the Board (*b*). The Board are also given voluntary power to inspect or provide for the inspection of secondary schools, on the application of the school (s. 3).

Power is given to the Crown in Council to appoint a consultative committee, in order to frame a register (*c*) of teachers, and advise the Board (s. 4) (*d*).

The new Act of 1902 does not include London save incidentally ; the subject of education in London is not, therefore, referred to in this volume.

(*b*) See below, p. 29.

(*c*) Regulations for a register of teachers have been published by the Board. There is to be a Teachers' Registration Council, consisting of twelve members, six to be appointed by the Board and six by bodies of teachers, such as the Head Masters' Conference.

(*d*) A consultative committee of eighteen, consisting of Sir Richard Jebb, Mr. Henry Hobhouse, M.P., Mr. Ernest Gray, M.P., the Hon. and Rev. Edward Lyttelton, and other well-known educationists, was appointed in August, 1900 (Statutory Rules and Orders, 1900, p. 171).

SECTION I.

LAW PRIOR TO 1902.

ELEMENTARY EDUCATION (*a*).

School districts.—The Act of 1870 (c. 75) divided all England into districts, each district to be responsible for elementary education within its own borders (s. 4 and sched. 1, both repealed).

The three chief kinds of district were :

- (1) The metropolis ;
- (2) Boroughs ;
- (3) Parishes not included in 1 and 2 (*b*) ; a “ parish ” being a place for which for the time being a separate poor rate was or could be made (s. 3).

In every district a sufficient amount of accommodation must be provided in—

- (a) “ public elementary schools, available (*c*) for all children resident in such district,
- (b) “ for whose elementary education
- (c) “ efficient and suitable provision is not otherwise made ” (s. 5, now partly repealed).

(*a*) See, for a full account of this subject, Organ's Education Law : Butterworth & Co., 1903.

(*b*) Where a borough divided a parish, the part outside the borough boundary was to be a district, as also the detached part of a parish (Elementary Education Acts, 1870 (c. 75), s. 77 ; 1876 (c. 79), s. 49 ; 1873 (c. 86), s. 12).

(*c*) “ Available ” means within reach, but not necessarily within the area.

This section 5 is the basis of our elementary education system ; it is repealed by the 1902 Act so far as relates to the school districts which have ceased to exist ; but it is retained for the purpose of defining what “ *public school accommodation* ” is ; it is therefore necessary to examine closely the terms used.

Elementary school.—An elementary school is one at which (i) “ *elementary education* is the principal part of the education there given ” (*d*) ; and (ii) does not include any school “ at which the ordinary payments in respect of the instruction for each scholar exceed ninepence per week ” (Elementary Education Act, 1870 (c. 75), s. 3, unrepealed). The restriction as to fees is not now important ; but it is important to define—

Elementary education ; for a line is still sharply drawn by the new Act between elementary and secondary education. No definition of the words is given in the new Act, while definitions in the Elementary Education Acts, 1870 to 1890, are expressly retained unless the context otherwise requires (Education Act, 1902 (c. 42), s. 24 (1)). None of the earlier Acts define what *elementary education* is. Parliament in 1870 assumed it meant little more than the “ three R’s ” (*e*). In any case, power was given by the Act of 1870 to the Education Department to frame minutes (Elementary Education Act, 1870 (c. 75), s. 97).

(*d*) See *R. v. Cockerton*, [1901] 1 K. B., at p. 339.

(*e*) The code for several years provided for nothing more than the “ three R’s. ” See *R. v. Cockerton*, below, judgment of WILLS, J. The Elementary Education Act, 1876 (c. 79), s. 4 (unrepealed), makes it “ the duty of the parent of every child to cause such child to receive efficient elementary instruction in reading, writing, and arithmetic. ” But this is only a minimum limit. See below, p. 102.

And these, embodied in codes from time to time in force, have very much varied and extended the list of elementary subjects (*f*).

The question came up before a divisional court (WILLS and KENNEDY, J.J.), and the Court of Appeal (A. L. SMITH, M.R., COLLINS and ROMER, L.J.J.) in the recent case of *R. v. Cockerton* (*g*). In 1898 Mr. Cockerton, the Local Government Board auditor, surcharged the expenses incurred in paying a drawing master to teach drawing classes in board schools constituted as day art classes under the Science and Art Department at South Kensington; and the expenses of a science master's salary for teaching science to evening classes held in board schools constituted as science classes, also under South Kensington. The distinction was clearly drawn in the case between South Kensington and Whitehall. Prior to April 1st, 1900, when the Board of Education Act, 1899 (c. 33), came into force, the Education Department, which was controlled by the Lords of the Committee of the Privy Council on Education, comprised two establishments or departments: (i) the Education Department at Whitehall, administering the annual parliamentary grant for public education; (ii) the Science and Art Department at South Kensington, administering the Parliamentary

(*f*) The Royal Commission in 1888 gave the following list: Reading, writing, arithmetic; needlework for girls; lineal drawing for boys; singing; English, so as to give the children an adequate knowledge of their mother tongue; English history in reading books; geography, especially of the Empire; lessons on common objects, leading up to elementary science. See Final Report (1888), p. 146.

(*g*) [1901] 1 K. B., pp. 322, 726. For a further case of disallowance by Mr. Cockerton of costs of pupil teachers' centres, see *Times*, April 23rd, 1902.

grant for instruction in science and art. Though both under the control of the president and vice-president of the Committee of the Council on Education, they were quite distinct even before 1870. South Kensington was incorporated by Royal Charter in 1864; their administrative staffs were entirely different and distinct. South Kensington issued a *directory* with a very thorough scheme of education up to university standard in the subjects contained in it; Whitehall issued a *code* containing a wider list of subjects, but all treated in much more elementary way than in the Directory.

Both courts were unanimous that the school board could not vote money out of the rates for teaching science and art in accordance with the South Kensington Directory; or for teaching adults in any case.

The following were the chief points arising in the judgments:

(i) Parliament purposely did not define "*elementary education*" rigidly in 1870; the "three R's" were the minimum but not the maximum intended—that must vary from time to time.

"The code at that time (1870—1874) provided for no grants for any instruction beyond what have been called the three R's. I cannot believe for a moment that it was ever intended that in board schools nothing beyond the very low standard to which alone elementary education, as then understood, had reached should be aimed at by the board schools. . . . Elementary education is obviously a term which may shift with the growth of general instruction and attainment" (WILLS, J., at pp. 339, 340).

(ii) The limits imposed were that *elementary education* must be for—

- (a) *Children, i.e.*, probably up to sixteen or seventeen (p. 341) (*h*) ;
- (b) It must be such as was prescribed from time to time by the Whitehall code (p. 354), *i.e.*, minutes made in pursuance of s. 97 of the Act of 1870.

“I am not asked in this case,” said A. L. SMITH, M.R., “to say whether the code embraces more than *elementary education*. but I may say it appears to me to embrace *elementary education* up to its high water mark” (p. 729).

(iii) Provided the principal part of the instruction is elementary, there is nothing to prevent education other than elementary being given in a public elementary school (p. 339) (*i*).

A school, therefore, is an “*elementary school*” if the principal part of the instruction given is elementary education of this type. But by s. 5 of the Act of 1870, parents were, and are still, entitled to demand more than this, not only that their children shall have access to an elementary school as so defined, but to a PUBLIC ELEMENTARY SCHOOL, *i.e.*, an elementary school as above defined, and something more ; to bring an elementary school within the class of PUBLIC ELEMENTARY SCHOOLS it must comply with the following further conditions (s. 7 of Elementary Education Act, 1870 (c. 75),

(*h*) The limit under the new Act is fixed at scholars who at the close of the school year will not be more than sixteen years of age (s. 22 (2)).

(*i*) This does not appear to be altered by the Education Act, 1902 (c. 42), s. 22 (2), at any rate for non-provided schools. See, however, notes to s. 5, below, p. 102.

unrepealed), intended to protect children of all denominations in denominational voluntary schools :

- (i) By the conscience clause, admission to the school must not be conditional on a child's attendance, or non-attendance at any "Sunday school or any place of religious worship" outside the school, or at any "religious observance or instruction in religious subjects" inside the school or elsewhere, from which he may be withdrawn by his parent ; or if withdrawn by his parent from such religious instruction, the child must not be compelled to come to school on any day exclusively set apart (as in the case of Saturday by the Jews) for religious observance by the religious body to which the parent belongs.
- (ii) Religious instruction, if given at all, must be given at the beginning or end of school hours, and a time table showing the times when it is given must be hung up in every school.
- (iii) The school must be open for inspection at all times by his Majesty's inspectors.
- (iv) The school must be conducted so as to comply with all other conditions laid down from time to time by the Acts and minutes of the Department (now the Board of Education), as necessary in order to gain the Parliamentary grant (*k*).

The two kinds of PUBLIC ELEMENTARY SCHOOLS are—

- (i) Voluntary (*i.e.*, usually denominational) schools which comply with these conditions.

(*k*) Embodied in s. 97 of the Act of 1870 and the minutes or code from time to time in force thereunder.

- (ii) Board schools. Every board school must be a *public elementary school* (Elementary Education Act, 1870 (c. 75), s. 14 (1) unrepealed).

Thus, every school district had to have sufficient accommodation for elementary education in schools of one of these three types :

- (i) Elementary schools which afforded "*efficient and suitable*" provision, but were not *public elementary schools*. Such would be, for instance, private schools giving mainly elementary education, and not charging fees above 9*d.*, which did not comply with the conditions necessary for a *public elementary school* (l), but yet might be "*efficient*" educationally, and "*suitable*" to the religious wishes of the parents ; if, however, a minority objected, they would then be entitled to demand accommodation in either—

- (ii) Voluntary *public elementary schools* ; or

- (iii) *Board schools*. In addition to the conscience clause applicable to all public elementary schools, board schools were subject to the further restriction, embodied in the famous Cowper-Temple clause, that "no religious catechism or religious formulary which is distinctive of any particular denomination

(l) *E.g.*, possibly had not got a certificated teacher, but were decided by his Majesty's inspectors to be "*efficient*" and "*suitable*," that is, were not objected to by the parents of scholars, even though not observing the conscience clause. For instance, if in a country parish a Church of England school did not accept the conscience clause, it could not get the annual grant. See Instructions to Her Majesty's Inspectors, issued in May, 1871.

shall be taught in the school" (Elementary Education Act, 1870 (c. 75), s. 14 (2), unrepealed).

Accommodation.—Since the Elementary Education Act of 1891 (c. 56), every school district must provide sufficient public school accommodation *without payment of fees* for children over three and under fifteen years of age (s. 5). What exactly is a "sufficient amount of accommodation" it is, of course, difficult to say; the answer varied according to the requirements of each district. The ordinary working rule adopted by the Board of Education when making loans has been that accommodation in elementary schools of some kind will be required for *one-sixth of the entire population*. The accommodation in any particular school is determined by the report of the inspector on that school.

Authority to provide extra accommodation.—The school boards were required to provide such additional accommodation as they might think necessary (Elementary Education Act, 1870 (c. 75), s. 18, unrepealed). The Department, however, exercised an indirect veto: (a) In London, by means of the provisional order necessary for every new building; (b) in the country, if a loan was required, the Department's consent had to be obtained, and under Elementary Education Act, 1873 (c. 86), s. 10, such consent must be withheld if the Department thought the additional accommodation unnecessary; (c) the Department might refuse annual grants to a school if unnecessary (*m*). In districts where there was only a school attendance committee (*n*)

(*m*) Elementary Education Act, 1870 (c. 75), s. 98.

(*n*) See below.

and no school board, the school attendance committee could make representations to the Department, but the Department alone could act, and, if necessary, require a school board to be appointed.

As the legislature had imposed the obligation to supply deficiencies of accommodation on the school boards (s. 18, above), the Department has generally allowed to the boards, as against voluntary committees, a prior right to do so. Special provision is made in the new Act, ss. 8 and 9, for settling questions of prior right in the provision of new schools by means of an appeal to the Board of Education, which is bound to take certain factors into consideration.

School boards.—After the Act of 1902 comes into operation, references to the school boards and school districts in sections of the earlier Act not repealed are, generally speaking, to be construed as references to local education authorities, and the areas for which they act (Education Act, 1902 (c. 42), Third Sched. (1)) ; and the local education authority, *i.e.*, the county, borough, or urban district council, according to circumstances, is to have throughout its area the powers and duties of a school board and school attendance committee (s. 5), so that most of the law in force now as to elementary education is retained in operation. But the school board and school attendance committees are themselves abolished (s. 5). Consequently the machinery sections relating to proceedings for the supply of schools and formation of boards (Elementary Education Act, 1870 (c. 75), ss. 8—13), for the constitution and membership of school boards (ss. 29—34), for united and contributory school districts (ss. 40—

51), for expenses of the school boards (ss. 53—56), for accounts and audit (ss. 60—62), and for defaulting boards (ss. 63—66), are repealed on the new Act coming into force (o). The provisions of the old law on these points, therefore, need not detain us. Most of the provisions, however, relating to the actual powers and duties of the school boards are to apply to the new local authorities.

In addition to the power to enforce attendance (see below), the chief powers of school boards remaining in force relate to—

Purchase or taking of land.—This may be done in one of three ways :

- (i) By agreement under the agreement sections of the Lands Clauses Consolidation Acts (p), which Acts are expressly incorporated in the Elementary Education Act, 1870 (c. 75), s. 20 (1) (unrepealed). The school board, and now the local education authority, may agree with the owner of land required, and with all parties having any interest in the land for the purchase of the land required. Persons under disability, such as infants, are empowered to sell, provided proper valuations are made to safeguard their interests, the purchase money to be deposited in the bank for their

(o) The Act comes into force on the “appointed day,” *i.e.*, March 26th, 1903, or such later date within eighteen months as the Board of Education may fix. The Board may apply portions of the Act at different times in different places ; and see Circular 474, Appendix A.

(p) 1845 (c. 18), 1860 (c. 106), 1869 (c. 18), 1883 (c. 15), 1895 (c. 11).

benefit (*q*). The consent of the Board of Education is not necessary.

(ii) Under the School Sites Acts (see below) (*r*).

(iii) "Otherwise than by agreement," that is compulsorily under the Lands Clauses Consolidation Acts.

"Land" includes "any right over land," and the promoters of the undertaking are to be construed to mean now the local education authority (*s*).

The land can only be purchased for the purposes of elementary education as laid down in the Acts, though these purposes will not be narrowly interpreted (*t*). School buildings can be erected on land properly acquired, even though they interfere with "ancient lights," or other easements; the only remedy of the owners is compensation in damages, and no injunction will lie to prevent the erection (*u*).

Before putting into force any of the powers with respect to the taking and purchase of land compulsorily the following formalities are necessary :

(i) Publication of a notice during three consecutive weeks in October and November giving particulars of the proposed site.

(*q*) Section 6 of Lands Clauses Act, 1845, c. 18; and see generally ss. 5—15.

(*r*) Elementary Education Act, 1870 (c. 75), s. 20, last clause unrepealed.

(*s*) Elementary Education Act, 1870 (c. 75), s. 20 (1), unrepealed.

(*t*) *Rolls v. School Board for London* (1884), L. R. 27 Ch. D. 639.

(*u*) *Clark v. School Board for London* (1874), L. R. 9 Ch. App. 120; and see *Kirby v. School Board for Harrogate*, [1896] C. A. 1 Ch. 437.

(ii) Service of notice on the owner, lessee, or occupier of the land; also giving particulars and asking whether, or no, he assents. This must be served either personally, or at the owner's usual or last known place of abode.

(iii) A petition to the Department (now the Board of Education); and it may order a public inquiry (see below) (*v*). If satisfied, the Board may make an order sanctioning the purchase; but to be valid this order requires the sanction of Parliament.

School boards, and now local education authorities, are also empowered to purchase a *school-house and site* as well as *land* (*y*). They may also *sell, lease, and exchange* land with the consent now of the Board of Education (*z*).

Transfer and retransfer of schools to school boards, and now to local education authorities.—In view of the new Act these powers may be in future not infrequently exercised. The right to transfer will vary according as the existing owners or managers of the premises to be transferred have or have not, apart from statute and by their own trust deeds, if any, power to lease or transfer.

(i) *Transfers without the consent of the Board of Education*.—Where trustees have power by their trust

(*x*) Elementary Education Act, 1870 (c. 75), s. 20 (2)—(8), unrepealed.

(*y*) Elementary Education Act, 1870 (c. 75), s. 21, unrepealed. These powers, under s. 21, apply to *all* managers of "public elementary schools."

(*z*) Under the Charitable Trusts Acts, 1853—1869 the Department was substituted for the Charity Commissioners (Elementary Education Act, 1870 (c. 75), s. 22, unrepealed).

deed to sell or lease the premises for educational purposes, then they can sell, or let to the local education authority, provided they comply with s. 29 of the Charitable Trusts Amendment Act, 1855 (c. 124), that is to say, for a sale or long lease beyond a period of twenty-one years, the consent (originally of the Charity Commissioners and now) of the Board of Education is necessary, or of the Court of Chancery (a), *but for a short lease up to twenty-one years no such consent is necessary*. Such a lease to the local education authority will take effect under s. 19 of the Elementary Education Act of 1870, a rent may be charged and arrangements made for religious teaching, and the Board of Education cannot interfere (b).

(ii) If, however, an "elementary school" is vested in trustees without power under their deed to sell, lease or transfer it, recourse must be had to s. 23 of the Elementary Education Act, 1870 (c. 75) (c).

Section 23 requires several formalities; the most important are the assent of the Board of Education, and of two-thirds of the annual subscribers, if any; but in addition any requirements of the trust deed as to procedure and assents must be observed; if none, then the usual rules of procedure for acts intended to

(a) *Re Mason's Orphanage*, [1896] 1 Ch., p. 596.

(b) Apart from statute, the Chancery Courts always allowed charity trustees to sell or lease, provided they could prove this would be for the benefit of the charity. Even in the case of the leases for less than twenty-one years above mentioned, it might still be necessary to prove this fact. See generally, *Re Stockport Ragged School*, [1898] 2 Ch., p. 687, and notes to s. 7 below.

(c) See Circular of Education Department, January 1st, 1872; Elementary Education Act, 1870 (c. 75), ss. 18, 19. This circular requires much modification in view of s. 29 of the Charitable Trusts Amendment Act of 1855.

bind the managers must be followed ; and if no usual rules exist, then the consent is necessary of two-thirds of the managers present at the meeting summoned to consider the question, together with any other assents the Board of Education may think necessary. The Board must also inform the trustees, if any, of the school who are not managers, and "shall consider and have due regard to" any objections they may urge. The managers can only transfer to relieve themselves of the responsibility of maintaining the school, and not to discharge debts for which they have made themselves liable in connection with the school. If the trustees or managers have, *apart from the Act*, s. 23, a right actually to mortgage or incumber the school premises, and such power has been exercised, the legal transfer to the school board would be made subject to such mortgage or incumbrance and the mortgagee's rights would be protected (*d*).

It is to be noted that the Board of Education (*e*) has no power to *compel* transfers, only to sanction any "*arrangement*" come to between the voluntary school

(*d*) If schools have been erected partly by funds granted by Parliament, there is no power to mortgage or charge the premises. If it were part of the arrangement for the transfer that the local education authority should pay any outstanding debt, the auditor might attempt to surcharge this : the ratepayers could only be made to contribute towards the expenses of a school "*provided by a school board*," which means "a school conducted under the control and management of a school board" (Elementary Education Act, 1870 (c. 75), s. 14, unrepealed). When the past debts were incurred the school was not in this position. But where a transfer takes place in the course of the school year, the managers may of course make an arrangement to claim a proportionate part of the grant.

(*e*) A form of transfer is provided by the Board.

managers and the school board (now the local education authority). If any person has any right to use the school for any particular purpose, *e.g.*, a clergyman for a Sunday school, his consent must be obtained. The managers (*f*) may convey outright their whole interest in the premises, or *lease* them for a period or for a portion of the week only, and generally may make what terms they please. But by the minute of the Department as to transfers, no rent beyond a nominal one of 5*s.* may be charged, though if the premises are leasehold, the rent under the existing lease will be paid. The arrangement may provide for the transfer of any *endowment*, but must not prescribe what kind of instruction is in future to be given in the school (*g*). Six months after the Board has sanctioned the transfer, the arrangement cannot be called in question (s. 23).

Not only trustees, but *any person who has contributed to the establishment of the school*, can make objections as to the proposed transfer, and the Board of Education "shall consider and have due regard to such objections." This does not, however, give to persons who have so contributed any right actually to *revo* the transfer; many schools have been founded partly out of funds contributed by societies, such as the National Society, the Wesleyan Education Committee, and the Roman Catholic Poor School Committee (*h*).

(*f*) Note the managers may transfer, though the legal estate is in trustees (s. 23).

(*g*) Minute of July 17th, 1871, s. 4.

(*h*) In one case the National Society did attempt to prevent the transfer of a school in the parish of Emanuel, Camberwell, towards whose foundation they had contributed, and which by its trust deed was "always to be in union with, and conducted

The contributions of these societies would not, without more, give a right of veto ; but a veto may be expressly reserved as in many modern forms of trust deed (*i*).

The school when transferred, and to the extent of the transfer, shall "be deemed to be a school provided by the school board," and now by the local education authority (s. 23, last clause, unrepealed). Many voluntary schools have been transferred to boards under these sections with or without rent ; the incumbent or managers being relieved from all cost of keeping up the school or buildings, but usually retaining the use of the school premises during all or some of the evenings in the week, and on Sundays for Sunday schools. Provisions are also made for retransfers to the voluntary managers on certain terms, and with the consent of the Department, or now, the Board of Education (s. 24).

Returns and inspection.—The Education Department (now the Board of Education) may require the "*local authority*," or any person or persons the Board may appoint, to make a return containing such particulars as to the elementary schools and children requiring elementary education, as the Board may require. The Board draw up the forms, and the returns

according to the principles, and in furtherance of the ends and designs," of the Society. One of the terms of union was that the children should be "instructed in the Holy Scriptures and in the liturgy of the Established Church." In spite of these provisions so incorporated into the deed, it was held that the National Society could not do more than put their objections before the Department under the section ; they could not forbid the transfer (*The National Society v. School Board for London* (1874), L. R. 18 Eq. 668).

(*i*) *E.g.*, the Roman Catholic Trust Deed reserves a veto to the Bishop. See Board of Education Precedents of Trust Deeds, 1902 (ed. 1337), p. 17.

are to be annual (Elementary Education Act, 1870 (c. 75), ss. 67, 68, unrepealed). The local authority for the purpose of returns will now be the "*local education authority*" under Education Act, 1902 (c. 42), s. 1. Inspectors of returns may also be appointed.

Refusal to make the returns required or to admit the inspectors, removes the school from the list of those which are "*efficient*" (Elementary Education Act, 1870 (c. 75), ss. 70—72, unrepealed).

Further, not only the Department (and now the Board of Education), but the school boards, and now the local education authority, can call for returns (*k*) from the managers of any public elementary school in their area, wherein byelaws under the Elementary Education Act, 1870 (c. 75), s. 74, have been made enforcing compulsory attendance; so that the superior authority may see that the law is being properly enforced. All public elementary schools must be open at all times to the inspectors appointed by the Board of Education (*l*): under the new Act the local education authority have also express power to inspect all non-provided schools (s. 7 (1) (b)). They can, of course, also inspect their own provided schools. The new Act allows the councils to call for returns at once, before the Act comes into operation, from all managers of public elementary schools and school attendance committees (sched. 2 (15)).

Public inquiries.—The Act of 1870 directed, in many cases, that persons aggrieved could, provided certain conditions were complied with, demand that a public

(*k*) 1873 Act (c. 86), s. 22, unrepealed.

(*l*) Elementary Education Act, 1870 (c. 75), s. 7, unrepealed.

inquiry should be held to examine into all the circumstances of the case. Many of the occasions for such inquiries arose under sections now repealed, *e.g.*, s. 9 of Elementary Education Act, 1870, allowing a public inquiry if a certain portion of ratepayers, or the managers of any elementary school felt aggrieved by the decision of the Education Department with regard to the public elementary school accommodation for the district. But several occasions permitting inquiry can still arise under the earlier Acts, *e.g.*, on a compulsory purchase of land for a school (Elementary Education Act, 1870 (c. 75), s. 20), under the Lands Clauses Consolidation Act; and many similar occasions will arise under the new Act, the inquiry being either required by the Act (*e.g.*, in s. 16), or granted at the discretion of the Board of Education (s. 23 (10)), and s. 73 of Elementary Education Act, 1870, is especially made to apply to all future inquiries by s. 23 (10).

By s. 73, the Department (now the Board) shall appoint some person to hold the inquiry; when appointed, he is to hold sittings at some convenient place in the neighbourhood, and hear all evidence (*m*) and information offered, and inquire into any objections.

The Board are to publish notice of every sitting seven days before it is held, but need not publish notices of adjourned sittings. The person appointed must report in writing to the Board, giving his results with his opinion, and reasons for it, and the school board (now the local education authority) must have a copy of this sent them. The Board may make an order directing that the costs of the inquiry shall

(*m*) This will not be on oath.

be paid according as they think just, either by the area, as if they were expenses of the school board or now the education authority, or by the applicants for the inquiry ; or they may make the grant of the inquiry in the first instance conditional on the applicant giving security for expenses. Inquiries are to be held under the new Act as to endowments (s. 13) and for other purposes (s. 23 (10)).

Compulsory attendance ; school attendance committees.—The Elementary Education Act of 1870, itself, only gave the parent the *right* to demand elementary education ; it did not force that education on him (*n*) ; but the Elementary Education Act, 1876 (c. 79), applied indirect (s. 7), and the Elementary Education Act, 1880 (c. 23), applied direct compulsion (s. 2), to the parent to enforce the child's attendance.

The machinery provided for securing this compulsory attendance was of two kinds :

- (1) The school boards.
- (2) The school attendance committees where there was no Board (Elementary Education Act, 1876, s. 7, now repealed as to attendance committees).

These two bodies were known as the "local authority," and carried out the methods of compulsion provided by the Acts, the school boards in districts over which they had jurisdiction, the school attendance committees in all other districts.

The attendance committees were appointed annually, if the district were a borough, by the council of the

(*n*) *Discretionary* power was, however, given to each board to make byelaws enforcing attendance (s. 74).

borough, or if it were a parish, by the guardians of the union in which such parish was situated (*o*).

Power was also given to the Education Department to authorise the appointment of a separate school attendance committee by an urban sanitary authority, on certain terms, and provided its population was not less than 5,000 (*p*). The provisions as to the appointment of school attendance committees are now repealed, and need not detain us ; but a word must be said as to the powers possessed by these "local authorities" to compel attendance, for these powers survive.

(i) The Act of 1870 (c. 75) allowed each school board a *discretion* whether it would, for its own district, make byelaws enforcing attendance or not ; it could only exercise the power subject to limitations imposed by s. 74 (unrepealed) of that Act. The child must be between the ages of five and thirteen ; the byelaws must not infringe the "conscience clause," and must provide for remission of fees where poverty is proved, and for exemption from obligation to attend when a certain standard is reached ; "*reasonable excuse*" must also be allowed. Subject to these conditions the byelaws may impose penalties for breach of these provisions not exceeding, with costs, 5*s.* for each offence. The following grounds of "*reasonable excuse*" are expressly mentioned in the Act : efficient instruction elsewhere ; sickness, or any unavoidable cause ; absence

(*o*) Elementary Education Act, 1876 (c. 79), s. 7, partly repealed.

(*p*) See Elementary Education Act, 1876 (c. 79), ss. 31, 32, repealed, s. 33, partly repealed, ss. 34 and 36 repealed.

of a public elementary school within three miles (s. 74) (*q*). The Education Department (now the Board) must sanction the byelaws, and they are not valid till enforced by Order in Council. The byelaws will now be made by the local education authority.

(ii) The Act of 1876 (c. 79) is memorable for having for the first time declared it “*the duty of the parent of every child*” to cause the child to receive *efficient elementary instruction*, though the Act did not go further than “reading, writing, and arithmetic” in its definition of elementary instruction (s. 4, repealed). The Act created the *school attendance committees* to enforce this obligation in districts where no school board existed. The methods of compulsion provided by the 1876 Act were of two kinds: (a) the school attendance committee was given the same power of making byelaws as the school boards had under the Act of 1870 (Elementary Education Act, 1876 (c. 79), s. 21, now repealed) (*r*); (b) restrictions are placed on the employment of children under ten, or who have not attained a certain standard of proficiency (s. 5, unrepealed) (*s*).

(iii) Finally, the Elementary Education Act of 1880 (c. 23), introduced universal *direct* compulsory attendance; by s. 2 (unrepealed), in any district which had not already got byelaws under s. 74 of the Act of

(*q*) But these grounds are not exclusive; the courts have allowed other grounds of reasonable excuse, *e.g.*, regular despatch to school by the parent of a child who plays truant (*Belper Union v. Bailey* (1882), 9 Q. B. D. 259). “No boots” is not an excuse which will be allowed.

(*r*) Education Act, 1902, sched. 4.

(*s*) See Elementary Education Act, 1880 (c. 23), s. 4.

1870, the local authority was obliged *forthwith* to make byelaws, and if they did not do so the Department might.

Voluntary schools.—These are public elementary schools not under the control of the school board. In order to earn parliamentary grants they are subject to the conscience clause, and the other conditions of s. 7 (unrepealed) of the Elementary Education Act of 1870, but not to the Cowper-Temple clause (s. 14), and the managers could give what religious instruction they pleased.

The sites for very many voluntary schools have been conveyed under the SCHOOL SITES ACTS (*t*), the provisions of which under the new Act may become of considerable importance. Any person seised in fee simple, fee tail, or for life, and having the beneficial interest, may grant or convey, either by way of gift, sale or exchange, in fee or for a term of years, not more than one acre of land “as a site for a school for the *education of poor persons* or for the residence of the schoolmaster or schoolmistress, or otherwise for the purposes of the education of *such poor persons* in *religious and useful knowledge*.” There is a REVERTER clause (s. 2) by which, if the land or any part of it ceases to be used for these purposes, it is to revert to the estate to which it originally belonged. Even if trust deeds permit of the premises being closed (*u*) as a public elementary school, the site of most voluntary schools will revert to the estate of the donors if no educational work *for poor*

(*t*) 1841 (c. 38) ; 1844 (c. 37) ; 1849 (c. 49) ; 1851 (c. 24).

(*u*) See Memorandum of Board of Education, E. A. 1, par. 4, Appendix A.

persons in religious and useful knowledge is carried on ; the opinion of conveyancing counsel has been given that probably use during the week as a library or institute for working men and on Sundays for Sunday schools, is sufficient to prevent reverter.

Industrial schools.—These are of two kinds : (a) Certified industrial schools under the Industrial Schools Act, 1866 (c. 118). These are defined as “schools in which industrial training is provided, and in which children are lodged, clothed and fed, as well as taught” (s. 5). A school board might, with the consent of the Department, establish, build, and maintain such a school (*x*). The main object for which the industrial school is used is to secure the education of the wastrel child ; and school board or school attendance officers are to bring children who are liable to be sent to such a school before two justices, so that they may be ordered there (*y*). (b) Day industrial schools. These were introduced by the Elementary Education Act, 1876 (c. 78), and are defined as schools in which “industrial training, elementary education, and one or more meals a day, but not lodging, are provided for the children” (*z*). Children who may be sent to a *day* industrial school include all those who may be sent to an industrial school, and, in addition, those who may be sent there for failing to comply with an “attendance order” (*a*).

(*x*) Elementary Education Act, 1870 (c. 75), s. 28, unrepealed.

(*y*) Elementary Education Act, 1870 (c. 75), s. 36, unrepealed.

(*z*) Elementary Education Act, 1876 (c. 79), s. 16 ; Day Industrial School Order, March 20th, 1877, Art. 2.

(*a*) Elementary Education Act, 1876 (c. 79), s. 12, unrepealed.

SECONDARY EDUCATION PRIOR TO 1902.

Prior to the Board of Education Act of 1899 (c. 33), there was no permanent authority in England capable of exercising control over the secondary schools, and general education of the country above the rank of elementary. Apart from the stimulus of occasional Royal Commissions, or the partial interference of the Charity Commissioners, or of the Science and Art Department (where they made grants), the secondary schools were left to pursue their way unregulated by State control and unaided by public money. Further, secondary school authorities laboured under greater difficulties than elementary authorities in the following particulars: (i) They could not avail themselves of the School Sites Acts; (ii) they could not secure land under the Technical and Industrial Institutions Act, 1892 (c. 29); (iii) the law of mortmain pressed more hardly upon them; (iv) they could not borrow money from the Public Works Loan Commissioners as school boards could (Elementary Education Act, 1873 (c. 86), s. 10, repealed). Parliament had, however, made some provision for covering portions of the ground.

I. The Endowed Schools Acts.—These consisted of the Endowed Schools Act, 1869, and amending Acts (*b*). The object of these Acts was to promote secondary education by giving to a commission drastic powers to make schemes for the better administration of existing endowments devoted to this purpose. In 1874 the jurisdiction of the Endowed School Commissioners was

(*b*) Endowed Schools Act, 1869 (c. 56); 1873 (c. 87); 1874 (c. 87); and see Welsh Intermediate Education Act, 1889 (c. 40).

transferred to the Charity Commissioners, and now, in pursuance of the Board of Education Act, 1899 (c. 33), orders have been made transferring this jurisdiction, so far as concerns endowments held *solely* for educational purposes, to the Board of Education (c). “Educational endowments,” to which the Acts apply, mean all endowments which, or the income whereof, is applicable to or has been applied for the purposes of education at school of boys or girls, or of exhibitions tenable at a university or school or elsewhere (Act of 1869 (c. 56), s. 5). Various classes of endowments are exempt, amongst others those of any of the seven public schools mentioned in s. 3 of the Public Schools Act, 1868 (c. 118) (d); any school which on January 1st, 1869, was maintained wholly or partly out of annual voluntary subscriptions and had no endowments save school buildings or playgrounds; schools maintained out of any endowment which may in the discretion of the governing body be devoted to other purposes than education; elementary schools in receipt of parliamentary grants, and any school which for six months prior to January 1st, 1869, was used solely for educating choristers (s. 8). The consent of existing governing bodies to any new scheme was necessary in certain cases, *e.g.*, if the endowment was not more than fifty years old in 1869; and in the case of cathedral schools, Moravian or Quaker schools, or schools forming part of the foundation of a college at Oxford or Cambridge (s. 14). A strict conscience clause is to be applied to all day

(c) The Orders are dated August 7th, 1900, July 24th, 1901, and August 11th, 1902. See below.

(d) These are Eton, Winchester, Westminster, Charterhouse, Harrow, Rugby, Shrewsbury.

scholars under any new scheme (s. 15), and a modified one to boarders (s. 16) ; but certain schools, such as cathedral schools, are exempt from the provisions of the Acts as to religious education save the day conscience clause (*e*).

Transfer of jurisdiction to the Board of Education.

—Shortly stated, the effect of the three Orders in Council so far made under the Board of Education Act, 1899 (c. 33), s. 2 (2), is as follows: (i) By the Order dated August 7th, 1900, (a) powers of inquiring into, extracting documents, and searching records of, charities under the Charitable Trusts Acts (*f*) and under schemes made in pursuance of those Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, may be *exercised concurrently* with the Charity Commission, so far as those powers relate to educational purposes ; and (b), as to Wales and Monmouth, all powers conferred on the Charity Commissioners by any scheme under the Endowed Schools Acts, 1869 to 1889, regulating any endowment for educational purposes in Wales or Monmouth ; and all powers conferred on the Charity Commissioners by those Acts, and exercisable in respect of any endowment so regulated, are transferred to the Board of Education. Lands and funds vested in official trustees were not to be transferred without the consent of the Charity Commissioners.

(*e*) For the method of drafting schemes, laying them before the Education Department, publication, and right to appeal to the Privy Council, see Endowed Schools Acts, 1869 (c. 56), s. 35, and 1873 (c. 87), s. 13.

(*f*) Charitable Trusts Acts, 1853 (c. 137), ss. 9—12 (as amended by Act of 1887) ; 1855 (c. 124), ss. 6, 7 ; and 1887 (c. 49).

The Board stated that the powers exercisable by the Board under this Order over endowments *in England* jointly with the Charity Commission were, broadly, powers to secure information as to endowments. The Order does not confer any power on the Board to make or amend schemes, and would be mainly useful for the purposes of inspecting endowed schools under s. 3 of the Board of Education Act, and for holding inquiries with a view to prevent undesirable competition between schools (*g*). As to Wales and Monmouth, the Board of Education take the place of the Charity Commissioners for the transaction, generally speaking, of all business connected with educational endowments already regulated by scheme under the Endowed Schools Acts. (ii) By the further Order of July 24th, 1901, the powers of the Charity Commissioners for the *framing and amending of schemes* under the Endowed Schools Acts, 1869 to 1889, and the Charitable Trusts Acts, 1853 to 1894, in the case of endowments in England and Wales, applicable solely to educational purposes, are transferred to the Board of Education. So far as Wales and Monmouth are concerned, the effect of the Order is that the jurisdiction of the Board is, by the second Order, extended to making of schemes for educational endowments not already regulated by schemes under the Endowed Schools Acts. Where endowments are applicable partly to educational, partly to other purposes, the Charity Commissioners retain their powers till the endowments have been apportioned; and their consent is required to the transfer of any lands or funds held by the official trustees of charitable

(*g*) See Owen's Education Acts Manual (19th ed.), p. 431.

funds or lands. (iii) Finally, by Order of August 11th, 1902, all remaining powers conferred on the Charity Commissioners by the Charitable Trusts Acts, the Endowed Schools Acts, the Mortmain and Charitable Uses Acts, and other Acts, or any schemes thereunder (except the powers of appointing the official trustees of charitable funds and of vesting lands or funds in the official trustees of charitable lands or funds) shall, so far as they relate to endowments *held solely for educational purposes*, be transferred to the Board of Education.

II. Technical and manual instruction.—By the Technical Instruction Acts, 1889 (c. 76) and 1891 (c. 4) (both now repealed *in toto*), provision was made for “supplying or aiding the supply” of *technical or manual instruction*, technical instruction being defined to mean (i) instruction in the principles of science and art applicable to industries, but not teaching the practice of any trade or industry; it was also to include (ii) instruction in the branches of science and art with respect to which grants were from time to time made by the Department of Science and Art; and (iii) any other form of instruction, (including modern languages and commercial and agricultural subjects), from time to time sanctioned by the Department, as required by any locality; “manual instruction” meant instruction in the use of tools, processes of agriculture, and modelling in clay, wood or other material. The authorities to supply, or aid the supply, of such technical or manual instruction were the council of any county or borough, and any urban sanitary authority within the meaning of the Public

Health Acts. Restrictions were imposed on supplying or aiding the supply of such instruction ; it was not to be given in elementary schools (*h*) ; no conditions as to attending or not attending any Sunday school or place of religious worship might be imposed in any school aided and receiving technical instruction, and no religious catechism or formulary should be taught in any rate-aided school to any scholar attending only for such instruction ; the local authority might make grants to schools or institutions within, or outside (*i*), its district, but on express condition that it obtained a proportionate amount of representation on the governing body of the school or institution, and that the school was not conducted for private profit (s. 1 (1) (d), (e), (f)). Funds were provided as follows : (a) The local authorities might rate themselves to the extent of one penny in the £ ; (b) Parliamentary grants in aid on conditions laid down by South Kensington ; (c) The county and county borough councils were authorised (but not compelled) to spend moneys entrusted to them under the Local Taxation (Customs and Excise) Act, 1890 (c. 60), usually known as the "whiskey money" (*k*), for the purpose of aiding technical instruction, in addition to the local penny rate (s. 1 (2) now repealed) ; and county councils were empowered to make grants to town councils or urban sanitary authorities in the county in order that the latter might apply the grant for the same object (s. 1 (3) now repealed). Any of the "whiskey money" voted in any one year need not be expended in that year, but might be carried over to

(*h*) Technical Instruction Act, 1889 (c. 76), s. 2 (1) (a).

(*i*) Technical Instruction Act, 1891 (c. 4), s. 1 (1) (a).

(*k*) This amounted in 1902 to £924,360.

the next. Further Acts in 1891 (c. 61), and 1892 (c. 29), authorised transfer to local authorities of certain schools of science and art; and gave power to the governing bodies of technical and industrial institutions to make byelaws, and acquire land by agreement.

III. Agricultural education.—Under the Board of Agriculture Act, 1889 (c. 30), the Board may inspect and report on any school (not being a public elementary school) in which technical education, practical or scientific, is given in any subject connected with agriculture, including horticulture and forestry, and can aid institutions by grants (*l*). Any of the powers of the Board of Agriculture relating to education may be transferred to the Board of Education by Order in Council under the Board of Education Act, 1899 (c. 33), s. 2; no Order in Council has, so far, been made for this purpose. The President of the Board of Agriculture (Mr. Hanbury) is strongly opposed to any transfer of powers, and is supported by the Government in this policy.

IV. Science and art grants.—By far the largest and most complete provision for any portion of secondary education was made by means of grants from South Kensington for science and art classes, either day classes or evening classes. These grants were made in accordance with conditions provided in the South

(*l*) See Report of Board of Agriculture, 1902: the grants last year amounted to nearly £9,000. Practically all the grants administered by the Board go to assist large agricultural colleges of the university rank carried on with the co-operation of county councils.

Kensington Directory, and were available for any school complying with the conditions as to teaching and examination there laid down. For the year 1901 the total number of students in these classes was over 300,000, and the total grants over £200,000 (Report, p. 48).

THE FINANCE OF EDUCATION PRIOR TO 1902.

It must not be forgotten that before all things the Education Act is intended to work a revolution in the finance of education.

The present position as regards both grades of education is briefly as follows :

(a) **Elementary education.**—Unlike higher education, whose main support has been from voluntary funds raised locally, elementary education has hitherto been principally supported from Whitehall grants. These are of various kinds.

1. *The "Parliamentary" Grant.*—This is a sum voted annually by Parliament and distributed to every school in proportion to the average attendance. It depends to a small extent on efficiency as tested by inspection or examination, and also upon the school taking certain practical subjects. The amount so distributed in the past year was £5,143,741. There are special sums in addition voted for pupil teachers and for the instruction of king's scholars in training colleges.

2. *The Fee Grant.*—This is a sum of 10s. a head upon each scholar who pays no (*m*) fees, and is in lieu of the

(*m*) This is the general rule ; there are, however, cases in which the grant is payable though fees are still charged.

fee not exceeding 9*d.* a week which was chargeable previous to the Act of 1891. The total amount of this grant in the past year was £2,415,801.

3. By the Act of 1897 a special aid grant at the rate of 5*s.* a head on the average attendance was given to the voluntary schools. This amounted to £618,233 in 1901-2, and is abolished by the Education Act, 1902.

4. By the Necessitous School Boards Act of 1897, a grant was given to those school boards whose districts had a large number of elementary school children in proportion to their rateable value, and it varied with this test of necessity. It amounted last year to £13,750, and is abolished by the Education Act, 1902.

5. Many schools still charge fees, and make a charge for books. This source of income produced £93,451 last year. By the Education Act, 1902, it may be continued at the option of the local authority, but the fees taken are divisible between that authority and the managers.

6. Under the Agricultural Rates Act of 1896, a sum was paid to school boards in lieu of the amount they lost through being only able to rate agricultural land at half its value. This amounted in all last year to £106,764. By the Education Act, 1902, the same sum is paid in relief of the county rate.

7. A considerable sum is derived from public endowed charities. In some counties those devoted to elementary education are equivalent to a farthing or even a halfpenny rate. The total sum from this source cannot be found in any official document. By the Education Act (s. 13) the part of such charities devoted by the scheme

or trusts of the Charity to "maintenance" (*n*) goes to the local authority in relief of the rate of the parish concerned, while that part which is applicable to capital expenditure remains in the hands of the managers. Much litigation is certain to result from this section of the Act. There are also certain private or unregistered charities devoted to elementary education.

8. *Voluntary Subscriptions*.—Under this heading, in aid of voluntary schools there is included not only the subscriptions of individuals given *en bloc*, but collections in churches, the produce of bazaars, entertainments, etc. The total amount contributed last year was £834,123 (*o*). As contemplated by the new Act subscribers will probably entrust all sums under this heading to managers to enable them to maintain, improve or enlarge the fabric of the school.

9. *The School Board Rate*.—This rate levied under the Act of 1870 covers the deficit resulting in school board areas between the cost of education (including administration and school attendance) and the grants received from other sources. By the Education Act it is merged in the county, borough, or urban district (poor) rate. This will be fully dealt with in later pages. The total sum (excluding London) so raised last year was £4,068,354.

10. There is a further rate of small amount raised outside school board areas to defray the expenses of school attendance committees. Like the previous rate, it is merged by the Education Act in the general rate of the authority.

(*n*) In the case of non-provided schools, maintenance will not include the upkeep of the buildings.

(*o*) This is an increase on the previous year of £32,921.

(b) **Higher education.**—1. The earliest source of funds available for higher education is charitable endowments, under the Endowed Schools Acts. This amounts in all to about three-fourths of a million, and is strictly tied down to the older class of secondary school, or to technical schools, and to scholarships or exhibitions attached thereto. The Education Act in no way affects these funds.

2. The grants from the Board of Education, South Kensington, are of two kinds. First, there are the old science and art grants, which may be paid to day schools, endowed or otherwise, but are subject to reduction on account of the endowment of the recipient school ; or they may help to support (as they were originally intended to do) evening classes in science and art. Secondly, there is the sum formerly administered from Whitehall, and given to evening continuation schools. This is now amalgamated with that part of the science and art grant which is given to evening schools, and the two are distributed under the Regulations for Evening Schools. The total South Kensington grant for the past year was £286,251 9s.

In all the principal counties, under the provision known as Clause VII. of the Directory, the county authorities have for several years past taken the sums earned by the schools in their county in bulk, and distributed them as they pleased. No doubt now, as every county and county borough must possess, in the words of that clause, an “organisation for promoting secondary education,” the Board will make this arrangement compulsory, and thus the South Kensington grants

will come to be treated as part and parcel of the local taxation grant.

3. The principal local source of revenue for technical education and the lower grades of secondary education, is the Treasury grant distributed to the county and county borough authorities under the provision of the Local Taxation (Customs and Excise) Act, 1890. This varies from three-fourths of a million to over a million, but in the past year the sums so distributed showed a diminution, and amounted in all (including London) to £924,360. By the Education Act, 1902, all this grant must be devoted to higher education generally.

4. Every county, borough and urban district has had the option of rating itself to the extent of one penny for technical education under the Act of 1889. Two counties, twenty-four county boroughs, and a large number of minor authorities have rated themselves to some extent ; but the latter have generally so acted at the instigation of the county bodies, and in return for extra assistance under (3) above. By the Education Act this optional rate is made unlimited in the case of county boroughs, is increased to twopence (or more with the consent of the Local Government Board) in counties, but continued at one penny with the minor authorities. The total amount of rate aid to technical education in the past year was £106,000.

5. Boroughs and urban districts have been able to devote part of the rate under the Public Libraries Acts to building and maintaining science and art schools and museums. The sum so employed in the past year by twenty-eight authorities was £19,459. This power is not affected by the Education Act.

6. Previous to the Cockerton judgment school boards spent part of the proceeds of the rate raised under the Act of 1870, upon higher education. Though, as regards maintenance, this has apparently ceased, yet this rate is still charged with the loans incurred for building the higher grade and pupil-teachers'-centre schools.

7. In Wales there is in addition the halfpenny rate leviable under the Welsh Intermediate Education Act, 1889, and the equivalent Treasury grant. The endowments also, in most part, are "pooled" by counties and form part of the general "intermediate" fund. This is unaltered by the Education Act.

SECTION II.

**SUMMARY OF THE EDUCATION ACT, 1902; AND
SUGGESTIONS FOR THE TRANSITION PERIOD.**

As already explained, the new Act, while introducing much entirely new machinery and abolishing school boards and school attendance committees, leaves the larger part of the body of legislation governing English education still in force. The line drawn between elementary and secondary education is still rigidly maintained, and in view of the rating provisions of the new Act and the possibilities of friction between the various new local authorities the line of division is one of the first importance. The *Cockerton judgment* (see above) is still the touchstone to tell us what is and what is not elementary education. As to age, however, the new Act fixes the limit at sixteen (s. 22 (2)). Anything that does not come within the Whitehall Code is beyond the scope of the authorities who, under Part III., are to administer ELEMENTARY EDUCATION.

I.—THE AUTHORITIES.

At the head of the whole system stands the *Board of Education* (a) itself, as constituted under the Act of 1899 (c. 33), consisting of the five Principal Secretaries of State, the First Lord of the Treasury and the Chancellor of the Exchequer, with Lord Londonderry as President. Lord Londonderry is also Education

(a) For the constitution of the Board, see above, p. 2.

Minister, and commands the very able expert assistance of Mr. Morant, the recently appointed Chief Permanent Secretary.

The Board has a general supreme controlling and directing power under the Act. The chief occasions on which it can exercise powers are :

- (i) Consultation with the local education authority as to secondary education (s. 2 (1)).
- (ii) Settling disputes between managers of non-provided schools and local education authorities (s. 7).
- (iii) Settling disputes as to provision of new schools (ss. 8, 9) ; or fixing the number of managers for groups of elementary schools (s. 12 (2)), or apportioning fees (s. 14), where agreement cannot otherwise be arrived at.
- (iv) Making orders for appointment of managers of non-provided schools (s. 11).
- (v) Holding inquiries as to endowments (s. 13) (b) ; and determining questions as to endowments (s. 13) ; or for any purpose under the Act (s. 23 (10)).
- (vi) Enforcing provision of elementary education (s. 16).
- (vii) Approving schemes, or making provisional orders for education committees (s. 17).
- (viii) Sanctioning loans, or exercising other powers of the old Education Department under the Elementary Education Acts, 1870 to 1900 (Board of Education Act, 1899 (c. 33), s. 2).

(b) See Memorandum of the Board as to Endowments, E. A. 7 (Appendix A.).

- (ix) Sanctioning surrender of powers by Part III. authorities (20 (b)).
- (x) Extending the age limit for elementary education in certain cases (s. 22 (2)).
- (xi) Appointing the day for the Act to come into force ; or different dates for various portions of it in different places (s. 27 (2)) (c).

Subordinate to the Board of Education come local authorities covering the whole area of the county, of three kinds : (a) *local education authorities* ; (b) *minor local authorities* ; and (c) for elementary schools, *managers*. The local education authorities have CONTROL, or CONTROL and MANAGEMENT, the lesser authorities MANAGEMENT alone, and varying degrees even of this. The words are important and run through the Act, which yet does not attempt to define in any general way what is CONTROL and what is merely MANAGEMENT, though in particular instances the Act may say that a definite power, *e.g.*, the power to appoint teachers (s. 7 (7)) in the case of managers of voluntary or *non-provided* schools, shall belong to the body having the management.

Roughly speaking, the difference is this : the authority with CONTROL is responsible ; it must find the money, secure efficiency, settle all questions of principle, deciding what is and what is not a question of principle, and in the last resort must take the burden if things go wrong : the authority which only has MANAGEMENT is responsible for details, but not for finance or matters of principle.

(c) See Circular of the Board, No. 474 (Appendix A.).

It is worth while to consider who are the various bodies having CONTROL and MANAGEMENT in each case.

A. Control.—The authorities with *control* are the following, called by the Act “*local education authorities*”:

- (1) The council of every county ;
 - (2) The council of every county borough ;
 - (3) The council of the Isles of Scilly ;
 - (4) The council of every borough with a population of over ten thousand people ;
 - (5) The council of every urban district with a population of over twenty thousand (s. 1).
- } For elementary education only, Part III.

(1), (2) and (3) will have control of elementary education, and of such secondary education as they *supply*; they will probably secure some control as a condition of making the grant in the government of secondary schools which they merely *aid* (d). The Act gives them no general control of secondary education. There are also 108 non-county boroughs with a population below 10,000, and 745 urban sanitary districts with a population below 20,000; these, and also the Part III. boroughs and districts, can levy a concurrent penny rate for secondary education, and will again secure some control so far as they supply or aid the supply of secondary schools; but neither the smaller nor the larger bodies are “authorities” for secondary education.

(d) They will not, however, be *obliged* to secure representation on the governing bodies of aided schools as they were under the Technical Instruction Acts.

(4) and (5) are referred to as AUTHORITY BOROUGHES and AUTHORITY DISTRICTS, or Part III. authorities.

The population limit of the Part III. authorities is that in existence at the time of the passing of the Act, as determined by the census of 1901 (s. 23 (8)). The list, therefore, is a fixed one, and capable of extension only by a subsequent Act of Parliament. A non-county borough or urban district whose population is now, say, 9,500 or 19,500, cannot, if it grows to the extent of 1,000 in the next year, then claim admission to the list of *local education authorities* (e).

The numbers are respectively as follows : Counties, 61 ; county boroughs, 69 ; non-county boroughs (over 10,000), 137 ; urban district councils (over 20,000), 64 ; making in all 331 *local education authorities* (e).

Mr. Balfour's concession allowing to these large non-county boroughs and urban sanitary districts the control of their own elementary education was probably inevitable ; the statutory committee of the county council, sitting possibly many miles away, would often not have the necessary local knowledge or interest required for managing the many elementary schools necessary in the large towns. At the same time it has had this unfortunate result, that in the case of the Part III. *authority boroughs*, and *authority districts*, there are two *local education authorities*, viz. :

- (i) The county council for purposes of secondary education, including therein the training of teachers, continuation schools, higher grade schools, the support of pupil teacher centres and evening classes. The authority boroughs and districts can, however, levy their penny rate.

(e) For a complete list, see Appendix D.

- (ii) While the councils of the *authority* boroughs and districts will *control* elementary education as defined by the Act ; power is, however, given to the councils of these Part III. boroughs and sanitary districts, to relinquish their powers, and fall into the general county area for elementary as for secondary education, if they wish (s. 20 (b)), provided the county council agree and the Board of Education approve.

The council of each of the five above-named *local education authorities*, and of the lesser boroughs and districts, must appoint a statutory standing EDUCATION COMMITTEE or committees (*f*), to be constituted according to the provisions of s. 17 (3), by scheme approved by the Board of Education (*g*). The council as a whole must deal with all questions of raising money and rates ; otherwise all educational matters arising under the Act are to “*stand referred*” to the *Education Committee*, and the council cannot act without their report save in cases of urgency. So far no opinion has been given in Parliament or elsewhere as to what such a case of “urgency” would be. The council may further, apart from the question of rates or borrowing money, delegate all their powers to the Education Committee (s. 17 (2)), so that in the case of the councils of the five great *local education authorities* their powers of control must be exercised on report from, and may be exercised *by*, the *Education Committee*.

(*f*) Councils of bodies, however, only having Part II. powers, *i.e.*, for secondary education, need not appoint such committees unless they like (s. 17 (1)). Such bodies are the lesser boroughs with a population of under 10,000, and districts with a population under 20,000, with their *ld.* rate for secondary education under s. 3.

(*g*) See Memorandum of the Board, February 9th, 1903 (Appendix A.).

B. Management.—1. *Elementary education* (Part III.).—As to (a) *voluntary*, or, as the Act calls them, *non-provided* schools, a body of managers is constituted by the Act, consisting of four *foundation* managers representing the owners or the interests protected by the trust deed, and two managers appointed by the council of the *local education authority*, or by the *minor local authority* (*h*) (s. 6 (2)). They are to have all powers of MANAGEMENT over the *non-provided* school required for the purpose of carrying out the Act, including the exclusive power of appointing and dismissing teachers, subject to such powers as are reserved to the *local education authority* (s. 7 (7)). The reserved powers are, however, very great, and if the local education authority desire, they can under the powers given by the Act, very largely assume the MANAGEMENT of the non-provided schools (see below, Managers of Non-provided Schools).

(b) *Provided schools.*—Where the *local education authority* is the council of a county, every public elementary *provided* school must have a body of managers consisting of four appointed by the council and two by the *minor local authority* (*h*) (s. 6 (1)). Where the *local education authority* is a borough or an urban district, the authority *may* appoint managers for elementary *provided* schools if they like; but they are not compelled to do so (s. 6 (1)). In either case the managers will have such powers as to MANAGEMENT, subject to such conditions, as the *local education authority* may determine (Sched. I., B. 4).

(*h*) For definition see below, and s. 24 (2).

All powers of MANAGEMENT not in the hands of such bodies of managers will be exercised by the *local education authority* on report from, or by, its education committee, save in so far as the council may have made arrangements for delegation of those powers to the council of any borough, district, or parish under s. 20 (a) (i) ; or to a joint committee (s. 17 (5)).

Managers of two or more provided or non-provided schools may be *grouped* together (s. 12).

2. *Secondary education.*—Here the powers of MANAGEMENT must be primarily exercised by the existing governing bodies of the schools ; county and county borough councils, so far as they build or make grants to secondary schools and colleges, will, of course, secure such powers of indirect management as they may think proper ; but they are no longer *obliged*, as under the Technical Instruction Act, 1889, s. 1 (e) (repealed), to be represented on the governing bodies. So far as *any* (k) non-county borough or urban district chooses to avail itself of the powers contained in s. 3 and to raise money for the purpose of “supplying or aiding the supply of education other than elementary” by a concurrent penny rate, the latter bodies will similarly secure some powers of management.

(i) Though the *local education authority* would *primâ facie* be a non-county borough or urban district, the latter may have surrendered their Part III. powers to the county council under s. 20 (b).

(k) As we saw, the limit of population to 10,000 or 20,000 does not here apply (p. 43).

The county and county borough councils can, of course, here also use s. 20 (a), and delegate their powers of MANAGEMENT, if they think fit, to bodies governing a smaller area.

II.—THE GRADES OF EDUCATION.

The Act deals with the provision of ELEMENTARY EDUCATION (Part III., ss. 5—16), and with the provision of HIGHER EDUCATION (Part II., ss. 2—4). As to ELEMENTARY EDUCATION (ss. 5—16), references to school boards under the earlier Acts are now to be construed as references to local education authorities under the Act of 1902 (*l*) ; and the local education authorities are throughout their areas authorised to provide instruction under the Elementary Education Acts, 1870 to 1900, in all *public elementary schools* (*m*), such instruction being limited, save where those Acts expressly provide otherwise, to the provisions of the Whitehall code, and to scholars who are not more than sixteen years of age at the close of the school year (s. 22 (2)). Higher education (Part II., ss. 2—4), or “education other than elementary,” will cover everything, save elementary instruction as above defined. It will include any school carried on as an evening school under the regulations of the Board of Education (s. 22 (1)), the training of teachers (s. 22 (3)), provision of travelling expenses and scholarships

(*l*) Sched. III., s. 1.

(*m*) For definitions, see above. This appears to be the general result of ss. 5 and 22 (2), but see notes to those sections, *infra*. There is also a proviso that where no suitable higher education is available within a reasonable distance the Board may consent to extend these limits.

(s. 23 (1)), and education generally, save where given at a public elementary school (s. 22 (3)). Provision by means of the rates, or otherwise, for higher education is subject to the following limitations (see below, Financial Provisions). The "whiskey money" (under the Local Taxation Act, 1890 (c. 60)), must now all go for higher education: this produces from three-quarters to a million sterling; in addition to that, a twopenny rate, or such higher rate as the county council, with the consent of the Local Government Board, may fix, is all that can be raised in the counties for higher education; the non-county boroughs (*n*) and sanitary districts may, if they please, add a rate amounting to another penny. The county boroughs are subject to no such restrictions.

The local education authority is not given CONTROL or MANAGEMENT generally of all secondary schools; its powers are (s. 2) to consider the needs of the area, and, after consultation with the Board of Education, to (i) *supply* education other than elementary; (ii) *aid* such supply by grants, etc.; (iii) promote general *co-ordination* of all forms of education. As already stated, where the authority definitely creates a new college or school it will have both control and management of the institution; and where it aids an existing one it will require a voice in control and management, though, as we have seen, representation on the governing bodies of institutions aided is not required. With regard to the non-county boroughs and sanitary districts with their fixed penny rate the case is not so clear. They are given to the limited extent of the penny rate,

(*n*) *I.e.*, All non-county boroughs and urban sanitary districts; the limit of population only applies to elementary education (p. 43).

the same powers of "*supplying or aiding* the supply of education other than elementary," but they have no powers of *co-ordination*. The county council was apparently meant to be the superior authority. So far as the lesser authorities build their own institutions, or have already built technical institutes, they will, of course, secure CONTROL and MANAGEMENT, but for these boroughs and sanitary district areas, at any rate, if not for the whole county, in most cases there will probably be joint committees (under s. 20 (a)), on which the county councils will have a preponderating voice (o). Secondary education is still mainly a voluntary matter ; the parent has not yet, as he has in the case of elementary education, any right to demand accommodation, nor is the authority even compelled to spend up to the twopenny rate, or penny rate, respectively on higher education.

III.—RELIGIOUS INSTRUCTION.

For higher education s. 4 provides a combination of the conscience and Cowper-Temple clauses, with modifications. In colleges and schools *aided but not provided*, the council may not require that any particular form of religious instruction *shall or shall not* be taught. In *provided* colleges or schools (a) no pupil shall be excluded or placed in an inferior position on the ground of religious belief ; nor (b) shall any catechism or distinctive formulary be taught save on the following terms : The council must sanction it, and settle times and conditions ; parents must desire it ; it must not be at the cost of the council ; and no unfair preference must be given to any denomination. In

(o) For a draft scheme, see Appendix B. ; see also Memorandum of the Board, February 9th, 1903, Appendix A.

addition, the conscience clause is re-enacted for all secondary schools or colleges maintained or aided by the council ; no scholar is to be required as a condition of admission to attend or abstain from attending any Sunday school or place of worship ; and times of religious worship or religious lessons are to be arranged conveniently for the withdrawal of any such scholar.

In the sphere of elementary education the conditions of religious instruction will vary according as we are dealing with elementary schools simply, *provided* public elementary schools, or *non-provided* public elementary schools (*p*). The conditions as to religious teaching in the first two are the same as prior to the passing of the Act. As to the non-provided or denominational public elementary schools very important alterations are made in the existing law by the Act of 1902. Up to now the denomination providing the school has had through the denomination managers absolute freedom to give or provide what religious instruction it pleased, provided this did not transgress the terms of the trust deed, and also that the provisions of the Act of 1870 as to the conscience clause were observed (*q*).

Now the powers of the denomination as to religious instruction are considerably restricted. (a) By the famous Kenyon-Slaney clause (s. 7 (6)), all religious instruction is to be under the CONTROL of the managers, of whom four out of six only represent the denomination ; they alone can refuse to appoint head and assistant teachers, and alone can dismiss *any* teachers, on religious

(*p*) For definition of these terms, see above.

(*q*) Section 7 (1) unrepealed.

grounds (*r*). (b) The provisions of the trust deeds are to remain in force, but only so far as to safeguard the *character* of the teaching, including any power of appeal to the bishop to decide whether the character of the teaching is or is not in accordance with the deed. On the other hand, the control of the managers will now override the *machinery* provisions of the trust deeds ; even if the deed requires freedom of access to the school for the minister of the denomination, the managers can now forbid it (s. 7 (6)).

IV.—APPOINTMENT OF MANAGERS.

In *provided* schools (a) where the local education authority is the council of a county borough or of an authority (Part III.), borough, or district, the council *may*, if they see fit, appoint a body of managers, and of such numbers as they may determine (s. 6 (1)). (b) Where the local education authority is the county council, every public elementary school *must* have a body of managers, four appointed by the council, and two by the minor local authority (*s*) (s. 6 (1)).

All *non-provided* schools are to have a body of managers, four being FOUNDATION MANAGERS, appointed to represent the denomination so far as possible in accordance with the trust deed (s. 11), and two non-foundation managers, appointed by the local education

(*r*) See s. 7 (1) (c) and (5). The managers *must* observe the provisions of their trust deed as to religious tests for teachers in the case of head teachers ; they *may*, if they like, disregard them in the case of assistant teachers ; in the case of pupil teachers, when there is competition, the local education authority *must* appoint (s. 7 (7)).

(*s*) Defined by s. 24 (2) as the council of any borough, or urban district or other parish council or parish meeting, where there is no parish council, of any parish which the school serves.

authority, if it is a borough or urban district ; or in the case of counties only, by the county council, the other by the minor local authority. The local education authority may increase these numbers, provided the proportion is maintained (s. 6 (3)). See now form of provisional order issued by the Board for appointment of managers, E. A. Order (Provisional) 1, Appendix A.

In all the three above cases more than one school may be GROUPED by the local education authority under one body of managers ; but in the case of non-provided schools the consent of the managers is necessary, and the arrangement shall only last for three years unless otherwise expressly agreed (s. 12) (*t*).

Section 11 regulates the appointment of the foundation managers in voluntary or non-provided schools. The trust deeds of the schools when extant will usually provide for the appointment of at least eight to twelve managers ; and where there are no trust deeds, by customary practice the same result will generally have been arrived at. The trust deeds (*u*) may, in a few cases, allow for only four managers, or for delegation by the larger number of their powers to four. Where this is so, no application to the Board of Education will be necessary. But in the majority of cases, where the provisions of the trust deed as to the appointment of managers are in any respect (*a*) inconsistent with the

(*t*) For scheme of grouping, see Appendix C.

(*u*) For form of National Society's Deed, and of Roman Catholic, Wesleyan, and other Deeds, see Bluebook, Precedents of Trust Deeds, Board of Education, 1902. By the definition (s. 24) "deed" is to include any instrument regulating the trusts or management of the school ; and will, therefore, comprise orders of court or of the Charity Commissioners, and schemes under the Endowed Schools Acts, or under s. 75 of the Elementary Education Act, 1870. See Memorandum of Board of Education on foundation managers, E. A. 1, Appendix A.

provisions of the Act, or (b) insufficient, or (c) inapplicable for the purpose, or (d) there is no trust deed available (s. 11 (1)), application must be made to the Board for an order (*x*).

For three months after the passing of the Act, *i.e.*, till March 18th, 1903, only the owners, or trustees, or managers of the school may apply to the Board; after that period the local education authority or anyone interested in the management may do so. When made the order will, so far as necessary, modify or override the deed, but in providing for this appointment of managers the Board are so far as possible to maintain the principles on which the school has been conducted in the past (s. 11 (4)). Notice of the application and of the proposed final order must be given by the Board to the local education authority, to the owners, trustees, and managers, and other persons whom the Board may consider interested, and no final order is to be made for six weeks after the notice. The draft order must lie on the table of both Houses for thirty days, and may be objected to within that time. If either House during the thirty days resolves the draft shall not be proceeded with, no further proceeding may be taken with that draft order (s. 11 (8));

(*x*) See form of interim order for appointment of managers now issued by the Board, E. A. Order (Provisional) 1, Appendix A. There is nothing to prevent private owners of schools which have never had a deed executing one before the Act comes into operation; but if schools are not privately owned, and so far as the appointment of foundation managers goes, the Board of Education discourage new deeds. See Memorandum of Board, E. A. 1, Appendix A., clause 10. As to the power of existing managers of schools which have no deed, but which are admittedly held on implied trusts for school purposes, to make a deed declaring those implied trusts, see notes to s. 11. As to privately-owned schools, see below, p. 91, and Memorandum of the Board, E. A. 13, Appendix A.

but the Board hold that this provision as to parliamentary notice only applies to revoking or amending orders, and not to original orders. See for discussion of the point the notes to s. 11 below. The Board has issued to the existing managers of voluntary schools a memorandum on the subject (E. A., 1), and a form of application (E. A., 2). (See Appendix A.) This latter is to be filled up by the existing owners or managers and returned to the Board of Education. Full particulars of the school are to be given, and the existing authorities are to suggest the form of order they would like with regard to the election of future foundation managers. Special attention is given in the memorandum to the cases where there is a single owner of a voluntary school, and no trust deed or managers exist (para. 14). The Board has also issued a memorandum on this point (E. A. 13, Appendix A.), and see below, Transition Period. The Board of Education state clearly that to shut up trust premises held for educational purposes is a BREACH OF TRUST (*y*) (E. A. 1, para. 4). This statement, however, requires some explanation. See below, Suggestions on Transition Period.

Powers of managers.—These are largely dealt with in Sched. I. B. Managers may choose their own chairman, unless there is an *ex officio* one, and regulate their own proceedings, subject, in the case of provided schools, to any direction of the local education authority.

(*y*) Such a trust being a public charitable one an action could only be commenced with the consent of the Attorney-General (*Strickland v. Weldon* (1885), 28 Ch. D., at p. 430), or of the Charity Commissioners, and now of the Board of Education, unless the foundation providing the school is part of a larger charity (Charitable Trusts Act, 1853, s. 17). But in any case the Attorney-General must be a party (*Strickland v. Weldon* above).

Their proceedings are valid, though there is a vacancy in their numbers. They are to meet at least every three months. Minutes must be kept ; but they are not made a body corporate, and no power is given to employ officials or incur any expense save such as the local education authority may sanction. In provided schools managers' powers of management will be such as the local education authority may allow (Sched. I. B. (4)). Managers are given no power to act through committees.

The powers of managers in non-provided schools.—

In addition to the above general rules, the powers of managers of non-provided schools are more fully defined by the Act ; they are to be the managers not only for the purposes of the Elementary Education Acts, 1870 to 1900, and the 1902 Act, but also for the purposes of the trust deed, so far as secular education goes (s. 11 (6)).

The local education authority is to MAINTAIN the schools and have the CONTROL of all expenditure save that for which the managers are to provide, but on terms of which the following are the chief : in secular instruction the local education authority is supreme, or its education committee, and the managers must carry out its directions ; it will regulate the number and qualifications of teachers, and can insist on a teacher's dismissal, if educationally inefficient (s. 7 (1) (a)). The local education authority may inspect the schools, and may veto the appointment and dismissal of *any* teacher though only on educational (*i.e.*, secular educational) grounds : the grounds, therefore, will have to be stated (s. 7 (1) (b), (c)). The local education authority also

shall appoint the pupil teachers if there are more applicants than vacancies, and in such appointments that authority need not consider whether the pupil teacher appointed is competent to give the religious instruction required by the denomination (s. 7 (5)). If the proper directions of the local authority are disobeyed it can carry out its own directions acting as managers. If there is no suitable accommodation in any provided schools, the authority may require the use of the non-provided school *for any educational purpose* three nights a week. On the other hand, the managers are to have all powers of MANAGEMENT required by the Act other than those given to the local education authority (s. 7 (7)), and, subject thereto, appoint and dismiss the teachers, that is, they appoint the head teacher always, though the authority or its committee may veto his appointment if he be inefficient educationally; and they appoint assistant teachers; and pupil teachers if there is no competition, but not otherwise (s. 7 (5)); if there is competition the authority *must* appoint the pupil teachers. The managers can dismiss *any* teacher without appeal on religious grounds, save, apparently, pupil teachers appointed by the local education authority; they may also dismiss on educational grounds, but subject in this case to the consent of the authority or its committee (s. 7 (1) (c)). The authority or its committee has concurrent power of dismissing *any* teacher on educational grounds, and without any consent of the managers. The managers control the religious education, and no directions given by the authority are to interfere with reasonable facilities for religious instruction; this must accord in *character* with the provisions of the trust deed, if there is one, and if that

deed allows an appeal to the bishop, or superior denominational authority, to decide questions as to whether the *character* of the teacher is in accordance with the deed, that provision remains. But in all other respects the control of the managers is supreme. Subject to the conscience clause (Elementary Education Act, 1870 (c. 75), s. 7, unrepealed), they direct the times and manner of the religious instruction and who is to give it ; this entails the power to exclude the denominational minister even in the face of the provisions of a trust deed. The managers (the whole body, that is, and not only the foundation managers) must provide a school-house, keep it in proper repair, and make any improvements "reasonably required" by the local education authority, the Board of Education deciding any dispute as to what is or is not "reasonably required" (s. 7 (3)). The managers may charge the local education authority rent for the teacher's dwelling-house, though not for the school (s. 7 (1) (d)).

Fair wear and tear.—As to the buildings, such damage *as the local education authority consider to be due* to this cause, in the use of any room in the school as a public elementary school (*i.e.*, during the day and not including the three evenings a week used for education (s. 22 (1))) is to be paid for by that authority (s. 7 (1) (d)). Other wear and tear of buildings the managers must make good. Disputes may often arise under this provision, but the local education authority are the final judges ; they are only liable to make good *what they consider* to be due to fair wear and tear. In all other disputes under this section the Board of Education is to be a court of appeal (s. 7 (3)) (z).

(z) See notes to s. 7, for what is "Wear and Tear."

The furniture of the school clearly cannot be removed after school hours are over, and the managers are not forbidden to make use of it, *e.g.*, for a Sunday school or an evening entertainment during one of the three free evenings; nor are they liable for wear and tear of furniture; but for actual damage other than fair wear and tear, such as wilful breaking of desks arising during their use out of school hours, they are responsible. The local education authority are similarly liable for any wilful damage other than fair wear and tear done to the furniture when they are using the premises out of school hours, *e.g.*, in the three educational evenings (s. 7 (2)) (a).

V.—PROVISION OF NEW SCHOOLS.

The clauses in the Elementary Education Act of 1870 dealing with the provision of new schools, and the control of the Department over school boards, which neglect to supply sufficient school accommodation and are in default (ss. 5, 6, and 8—13) are repealed. The new Act assumes that generally either the local education authority or the managers of neighbouring non-provided schools will be eager to come forward, where there is a new school wanted. If either of them, or, indeed, any persons, propose to provide a new public elementary school they must give notice, and the neighbouring managers, or the authority, or any ten ratepayers may, within three months of the notice, appeal to the Board of

(a) This was Dr. Macnamara's amendment. See Hansard, vol. cxiii., p. 1162. If during those three evenings an evening school under the regulations of the Board of Education is carried on, then in the authority boroughs and districts the authority for the evening schools will be the county council, not the councils of the authority boroughs or sanitary districts (s. 22 (i)).

Education to say the school is unnecessary on the ground that there is sufficient accommodation in neighbouring schools ; and the Board shall decide whether the new school is necessary or not, having regard to the interests of secular instruction, the wishes of the parents, and economy of the rates. Any transfer of a denominational school to the authority is for this purpose to be considered as the provision of a new school ; but if a school, already recognised as a public elementary school, has thirty scholars the Board are not entitled to hold it “unnecessary” (ss. 8, 9).

If, however, there is insufficient accommodation, and neither managers nor local education authority proceed to supply the need, the Board of Education may make an order compelling the local education authority to supply it, and, if necessary, may enforce the order by going to the court for a *mandamus*, but the Board must first hold a public inquiry (s. 16).

VI.—ENDOWMENTS.

The discretion of any trustees of school endowments and the endowments themselves are unaffected by the Act (s. 13 (1)) ; but where the income is to go, or part of it, for the support of a provided public elementary school, that income must be paid over not to the managers, but to the local education authority. In case of dispute the Board shall determine what part of the income is so applicable. The same rules apply to the non-provided schools ; but here an apportionment is necessary, part going to the local education authority for maintenance, part to the managers for foundation expenses. If the money so arising is paid to a county council for a provided school, they are to credit it in

aid of the rate levied for the purposes of the Act from the parishes served by the school ; or it may be paid to the overseers of those parishes in aid of the poor rate (s. 13 (2)) (b).

VII.—EDUCATION COMMITTEES.

Every council, with powers under the Act, is, with one exception, to have an education committee constituted in accordance with a scheme which the council must submit for approval to the Board of Education (c). If the council do not procure a scheme within twelve months, the Board may make a provisional order to the same effect as a scheme (s. 17 (7)). The exception is that a council of an authority with powers under Part II. only—for instance, a borough below 10,000 inhabitants, or a sanitary district below 20,000—with its penny rate for secondary education, may decide that a committee is unnecessary, and then they need not appoint one (s. 17 (1)).

The council must always itself decide two things—the *raising of rates* and the *borrowing of money* ; all other matters are to “*stand referred*” to the committee, whose report the council are always to receive before taking action, save in cases of urgency. Further, the council may delegate all or any of their powers outright to the committee, save the two questions of raising rates and loans—may surrender, that is, full powers of control, management, and sanctioning expenditure of money raised.

In approving a scheme the Board of Education have

(b) See Memorandum of the Board and form of application for advice, E. A. 708, Appendix A.

(c) For draft scheme, and Memorandum of the Board, February 9th, 1903, see Appendices B. and A.

to see to the following points: a *majority* of the education committee must be *appointed* by the council, and must usually be members of the council; but in a county the council may determine otherwise (s. 17 (3) (a)). Subject to the council's appointing a majority, it has power, though it is not compelled, to accept nominations or recommendations by outside bodies of educational experts and persons with local knowledge. In the category of outside bodies the existing associations of voluntary schools created for the purposes of the 1897 Act, which gave aid grants to voluntary schools, are expressly mentioned (s. 17 (3) (b)) (d). Women must, and members of existing school boards, *if desirable*, may, be included. Holding an office of profit under, or having any interest in a contract with, the council is a disqualification for the education committee, but this does not extend to the exclusion of a master or other officer in a school aided, or even maintained by the council, whether a provided school or not (s. 23 (7)) (e). Where county

(d) For a list of voluntary associations, see Appendix E.; and see Circular 472 of Board, Appendix A.

(e) There is some misapprehension as to the position of teachers in this section (17) of the Act. They are not mentioned in s. 17 (3) at all, not even as persons to be put on the committee, "if desirable." They are only, by s. 17 (4), relieved of common law penalties for sitting on the committee. In other words their presence on the committee is *permitted*, *not required* by the Act, and they can only come on to the committee by means of s. 17 (3) (b). If the committee has all powers delegated to it, *i.e.*, becomes the absolute *rate-spending* authority, it is desirable that no paid servant sit on the committee. The services of such persons can and should be secured in an advisory capacity by each county constituting a consultative committee similar to that created under s. 4 of the Board of Education Act, 1900, for the purpose of advising on purely professional matters; it should be composed of teachers and others, as stated below. This committee

councillors sit for a division lying in an authority borough, or district, they are disqualified from voting in the council on any matters relating to elementary education (s. 23 (3)). This is believed to be a financial disqualification, for it relates only to "questions arising before the county councils," *i.e.*, rates and loans. If this be correct, such councillors have full powers to act and vote on *committees*. In *counties*, committees may be constituted for portions of the area; and in the case of *all* the local education authorities joint committees may be formed. In the case of such a joint committee for a whole area, it is sufficient if the councils *together* appoint a majority (s. 17 (5)). The Board must give publicity to the scheme so as to allow opportunity for objections before it is approved.

might meet twice or four times a year, or as the Education Committee required, and advise on questions of text books, syllabuses, time tables, curricula, scholarship subjects, and general schemes of work.

It would probably be necessary to pay the travelling and out of pocket expenses of such committee, and possibly in addition a fee of one guinea a day.

The following scheme is suggested :

(a) Teachers in elementary schools :			
From rural districts—male	(head and assistant)		2
" " " female	" "		2
" urban " male	" "		2
" " " female	" "		2
(b) Teachers in secondary schools :			
From boys' schools	- -	"	4 { Two 1st Grade.
" girls' "	- -	"	2 { Two 2nd Grade.
(c) His Majesty's inspectors of schools :			
Elementary school inspector	-	"	1
" " sub-inspector	-	"	1
Secondary school inspector	-	"	1
(d) Representatives of the University College			
	-		2
(e) Representative of art schools			
	-		1
(f) " " technical teachers			
	-		1

In Wales, Monmouth, and Newport the education committee of any county or county borough takes the place of the county governing body, constituted under the Welsh Intermediate Education Act, 1889. Schedule I. A. provides that education committees may make their own rules of procedure as to quorum, place of meeting, etc., subject to any directions from their council. The chairman has a second or casting vote. A vacancy in the numbers does not invalidate proceedings. Minutes are to be kept. Unlike the managers, the education committees may appoint sub-committees, and may include in any sub-committee persons not members of their own body.

It is important to notice that under Sched. II., s. 15, the councils of the future local education authorities can *at once*, before the Act comes into force, proceed to get any information they may reasonably require from managers of public elementary schools, whether provided or not, and from school attendance committees, so as to be well forward in calculating their future liabilities.

VIII.—GENERAL PROVISIONS.

Delegation and surrender of powers (s. 20).—As already mentioned, any “council (*f*) having powers under” the Act may make arrangements with the council of any county, borough, district or parish for the delegation to the latter of any of the former’s powers of MANAGEMENT; while the authority (Part III.) boroughs or districts may, with the approval of the Board of Education, surrender their powers over

(*f*) That is, the four local education authorities, and also boroughs and sanitary districts with a population below 10,000 and 20,000 to the extent of the *1d.* rate respectively, but not managers.

elementary education to the county council into whose area they will then fall, and will themselves cease to be local education authorities (s. 20 (b)).

Provisional orders and schemes (s. 21). — The difference between a provisional order and a scheme is that the former requires the consent of Parliament, while the latter can be made by the Board of Education alone, and when approved by them is as legally effective as if incorporated in the Act itself. The Board may revoke or alter any scheme already made (s. 21 (3)). Schemes are required, *e.g.*, for the constitution of the education committees of the council (s. 17). With regard to orders for the variation or in substitution of trust deeds under s. 11 a special provision is made. In certain cases an order of the Board of Education is required which is not an ordinary provisional order, for the positive consent of Parliament is not necessary; Parliament is merely given the opportunity to object, and the draft order must be laid on the table of both Houses. If within thirty days after the draft either of a new order or of an order revoking and amending a former order has been laid upon the table of each House, either House resolves the draft or any part of it should not be proceeded with, no further proceedings can be taken thereon (*g*). For the Board's form of interim order appointing managers, see E. A. Order (Provisional) 1, Appendix A.

Provisional orders are required, *e.g.*, if a local education authority, under the Education Act, 1902, proceeds to

(*g*) The view of the Board is that this provision as to tabling orders before the two Houses of Parliament only applies to an order revoking, varying or amending another order, and not to all orders. It is submitted the words do not bear this construction. See the point discussed in the notes to s. 11 below.

set in motion the powers of compulsory purchase given by the Elementary Education Act, 1870 (c. 75), s. 20 ; or, under the Act of 1902, s. 17, if the council neglect for twelve months to procure a scheme for an education committee.

Sections 297 and 298 of the Public Health Act, 1875 (c. 55), are to apply (s. 21 (1)) to provisional orders under this Act, the Board of Education being substituted for the Local Government Board. By the provisions of the Public Health Act no provisional order is to be made unless public notice of the purport of the proposed order has been given for two weeks previously in a local newspaper. Objections are to be considered and, if necessary, a public inquiry held. Parliamentary assent is necessary, and an order once made may be revoked by a similar order made in the same way. If a petition be presented to Parliament against any order contained in a confirmatory Bill, the Bill may be referred to a Select Committee and the petitioner may appear against the Bill as if it were a private Bill (*h*). The Board of Education may allow reasonable costs of the authority with regard to the provisional order and preliminary inquiry (s. 298 of Public Health Act, 1875).

The Mortmain and Charitable Uses Act of 1888, and so much of the Mortmain and Charitable Uses Act of 1891 as requires land assured by will to be sold within a year of a testator's death, are not to apply to the assurance of any land for the purpose of a school-house for an elementary school (s. 23 (5)). The Board of

(*h*) There was no similar provision in the Elementary Education Act, 1870 (c. 75), s. 20.

Education may hold an inquiry for the exercise of any of their powers under the Act, and s. 73 of the Elementary Education Act, 1870, is to apply (see above, p. 20).

The Act does not extend to Scotland or Ireland, nor, save as expressly provided, to London. The Act comes into operation, except as expressly provided, on the APPOINTED DAY (*i*), which is March 26th, 1903 (the beginning of the Government financial year), or such other date within eighteen months as the Board may appoint (s. 27 (2)). Different days may be appointed for different purposes, and for different provisions of the Act, and for different councils. The periods during which local authorities may authorise school boards to carry on continuation schools and evening classes as provided by the Education Act, 1901 (c. 11), and renewed by the Education Act, 1901 (Renewal) Act, 1902 (c. 19), shall continue till the APPOINTED DAY, and in London till March 26th, 1904.

IX.—TEMPORARY PROVISIONS AS TO TRANSFER OF PROPERTY.

Schedule II. contains a series of provisions dealing with transfers of property from the old to the new authorities. The property, powers, rights, and liabilities (whether arising under a local Act, or a trust deed, or otherwise), of school boards and school attendance committees shall be transferred to the council exercising the powers of the school board. And if that council be an authority, borough or district which surrenders its Part III. powers to the county council, all the

(*i*) See the Board's Circular, No. 474, Appendix A.

property, powers, rights, and liabilities of the school board or attendance committee will go over to the county council (Sched. II. (1) and (2)).

No further election of members of school boards can now be held, and members now in office shall continue in office till "THE APPOINTED DAY," the Board of Education having power to make any order necessary for carrying this provision into effect (Sched. II. (10)) (*k*).

As to non-provided schools the local education authority are to be entitled *to the use* after the appointed day of the furniture, apparatus, etc., in use in the school up to that time, but the property therein will remain in the managers (Sched. II. (14)).

School boards and school attendance committees are to furnish the future local education authority during the interim period with any information the latter may desire (Sched. II. (15)). The officers of any authority whose property, rights, and liabilities are transferred to any council shall themselves be transferred, and become the officers of that council; the council may, however, abolish their office, subject to such compensation as may be payable in accordance with s. 120 of the Local Government Act, 1888, which is incorporated Sched. II. (21)).

X.—MODIFICATION OF ACTS AND REPEALS.

Schedules III. and IV. contain provisions modifying or repealing the whole or portions of earlier Education Acts, especially the Elementary Education Act, 1870

(*k*) See Circular of Board of Education, *Times*, January 6th, 1903. For casual vacancies, Sched. III. of the Elementary Education Act, 1876, is to be resorted to.

(c. 75), large portions of which are repealed, and the Technical Education Acts, 1889 and 1891, which are repealed *in toto*.

XI.—THE FINANCIAL AND RATING PROVISIONS (*l*).

The magnitude of the reform in the finance of education which the Act will effect has not, as yet, been sufficiently appreciated. As regards HIGHER EDUCATION, the greater part of the country escapes at present any contribution from the rates, while, in some parts even the fund applicable to such education, viz., the local taxation grant, goes in relief of the rates. The Act definitely prevents any such relief of the rates, and implicitly, owing to the point at which it has (with the Cockerton judgment) fixed the dividing line between higher and elementary education, makes it impossible for any authority to avoid levying a rate under Part II. as well as Part III. The customs and excise grant is practically pledged to the support of one side of secondary education proper. The literary and humanistic side will soon make its claims heard. But it is the education on the border line which will demand immediate support. Pupil teacher centres and other institutions for training teachers must go on, and by s. 22 (3) this is made a charge on the rate under Part II. There is urgent need for further training colleges, and combinations of authorities must soon be formed to provide them. Evening schools, again, by s. 22 (1) are definitely ruled out from the Part III. rate, even if the education given in them is elementary. In the counties these schools have hitherto been supported by

(*l*) See generally hereon, Circular 470 of the Board as to powers and duties of a county council, Appendix A.

the councils out of the local taxation grant, but in the boroughs with school boards they have been almost wholly left to the elementary rate ; now they must fall into their proper place, and come upon the higher education rate. The same thing applies to higher grade board schools ; these cannot be given up or left derelict, so must be supported in the same way.

Now, as regards the support obtainable for such education from the rates, there is no departure from the general principles of the Technical Instruction Acts, 1889 and 1891. The amount of the possible rate is, however, increased. The county borough councils have now an unlimited rate. The councils of the counties have a *2d.* rate (capable of increase with the consent of the Local Government Board to any extent) leviable over the whole of their areas, including any part of that area separately rated or rateable by its own urban authority. Every borough and urban council (whether or not a Part III. authority) has the power of raising a rate of *1d.* in its area, whether also rated by the county council or not. The county and county borough councils retain in their hands the whole of the local taxation grant, and have continued to them the powers of the Technical Instruction Act, 1891, of carrying over for a like purpose any unexpended balance of the annual grant ; they must, however, though not necessarily in the year of its receipt, spend the whole of this grant on higher education. Presumably with this grant will go, as at present (and as advised by the Royal Commission), the allocation of all money paid by the Board of Education, South Kensington, in respect of day or evening schools or classes. Further, the county councils retain the

differential rating powers conferred by the Technical Instruction Act, 1889. By s. 18 (1) (a) the area specially served by any school or college may be called upon to pay a higher rate than the rest of the county ; it will be noted that for the building of a higher school there is no limit of three-fourths fixed as the rate leviable solely on the parishes benefited, as in the case of an elementary school. There is no limit as to the amount which may be *borrowed* on the security of the rate for the purposes of the Act, other than that involved in the discretion of the Local Government Board.

As regards ELEMENTARY EDUCATION, for the first time the whole of the population is placed upon the same footing as regards payment of rates. Hitherto, out of a population outside London of about 28,000,000, more than 9,000,000 have escaped paying any school board rates. It is generally forgotten, however, that the whole population has always paid small rates for school attendance purposes.

By this Act the local authority everywhere has to maintain and keep efficient all elementary schools. This means that such authority, first of all, takes all grants earned by each school, and so far as these are not sufficient for maintenance, supplies the deficiency by means of a general rate over all its area. All authorities naturally have unlimited rating powers.

Every county and county borough council is an authority for this purpose of the Act, but councils of boroughs with populations of over 10,000, and councils of urban districts with populations of over 20,000 have separate (not concurrent) powers of rating. Thus, if

they elect to rate themselves, the county council can raise no Part III. rate in their areas. If they choose, however, they may either combine for a term of years in a joint committee (s. 17 (5)) with the county council, settling by agreement the proportion of rates to be paid; or (s. 20 (b)) they may abandon their rating powers for good to the county council, and thus become part of the county area for all purposes. Without relinquishing the rating powers, any council can arrange with another council to take over the management (but not control) of any of its institutions; this is obviously intended mainly for the delegation of minor powers by a county council (s. 20 (a)).

Once an authority has decided on exercising its Part III. powers, it must settle the *basis of maintenance*. Various fancy bases have been suggested by interested parties. The cost per child in voluntary schools outside London, is stated to be £2 6s. 1¼d., but in board schools, £2 15s. 0¼d.; the latter figure, it is assumed, is the lowest which spells efficiency; therefore, every authority should at once estimate its expenditure at this figure. Others go farther, and suggest a levelling up to the figure of the London School Board. It is, however, notorious that some of the most efficient school boards have a maintenance rate lower than those in the opposite category, while enlargement of area and concentration of administration should result in very large saving. Hence, the only way to go to work in a practical manner, is to estimate for the first year either on the basis of maintaining the absolute *status quo*, and simply giving to each school so much from the rates as will compensate for the loss of subscriptions, and other contingent losses under

the Act ; or perhaps better, of maintaining the average *status quo*, and allocating for each scholar the average amount now spent, considering board and voluntary schools together. This being done, the total maintenance expenditure in the area affected can be estimated.

From this is deducted—

- (1) Parliamentary grants on all children (Arts. 98 to 135).
- (2) Fee grant (10*s.* a head).
- (3) New grant (4*s.* a head) (s. 10).
- (4) New grant (variable) (s. 10).
- (5) Agricultural rating grant (a fixed sum).
- (6) Proportion of school fees (s. 14).
- (7) Proportion of endowments (s. 13).
- (8) Letting of schoolrooms, sale of books, etc.

As regards number (4), this is an equitable provision whereby a rich suburban or factory-built district with few elementary school children in it loses part of its grant for the advantage of poorer and more crowded localities. By s. 10 (1) (b) it is necessary to compute the total sum x which is produced in the area by a 1*d.* rate ; also the total sum y which would be produced in that area by a 10*s.* grant per scholar. Subtract x from y , reduce the difference to the number of 2*d.*'s, *i.e.*, multiply the number of £'s by 120. Then the figure so obtained, considered in terms of 1½*d.*, gives the variable grant per scholar in the area.

A practical instance is given.

Reigate.—2,760 scholars in average attendance ; 1*d.* rate produces £872 18*s.* 4*d.* x , or 6*s.* 4*d.* a scholar. A 10*s.* grant per scholar = £1,380 y .
 $y - x = £507$ 1*s.* 8*d.*, or $22 \times 2d.$ per scholar
 $\therefore 22 \times 1\frac{1}{2}d.$ per scholar (2*s.* 9*d.*) is the new variable grant producing £379 10*s.*

There is a liability to a further reduction or “docking” of this grant, but it need not be discussed here.

As regards items (6) and (7), the local authority has, by s. 14, the option of abolishing fees or of sharing them with managers. In most counties the total amount is not worth consideration. In Leicestershire out of a total income required for maintenance of nearly £80,000, fees represent less than £350 ; in Surrey out of £159,000, fees and book sales represent less than £1,500.

As regards item (7) it is quite impossible to say how much will come to local authorities and how much to managers. There is the initial difficulty that many endowments are of a complex kind, providing for other charitable purposes besides elementary education. Consequently the endowments will have to be apportioned as follows : First, the part, if any, payable for purposes other than the elementary school must be deducted ; of the remainder, if the trust is for capital purposes, *e.g.*, for buildings, that will all go to the managers ; if for maintenance pure and simple within s. 7, then it goes to the local education authority ; if for the benefit of the school generally, there must be an apportionment by the Board (s. 13) (*m*).

(*m*) See, as to endowments and form of application in cases of difficulty, E. A. 7 and 8, Appendix A.

When the authority has calculated the amount receivable from all these sources for maintenance purposes, it is able to estimate the deficit to be made up from the rates. It is often supposed that the authority will themselves levy a certain special rate ear-marked "education" upon individuals. As a matter of fact this is not so. The overseers, in the ordinary process of collecting the poor rate, will so increase the amount on the rate paper as to meet the precept of the council concerned as regards the parishes for which they are responsible. Persons desirous of not paying this rate must refuse to pay all their poor rate, and it will be the overseers and not the local authority who will enforce payment. The county fund, the borough fund (or if there is none, a rate similarly assessed), or in urban districts a rate assessed as in the Elementary Education Act of 1896, are to bear the expenses, so that railways and waterworks, for instance, pay on their whole value.

In calculating the amount of rate required there must be added to the sum computed as above, *i.e.*, the maintenance deficit—

- (1) central administration charges ;
- (2) local administration charges (including salaries of provided-school clerks and attendance officers) ;
- (3) by s. 18 (1) (c) a proportion ($\frac{1}{4}$ to $\frac{1}{2}$) of capital expenditure or rent for provision or improvement of accommodation ;
- (4) by s. 18 (1) (d) a proportion ($\frac{1}{4}$ to $\frac{1}{2}$) of the liabilities for loans or rent of transferred school boards ;
- (5) a wear-and-tear fund (s. 7 (1) (d)).

It is only when the whole of at least the first four sources of expenditure are added on and come to a less rate than $3d.$ in the £ that the final proviso of s. 10 (1) (b) comes in, and the aid grant is reduced by the sum of a $\frac{1}{2}d.$ for every $1d.$ the rate is below $3d.$ It is scarcely conceivable that this reduction will ever take place.

Considering the country as a whole, the average maintenance rate will be just under $3d.$, local and central administration will not average $\frac{1}{2}d.$, but the capital charges will vary precisely as do those of school boards now.

In due course every local authority will be well advised to provide a depreciation, or wear-and-tear, account, in respect either to its whole area or locally in respect of districts. The general upkeep of the fabric of provided schools, and the tenants' repairs of non-provided schools will be paid out of this fund. Otherwise after, say, three years or so there will be a serious but temporary rise in the rate. By s. 18 (5) it is possible to delegate this duty as well as the periodical payments for maintenance to managers, groups of managers, or district committees, and the members of such bodies are duly liable for their expenditure at the county audit. The most convenient course will probably be for managers to present an annual estimate covering all the above items except central administration and quarterly estimates in accordance therewith, and to receive in return four lump sum payments per annum, the final one being paid only on receipt of the balance sheet.

THE TRANSITION PERIOD.

The Interpretation Act, 1889, s. 37, runs as follows :
“ Where an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any Order in Council, order, warrant, *scheme*, letters patent, rules, *regulations*, or *byelaws*, to *give notices*, to *prescribe forms*, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.”

Acts of Parliament like the Education Act, which involve a succession of operations, one contingent on the other, can and must have certain parts of their machinery put in order before it is possible for the final and conclusive operation, which is the main object of the Act, to take place “on the appointed day” (*n*); and s. 37 above must be borne in mind. In the Education Act the earliest appointed day is March 26th, 1903, and on that or a later day the taking over of the “board” schools into the possession of the education authorities, and the rate-aiding of the “voluntary” schools are

(*n*) See Circular 474 of the Board as to when the appointed day is to take effect, Appendix A.

the essential operations. But it is impossible for this to be done under circumstances of effective control unless certain preparations which involve putting parts of the Act into operation have been made beforehand. In order to meet the difficulties which various authorities may encounter in this preliminary work, the appointed day may be put off for eighteen months without the local authority being declared in default under s. 16, which would result in the coercive powers of the Board of Education being brought into play. This later date is in no sense an invitation to delay.

It may be assumed that every county authority which has powers under Part II. is fully acquainted with the needs of its area as regards higher education generally. In the report of the Royal Commission of 1895 there is ample information on this point, and the South Kensington inspectors can bring this up to date. The administration of technical education has practically involved acquaintance with all higher education. There are exceptions, however. The higher grade schools of the school boards, and pupil teachers' centres or other means for training pupil teachers are now classed as higher education. The officials of the councils should obtain at once from the Board particulars of the work thus carried on. Many pupil teachers' centres are carried on by sub-committees of diocesan bodies, and full information as to their work can be obtained from the secretaries to the aid grant associations (*o*). As all the work on the border lines between higher and elementary education and questions relating to the training of teachers present the most difficult

(*o*) For list of these associations, see Appendix E. See also Circular 472 of the Board, Appendix A.

problems of the future, personal visits on the part of county officials will be necessary at once. The "concurrent penny" boroughs and urban districts need not trouble themselves in this matter, as financial reasons will make it necessary for them to co-operate with the major authorities.

As regards Part III., detailed inquiries into the condition of every elementary school in their areas should be set on foot at once by the authorities. Many counties, even before the Bill was passed, took this step, and received full and valuable information, but given as a matter of courtesy only. Now by Schedule II. (15) managers and school attendance committees must furnish to their local authority presumptive "such information as that council may reasonably require." A schedule of questions, based somewhat on Form 9 (B) of the Board, and somewhat on the annual requisition form of the aid grant associations, should be issued to every correspondent and school board clerk. Elaborate detail is not wanted now, but rather material for a general survey of the field. Some of the main questions to be asked relate to the tenure of the school buildings, the qualifications of teachers, the relations between the accommodation and average attendance, and the income and expenditure for the past year. It is important, as regards expenditure, to so frame the questions as to receive separate figures relating to "local authority" purposes such as salaries, books, apparatus, etc.; and "managers'" purposes such as alterations and improvements of the buildings; it will, however, be quite futile to try and get any separate figures relating to "fair wear and tear" (s. 7 (1) (d)). The best insight into the actual state of a school will be obtained by securing a statement as to the expenditure of the

special aid grant during the past three years. As regards board schools, full details of loans should be required, and the administrative expenses should be analysed to show salaries separately. It is not so important to obtain at once details of the work of school attendance committees. The cost, even, is no guide for the future. Dozens of officers giving odds and ends of their time each to some petty district must cost very much more in salaries, and in the contingent expenses (prosecutions, etc.), than would a limited number of whole-time officials of knowledge and discretion, each serving a considerable area. As all the policy in such matters will have to be drastically altered, it is as well to leave the new committee to inquire into everything, except the actual gross expenditure and the salaries of officers (*p*).

A return of quite a different kind should be ready for the new committee when it comes into office. This relates to persons suitable to be appointed managers in provided and non-provided schools respectively. Immediately the schools are taken over on the appointed day, and the old managers go out of office, new ones must be ready to take their place. The new committee may or may not delegate the whole of the appointment of managers (s. 20 (a)) to every borough, district, or parish council in the area; in the larger counties this will almost certainly be the case. But under either circumstance some public body will require a return of fit persons. As regards provided schools, especially in the larger districts, it will be wise policy to keep in office the best of the members of the late school boards.

(*p*) See Circular 477 of the Board as to payment of grants before the appointed day, Appendix A.

The Act in operation. — The first step taken generally by the local education authorities has been to appoint expert officers. The usual staff appointed has consisted of a secretary or director, with at least two, or in some cases, three, educational assistants, and a further principal lieutenant to take charge of finance. The larger counties equipped with such a staff have naturally delegated all possible powers to their committees. In the smaller counties and county boroughs, however, the clerk of the council has been practically made the head of the Education Department. For the superior posts a number of officials of both branches of the Board of Education have been transferred to the local authorities.

The next step has been the organisation of sub-committees for various purposes. Generally, it has been found that the following sub-division is sufficient :

1. A finance sub-committee, dealing often also with legal, parliamentary and other general purposes.
2. A higher sub-committee, occasionally split into three parts for agricultural, secondary day school, and evening class purposes. In a few counties these three matters are dealt with by co-ordinate sub-committees ; and in two cases there is a separate county education committee for agricultural matters ; it is doubtful policy thus to emphasize the general "aloofness" of the agricultural mind from general education.
3. An elementary sub-committee dealing with all matters under Part III. of the Act with the possible exception of school attendance.

School attendance has occupied a great deal of the

attention of the local authorities during the past four months. They have found that, except in a few compact urban areas, the whole matter is in a very unsatisfactory state. The county revenue loses often thousands a year under this head. In most counties, the elementary sub-committee is finding it impossible to keep in touch with the whole area, and to supervise and direct prosecutions in remote districts (*g*). Two methods of meeting the difficulty have been adopted. In certain cases the county has, like the borough, appointed a separate school attendance committee, containing certain members of the authority; and the body has had power to split itself up into executive district sub-committees. This system has the disadvantage of practically removing the ultimate control over this important matter from the authority. A better system is for the county committee to split itself up geographically, either by parliamentary divisions, poor law unions, or petty sessional divisions, and for the members in each such geographical division to "add to their number" sufficient suitable persons to form a representative local body in touch with all the attendance officers. Such local committees can safely be trusted with large executive powers, and given the control of all the attendance officers in their areas; they would report quarterly to the authority.

As to the attendance officers themselves, only in one or two cases has the policy been adopted of determining their offices wholesale, for abolitions of offices are

(*g*) It has to be borne in mind that the education authority is itself responsible for school attendance, and no prosecution can take place except through a committee (or at least on the authority of two members of a committee) composed wholly or partly of members of the authority. Hence, no delegation of powers to school managing bodies or boards of managers irrespective of their composition is possible.

expensive ; but to secure effective supervision the divisional, or geographical committees have been supplied with directors or superintendents of school attendance officers. These superintendents act as clerks, secretaries, and treasurers of the geographical committees, and report quarterly through them to the authority as to how the work is performed in their areas. By such a policy the central office is relieved from all its work, and a general uniform standard of efficient attendance is established over a wide area of the county.

Higher education under the Act.—The sub-committees appointed to deal with this part of the Act find their positions very different in different counties. A not inconsiderable number of important counties have, under the Technical Instruction Acts, built, enlarged, and equipped secondary schools and founded a complete system of scholarships. In these cases the new body has simply to continue the same policy, and the call upon the Part II. rate need not be very high. In other cases, however, where the term “technical” has been taken in its narrowest sense, the new authority has no knowledge even of the needs of its area in respect of secondary education proper (*v*). Nobody knows how far the very large extension of non-local boarding schools founded in recent years by religious corporations or joint stock companies has relieved the pressure

(*v*) No commission or expert has taken into account the extensions of elementary (day or evening class) education into what was formerly a field dedicated to secondary education. Nobody knows how far private schools purporting to be secondary really give no education beyond that of the standards, but from figures laid before the Royal Commission and statistics collected by Mr. Sadler in his celebrated return, it is safe to say that three-quarters of the private secondary education is not up to the standard of a good board school.

on the local secondary supply. Local authorities will be wise to pay no attention to first grade schools, especially boarding schools. These cater for a class that can afford to pay for its own education, and to be successful must be largely non-local. It is second grade and third grade day schools which the localities require. Experience has shown that a fairly safe basis for the provision of second grade public education is that any town of 20,000 inhabitants living within a three-mile radius requires a second grade boys' school with accommodation for 200, and a similar girls' school with accommodation for 150.

Such a provision will not hamper private effort, and will not, except perhaps for a few children at the top of each school, touch first grade education. As to scholarships leading to such secondary schools from the elementary schools, the supply at present in many areas equals the legitimate demand, and in some, especially in London, exceeds it (*s*). But the principal work of immediate urgency in higher education has been the reorganisation of the pupil teachers' system. The training of pupil teachers having been up to the time of the Cockerton judgment considered as part of elementary education, the technical education authorities very rarely got into close touch with them (*t*). The

(*s*) It is doubtful if at present scholarships, giving a full secondary (not merely technical, trade, or manual) education, up to the age of sixteen or over, can usefully be awarded to more than one child per 1,000 in the elementary schools. Of course for a much larger number, one or two years' continuation education is required and in most places provided.

(*t*) It is true that in some of the principal counties, the county councils provided in their institutes drawing and physiography classes open to the pupils in the various pupil teachers' centres, and thus did a most useful work; while in three counties certain grants, with questionable legality, were actually made towards the general centre expenses. But on the whole, this work was considered to fall within the sphere of influence of the school

centres themselves, except in large towns, were either carried on during one or two evenings a week and on Saturdays, or else for a few hours daily and on Saturdays for a half day. Such a truncated system could not be allowed to continue, but yet for the present generation of pupil teachers it had to be kept alive. Hence the principal counties have taken over the centres, while expert teachers for special subjects have been added to their staff, and wherever possible the evening classes have been turned into day centres (*u*).

Elementary Education.—The first function which the elementary sub-committees have had to perform has been the appointment of managers. This has been a difficult task. In all cases varying interests have had to be conciliated, and in the rural districts there has often been found a dearth of persons willing to serve, and at the same time literate enough to be competent. Certain general principles (well set out by the Staffordshire Education Committee) have generally governed these appointments. Some counties have put, as far as possible, members of the education committee on

boards, and (where they would do it) of the Diocesan Aid Grant Associations, while the majority of pupil teachers in rural voluntary schools picked up what little information they could during the odds and ends of the principal teachers' spare (?) time.

(*u*) But this is, of course, only a makeshift. There is a consensus of opinion in the leading counties that there must at once be established a special system of scholarships taking youths and girls of thirteen years of age, who are capable of being made into teachers, from the elementary and placing them in the secondary schools. There the children should for three years join in the ordinary work and life of the school without doing any teaching. At sixteen they should be "bound" for two years, and work as half-timers two or three days a week continuing their studies in a special class at the secondary school, and teaching in the elementary school the rest of their time. Naturally the scholarship for the last two years of this time should be of considerable value. Such students when entering a training college ought to have passed the London Matriculation or similar examination, and should all leave the college with a degree as well as a teaching diploma.

managing bodies. In the case of council school¹⁸ former school board members have been generally re-appointed (*v*).

As regards denominational questions, where a considerable number of children of different denominations attend a school, the county manager has been appointed from the denomination other than that of the schools.

As to structural condition, the council schools, especially in rural districts, have not been found to be in the best condition. The voluntary schools have often been found equally defective, especially in sanitary matters and in ventilation, and the county authorities have had to call upon managers to put their houses in order with fair promptitude (*w*).

The staffing of the schools has occupied a great deal of attention ; in a few cases the committees have had to act as arbitrators between managers and teachers, preventing, where they could, any dismissals except for really serious causes.

In the same connection scales of salaries have been drawn up with a view to preventing injustice as between one teacher and another. Every county also has had to go through the elaborate formalities of the Act in relation to the taking over or enlarging of schools and the provision of new schools, (see pp. 110, 111, *infra*). In most cases managers prefer to concentrate their energies on the existing schools, and are

(*v*) This has led to a little friction in some cases ; these ex-school board members cannot realise that they have not now the same free hand to spend their county rate as they formerly had to spend the local rate, and that now they have to serve two masters, the local authority as well as the Board of Education.

(*w*) Here much misapprehension has arisen as to "wear and tear," managers often thinking that this term means something contributed towards current repairs, while the education authorities have had to hold that a year's experience is necessary before considering he ir contribution at all.

asking for new schools to be "provided" by the authority.

Action by voluntary school managers.—And first they must decide whether they intend *to carry on the school as a public elementary school or not*. The Memorandum of the Board of Education (paragraph 4) is ambiguously worded (*x*), and has been taken to mean that managers of existing voluntary schools are always, or in the majority of cases, *compellable* to carry on their schools as public elementary schools. This is not correct, and can hardly have been intended. Such compulsion can only arise (a) under the provisions of the School Sites Acts, under which most of the sites for voluntary schools were originally conveyed. But, as we saw (*y*), those Acts only require the education of *poor persons in religious and useful knowledge*, a requirement which would appear to be satisfied, if the premises were used for Sunday schools on Sunday, and for, say, a working-men's institute during the week; (b) under the trust deeds. These, it is true, do often secure the premises for use "as a school," *e.g.*, the National Society's Conveyance (*z*) says, "*for a school for the education of children and adults, or children only, of the labouring, manufacturing, and other poorer classes.*" But other purposes besides a school are usually specified in the deed, *e.g.*, "religious and secular instruction of all kinds," "promotion of any philanthropic, charitable, or benevolent purpose," etc. (*a*). If the school premises were used more or less regularly for these purposes during the week, and for Sunday schools on Sunday,

(*x*) Memorandum of December 20th, 1902. See Appendix A., Form E. A. 1, para. 4.

(*y*) See above, p. 24.

(*z*) Forms 1 and 3.

(*a*) See National Society's Conveyance, Form 3.

it is difficult to see how any proceedings, which must in any case be commenced in the name of the Attorney-General, or with the consent of the Board, under s. 17 of the Charitable Trusts Act, 1855, the Attorney-General being a party, could successfully be taken for breach of trust (*b*).

It is true some of the earlier deeds do actually require that the premises shall be used as a "*public elementary school*," but that is because State aid was given for their erection on these terms; in these deeds the amount of the grant may be returned to the Board of Education, but if this is done the managers can then retain the schools, subject to such general uses as above mentioned, and express provision is made in the deeds for repayment and release in this way (*c*). Assuming that the managers do decide to continue the use of the premises as a *public elementary school*, then they have three options—

- (1) To transfer the school entirely to the local authority, thus making it a provided school, subject, of course, if the premises are only leasehold, to any rent payable to the owner for the buildings. Possibly in some cases the owner or owners will also surrender the property.
- (2) To transfer the school to the local authority on conditions as to user. Here also it becomes a provided school during the hours for which it is surrendered, and the managers or trustees

(*b*) Needless to say, it is not suggested that this is the right course to take; it is only necessary to clear up a misconception.

(*c*) See Blue Book 1902: Precedents of Trust Deeds, ed. 1337; Church of England Deeds, pp. 2, 8; Roman Catholic Deed, p. 19; Wesleyan Deed, p. 31; British Schools, p. 40.

have only jurisdiction during the hours they retain for their own use (*d*).

(3) To continue to maintain it as a non-provided school.

In both (1) and (2) it is important to remember that under the conditions of transfer and surrender now in force (see p. 15 above), and which will remain in force untouched by the Act of 1902, everything depends on whether the TRUST DEED of the school does or does not allow the managers to transfer or let; if it does, then a lease can be made, provided it is for not more than twenty-one years, under s. 19 of the Elementary Education Act of 1870 (c. 75). The Board of Education has no voice in the matter, and a proper rent can legally be paid, or arrangements made as to religious teaching (*e*).

Forms of conveyance of the National Society now in force allow the trustees, with the consent of the National Society, to “*grant or convey for educational purposes*” to any body corporate or person authorised by law to accept the same “*the whole of the estate or interest hereby vested in them or any smaller interest in the said school*” (*f*). This would permit of a lease to the local education authority under s. 19 of the Act of 1870, for which the consent of the Board of Education would be unnecessary, and a rent could be charged.

(*d*) See notes to s. 7 below for a plan of such a transfer.

(*e*) Section 29 of the Charitable Trusts Amendment Act, 1855 (c. 124), prevents a lease for more than twenty-one years without the consent of the Charity Commissioners, or now, where the charity is purely an educational one, as in the case of an elementary school trust, without the consent of the Board of Education.

(*f*) National Society's Conveyance, Forms now in force (1 and 3). There is no such power in the National Society's form of conveyance, where the incumbent conveys part of the glebe as a school site.

The Roman Catholic and Wesleyan forms of deed present more difficulty : they both contain powers of leasing and sale, but more stringently drawn. Probably, however, even in these cases, with the proper consents, arrangements could be made with the local education authority under s. 19 of the Act of 1870 (*g*). If no power of leasing exists in the deed, then any arrangement made must be carried out under s. 23 of the Act of 1870, and the consent of the Board will be necessary. It is presumed the present Board will follow the tradition of the Department, and, when their consent is necessary, allow none but a nominal rent (*h*) and no conditions as to religious teaching.

In case (3) the question of the trust deed is vital. Many voluntary schools have no trust deeds, in the case of other schools they are of a vague and general character, and in practically all they are inconsistent with the Act.

Assuming that it is decided to carry on the school as a non-provided public elementary school, a trust deed is important for two purposes : (a) to secure the *character* of the teaching (s. 7 (6)) ; (b) for the *appointment* of the four or more foundation managers (s. 11). It is only with regard to this latter head (appointment of managers) that the Memorandum and Order of the Board of Education (E.A. 1 and E.A. Order (Provisional) 1, Appendix A.) apply ; it is only with regard to this piece of *machinery* that the Board is to have regard to the principles on which the school has been conducted, and that the Board in its memorandum discourages new deeds, and recommends an order under s. 11 (E.A. 1, para. 10). With regard to the *character* of the teaching, it is most important

(*g*) See Blue Book : Precedents of Trust Deeds, 1902, pp. 17, 31. The forms of the British and Foreign School Society (p. 39) and of the Jewish Schools (p. 41) contain no similar provisions.

(*h*) Section 23 of the Elementary Education Act, 1870 (c. 75), says "either at a nominal rent or otherwise."

to secure this, when desired, by deed ; if a deed exists, it cannot be altered without going to the Board of Education for a new scheme (*i*), but in many cases managers have NO DEED. If a deed never existed, and the premises are held by a private owner or owners as private property, while they allow the managers the use of the school, the owners can either retain the property in their own hands, allowing the managers to use it as before (when an order will be required from the Board) ; or, better, can forthwith execute a deed (*k*).

The number of these schools, still privately owned, which possess no deeds has proved to be larger than was expected. In many country districts landowners have put up schools on part of their estate and often entirely maintained the school, without any legal conveyance or declaration of trust. Steps should at once be taken in such cases before the Act comes into force to protect the owner's interest. The Board of Education strongly urge this in the latest memorandum on the subject (E.A. 13, Appendix A.).

There is nothing to prevent his carrying on the school as before and merely obtaining an order from the Board appointing his nominees as managers ; but in that case there is no safeguard as to the character of the religious teaching (*l*).

Assuming a deed or agreement is executed (E.A.

(i) Schools receiving annual Parliamentary grants, *i.e.*, public elementary schools, were exempt from the provisions of the Endowed Schools Acts ; but by s. 75 of the Elementary Education Act of 1870 (c. 75), the Education Department (now the Board) were given power to make new schemes in such cases.

(k) See Memorandum of the Board, E.A. 1, para. 14 ; and Memorandum as to schools held by private owners, E.A. 13, Appendix A.

(l) Moreover, it is hardly conceivable that in such a case the local education authority will give rate aid to maintain and increase the school, unless the landlord makes some agreement with them, giving a reasonable prospect of permanence. If there is nothing but the order of the Board appointing managers, the private owner could shut the school up at a moment's notice.

13 (2)), it will serve two objects : (i) to convey the premises ; (ii) to declare the trusts as to the management of the school. (i) The landlord may either convey in perpetuity or for a long term, with a power of revocation, if desirable ; or, what is more usual, may grant a yearly tenancy, terminable at three months' notice ; in either case the School Sites Act may be utilized, if the landlord has only a limited interest in the land (see above, p. 25). The conveyance should not be to the four foundation managers, as they will change and the legal estate in either the freehold or the leasehold will have to be transferred from the old managers to the surviving and new managers on each vacancy. To avoid this difficulty the conveyance may be made to a corporate body of trustees, such as a diocesan trust, or to the vicar, or vicar and churchwardens of the parish (if made under the School Sites Act, 1841, for they are made corporations with perpetual succession by that Act for this purpose) ; or the conveyance may be made to two or three private trustees nominated by the landlord, or even to one only (*m*) (E.A. 13, para. 4, Appendix A.) ; or, finally, the landlord may make a de-

(*m*) It has been suggested (*Times*, February 13th, March 18th, 1903), that it is dangerous to have a single trustee tenant, even for a short yearly tenancy, on the ground that if the tenant die, both the term and the document creating it would be at an end ; the managers, on the document creating them coming to an end, would cease to exist, and consequently the school would, in law, cease too (s. 7 (4)) ; and when a new lease was granted this would mean a new school under s. 8. This is, of course, absurd. A tenancy, even from year to year, does not end on the death of the tenant, but rests in his personal representatives ; the managers and school would go on under the trust clauses, and the term could be assigned to a new trustee tenant.

A more difficult case is where a lease, not at a rack-rent and not under the School Sites Act, has been granted by a life tenant of settled estates. If he has no power under his settlement to grant such a lease the lease will end with his life (Settled Land Act, 1882, s. 7 (2)) ; but even so, it appears the managers and school would, on the death of the limited owner, go on till the

claration that he holds the premises in future in trust for a school. Where only a lease is created a deed is not necessary, a simple agreement with a 6*d.* stamp being sufficient.

(ii) The second, or trust, portion of the deed or agreement must contain the following: a provision directing the trustees to allow the use of the premises as a non-provided school under the Act, or, if thought desirable, under the wider trusts of the School Sites Act (see p. 25, above); another provision providing for the appointment of the four foundation managers usually on the landlord's nomination, and another securing the character of the religious teaching and the appeal allowed by s. 7 (6) of the new Act. Power should also be taken to let to the local education authority (see p. 15, above); the rent should be specified; the liabilities of the managers or trustees to repair, and the rights of the landlord to re-enter for breach of the agreement, stated; and all minerals, sand or timber on or under the land should also be reserved to the landlord.

On the other hand, managers or trustees may hold the premises and carry on the school on implied trusts, it not being known how the trust was created, but merely that the premises have always been used as a school. In this case, again, if the managers or trustees can show any title to convey into trust, a deed should at once be executed securing the *character* of the teaching; machinery for appointing foundation managers might at the same

managers were actually ejected by his successor, and s. 8 of the Education Act would not apply till then. The successor would probably renew the lease, but the point is, that there appears to be no cessation of the managers and of the school by operation of law immediately on the life tenant's death. So long as the managers are in physical possession and control of the premises it must be under and for the purposes of the deed; they could not, on the life tenant's death, use the premises, *e.g.*, for a public-house, and the school can and must continue.

time be inserted, if not inconsistent with the implied trusts, so as to avoid going to the Board for an order under s. 11 (*n*). Till March 18th, 1903, the managers or trustees are the only people that can apply to the Board for an order; after that period the local education authority may come in and accelerate the movements of the managers, if necessary (s. 11 (2)).

In many cases the deed has existed, but been lost. In the case of LOST DEEDS, their terms may often be discovered by reference to the Record Office, Chancery Lane, London, W.C., for all trust deeds of property conveyed in trust for charitable purposes are required, since 9 Geo. 2 (1736), c. 36, to be enrolled, under the Mortmain Act of that date (*o*), though very many have not been in fact properly enrolled.

Trust deeds of schools can be seen by application to the Legal Search Room of the Record Office for charge of 1s. each deed and searchers are at liberty to make copies.

From 1866 onwards the name of the "grantor" is necessary to trace the deed.

The charge for a certified copy of deeds is 6*d.* per folio of 72 words for deeds executed during the reign of George III. and onwards; for deeds executed previous to this the charge is 1s. per folio.

The officials in the Legal Search Room are very courteous in answering inquiries by post gratis, and in informing applicants whether deeds affecting their schools exist; but applicants should always state the approximate date of the deed and the probable name of the grantor.

The Memorandum, E. A. 1 (*vide* Appendix A.), gives

(*n*) As to how far managers holding schools on implied trust can now execute a deed altering or amplifying those trusts, see notes to s. 11.

(*o*) And see now Mortmain and Charitable Uses Acts, 1888 and 1891.

general directions for applying for an order under s. 11 of the Act, and the National Society have issued instructions as to the kind of order which it is desirable for Church of England schools to apply for (Appendix A.). The Board have also issued now the form of interim order to be made in such cases (E.A. Order (Provisional) 1, Appendix A.) ; and also form of final order (see Appendix F.). It may be taken for granted that the local authority do not want to be troubled to act in this matter, and managers should utilise the three months grace and apply for an order as rapidly as possible. The managers need not assume that the authority will want to limit the number of managers to six, which is certainly too small for practical purposes. They might informally consult the council as to its views, but in any case they should keep an option in the recommendation they send to the Board for a multiple of six to be assented to. It is also doubtful if they are wise from their own point of view in giving a power of election to subscribers of as small a sum as 2s. 6d., as suggested by the National Society ; and it might be worth while, in some cases at any rate, to let 10s. subscribers appoint two managers (out of six), and the parents one manager, the clergyman being a foundation manager *ex officio*. There is further a considerable danger that subscribers may now tend to disappear altogether. Retirement by rotation, which is easily secured if twelve managers are appointed, is also very desirable. It will be highly convenient if schools of the same denomination in one district hold a conference as to the possibility of grouping themselves under s. 12 of the Act (*p*).

(*p*) For a draft scheme for grouping voluntary schools under s. 12, see Appendix C. and s. 12.

SECTION III.

EDUCATION ACT, 1902.

(2 EDW. 7, c. 42.)

*An Act to make further provision with respect to
Education in England and Wales.*

[18th December 1902.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.

LOCAL EDUCATION AUTHORITY.

Local
education
authorities.

1. For the purposes of this Act the council of every county and of every county borough shall be the local education authority :

Provided that the council of a borough with a population of over ten thousand, or of an urban district with a population of over twenty thousand, shall, as respects that borough or district, be the

local education authority for the purpose of Sect. 1. Part III. of this Act, and for that purpose as respects that borough or district, the expression "local education authority" means the council of that borough or district.

County boroughs are defined by the Local Government Act, 1888 (c. 41), s. 31, and comprise all boroughs which, on June 1st, 1888, had a population of 50,000; or which have subsequently attained that size, and by a provisional order of the Local Government Board been declared to be county boroughs. *Non-county boroughs* were also first made a distinct class by the Local Government Act, 1888 (c. 41), the limit in that case being 10,000: there is provision in that case, also, for new boroughs, which grow to 10,000, being added to the class. For the definition of "*urban district*," see Local Government Act, 1894 (c. 73), s. 21: the definition will not, however, for purposes of the Education Act be the same, as it will not include non-county boroughs; see, however, s. 18 (1).

There are 62 counties, including the Scilly Isles, and 69 county boroughs in England, whose councils will be the local education authorities for both elementary and higher education in their area. With regard to the Education Act, there are 137 non-county boroughs, with a population of over 10,000, and 64 urban sanitary districts with a population of over 20,000, whose councils are local education authorities in their area for Part III. purposes only (for list, see Appendix D). The population limit is that now existing (s. 23 (8)), and there is no provision for making new authority boroughs or districts under this Act; these authority (Part III.) boroughs and districts may surrender their powers and merge in the county (s. 20 (b)). The boroughs with a population below 10,000 amounting to 108, and the urban sanitary districts with a population below 20,000, amounting to 745, have, as also have the above Part III. authority boroughs and districts, supplementary powers to supply or aid the supply of higher education to the extent of a penny rate (s. 3), but they are not local education authorities for this purpose.

Sect. 2.

PART II.

HIGHER EDUCATION.

Power to
aid higher
education.

53 & 54 Vict.
c. 60.

2.—(1) (a) The local education authority shall consider the educational needs of their area and take such steps as seem to them desirable, after consultation with the Board of Education, to supply or aid the supply of education other than elementary, and to promote the general co-ordination of all forms of education, and for that purpose shall apply all or so much as they deem necessary of the residue (b) under section one of the Local Taxation (Customs and Excise) Act, 1890, and shall carry forward for the like purpose any balance thereof which may remain unexpended, and may spend such further sums as they think fit: Provided that the amount raised by the council of a county for the purpose in any year out of rates under this Act shall not exceed the amount which would be produced by a rate of twopence in the pound, or such higher rate as the county council, with the consent of the Local Government Board, may fix.

52 & 53 Vict.
c. 76.

54 & 55 Vict.
c. 4.

(2) A council, in exercising their powers under this Part of this Act, shall have regard to any existing supply of efficient schools or colleges, and to any steps already taken for the purposes of higher education under the Technical Instruction Acts, 1889 and 1891.

(a) By this section (1) the local education authority are *obliged* [by the Bill, as originally introduced, the authority was only given the power] to *consider the educational needs of the area*; they *may* (2) *supply* education other than elementary; or (3) *aid* such supply; that is, may build

schools, colleges, or technical institutions, or make grants to existing ones; and (4) promote the general co-ordination of all forms of education, *e.g.*, by continuation schools; but for purposes (2), (3), and (4), they are only to take such steps *as seem to them desirable*, after consultation with the Board; the initiative, in other words, rests entirely with the local education authority; the most the Board can do is to exercise a friendly check; the Board could not *mandamus* the authority under s. 16, *e.g.*, to levy the twopenny rate for higher education. The authority *must*, however, now spend all the "whiskey money" on higher education. This is the only obligation the council are under, in addition to considering the educational needs of the area.

Section 1 (2), (3), of the Local Taxation (Customs and Excise) Act, 1890 (c. 60), which made permissive the spending on technical instruction of the "whiskey money" given to the counties and boroughs, is repealed, as is also the whole of the Technical Instruction Acts, 1889 (c. 76) and 1891 (c. 4). In addition to the spending of the "whiskey money" on education being now made compulsory, the chief differences resulting from the new Act and the repeal of the Technical Instruction Acts are: (a) representation of the council on the governing bodies of schools or colleges aided is no longer *required* as it was under the Technical Instruction Act, 1889, s. 1 (1) (e); (b) the old *1d.* rate is no longer leviable, in addition to the new *2d.* rate, in counties and county boroughs; (c) there is no longer any prohibition against helping private schools which are run for profit (Technical Instruction Act, 1889 (c. 76), s. 1 (1) (f), repealed). Higher education includes all forms of education other than elementary. Without limiting the definition of the words, the Act specifies the following as coming within the scope of higher education: Evening schools (s. 22 (1)); elementary education for scholars over sixteen at the close of the school year or not in accordance with the Code, unless the earlier Acts expressly provide otherwise (s. 22 (2)); or given in any but a public elementary school (s. 22 (3)); training teachers (s. 22 (3)); provision of vehicles and payment of travelling expenses of teachers or children (s. 23 (1)); providing in part or whole scholarships or fees for students at schools or colleges within or without the area (s. 23 (2)). For definition of elementary education, public elementary school, see p. 5 above.

There is no limit imposed on the power of the county boroughs to rate themselves for secondary education. It was stated in the House of Commons by Sir William Holdsworth that in Manchester, for instance, a restriction to *2d.* would involve a deficiency of at least £17,000, and

Sect. 2.

NOTE.

Sect. 2. that a rate of *4d.* to *6d.* would be required (Hansard, vol. cx., p. 338).

NOTE.

(*b*) "*Residue*" means annual residue left after payment of £300,000 for police superannuation under the Local Taxation (Customs and Excise) Act, 1890 (c. 60), s. 1, unrepealed. As to balances unexpended and unappropriated on the "appointed day," see Sched. II. (5).

Concurrent powers of smaller boroughs and urban districts.

3. The council of any non-county borough or urban district shall have power as well as the county council to spend such sums as they think fit for the purpose of supplying or aiding the supply of education other than elementary: Provided that the amount raised by the council of a non-county borough or urban district for the purpose in any year out of rates under this Act shall not exceed the amount which would be produced by a rate of one penny in the pound.

See note to s. 1 above. For the course to be adopted by the smaller non-county boroughs below 10,000 and urban districts below 20,000, see Transition Period above, p. 77. Both large and small non-county boroughs and sanitary districts are liable to the county rate for higher education up to *2d.*, in addition to their own *1d.* rate, if levied. The smaller non-county boroughs and districts are also liable to the county elementary education rate, but not the authority boroughs and districts (s. 18 (1) (b)).

Religious instruction.

4.—(1) A council, in the application of money under this Part of this Act, shall not require that any particular form of religious instruction (*a*) or worship or any religious catechism or formulary which is distinctive of any particular denomination shall or shall not be taught, used, or practised in any school, college, or hostel (*b*) aided but not provided by the council, and no pupil shall, on the ground of religious belief, be excluded from or placed in an inferior position in any school,

college, or hostel provided by the council, and no catechism or formulary distinctive of any particular religious denomination shall be taught in any school, college, or hostel so provided, except in cases where the council, at the request of parents of scholars, at such times and under such conditions as the council think desirable, allow any religious instruction to be given in the school, college, or hostel, otherwise than at the cost of the council: Provided that in the exercise of this power no unfair preference shall be shown to any religious denomination. Sect. 4.

(2) In a school or college receiving a grant from, or maintained by, a council under this Part of this Act,

(a) A scholar attending as a day or evening scholar shall not be required, as a condition of being admitted into or remaining in the school or college, to attend or abstain from attending any Sunday school, place of religious worship, religious observance, or instruction in religious subjects in the school or college or elsewhere ; and

(b) The times for religious worship or for any lesson on a religious subject shall be conveniently arranged for the purpose of allowing the withdrawal of any such scholar therefrom.

(a) For similar provisions, see the conscience clause, Elementary Education Act, 1870 (c. 75), s. 7, above p. 9 ; the Cowper-Temple clause, s. 4 of the 1870 Act, above, p. 10 ; and ss. 15, 16 of the Endowed Schools Act, 1869 (c. 56). For analysis of the provisions of this section, see above, Transition Period.

Sect. 4. (b) Much was made in debates in the House of the fact that of the existing training colleges forty-three are denominational, and only two undenominational (Report of the Board of Education, 1902, p. 46). The word "hostel" is used in this section with a view to allowing the local education authorities to build undenominational hostels or lodgings close to the denominational colleges, whose courses of lectures the pupils living in the hostels could attend.

NOTE.

PART III.

ELEMENTARY EDUCATION.

Powers and duties as to elementary education.

5. The local education authority shall throughout their area have the powers and duties (a) of a school board and school attendance committee under the Elementary Education Acts, 1870 to 1900, and any other Acts, including local Acts, and shall also be responsible for and have the control of all secular instruction in public elementary schools (b) not provided by them, and school boards and school attendance committees shall be abolished.

(a) By Sched. II. (1) the property, powers, rights, and liabilities (whether arising under any local Act or trust deed, or not) of any school board or school attendance committee existing at the appointed day shall be transferred to the council exercising the powers of the school board. For the general powers of school boards transferred to local education authorities, see above, pp. 4—26. No further elections to school boards are to take place (Sched. II. (10), and see Circular Letter of Board of Education, *Times*, January 6, 1903, and p. 68, above).

(b) For the definition of public elementary schools, see above, p. 9. For powers of local education authorities to provide elementary education under the Elementary Education Acts, 1870 to 1900, see s. 22 (2). The *Cockerton* judgment (see above, p. 6) is still important as defining the bounds between elementary and secondary education. *With regard to instruction given under those Acts* (apart from express exceptions thereunder), the present Act modifies that judgment as to (a) the age limit for elementary education (s. 22 (2)); (b) the Code is now to furnish

the maximum as well as the minimum limit ; and (c) certain education expenses must always be treated as expenses of secondary education, *e.g.*, evening classes (s. 23) (see *R. v. Cockerton*, [1900] 1 K. B. p. 356). The judgment of the Court of Appeal in the *Cockerton Case* (p. 734), does not agree with that of WILLS, J. (p. 339). The latter thought that s. 3 of the Act of 1870, which required the *principal* portion only of the instruction in an elementary school to be elementary, would authorise the teaching of higher subjects in the board schools, that the only two restrictions were that the education must be for *children* and must comprise the obligatory minimum in the Code. The Court of Appeal said that s. 3 did not authorise any but elementary education in board schools, and that elementary education must be defined, both its minimum and its maximum, by the Code ; but that this limitation did not apply to voluntary schools. It is submitted that the view of WILLS, J., is the correct one ; but in any case the judgments agree that voluntary public elementary schools might give higher education, provided that was not the principal portion of the instruction, and this, apparently, will continue to be the law with non-provided schools. There is no provision in the Act of 1902 that the local education authority shall be obliged to provide secular instruction in non-provided public elementary schools on the *same terms and subject to the same conditions* as in provided schools. Section 5 merely says the authority “shall be *responsible for and have the control* of all secular instruction in public elementary schools not provided by them” ; nor will s. 22 (2) impose any fresh limit ; it is arguable that this exception would be an “express provision to the contrary” under s. 3 of the Act of 1870 ; and in any case, instruction in non-provided schools will now be given, not under the Elementary Education Acts, 1870 to 1900 (in which case alone s. 22 (2) applies), but under the Act of 1902. As the local authority are now responsible for the maintenance of non-provided schools (s. 7 (1)), it would seem to follow that the authority might pay sums out of the rates for such higher education as may legally be carried on in them.

Sect. 5.

NOTE.

6.—(1) All public elementary schools pro-
 Management of schools.
 vided by the local education authority shall, where the local education authority are the council of a county, have a body of managers (*a*) consisting of a number of managers not exceeding

Sect. 6. four appointed by that council, together with a number not exceeding two appointed by the minor local authority.

Where the local education authority are the council of a borough or urban district they may, if they think fit, appoint for any school provided by them a body of managers consisting of such number of managers as they may determine.

(2) All public elementary schools not provided by the local education authority shall, in place of the existing managers, have a body of managers consisting of a number of foundation managers not exceeding four appointed (*b*) as provided by this Act, together with a number of managers not exceeding two appointed—

(a) where the local education authority are the council of a county, one by that council and one by the minor local authority (*c*); and

(b) where the local education authority are the council of a borough or urban district, both by that authority.

(3) Notwithstanding anything in this section—

(a) schools may be grouped (*d*) under one body of managers in manner provided by this Act; and

(b) where the local education authority consider that the circumstances of any school require a larger body of managers than that provided under this section, that authority may increase the total number of managers, so, however,

that the number of each class of Sect. 6.
managers is proportionately increased.

(a) For powers of managers, see Sched. I. B. It is to be noted that the managers are not made corporate bodies, and have not, as a body, any power to hold land.

(b) For appointment of managers of non-provided schools, see s. 11, and Memorandum E. A. 1, Appendix A.

(c) *Minor local authority* is defined by s. 24 (2) to mean as respects any school, the council of any borough, or urban district, or the parish council, or (where there is no parish council) the parish meeting of any parish which appears to the county council to be served by the school. If the area of more than one minor local authority is served by the school, the county council shall make provision for joint appointment of managers.

(d) For powers as to grouping schools, see s. 12 ; and for draft scheme for such a group of managers, see Appendix C.

7.—(1) The local education authority (a) shall ^{Mainten-} maintain and keep efficient all public elementary ^{ance of} schools within their area which are necessary, and ^{schools.} have the control of all expenditure required for that purpose, other than expenditure for which, under this Act, provision is to be made by the managers ; but, in the case of a school not provided by them, only so long as the following conditions and provisions are complied with :

- (a) The managers of the school shall carry out any directions of the local education authority as to the secular instruction to be given in the school, including any directions with respect to the number and educational qualifications of the teachers to be employed for such instruction, and for the dismissal of any teacher on educational grounds, and if the managers fail to carry out any such

Sect. 7.

- direction the local education authority shall, in addition to their other powers, have the power themselves to carry out the direction in question as if they were the managers ; but no direction given under this provision shall be such as to interfere with reasonable facilities for religious instruction during school hours ;
- (b) The local education authority shall have power to inspect the school (*b*) ;
- (c) The consent of the local education authority shall be required to the appointment of teachers, but that consent shall not be withheld except on educational grounds ; and the consent of the authority shall also be required to the dismissal of a teacher unless the dismissal be on grounds connected with the giving of religious instruction in the school ;
- (d) The managers of the school shall provide the school-house free of any charge, except for the teacher's dwelling-house (if any), to the local education authority for use as a public elementary school, and shall, out (*c*) of funds provided by them, keep the school-house in good repair, and make such alterations and improvements in the buildings as may be reasonably required by the local education authority : Provided that such damage as the local authority consider to be due to fair wear and

Sect. 7.

tear (*d*) in the use of any room in the school-house for the purpose of a public elementary school shall be made good by the local education authority ;

- (e) The managers of the school shall, if the local education authority have no suitable accommodation in schools provided by them, allow that authority to use any room in the school-house out of school hours free of charge for any educational purpose, but this obligation shall not extend to more than three days in the week (*e*).

(2) The managers of a school maintained but not provided by the local education authority, in respect of the use by them of the school furniture (*f*) out of school hours, and the local education authority in respect of the use by them of any room in the school-house out of school hours, shall be liable to make good any damage caused to the furniture or the room, as the case may be, by reason of that use (other than damage arising from fair wear and tear), and the managers shall take care that, after the use of a room in the school-house by them, the room is left in a proper condition for school purposes.

(3) If any (*g*) question arises under this section between the local education authority and the managers of a school not provided by the authority, that question shall be determined by the Board of Education.

(4) One of the conditions required to be fulfilled by an elementary school in order to obtain

Sect. 7. a parliamentary grant shall be that it is maintained under and complies with the provisions of this section.

(5) In public elementary schools maintained but not provided by the local education authority, assistant teachers and pupil teachers may be appointed, if it is thought fit, without reference to religious creed and denomination, and, in any case in which there are more candidates for the post of pupil teacher than there are places to be filled, the appointment shall be made by the local education authority, and they shall determine the respective qualifications of the candidates by examination or otherwise.

(6) Religious instruction given in a public elementary school not provided by the local education authority shall, as regards its character, be in accordance with the provisions (if any) of the trust deed (*h*) relating thereto, and shall be under the control of the managers: Provided that nothing in this sub-section shall affect any provision in a trust deed for reference to the bishop or superior ecclesiastical or other denominational authority so far as such provision gives to the bishop or authority the power of deciding whether the character of the religious instruction is or is not in accordance with the provisions of the trust deed.

(7) The managers of a school maintained but not provided by the local education authority shall have all powers (*i*) of management required for the purpose of carrying out this Act, and shall (subject to the powers of the local education authority

under this section) have the exclusive power of Sect. 7. appointing and dismissing teachers.

(a) For analysis of the provisions of this section, see above, Summary of the Education Act, 1902.

(b) The Board of Education and the local education authority will have concurrent powers to inspect all schools, whether provided or not. Members of the council or of the education committee of local education authorities will not have free right of entry into non-provided schools, but only such right of entry as the council or its committee may think proper to permit.

(c) Most of the "funds" of the managers of non-provided schools must still come from voluntary sources, for which the foundation managers must be mainly responsible. If schools are grouped under s. 12, it will probably be far easier to raise subscriptions, collections, etc., for the group funds. Other sources of managers' funds will be (i) endowment or a portion of it (s. 13); (ii) a portion of fees, where payable (s. 14); (iii) rent for teacher's house (s. 7 (1) (d)); and (iv) as a temporary provision, any parliamentary grant accrued before the appointed day for the Act to come into operation, and not required for outstanding liabilities (Sched. II. (12)).

(d) *Fair wear and tear.*—For legal definition of what is "wear and tear" in an ordinary lease, see *Davies v. Davies* (1888), 38 Ch. D., at p. 500. The legal definition does not, however, appear here to be material, as the local education authority are only liable to make good damage which they *consider to be due* to this cause; it is possible the court might see fit to reconsider a decision of the local authority if the latter exercised this discretion very improperly, e.g., refused to admit any damage at all due to this cause. For a legal decision as to what is "good repair," see *Proudfoot v. Hart* (1890), 25 Q. B. D., p. 42.

(e) This may lead to some difficulty in the case of authority boroughs and districts,—these have no powers save for elementary education (Part III.); but an evening school under the regulation of the Board of Education is expressly excluded from elementary education (s. 22 (1)); unless, therefore, non-provided schools are in a different position to provided schools, as suggested above, s. 5, notes, the council of the authority borough or district could not provide such a school during the evenings on which they have the premises, though the county council could.

Sect. 7. (f) See Sched. II. (14) as to user of the existing furniture in non-provided schools.

NOTE.

(g) This means, apparently, any question save as to what damage is due to fair wear and tear.

(h) For power to execute trust deeds where none exists, in order to secure the *character* of the teaching, see below, s. 11 and notes.

(i) For powers of managers generally, see Sched. I. B.

If managers fail to carry on the non-provided school, they may lease for twenty-one years to the local education authority, if they have power to do so in their trust deed under s. 19, or transfer it under s. 23, of the Elementary Education Act, 1870; in this case no rent is allowable. See above, notes on Transition Period, and p. 15. The transfer may in either case be for the whole time of the school; or for a portion of the time per day, say, from 9 to 4 on five days a week.

In the latter case the school becomes a provided school only during the period of the day or week during which it is transferred. An arrangement not infrequently made when the trust does allow of letting, and therefore no consent from the Board of Education was necessary, is as follows: The school is let at a fair rent, say £30 a year for five days a week, from 9.30 to 4. The hiring authority agrees to appoint a member of the denomination to which the school belongs as head teacher. On his appointment he is allowed by the denomination managers to have the use of the school teacher's house for a low, or no, rental this being part of the consideration for the arrangement. The head teacher, when so appointed, gives religious denominational instruction from 9 to 9.30, during which period the school is not a public elementary school.

Managers of non-provided schools must keep separate accounts in relation to local authority and managers purpose, though for purpose of necessary cash advances, either of these accounts can be kept jointly with those of the managers of other schools. Managers get a certain contribution towards their expenditure on the fabric of the schools under the wear and tear provision (s. 7 (1) (d)), but under s. 7 (1) (d) they lose the chance of letting the school for three nights a week.

Provision of new schools.

8.—(1) Where the local education authority or any other persons propose to provide a new public elementary school (a), they shall give public notice of their intention to do so, and the managers of any existing school, or the local education

Sect. 8.

authority (where they are not themselves the persons proposing to provide the school), or any ten ratepayers in the area for which it is proposed to provide (*b*) the school, may, within three months after the notice is given, appeal to the Board of Education on the ground that the proposed school is not required, or that a school provided by the local education authority, or not so provided, as the case may be, is better suited to meet the wants of the district than the school proposed to be provided, and any school built in contravention of the decision of the Board of Education on such appeal shall be treated as unnecessary.

(2) If, in the opinion of the Board of Education, any enlargement of a public elementary school is such as to amount to the provision of a new school, that enlargement shall be so treated for the purposes of this section.

(3) Any transfer (*c*) of a public elementary school to or from a local education authority shall for the purposes of this section be treated as the provision of a new school.

(*a*) At present, a Protestant denominational public elementary school may be the school for, *e.g.*, a whole Roman Catholic area: provided there is sufficient accommodation in the school, and the conscience clause is observed, the Roman Catholic parents will have no right, under the law as it stands, to claim a school of their own. This section provides machinery for their setting up a school (see Mr. Balfour's statement, Hansard, vol. cxiii., p. 1450). There is no danger of a quantity of small weak schools springing up, as an adequate veto is given to the Board of Education, provided the local education authority or ten ratepayers object; and set the Board in motion. If the Board declare the new school unnecessary it will earn no grants (see Elementary Education Act, 1870 (c. 75), s. 98). If a school has once been set up, and has *already* received the sanction of the Board as a public elementary school,

Sect. 8. and has thirty scholars, it cannot be declared unnecessary (s. 9).

NOTE.

(b) As to capital cost of providing new schools, see s. 18 (1) (c). The parish or parishes served by the new school must pay half to three-quarters of the capital expense of building, the county council the rest; this will probably make it easier to secure the building of provided, than of non-provided, schools. A parish will prefer to have a large share of the burden borne by the county as a whole rather than have to raise the whole amount by voluntary subscription.

(c) *Transfer, i.e.*, by a denomination to the local education authority. Many weak voluntary schools will probably so transfer, and if they have at least thirty scholars the Board cannot hold them unnecessary (s. 9) and refuse to let them be taken over. Any transfer of a school is to be treated as the provision of a new school so as to give the Board a veto. For powers to transfer where there is, or is not, power to sell or let in the trust deeds of the school, see above (p. 15) and notes on the Transition Period (p. 88), and above s. 7, note (i).

Necessity of schools.

9. The Board of Education shall, without unnecessary delay, determine, in case of dispute, whether a school is necessary (a) or not, and, in so determining, and also in deciding on any appeal as to the provision of a new school, shall have regard to the interest of secular instruction, to the wishes of parents as to the education of their children, and to the economy of the rates; but a school for the time being recognised as a public elementary school (b) shall not be considered unnecessary in which the number of scholars in average attendance, as computed by the Board of Education, is not less than thirty.

(a) See notes to s. 8, above. The wishes of the parents and the economy of the rates may often be conflicting considerations.

(b) Instead of the words "for the time being recognised as a public elementary school" the original Bill had the words "actually in existence." This latter was ambiguous

and might have led to schools being run up, and then if they could secure thirty scholars the local education authority would have had to support them. Now the proviso as to thirty scholars only applies to schools already recognised.

Sect. 9.

NOTE.

10.—(1) In lieu of the grants under the Voluntary Schools Act, 1897, and under section ninety-seven of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1897, there shall be annually paid to every local education authority, out of moneys provided by Parliament—

Aid grant.
60 & 61 Vict.
c. 5.33 & 34 Vict.
c. 75.60 & 61 Vict.
c. 16.

(a) a sum equal to four shillings per scholar ;
and

(b) an additional sum of three halfpence per scholar for every complete twopence per scholar by which the amount which would be produced by a penny rate on the area of the authority falls short of ten shillings a scholar : Provided that, in estimating the produce of a penny rate in the area of a local education authority not being a county borough, the rate shall be calculated upon the county rate basis, which, in cases where part only of a parish is situated in the area of the local education authority, shall be apportioned in such manner as the Board of Education think just.

But if in any year the total amount of parliamentary grants payable to a local education authority would make the amount payable out of other sources by that authority on account of their expenses under this Part of this Act less

Sect. 10. than the amount which would be produced by a rate of threepence in the pound the parliamentary grants shall be decreased, and the amount payable out of other sources shall be increased by a sum equal in each case to half the difference.

(2) For the purposes of this section the number of scholars shall be taken to be the number of scholars in average attendance, as computed by the Board of Education, in public elementary schools maintained by the authority.

For explanation of the provisions of this section, see above, notes on the financial provisions of the Act. The Treasury will pay to the local authorities a large part of the grant as soon as the schools are taken over. See Appendix, A., Circular 472, p. 215, as to payment of instalments before the end of the year; and Circular 470, p. 201, as to finance generally.

Foundation
managers.

11.—(1) The foundation managers of a school shall be managers appointed under the provisions of the trust deed of the school, but if it is shown to the satisfaction of the Board of Education that the provisions of the trust deed as to the appointment of managers are in any respect inconsistent with the provisions of this Act, or insufficient or inapplicable for the purpose, or that there is no such trust deed available, the Board of Education shall make an order under this section for the purpose of meeting the case.

(2) Any such order may be made on the application of the existing owners, trustees, or managers of the school, made within a period of three months after the passing of this Act, and after that period on the application of the local education authority or any other person interested in

the management of the school, and any such order, where it modifies the trust deed, shall have effect as part of the trust deed, and where there is no trust deed shall have effect as if it were contained in a trust deed. **Sect. 11.**

(3) Notice of any such application, together with a copy of the draft final order proposed to be made thereon, shall be given by the Board of Education to the local education authority and the existing owners, trustees, and managers, and any other persons who appear to the Board of Education to be interested, and the final order shall not be made until six weeks after notice has been so given.

(4) In making an order under this section with regard to any school, the Board of Education shall have regard to the ownership of the school building, and to the principles on which the education given in the school has been conducted in the past.

(5) The Board of Education may, if they think that the circumstances of the case require it, make any interim order on any application under this section to have temporary effect until the final order is made.

(6) The body of managers appointed under this Act for a public elementary school not provided by the local education authority shall be the managers of that school both for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, and, so far as respects the management of the school as a public elementary school, for the purpose of the trust deed.

Sect. 11. (7) Where the receipt by a school, or the trustees or managers of a school, of any endowment or other benefit is, at the time of the passing of this Act, dependent on any qualification of the managers, the qualification of the foundation managers only shall, in case of question, be regarded.

(8) The Board of Education may, on the application of the managers of the school, the local education authority, or any person appearing to them to be interested in the school, revoke, vary, or amend any order made under this section by an order made in a similar manner; but before making any such order the draft thereof shall, as soon as may be, be laid before each House of Parliament, and, if within thirty days, being days on which Parliament has sat, after the draft has been so laid before Parliament, either House resolves that the draft, or any part thereof, should not be proceeded with, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

Note that the provisions of this section only relate to "*powers of appointing managers.*" There is no general power given under this section to the Board for settling new schemes for the management of non-provided schools; if that is done, it must be under the powers of settling schemes now transferred to the Board. Under this section the Board can make an order modifying or taking the place of a deed in four cases: when the provisions of the deed are (1) inconsistent with the Act; (2) insufficient; (3) inapplicable; (4) no deed is available. See, on the whole section, Memorandum of the Board, E. A. 1, Appendix A.; and Recommendations of the National Society, Appendix A.; also interim order for appointment of managers, E. A. Order (Provisional) 1, p. 181. When extant, almost every deed is inconsistent with the Act, and an order is required. For cases of LOST DEEDS, see above,

Transition Period (p. 88). Where no deeds exist, many managers will desire to execute new deeds in order to secure the *character* of the teaching (s. 7). If the schools are private property, the owners can of course do this. See Memorandum E. A. 1, paragraph 14; and E. A. 13, p. 199.

Sect. 11.

NOTE.

But where (a) managers or trustees hold on implied trusts, they must act with care. There are also (b) many cases where the trust deeds provide for the conveyance of the property for a school, but in no way secure the *character* of the religious teaching, and managers may wish to execute a new deed to provide for this.

But as to (b) alteration and amplification of existing deeds, charity trustees cannot, generally speaking, alter existing deeds, even with the consent of everyone who seems capable at the time of benefiting, unless there is an express power in the deed allowing revocation and alteration (*Re Hartshill Endowment* (1861), 30 Beav., p. 130). And in the case of (a) implied trusts, the general rule in all charitable trusts is that where no deed exists, the law will determine the existence and nature of the trusts on which the property is held from the past practice with regard to administration and use; and will, if necessary, presume the existence of a trust deed embodying those terms (*Attorney-General v. Mercers Co.* (1870), 18 W. R., at p. 449).

Managers would probably be acting within their powers in embodying the existing practice, constituting the implied trusts, in a deed. As to how far they may amplify the terms of the trust, provided nothing inserted in any way clashes with the existing implied trusts, see *Attorney-General v. Gould* (1860), 28 Beav. 485.

As to sub-s. (8), and the requirement that orders shall be laid before the Houses of Parliament, if literally interpreted the words seem to require *all* orders to be so laid, and not only revoking, varying, or amending orders: this is, however, not the view of the Board of Education, who propose only to lay the revoking or amending orders before Parliament.

The words are to be carefully noted; to revoke, vary, or amend an order, another order has to be *made*, and *made* in a "*similar manner*" to other orders under the section; when any such order is *made* (*i.e.*, in a *similar manner* to the other orders under the section), then it must go before Parliament, thus implying that *all* orders *made* under the section must do so. It seems reasonable that Parliament should always be allowed the chance of considering orders involving the complete setting aside of trusts and trust deeds; nor is there any reason to distinguish revoking or varying orders from original orders,

Sect. 11. or to say they are more important. On the other hand, it may be argued that if Parliament had meant all orders to come before it, the Act should have said so more directly.

NOTE.

Grouping of schools under one management.

12.—(1) The local education authority may group under one body of managers any public elementary schools provided by them, and may also, with the consent of the managers of the schools, group under one body of managers any such schools not so provided.

(2) The body of managers of grouped schools shall consist of such number and be appointed in such manner and proportion as, in the case of schools provided by the local education authority, may be determined by that authority, and in the case of schools not so provided, may be agreed upon between the bodies of managers of the schools concerned and the local education authority, or in default of agreement may be determined by the Board of Education.

(3) Where the local education authority are the council of a county, they shall make provision for the due representation of minor local authorities on the bodies of managers of schools grouped under their direction.

(4) Any arrangement for grouping schools not provided by the local education authority shall, unless previously determined by consent of the parties concerned, remain in force for a period of three years.

Grouping will probably be very advisable in the case of fair-sized towns, but will be impossible in the more scattered country districts. Groups will probably have many advantages in the way of continuity, raising funds, and, in the case of non-provided schools, in securing the denominational influence from being unnecessarily interfered with;

and if properly arranged, grouping should not destroy local interest. For a scheme of grouping, see below, Appendix C. The consent of the local education authority is always necessary for such grouping.

Sect. 12.

NOTE.

13.—(1) Nothing in this Act shall affect any endowment, or the discretion of any trustees in respect thereof: Provided that, where under the trusts or other provisions affecting any endowment the income thereof must (a) be applied in whole or in part for those purposes of a public elementary school for which provision is to be made by the local education authority, the whole of the income or the part thereof, as the case may be, shall be paid to that authority, and, in case part only of such income must be so applied and there is no provision under the said trusts or provisions for determining the amount which represents that part, that amount shall be determined, in case of difference between the parties concerned, by the Board of Education (b); but if a public inquiry is demanded by the local education authority, the decision of the Board of Education shall not be given until after such an inquiry, of which ten days' previous notice shall be given to the local education authority and to the minor local authority and to the trustees, shall have been first held by the Board of Education at the cost of the local education authority.

Endow-
ments.

(2) Any money arising from an endowment, and paid to a county council for those purposes of a public elementary school for which provision is to be made by the council, shall be credited by the council in aid of the rate levied for the purposes of this Part of this Act in the parish or

Sect. 13. parishes which in the opinion of the council are served by the school for the purposes of which the sum is paid, or, if the council so direct, shall be paid to the overseers of the parish or parishes in the proportions directed by the council, and applied by the overseers in aid of the poor rate levied in the parish.

(a) See notes to s. 7 as to the income of managers of non-provided schools for repairs and capital expenses; and see Memorandum of the Board as to endowments, E. A. 7, p. 189; and form of application for advice, E. A. 8, p. 193.

(b) The Board of Education may, of course, also frame new schemes, whether for elementary or secondary school endowments.

All elementary endowments practically go in relief of the rates. The local authority's share is credited to the poor rate of the parish served by the school, the managers' share relieves their subscription of the necessity of keeping up the fabric. It cannot be called the proper intention of an endowment to relieve persons or communities of their obligations to the State.

Apportionment of school fees.

14. Where before the passing of this Act fees have been charged in any public elementary school not provided by the local education authority, that authority shall, while they continue to allow fees to be charged in respect of that school, pay such proportion of those fees as may be agreed upon, or, in default of agreement, determined by the Board of Education, to the managers.

Fees are of the same nature as subscriptions, and are so charged to help managers towards keeping up the school. Hence they are equitably entitled still to share them, but as the fee grant, the property of the authority, is reduced in consequence of this charge, that body has a claim also upon the fees.

Schools attached to institutions.

15. The local education authority may maintain as a public elementary school under the provi-

sions of this Act, but shall not be required so to maintain, any Marine school, or any school which is part of, or is held in the premises of, any institution in which children are boarded, but their refusal to maintain such a school shall not render the school incapable of receiving a parliamentary grant, nor shall the school, if not so maintained, be subject to the provisions of this Act as to the appointment of managers, or as to control by the local education authority.

Sect. 15.

16. If the local education authority fail to fulfil any of their duties under the Elementary Education Acts, 1870 to 1900, or this Act, or fail to provide such additional public school accommodation (*a*) within the meaning of the Elementary Education Act, 1870, as is, in the opinion of the Board of Education, necessary in any part of their area, the Board of Education may, after holding a public inquiry, make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duty, and any such order may be enforced by mandamus.

Power to enforce duties under Elementary Education Acts.
33 & 34 Vict. c. 75.

(*a*) See above, p. 11, as to what is sufficient accommodation under the Elementary Education Acts.

PART IV.

GENERAL.

17.—(1) (*a*) Any council having powers under this Act shall establish an education committee or education committees, constituted in accordance with a scheme made by the council and approved by the Board of Education: Provided that if a council having powers under Part II. only of this

Education committees.

Sect. 17. Act determine that an education committee is unnecessary in their case, it shall not be obligatory on them to establish such a committee.

(2) All matters relating to the exercise by the council of their powers under this Act, except the power of raising a rate or borrowing money, shall stand referred to the education committee, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the education committee with respect to the matter in question. The council may also delegate to the education committee, with or without any restrictions or conditions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money.

(3) Every such scheme shall provide—

- (a) for the appointment by the council of at least a majority of the committee, and the persons so appointed shall be persons who are members of the council, unless, in the case of a county, the council shall otherwise determine ;
- (b) for the appointment by the council, on the nomination or recommendation, where it appears desirable (*b*), of other bodies (including associations of voluntary schools), of persons of experience in education, and of persons acquainted with the needs of the various kinds of schools in the area for which the council acts ;
- (c) for the inclusion of women as well as men among the members of the committee ;

(d) for the appointment, if desirable, of members of school boards existing at the time of the passing of this Act as members of the first committee. Sect. 17.

(4) Any person shall be disqualified for being a member of an education committee, who, by reason of holding an office or place of profit, or having any share or interest in a contract or employment, is disqualified for being a member of the council appointing the education committee, but no such disqualification shall apply to a person by reason only of his holding office in a school or college aided, provided, or maintained by the council.

(5) Any such scheme may, for all or any purposes of this Act, provide for the constitution of a separate education committee for any area within a county, or for a joint education committee for any area formed by a combination of counties, boroughs, or urban districts, or of parts thereof. In the case of any such joint committee, it shall suffice that a majority of the members are appointed by the councils of any of the counties, boroughs, or districts out of which or parts of which the area is formed.

(6) Before approving a scheme, the Board of Education shall take such measures as may appear expedient for the purpose of giving publicity to the provisions of the proposed scheme, and, before approving any scheme which provides for the appointment of more than one education committee, shall satisfy themselves that due regard is paid to the importance of the general co-ordination of all forms of education.

Sect. 17. (7) If a scheme under this section has not been made by a council and approved by the Board of Education within twelve months after the passing of this Act, that Board may, subject to the provisions of this Act, make a provisional order for the purposes for which a scheme might have been made.

52 & 53 Vict.
c. 40.

(8) Any scheme for establishing an education committee of the council of any county or county borough in Wales or of the county of Monmouth or county (c) borough of Newport shall provide that the county governing body constituted under the Welsh Intermediate Education Act, 1889, for any such county or county borough shall cease to exist, and shall make such provision as appears necessary or expedient for the transfer of the powers, duties, property, and liabilities of any such body to the local education authority under this Act, and for making the provisions of this section applicable to the exercise by the local education authority of the powers so transferred.

(a) For explanation of this section see above, Analysis of the Act, and Transition Period, and for draft scheme for an education committee, see Appendix B.; see also Memorandum of the Board as to education committees, February 9th, 1903, p. 182.

(b) "*Where it appears desirable.*" — As the Board of Education has a veto, this must mean desirable to both the Board and the local education authority; *cf.*, the language of s. 2 (1) above: there the Board have no veto, and therefore it is clearly stated that the steps have only to appear desirable "*to them,*" *i.e.*, the local education authority.

(c) Section 5 of the Welsh Intermediate Education Act, 1889 (c. 40), provides as follows:

"5. For the purposes of this Act there shall be appointed in every county in Wales and in the county of Monmouth a joint education committee of the county council of such county consisting of three persons nominated by the county council, and two persons, being persons well

acquainted with the conditions of Wales and the wants of the people, preference being given to residents within the county for which such joint committee is to be appointed, nominated by the Lord President of her Majesty's Privy Council. Any vacancy in the joint education committee among the persons appointed by the county council may be filled up by the county council, and any vacancy among the persons nominated by the Lord President may be filled up by the Lord President."

Sect. 17.

NOTE.

18.—(1) (a) The expenses of a council under this Act shall, so far as not otherwise provided for, be paid, in the case of the council of a county out of the county fund, and in the case of the council of a borough out of the borough fund or rate, or, if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate, and in the case of the council of an urban district other than a borough in manner provided by section thirty-three (b) of the Elementary Education Act, 1876, as respects the expenses mentioned in that section: Provided that—

Expenses.

39 & 40 Vict.
c. 79.

- (a) the county council may, if they think fit (after giving reasonable notice to the overseers of the parish or parishes concerned), charge any expenses incurred by them under this Act with respect to education other than elementary on any parish or parishes which, in the opinion of the council, are served by the school or college in connexion with which the expenses have been incurred; and
- (b) the county council shall not raise any sum on account of their expenses under Part III. of this Act within any borough or urban district the council of

Sect. 18.

which is the local education authority for the purposes of that Part ; and

- (c) the county council shall charge such portion as they think fit, not being less than one-half or more than three-fourths, of any expenses incurred by them in respect of capital expenditure or rent on account of the provision or improvement of any public elementary school (e) on the parish or parishes which, in the opinion of the council, are served by the school ; and
- (d) the county council shall raise such portion as they think fit, not being less than one-half or more than three-fourths, of any expenses incurred to meet the liabilities on account of loans or rent of any school board transferred to them, exclusively within the area which formed the school district in respect of which the liability was incurred, so far as it is within their area.

(2) All receipts in respect of any school maintained by a local education authority, including any parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers, shall be paid to that authority.

(3) Separate accounts shall be kept by the council of a borough of their receipts and expenditure under this Act, and those accounts shall be made up and audited in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit

of those accounts and to all matters incidental thereto and consequential thereon, including the penal provisions, shall apply in lieu of the provisions of the Municipal Corporations Act, 1882, relating to accounts and audit. Sect. 18.

45 & 46 Vict.
c. 50.

(4) Where under any local Act the expenses incurred in any borough for the purposes of the Elementary Education Acts, 1870 to 1900, are payable out of some fund or rate other than the borough fund or rate, the expenses of the council of that borough under this Act shall be payable out of that fund or rate instead of out of the borough fund or rate.

(5) Where any receipts or payments of money under this Act are entrusted by the local education authority to any education committee established under this Act, or to the managers of any public elementary school, the accounts of those receipts and payments shall be accounts of the local education authority, but the auditor of those accounts shall have the same powers with respect to managers as he would have if the managers were officers of the local education authority.

(a) For explanation of these provisions generally, see above, notes on Finance and Rating Provisions; and see as to sources of income, Circular 470 as to powers of a council, p. 201.

(b) Section 33 of Elementary Education Act, 1876 (c. 79), provides as follows:

“33. . . . Provided, that the expenses (if any) of a school attendance committee appointed by an urban sanitary authority shall be paid out of a fund to be raised out of the poor rate of the parish or parishes comprised in the district of such authority according to the rateable value of each parish, and the urban sanitary authority shall, for the purpose of obtaining payment of such expenses, have the same power as a board of guardians have for the purpose of obtaining contributions to their

Sect. 18. common fund under the Acts relating to the relief of the poor, and the accounts of such expenses shall be audited as the accounts of other expenses of the sanitary authority . . .”

NOTE.

It is now partly repealed (see Sched. IV.).

(c) See notes to s. 8, above.

Borrowing. **19.**—(1) A council may borrow for the purposes of the Elementary Education Acts, 1870 to 1900, or this Act, in the case of a county council as for the purposes of the Local Government Act, 1888, and in the case of the council of a county borough, borough, or urban district as for the purposes of the Public Health Acts, but the money borrowed by a county borough, borough, or urban district council shall be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable.

51 & 52 Vict.
c. 41.

(2) Money borrowed under this Act shall not be reckoned as part of the total debt of a county for the purposes of section sixty-nine (a) of the Local Government Act, 1888, or as part of the debt of a county borough, borough, or urban district for the purpose of the limitation on borrowing under sub-sections two and three (b) of section two hundred and thirty-four of the Public Health Act, 1875.

38 & 39 Vict.
c. 55.

(a) Section 69 (1) of the Local Government Act, 1888 (c. 41), provides as follows :

“69.—(1) The county council may from time to time, with the consent of the Local Government Board, borrow, on the security of the county fund, and of any revenues of the council, or on either such fund or revenues, or any part of the revenues, such sums as may be required for the following purposes, or any of them, that is to say ;

“(a) for consolidating the debts of the county ; and

- “(b) for purchasing any land or building any building, which the council are authorised by any Act to purchase or build; and
- “(c) for any permanent work or other thing which the county council are authorised to execute or do, and the cost of which ought in the opinion of the Local Government Board to be spread over a term of years; and
- “(d) for making advances (which they are hereby authorised to make) to any persons or bodies of persons, corporate or unincorporate, in aid of the emigration or colonisation of inhabitants of the county, with a guarantee for repayment of such advances from any local authority in the county, or the Government of any colony; and
- “(e) for any purpose for which quarter sessions or the county council are authorised by any Act to borrow,

Sect. 19.
—
NOTE.

but neither the transfer of powers by this Act nor anything else in this Act shall confer on the county council any power to borrow without the consent above mentioned, and that consent shall dispense with the necessity of obtaining any other consent which may be required by the Acts relating to such borrowing, and the Local Government Board, before giving their consent, shall take into consideration any representation made by any ratepayer or owner of property rated to the county fund.”

The remainder of the section contains limiting provisos.

(b) Sub-sections (2) and (3) of s. 234 of the Public Health Act, 1875, provide as follows :

- “(2) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed :
- “(3) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said Board.”

20. An authority having powers under this Act—

Arrange-
ments
between
councils.

(a) may make arrangements (a) with the council

Sect. 20.

of any county, borough, district, or parish, whether a local education authority or not, for the exercise by the council, on such terms and subject to such conditions as may be agreed on, of any powers of the authority in respect of the management of any school or college within the area of the council ; and

- (b) if the authority is the council of a non-county borough or urban district may, at any time after the passing of this Act, by agreement with the council of the county, and with the approval of the Board of Education, relinquish (b) in favour of the council of the county any of their powers and duties under this Act, and in that case the powers and duties of the authority so relinquished shall cease, and the area of the authority, if the powers and duties relinquished include powers as to elementary education, shall, as respects those powers, be part of the area of the county council.

(a) For suggestions as to such arrangements, see above, notes on Transition Period ; see also Circular 470 as to powers of a council, at p. 207.

(b) Such surrender of powers by Part III. authorities will often be advisable on educational grounds, though it is doubtful if (b) will be acted on in preference to procedure by joint committees under s. 17 (5). See above, notes on Transition Period.

Provisional
orders and
schemes.

21.—(1) Sections two hundred and ninety-seven and two hundred and ninety-eight of the

Public Health Act, 1875 (which relate to pro- Sect. 21.
 visional orders), shall apply to any provisional ^{38 & 39 Vict.}
 order made under this Act as if it were made _{c. 55.}
 under that Act, but references to a local authority
 shall be construed as references to the authority
 to whom the order relates, and references to the
 Local Government Board shall be construed as
 references to the Board of Education.

(2) Any scheme or provisional order under this Act may contain such incidental or consequential provisions as may appear necessary or expedient.

(3) A scheme under this Act when approved shall have effect as if enacted in this Act, and any such scheme, or any provisional order made for the purposes of such a scheme, may be revoked or altered by a scheme made in like manner and having the same effect as an original scheme.

Sections 297 and 298 of the Public Health Act, 1875 (c. 55), provide as follows :

“297. With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made :

“(1) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates :

“(2) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections :

Sect. 21.**NOTE.**

“(3) The Local Government Board may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament :

“(4) If while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills :

“(5) Any Act confirming any provisional order made in pursuance of any of the Sanitary Acts or of this Act, and any Order in Council made in pursuance of any of the Sanitary Acts, may be repealed altered or amended by any provisional order made by the Local Government Board and confirmed by Parliament :

“(6) The Local Government Board may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament :

“(7) The making of a provisional order shall be primâ facie evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with :

“(8) Every Act confirming any such provisional order shall be deemed to be a public general Act.”

“298. The reasonable costs of any local authority in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly ; and if thought expedient by the Local Government Board, the local authority may contract a loan for the purpose of defraying such costs.”

Provision as to elementary and higher education powers respectively.

22.—(1) In this Act and in the Elementary Education Acts the expression “ elementary school ” (a) shall not include any school carried on

as an evening (*b*) school under the regulations of Sect. 22.
the Board of Education.

(2) The power to provide instruction (*c*) under the Elementary Education Acts, 1870 to 1900, shall, except where those Acts expressly provide to the contrary, be limited to the provision in a public elementary school of instruction given under the regulations of the Board of Education to scholars who, at the close of the school year, will not be more than sixteen years of age: Provided that the local education authority may, with the consent of the Board of Education, extend those limits in the case of any such school if no suitable higher education is available within a reasonable distance of the school.

(3) The power to supply or aid the supply of education other than elementary includes a power to train teachers, and to supply or aid the supply of any education except where that education is given at a public elementary school.

(*a*) See note to s. 2, above.

(*b*) See Education Code Act, 1890 (c. 22), s. 1, now repealed.

(*c*) So far as provided schools, at any rate, are concerned, the Act now appears, if the judgment of the Court of Appeal in the *Cockerton Case* is correct, to restrict instruction (subject to powers of the Board to extend) as provided in this section, (1) to elementary education prescribed in the Code, in other words, the Code is now the maximum as well as the minimum limit; (2) to children not above sixteen at the end of the school year. See, as to higher instruction in non-provided schools, notes to s. 5.

23.—(1) The powers of a council under this Act shall include the provision of vehicles or the payment of reasonable travelling expenses for Miscellaneous provisions.

Sect. 23. teachers or children attending school or college whenever the council shall consider such provision or payment required by the circumstances of their area or of any part thereof.

(2) The power of a council to supply or aid the supply of education, other than elementary, shall include power to make provision for the purpose outside their area in cases where they consider it expedient to do so in the interests of their area, and shall include power to provide or assist in providing scholarships for, and to pay or assist in paying the fees of, students ordinarily resident in the area of the council at schools or colleges or hostels within or without that area.

(3) The county councillors elected for an electoral division consisting wholly of a borough or urban district whose council are a local education authority for the purpose of Part III. of this Act, or of some part of such a borough or district, shall not vote in respect of any question arising before the county council which relates only to matters under Part III. of this Act.

(4) The amount which would be produced by any rate in the pound shall be estimated for the purposes of this Act in accordance with regulations made by the Local Government Board.

51 & 52 Vict. c. 42.
54 & 55 Vict. c. 73. (5) The Mortmain and Charitable Uses Act, 1888 (a), and so much of the Mortmain and Charitable Uses Act, 1891 (b), as requires that land assured by will shall be sold within one year from the death of the testator, shall not apply to any assurance, within the meaning of the said Act of

1888, of land for the purpose of a school-house Sect. 23.
for an elementary school.

(6) A woman is not disqualified either by sex or marriage, for being on any body of managers or education committee under this Act.

(7) Teachers in a school maintained but not provided by the local education authority shall be in the same position as respects disqualification for office as members of the authority as teachers in a school provided by the authority.

(8) Population for the purposes of this Act shall be calculated according to the census of nineteen hundred and one.

(9) Sub-sections one and five of section eighty-seven of the Local Government Act, 1888 (c) ^{51 & 52 Vict. c. 41.} (which relate to local inquiries), shall apply with respect to any order, consent, sanction, or approval which the Local Government Board are authorised to make or give under this Act.

(10) The Board of Education may, if they think fit, hold a public inquiry for the purpose of the exercise of any of their powers or the performance of any of their duties under this Act, and section seventy-three of the Elementary Education Act, 1870 (d) ^{33 & 34 Vict. c. 75.} shall apply to any public inquiry so held or held under any other provision of this Act.

(a) The Mortmain Act of 1888 places restrictions on assurances of land (whether by will or *inter vivos*) for charitable purposes ; it allows the conveyance of one acre for a public elementary school (s. 6).

(b) Section 5 of the Mortmain and Charitable Uses Act, 1891 (c. 73), provides that :

“ 5. Land may be assured by will to or for the benefit

Sect. 23. of any charitable use, but, except as hereinafter provided, such land shall, notwithstanding anything in the will contained to the contrary, be sold within one year from the death of the testator, or such extended period as may be determined by the High Court, or any judge thereof sitting at chambers, or by the Charity Commissioners."

NOTE.

(c) Sub-sections (1) and (5) of s. 87 of the Local Government Act, 1888 (c. 41), provide as follows :

"87.—(1) Where the Local Government Board are authorised by this Act to make any inquiry, to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, sanction, or approval to any matter, or otherwise to act under this Act, they may cause to be made a local inquiry, and in that case, and also in a case where they are required by this Act to cause to be made a local inquiry, sections two hundred and ninety-three to two hundred and ninety-six, both inclusive, of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to this Act."

"(5) Where the Board cause any local inquiry to be held under this Act, the costs incurred in relation to such inquiry, including the salary of any inspector or officer of the Board engaged in such inquiry, not exceeding three guineas a day, shall be paid by the councils and other authorities concerned in such inquiry, or by such of them and in such proportions as the Board may direct, and the Board may certify the amount of the costs incurred, and any sum so certified and directed by the Board to be paid by any council or authority shall be a debt to the Crown from such council or authority."

(d) Section 73 of the Elementary Education Act, 1870 (c. 75), runs as follows :

"73. Where a public inquiry is held in pursuance of the provisions of this Act the following provisions shall have effect :

"(1) The Education Department shall appoint some person who shall proceed to hold the inquiry :

"(2) The person so appointed shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the school district to which the subject of inquiry relates, and thereat shall hear, receive, and examine any evidence and information offered, and hear and inquire into any objections or representations made respecting the subject of the inquiry, with power from time to time to adjourn any sitting.

Notice shall be published in such manner as the Education Department direct of every such sitting (except an adjourned sitting) seven days at least before the holding thereof : **Sect. 23.**
NOTE.

- “(3) The person so appointed shall make a report in writing to the Education Department setting forth the result of the inquiry, and stating his opinion on the subject thereof, and his reasons for such opinion, and the objections and representations, if any, made on the inquiry, and his opinion thereon ; and the Education Department shall cause a copy of such report to be deposited with the school board (if any), or, if there is none, the town clerk of the borough, or the churchwardens or overseers of the parishes to which the inquiry relates, and notice of such deposit to be published :
- “(4) The Education Department may make an order directing that the costs of the proceedings and inquiry shall be paid, according as they think just, either by the district as if they were expenses of a school board, or by the applicants for the inquiry ; and such costs may be recovered in the former case, as a debt due from the school board, or, if there is no school board, as a debt due from the rating authority, and, in the case of the applicants, as a debt due jointly and severally from them ; and the Education Department may, if they think fit, before ordering the inquiry to be held, require the applicants to give security for such expenses, and in case of their refusal may refuse to order the inquiry to be held.”

And see above, p. 20.

24.—(1) Unless the context otherwise requires, ^{Interpretation.} any expression to which a special meaning is attached in the Elementary Education Acts, 1870 to 1900, shall have the same meaning in this Act.

(2) In this Act the expression “minor local authority” means, as respects any school, the council of any borough or urban district, or the parish council or (where there is no parish council)

Sect. 24. the parish meeting of any parish which appears to the county council to be served by the school. Where the school appears to the county council to serve the area of more than one minor local authority the county council shall make such provision as they think proper for joint appointment of managers by the authorities concerned.

(3) In this Act the expressions "powers," "duties," "property," and "liabilities" (a) shall, unless the context otherwise requires, have the same meanings as in the Local Government Act, 1888.

51 & 52 Vict.
c. 41.

(4) In this Act the expression "college" includes any educational institution, whether residential or not.

(5) In this Act, unless the context otherwise requires, the expression "trust deed" includes any instrument regulating the trusts or management of a school or college (b).

(a) These words, as defined in s. 100 of the Local Government Act, 1888 (c. 41), are :

"The expression 'powers' includes rights, jurisdiction, capacities, privileges, and immunities :

"The expression 'duties' includes responsibilities and obligations :

"The expression 'property' includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents ; and when used in relation to any quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for, such quarter sessions, clerk of the peace, justices,

board, sanitary authority, or other authority; and the expression 'property' shall further include, in the case of the county of Chester, any surplus revenue of the River Weaver Trust, which is or would but for this Act be payable to the quarter sessions : Sect. 24.

—
NOTE.

“The expression ‘liabilities’ includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose.”

(b) See Memorandum, E. A. 1, para. 6, Appendix A.

25.—(1) The provisions set out in the First and Second Schedules to this Act relating to education committees and managers, and to the transfer of property and officers, and adjustment, shall have effect for the purpose of carrying the provisions of this Act into effect. Provisions as to proceedings, transfer, etc., application of enactments and repeal.

(2) In the application of the Elementary Education Acts, 1870 to 1900, and other provisions referred to in that schedule, the modifications specified in the Third Schedule to this Act shall have effect.

(3) The enactments mentioned in the Fourth Schedule to this Act shall be repealed to the extent specified in the third column of that schedule.

26. For the purposes of this Act the Council of the Isles of Scilly shall be the local education authority for the Scilly Islands, and the expenses of the council under this Act shall be general expenses of the council. Application of Act to Scilly Islands.

Sect. 27.

Extent,
commence-
ment, and
short title.

27.—(1) This Act shall not extend to Scotland or Ireland, or, except as expressly provided, to London.

(2) This Act shall, except as expressly provided, come into operation on the appointed day (*a*), and the appointed day shall be the twenty-sixth day of March nineteen hundred and three, or such other day, not being more than eighteen months later, as the Board of Education may appoint, and different days may be appointed for different purposes and for different provisions of this Act, and for different councils.

(3) The period during which local authorities may, under the Education Act, 1901, as renewed by the Education Act, 1901 (Renewal) Act, 1902 (*b*), empower school boards to carry on the work of the schools and classes to which those Acts relate shall be extended to the appointed day, and in the case of London to the twenty-sixth day of March nineteen hundred and four.

(4) This Act may be cited as the Education Act, 1902, and the Elementary Education Acts, 1870 to 1900, and this Act may be cited as the Education Acts, 1870 to 1902.

(*a*) See Circular of the Board, 474, p. 213.

(*b*) These Acts allowed certain continuation schools and evening classes, the expenses for which were disallowed under the *Cockerton* judgment, to be carried on temporarily.

¹ Edw. 7, c. 11.

² Edw. 7, c. 19.

SCHEDULES.

FIRST SCHEDULE.

Section 25.

PROVISION AS TO EDUCATION COMMITTEES AND
MANAGERS.A.—*Education Committees.*

(1) The council by whom an education committee is established may make regulations as to the quorum, proceedings, and place of meeting of that committee, but, subject to any such regulations, the quorum, proceedings, and place of meeting of the committee shall be such as the committee determine.

(2) The chairman of the education committee at any meeting of the committee shall, in case of an equal division of votes, have a second or casting vote.

(3) The proceedings of an education committee shall not be invalidated by any vacancy among its members or by any defect in the election, appointment, or qualification of any members thereof.

(4) Minutes of the proceedings of an education committee shall be kept in a book provided for that purpose, and a minute of those proceedings, signed at the same or next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting of the committee at which the minute is signed, shall be received in evidence without further proof.

Sched. 1. (5) Until the contrary is proved, an education committee shall be deemed to have been duly constituted and to have power to deal with any matters referred to in its minutes.

(6) An education committee may, subject to any directions of the council, appoint such and so many sub-committees, consisting either wholly or partly of members of the committee, as the committee thinks fit.

B.—*Managers.*

(1) A body of managers may choose their chairman, except in cases where there is an ex officio chairman, and regulate their quorum and proceedings in such manner as they think fit, subject, in the case of the managers of a school provided by the local education authority, to any directions of that authority.

Provided that the quorum shall not be less than three, or one-third of the whole number of managers, whichever is the greater.

Managers are not given power to appoint committees though education committees are. Managers may, however, be grouped (s. 12).

(2) Every question at a meeting of a body of managers shall be determined by a majority of the votes of the managers present and voting on the question, and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

(3) The proceedings of a body of managers shall not be invalidated by any vacancy in their number, or by any defect in the election, appointment, or qualification of any manager.

(4) The body of managers of a school provided **Sched. 1.**
by the local education authority shall deal with
such matters relating to the management of the
school, and subject to such conditions and restric-
tions, as the local education authority determine.

(5) A manager of a school not provided by the
local education authority, appointed by that autho-
rity or by the minor local authority, shall be
removable by the authority by whom he is
appointed, and any such manager may resign his
office.

(6) The body of managers shall hold a meeting
at least once in every three months.

(7) Any two managers may convene a meeting
of the body of managers.

(8) The minutes of the proceedings of every body
of managers shall be kept in a book provided for
that purpose.

(9) A minute of the proceedings of a body of
managers, signed at the same or the next ensuing
meeting by a person describing himself as, or
appearing to be, chairman of the meeting at which
the minute is signed, shall be received in evidence
without further proof.

(10) The minutes of a body of managers shall
be open to inspection by the local education
authority.

(11) Until the contrary is proved, a body of
managers shall be deemed to be duly constituted
and to have power to deal with the matters referred
to in their minutes.

Sched. 2.

Section 25.

SECOND SCHEDULE.**PROVISIONS AS TO TRANSFER OF PROPERTY AND OFFICERS, AND ADJUSTMENT.**

(1) The property, powers, rights, and liabilities (including any property, powers, rights, and liabilities vested, conferred, or arising under any local Act or any trust deed) of any school board or school attendance committee existing at the appointed day shall be transferred to the council exercising the powers of the school board.

As to transfers of cash balances, see Circular 475, p. 218.

(2) Where, under the provisions of this Act, any council relinquishes its powers and duties in favour of a county council, any property or rights acquired and any liabilities incurred, for the purpose of the performance of the powers and duties relinquished, including any property or rights vested or arising, or any liabilities incurred, under any local Act or trust deed, shall be transferred to the county council.

(3) Any loans transferred to a council under this Act shall, for the purpose of the limitation on the powers of the council to borrow, be treated as money borrowed under this Act.

(4) Any liability of an urban district council incurred under the Technical Instruction Acts, 1889 and 1891, and charged on any fund or rate, shall, by virtue of this Act, become charged on the fund or rate out of which the expenses of the council under this Act are payable, instead of on the first-mentioned fund or rate.

52 & 53 Vict.
c. 76.54 & 55 Vict.
c. 4.

(5) Section two of this Act shall apply to any balance of the residue under section one (a) of the

Local Taxation (Customs and Excise) Act, 1890, **Sched. 2.**
 remaining unexpended and unappropriated by any 53 & 54 Vict.
 c. 60.
 council at the appointed day.

(a) Section 1 (1) and (4) of the Local Taxation (Customs and Excise) Act, 1890 (c. 60), is as follows, sub-ss. (2) and (3) being repealed :

“1.—(1) Out of the English share of the local taxation (customs and excise) duties paid to the local taxation account on account of any financial year—

“(a) The sum of three hundred thousand pounds shall be applied for such purposes of police super-annuation in England as herein-after mentioned ;

“(b) The residue shall, unless Parliament otherwise determines, be distributed between county and county borough funds, and carried to the Exchequer contribution accounts of those funds respectively, and applied under the Local Government Act, 1888, as if it were part of the English share of the local taxation probate duty, and shall be the subject of an adjustment between counties and county boroughs, according to section thirty-two of the said Act, by the Commissioners under that Act.”

“(4) The council for any county to which the Welsh Intermediate Education Act, 1889, applies may contribute any sum received by such council under this section in respect of the said residue or any part of that sum towards intermediate and technical education under that Act, in addition to the amount which the council can under that Act contribute for such education.”

(6) Where the liabilities of a school board transferred to the local education authority under this Act comprise a liability on account of money advanced by that authority to the school board, the Local Government Board may make such orders as they think fit for providing for the repayment of any debts incurred by the authority for the purposes of those advances within a period fixed by the order, and, in case the money advanced to the school board has been money standing to the credit of any sinking fund or redemption fund

Sched. 2. or capital money applied under the Local Government Acts, 1888 and 1894, or either of them, for the repayment to the proper fund or account of the amount so advanced.

51 & 52 Vict.
c. 41.
56 & 57 Vict.
c. 73.

Any order of the Local Government Board made under this provision shall have effect as if enacted in this Act.

(7) Where a district council ceases by reason of this Act to be a school authority within the meaning of the Elementary Education (Blind and Deaf Children) Act, 1893, or the Elementary Education (Defective and Epileptic Children) Act, 1899, any property or rights acquired and any liabilities incurred under those Acts shall be transferred to the county council, and, notwithstanding anything in this Act, the county council may raise any expenses incurred by them to meet any liability of a school authority under those Acts (whether a district council or not), and transferred to the county council, off the whole of their area, or off any parish or parishes which in the opinion of the council are served by the school in respect of which the liability has been incurred.

56 & 57 Vict.
c. 42.
62 & 63 Vict.
c. 32.

(8) Sections eighty-five to eighty-eight (*a*) of the Local Government Act, 1894 (which contain transitory provisions), shall apply with respect to any transfer mentioned in this schedule, subject as follows :

56 & 57 Vict.
c. 73.

- (a) References to "the appointed day" (*b*) and to "the passing of this Act" shall be construed, as respects a case of relinquishment of powers and duties, as references to the date on which the relinquishment takes effect; and
- (b) the powers and duties of a school board or school attendance committee which is

abolished, or a council which ceases **Sched. 2.**
 under the provisions of this Act to
 exercise powers and duties, shall be
 deemed to be powers and duties trans-
 ferred under this Act; and

(c) sub-sections four and five of section eighty-five shall not apply.

(a) Sections 85 to 88 of the Local Government Act, 1894 (c. 73), are as follows :

“85.—(1) Every rate and precept for contributions made before the appointed day may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed.

“(2) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.

“(3) All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.

“(4) Every valuation list made for a parish divided by this Act shall continue in force until a new valuation list is made.

“(5) The change of name of an urban sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public general or local and personal, referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.

“86.—(1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or property transferred to a council

Sched. 2. or parish meeting by this Act : and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council or parish meeting shall be discharged, paid, and satisfied by that council or parish meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require.

NOTE.

“(2) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by this Act to liquidate so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

“87. All such byelaws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

“88.—(1) If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council or parish meeting, any action or proceeding, or any cause of action or proceeding is pending or existing by or against any authority in relation thereto the same shall not be in anywise prejudicially affected by the passing of this Act, but may be continued, prosecuted, and enforced by or against the council or parish meeting as successors of the said authority in like manner as if this Act had not been passed.

“(2) All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the council or parish meeting, and may be enforced as fully and effectually as if, instead of the authority, the council or parish meeting had been a party thereto.”

(b) See Circular of the Board, 474, p. 213, as to the appointed day when the Act is to come into operation.

(9) The disqualification of any persons who are, at the time of the passing of this Act, members of any council, and who will become disqualified for office in consequence of this Act, shall not, if the

council so resolve, take effect until a day fixed by Sched. 2. the resolution, not being later than the next ordinary day of retirement of councillors in the case of a county council, the next ordinary day of election of councillors in the case of the council of a borough, and the fifteenth day of April in the year nineteen hundred and four in the case of an urban district council.

(10) No election of members of a school board shall be held after the passing of this Act, and the term of office of members of any school board holding office at the passing of this Act, or appointed to fill casual vacancies after that date, shall continue to the appointed day, and the Board of Education may make orders with respect to any matter which it appears to them necessary or expedient to deal with for the purpose of carrying this provision into effect, and any order so made shall operate as if enacted in this Act. (*a*)

(11) Where required for the purpose of bringing the accounts of a school to a close before the end of the financial year of the school, or for the purpose of meeting any change consequent on this Act, the Board of Education may calculate any parliamentary grant in respect of any month or other period less than a year, and may pay any parliamentary grant which has accrued before the appointed day at such times and in such manner as they think fit.

(12) Any parliamentary grant payable (*b*) to a public elementary school not provided by a school board in respect of a period before the appointed day shall be paid to the persons who were managers of the school immediately before that day, and shall be applied by them in payment of the outstanding liabilities on account of the school, and so far as not required for that purpose shall be paid to the

Sched. 2. persons who are managers of the school for the purposes of this Act and shall be applied by them for the purposes for which provision is to be made under this Act by those managers, or for the benefit of any general fund applicable for those purposes: Provided that the Board of Education may, if they think fit, pay any share of the aid grant under the Voluntary Schools Act, 1897 (c), allotted to an association of voluntary schools, to the governing body of that association, if such governing body satisfy the Board of Education that proper arrangements have been made for the application of any sum so paid.

60 & 61 Vict.
c. 5.

(a) See note (a) to s. 5 above, p. 102.

(b) As to grants under the Voluntary Schools Act, 1897, see Circular 472, p. 204. Where there is a recognised association under the Act, the grant is paid to the association, not to the school (s. 1 (3)).

(c) Section 1 (1) of the Voluntary Schools Act, 1897 (c. 5), is as follows:

“1.—(1) For aiding voluntary schools there shall be annually paid out of moneys provided by Parliament an aid grant, not exceeding in the aggregate five shillings per scholar for the whole number of scholars in those schools.”

Any balances of grants handed over to the new managers, on the Act coming into operation, must be applied, either directly for the expenses (foundation and not maintenance) for which “provision must be made by those managers,” *i.e.*, in respect of their own school; or may be handed over by them to a general fund, such as a Diocesan Association (see Circular 472, p. 209), “for those purposes”—that is, for foundation expenses in their own school: the Diocesan Association could only hold the balance as bankers, and could not adjust balance between different schools.

(13) Any school which has been provided by a school board or is deemed to have been so provided shall be treated for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, as a school which has been provided by the local education authority, or which is deemed to have been so provided, as the case may be.

(14) The local education authority shall be Sched. 2. entitled to use for the purposes of the school any school furniture and apparatus belonging to the trustees or managers of any public elementary school not provided by a school board, and in use for the purposes of the school before the appointed day.

(15) During the period between the passing of this Act and the appointed day, the managers of any public elementary school, whether provided by a school board or not, and any school attendance committee, shall furnish to the council, which will on the appointed day become the local education authority, such information as that council may reasonably require.

(16) The officers of any authority whose property, rights, and liabilities are transferred under this Act to any council shall be transferred to and become the officers of that council, but that council may abolish the office of any such officer whose office they deem unnecessary.

(17) Every officer so transferred shall hold his office by the same tenure and on the same terms and conditions as before the transfer, and while performing the same duties shall receive not less salary or remuneration than theretofore, but if any such officer is required to perform duties which are not analogous to or which are an unreasonable addition to those which he is required to perform at the date of the transfer, he may relinquish his office, and any officer who so relinquishes his office, or whose office is abolished, shall be entitled to compensation under this Act.

(18) A council may, if they think fit, take into account continuous service under any school boards

Sched. 2. or school attendance committees in order to calculate the total period of service of any officer entitled to compensation under this Act.

(19) If an officer of any authority to which the 59 & 60 Vict. c. 50. Poor Law Officers' Superannuation Act, 1896, applies (a) is under this Act transferred to any council, and has made the annual contributions required to be made under that Act, the provisions of that Act shall apply, subject to such modifications as the Local Government Board may by order direct for the purpose of making that Act applicable to the case.

(a) Section 2, paragraph 1, of the Poor Law Officers Superannuation Act, 1896 (c. 50), provides that :

"2. Subject to the provisions of this Act, every officer and servant in the service or employment of the guardians of a union or parish who shall become incapable of discharging the duties of his office with efficiency, by reason of permanent infirmity of mind or body, or of old age, or who shall have attained the age of sixty years and have completed an aggregate service of forty years, or who shall have attained the full age of sixty-five years, shall be entitled on resigning or otherwise ceasing to hold his office or employment, to receive during life out of the common fund of the union, a superannuation allowance according to the scale laid down in this Act."

(20) Any local education authority who have established any pension scheme, or scheme for the superannuation of their officers, may admit to the benefits of that scheme any officers transferred under this Act on such terms and conditions as they think fit.

(21) Section one hundred and twenty of the 51 & 52 Vict. c. 41. Local Government Act, 1888 (a), which relates to compensation to existing officers, shall apply as respects officers transferred under this Act, and also (with the necessary modifications) to any other officers who, by virtue of this Act or anything done

in pursuance or in consequence of this Act, suffer **Sched. 2.**
direct pecuniary loss by abolition of office or by
diminution or loss of fees or salary, in like manner
as it applies to officers transferred under this Act,
subject as follows :

- (a) any reference in that section to the county council shall include a reference to a borough or urban district council ; and
- (b) references in that section to “ the passing of this Act ” shall be construed, as respects a case of relinquishment of powers and duties, as references to the date on which the relinquishment takes effect ; and
- (c) any reference to powers transferred shall be construed as a reference to property transferred ; and
- (d) any expenses shall be paid out of the fund or rate out of which the expenses of a council under this Act are paid, and, if any compensation is payable otherwise than by way of an annual sum, the payment of that compensation shall be a purpose for which a council may borrow for the purposes of this Act.

(a) Section 120 of the Local Government Act, 1888 (c. 41), provides that :

“ 120.—(1) Every existing officer declared by this Act to be entitled to compensation, and every other existing officer, whether before mentioned in this Act or not, who by virtue of this Act, or anything done in pursuance of or in consequence of this Act, suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss by the county council, to whom the powers of the authority, whose officer he was, are transferred under this Act, regard being had to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue

Sched. 2. of this Act or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office offered by any council or other body acting under this Act, and to all the other circumstances of the case, and the compensation shall not exceed the amount which, under the Acts and rules relating to her Majesty's Civil Service, is paid to a person on abolition of office.

NOTE.

“(2) Every person who is entitled to compensation, as above mentioned, shall deliver to the county council a claim under his hand setting forth the whole amount received and expended by him or his predecessors in office, in every year during the period of five years next before the passing of this Act, on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received, and accompanied by a statutory declaration under the Statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.

“(3) Such statement shall be submitted to the county council, who shall forthwith take the same into consideration, and assess the just amount of compensation (if any), and shall forthwith inform the claimant of their decision.

“(4) If a claimant is aggrieved by the refusal of the county council to grant any compensation, or by the amount of compensation assessed, or if not less than one-third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the claimant or any subscriber to such protest (as the case may be) may, within three months after the decision of the council, appeal to the Treasury, who shall consider the case and determine whether any compensation, and if so, what amount ought to be granted to the claimant, and such determination shall be final.

“(5) Any claimant under this section, if so required by any member of the county council, shall attend at a meeting of the council and answer upon oath, which any justice present may administer, all questions asked by any member of the council touching the matters set forth in his claim, and shall further produce all books, papers, and documents in his possession or under his control relating to such claim.

“(6) The sum payable as compensation to any person in pursuance of this section shall commence to be payable at the date fixed by the council on granting the compensation, or, in case of appeal, by the Treasury, and shall be a specialty debt due to him from the county council, and

may be enforced accordingly in like manner as if the **Sched. 2.** council had entered into a bond to pay the same.

NOTE.

“(7) If a person receiving compensation in pursuance of this section is appointed to any office under the same or any other county council, or by virtue of this Act, or anything done in pursuance of or in consequence of this Act, receives any increase of emoluments of the office held by him, he shall not, while receiving the emoluments of that office, receive any greater amount of his compensation, if any, than, with the emoluments of the said office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds such office.

“(8) All expenses incurred by a county council in pursuance of this section shall be paid out of the county fund, as a payment for general county purposes.”

Section 100 of the Local Government Act, 1888 (c. 41), defines “office” to include “any place, situation or employment, and the expression officer shall be construed accordingly.” The fact that an office is held legally only at pleasure, though practically for life, does not disentitle to compensation (*R. v. Mayor of Norwich* (1838), 8 A. & E. 633). Teachers are “officers.” Secretaries and other officials of voluntary schools, which become provided schools under the Act, can claim no compensation under sub-s. (16) above, for the voluntary school managers are not an “authority whose property, rights, and liabilities are transferred” to the local education authority: see Sched. II. (1). They can only claim, if at all, for abolition under sub-s. (21) as officers, who, by virtue of this Act, suffer direct pecuniary loss by abolition of office. The definition of “office” above would be wide enough to include voluntary school officials; but the difficulty is that the word “officer” has been confined in the past to officers of public bodies. Where Parliament has meant to allow compensation to officials of private bodies, as in the case of the London Water Companies, it has expressly said so (*Metropolis Water Act, 1902* (c. 41), ss. 47, 48). There is this further difficulty, that if such a voluntary school official be held to be an “officer,” compensation is to be paid him, under s. 120 of the incorporated Act, by the “council to whom the powers, whose authority he was, are transferred.” But here it is obvious there is no such transfer; see above. But that difficulty appears to have been overruled in *West v. Wilts County Council* (1893), 10 T. L. R. 19. The final decision in all cases lies with the Treasury,

Sched. 2. to whom appeal lies ; it is impossible to say on what lines of interpretation the Treasury may proceed. It is **NOTE.** to be noted that if voluntary school officials are once taken over by the local education authority, they would then appear to become "officers" under sub-s. (17), and could then, on subsequent relinquishment or abolition of office, claim compensation.

As to the scale of compensation allowed, that is prescribed by the Superannuation Acts, 1859 (c. 26), and 1884 (c. 57), and is fixed by the Treasury minute as follows : For abolition, one-sixtieth of the salary is allowed for each year of service, with an additional amount of one-sixtieth for the first five years, rising to ten-sixtieths for twenty years service and upwards, but in no case is the compensation to exceed two-thirds of the salary and emoluments of the office.

56 & 57 Vict.
c. 73. (22) Section sixty-eight of the Local Government Act, 1894 (*a*) (which relates to the adjustment of to property and liabilities), shall apply with respect any adjustment required for the purposes of this Act.

(*a*) See Circular of the Board, 475, p. 218.

Section 68 of the Local Government Act, 1894 (c. 73), provides that :

"68.—(1) Where any adjustment is required for the purpose of this Act, or of any order, or thing made or done under this Act, then, if the adjustment is not otherwise made, the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities, and expenses, so far as affected by this Act, or such scheme, order, or thing, of the parties to the agreement.

"(2) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions, and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board : Provided that where any of the authorities interested is a

board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board. Sched. 2.
—
NOTE.

“(3) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

“(4) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising their duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

“(5) Any capital sum paid to any authority for the purpose of any adjustment under this Act shall be treated as capital, and applied with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.”

THIRD SCHEDULE.

Section 25.

MODIFICATION OF ACTS, ETC.

(1) References to school boards and school districts shall be construed as references to local education authorities and the areas for which they act, except as respects transactions before the appointed day, and except that in paragraph (2) of section nineteen (*a*) of the Elementary Education Act, 1876, and in sub-section (1) of section two (*b*) of

39 & 40 Vict.
c. 79.

Sched. 3. the Education Code (1890) Act, 1890, references to a school district shall, as respects the area of a local education authority being the council of a county, be construed as references to a parish.

53 & 54 Vict.
c. 22.

(a) Paragraph 2 of s. 19 of the Elementary Education Act, 1876 (c. 79), is as follows :

“(2) Where the population of the school district in which the school is situate, or the population within two miles, measured according to the nearest road, from the school is less than three hundred, and there is no other public elementary school recognised by the Education Department as available for the children of that district, or that population (as the case may be), a special parliamentary grant may be made annually to that school to the amount, if the said population exceeds two hundred, of ten pounds, and, if it does not exceed two hundred, of fifteen pounds.”

(b) Sub-section (1) of s. 2 of the Education Code (1890) Act, 1890 (c. 22), is as follows :

“2.—(1) Where the population of the school district in which a public elementary school is situate, or the population within two miles measured according to the nearest road from the school, is less than five hundred, and there is no other public elementary school recognised by the Education Department as available for the children of that district or that population (as the case may be), a special parliamentary grant may be made annually to that school to the amount of ten pounds.”

(2) References to the school fund or local rate shall be construed as references to the fund or rate out of which the expenses of the local education authority are payable.

(3) In section thirty-eight of the Elementary Education Act, 1876, references to members of school board shall be construed as references to members of the education committee, or of any sub-committee appointed by that committee for school attendance purposes.

(4) The power of making byelaws shall (where the local education authority is a county council)

include a power of making different byelaws for **Sched. 3.**
different parts of the area of the authority.

(5) The following provision shall have effect in lieu of section five of the Elementary Education Act, 1891 : ^{54 & 55 Vict. c. 56.}

“ The duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation shall include the duty to provide a sufficient amount of public school accommodation without payment of fees in every part of their area.”

(6) The words “ in the opinion of the Board of Education ” shall be substituted for the words “ in their opinion ” in the first paragraph of section eighteen of the Elementary Education Act, 1870 (a). ^{33 & 34 Vict. c. 75.}

(a) The first paragraph of s. 18 of the Elementary Education Act, 1870 (c. 75), is as follows :

“ 18. The school board shall maintain and keep efficient every school provided by such board, and shall from time to time provide such additional school accommodation as is, in their opinion, necessary in order to supply a sufficient amount of public school accommodation for their district.”

(7) Section ninety-nine (a) of the Elementary Education Act, 1870, shall apply to the fulfilment of any conditions, the performance of any duties, and the exercise of any powers under this Act as it applies to the fulfilment of conditions required in pursuance of that Act to be fulfilled in order to obtain a parliamentary grant.

(a) Section 99 of the Elementary Education Act, 1870, provides as follows :

“ 99. The managers of every elementary school shall have power to fulfil the conditions required in pursuance of this Act to be fulfilled in order to obtain a parliamentary grant, notwithstanding any provision contained in any instrument regulating the trusts or management of their school, and to apply such grant accordingly.”

Sched. 3. (8) A reference to the provisions of this Act as to borrowing shall be substituted in section fifteen of the Elementary Education Act, 1876, for the reference to section ten of the Elementary Education Act, 1873, and a reference to the Local Government Board shall be substituted for the second reference in that section to the Education Department, and also for the reference to the Education Department in section five of the Elementary Education (Blind and Deaf Children) Act, 1893.

36 & 37 Vict.
c. 86.

56 & 57 Vict.
c. 42.

43 & 44 Vict.
c. 23.

39 & 40 Vict.
c. 79

(9) A reference to the provisions of this Act relating to the enforcement of the performance of the local education authority's duties by mandamus shall be substituted in section two of the Elementary Education Act, 1880, for the reference to section twenty-seven of the Elementary Education Act, 1876.

(10) The substitutions for school boards, school districts, school fund, and local rate made by this schedule shall, unless the context otherwise requires, be made in any enactment referring to or applying the Elementary Education Acts, 1870 to 1900, or any of them, so far as the reference or application extends.

52 & 53 Vict.
c. 76.

54 & 55 Vict.
c. 4.

(11) References in any enactment or in any provision of a scheme made under the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, or the Elementary Education Acts, 1870 to 1900, to any provisions of the Technical Instruction Acts, 1889 and 1891, or either of those Acts shall, unless the context otherwise requires, be construed as references to the provisions of Part II. of this Act, and the

provisions of this Act shall apply with respect Sched. 3.
to any school, college, or hostel established, and
to any obligation incurred, under the Technical
Instruction Acts, 1889 and 1891, as if the school,
college, or hostel had been established or the
obligation incurred under Part II. of this Act.

(12) The Local Government Board may, after
consultation with the Board of Education, by order
make such adaptations in the provisions of any
local Act (including any Act to confirm a Pro-
visional Order and any scheme under the Muni-
cipal Corporations Act, 1882, as amended by any
subsequent Act) as may seem to them to be
necessary to make those provisions conform with
the provisions of this Act, and may also in like
manner, on the application of any council who
have power as to education under this Act and
have also powers as to education under any local
Act, make such modifications in the local Act as
will enable the powers under that Act to be
exercised as if they were powers under this Act.

Any order made under this provision shall
operate as if enacted in this Act.

Section 25.]

FOURTH SCHEDULE.

ENACTMENTS REPEALED.

PART I.

Session and Chapter.	Short Title.	Extent of Repeal.
52 & 53 Vict. c. 76 -	The Technical Instruction Act, 1889.	The whole Act.
53 & 54 Vict. c. 60 -	The Local Taxation (Customs and Excise) Act, 1890.	In section one, sub-sections two and three.
54 & 55 Vict. c. 4 -	The Technical Instruction Act, 1891.	The whole Act.

PART II.

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict. c. 75 -	The Elementary Education Act, 1870.	Section four ; section five except so far as it defines public school accommodation ; section six ; sections eight to thirteen ; sections fifteen and sixteen ; section eighteen from " If at any time " to the end of the section ; in section nineteen the words " whether in obedience to any requisition or not " ; sections twenty-nine to thirty-four ; in section thirty-five the words " a clerk and a treasurer and other " and the words from " but no such appointment " to " member of the board " ; sections forty to forty-eight ; sections forty-nine to fifty-one ; in section fifty-two the words " under the provisions of this Act with respect to the appointment of a body of

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict. c. 75 -	The Elementary Education Act, 1870— <i>cont.</i>	managers"; sections fifty-three to fifty-six; sections sixty to sixty-six; in section sixty-nine the words "in the metropolis" and the words from "appointed under this Act" to "returns under this Act"; in section seventy-three the words "of the school district" the words from "(if any) or if" to "inquiry relates," and the words "or if there is no school board as a debt due from the rating authority"; sections seventy-seven and seventy-nine; sections eighty-seven, eighty-eight, and ninety; section ninety-three; the first proviso of section ninety-seven; the First Schedule; the Second Schedule, except the Third Part; the Third Schedule.
36 & 37 Vict. c. 86 -	The Elementary Education Act, 1873.	Sections five to twelve; sections seventeen and eighteen; sections twenty-one and twenty-six; the First Schedule; the Second Schedule; the Third Schedule.
37 & 38 Vict. c. 90 -	The Elementary Education (Orders) Act, 1874.	The whole Act.
39 & 40 Vict. c. 79 -	The Elementary Education Act, 1876.	Section seven, from "and (2) in every" to "appointing the committee," and the words "and school attendance committee"; in section fifteen the words "not exceeding fifty"; section twenty-one; section twenty-three to "or pay any fees"; section twenty-seven; in section twenty-eight, the words "but subject in the case of a school attendance committee to the approval herein-after mentioned" and the words "or the officers of the council or guardians by whom the committee are appointed"; sections thirty, thirty-one, thirty-two, thirty-

Session and Chapter.	Short Title.	Extent of Repeal.
39 & 40 Vict. c. 79 -	The Elementary Education Act, 1876— <i>cont.</i>	three (except as applied by this Act), and thirty-four; section thirty-six; in section thirty-seven the words "or local authority"; in section thirty-eight the words "or local authority" and "or school attendance committee"; sections forty-one, forty-two, forty-three, and forty-four; section forty-nine; the Second Schedule; the Third Schedule.
43 & 44 Vict. c. 23 -	The Elementary Education Act, 1880.	Section three.
53 & 54 Vict. c. 22 -	The Education Code (1890) Act, 1890.	Section one.
54 & 55 Vict. c. 56 -	The Elementary Education Act, 1891.	Sections five, six, and seven.
56 & 57 Vict. c. 42 -	The Elementary Education (Blind and Deaf Children) Act, 1893.	Section four from "(b) for an area" to the end of the section. Sub-sections (3) and (4) of section five. Section six.
59 & 60 Vict. c. 16 -	The Agricultural Rates Act, 1896.	In section seven the words "a school board for a school district which is a parish or," and sub-section (3).
60 & 61 Vict. c. 5 -	The Voluntary Schools Act, 1897.	Section one.
60 & 61 Vict. c. 16 -	The Elementary Education Act, 1897.	The whole Act.
62 & 63 Vict. c. 32 -	The Elementary Education (Defective and Epileptic Children) Act, 1899.	In section six the proviso.
63 & 64 Vict. c. 53 -	The Elementary Education Act, 1900.	Section three.

APPENDIX A.

MEMORANDA AND CIRCULARS OF THE
BOARD OF EDUCATION.

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A. I. [N.B.—Footnotes to the following Memoranda and Circulars of the Board of Education are often inserted by the Board themselves; footnotes inserted by the Editors are signed EDD.]

I.

MEMORANDUM (a).

E.A. 1.

BOARD OF EDUCATION,
WHITEHALL, S.W.

20th December, 1902.

EDUCATION ACT, 1902, SECTION 11.

FOUNDATION MANAGERS.

1. The Education Act, 1902, materially alters the conditions under which voluntary public elementary schools are at present managed, and this preliminary memorandum has been prepared by the Board of Education in order to assist owners, trustees, and managers of such schools to decide whether they will apply for an order under section 11 of the Act, and in order to facilitate the work of making and considering such applications. It must be regarded as subject to such modification as further experience may show to be necessary.

New conditions of management. Local authorities' managers. "Foundation managers' managers."

2. Every such voluntary school will henceforth be managed by a body normally consisting of six persons, of whom four will be "foundation managers" representing the interests of those by whom the school was established or is at present managed. The manner of their appointment under the Act is the chief subject of this memorandum. The remaining two managers will be representative of local authorities. (As regards the possibility of a larger number of managers than six, see below, paragraph 17 (a).) The "foundation managers" will,

(a) This memorandum only relates to powers of appointing managers under s. 11. That section gives no power to reconstitute the trust deeds in any other respects.—EDD.

although appointed in a different manner, act together with the two other managers for all the purposes of conducting a public elementary school and with them will compose the body which is spoken of in the Act as "the managers of the schools."

Appndx.
A. I.

3. If the school has a "trust deed" (an expression explained below, paragraph 6), and the deed permits of the appointment of four foundation managers and gives sufficient and practicable directions as to the manner of their appointment, the intervention of the Board will not usually be required, and the present managers will only have to see that four such managers are properly appointed to act with the two other managers. If, however, this is not the case, then the proper course for the present owners or trustees or managers is to apply to the Board of Education for an order under section 11 of the Act for the purposes of meeting the case. It is expected that such an order will be found necessary for a large majority of voluntary schools. Any failure to make or delay in making application where such is necessary, may result in serious embarrassment and inconvenience to the district served by the school.

"Founda-
tion
managers"
must be
appointed.

If the owners or trustees or managers do not think fit to apply to the Board for such an order within three months of the passing of the Act, the local education authority, or any person interested, may after that period make application.

4. It is to be remembered that (except in the case of such privately-owned schools as are the absolute property of the owner, and are subject to no trusts whatsoever), managers and trustees of elementary schools usually hold the school premises upon trust, either themselves to carry on a school therein or to permit it to be carried on. It is therefore not open to either body, or even to both bodies acting together, to close the school as or when they please. An attempt to close the school capriciously or for insufficient reasons may involve the consequences attendant on

Trustees
and
managers
have no
power to
close
schools.

Appndx. a breach of trust (*b*). If trustees or managers are unable or
A. I. unwilling to carry on the school it is their duty at once
 — to apply to the Board of Education (who for this purpose
 may exercise the powers formerly possessed by the Charity
 Commissioners) to be relieved of their trust or for direction
 in the matter.

The following paragraphs of this memorandum assume that it is intended to carry on the school in accordance with the trusts, except in so far as those trusts are modified by the Act.

Section 11. 5. Section 11 provides that “if it is shown to the satisfaction of the Board of Education that the provisions of the trust deed as to the appointment of managers are in any respect inconsistent with the provisions of this Act, or insufficient or inapplicable for the purpose, or that there is no such trust deed available, the Board of Education shall make an order under this section for the purpose of meeting the case.”

Trust deeds. 6. Under section 24 (5) the expression “trust deed” includes “any instrument regulating the trusts or management of a school.”

For the purposes of the Act therefore the term “trust deed” includes not only deeds in the ordinary sense, but also any of the following instruments if they provide for the appointment of trustees or give directions for the management of a school or its endowment, viz. :

- (i) Orders of the Court of Chaucery ;
- (ii) Orders of a county court under the Charitable Trusts Acts, 1853 and 1860 ;
- (iii) Orders of the Charity Commissioners ;
- (iv) Schemes made under the Endowed Schools Acts ;

(*b*) This paragraph requires some explanation. See above, Transition Period, p. 86. In any case the Attorney-General or the Board, the Attorney-General being a party, would have to consent to an action for a breach of trust in such a case.—EDD.

- (v) Schemes made by the Education Department under **Appndx.**
 section 75 of the Elementary Education Act of **A. I.**
 1870 ;
- (vi) In the case of privately-owned schools, a lease or agreement in writing by which a school is let to managers for the purposes of a school *may be usually regarded as a trust deed*, and any trust declared therein attaches to the whole of the tenants' interest whatever it may be. The proper course of action in such cases is indicated below (paragraph 11).

7. Application for an order under section 11 may be made within three months of the passing of the Act by "the existing owners, trustees or managers of a school." The trustees are those persons in whom the property in the school premises is now vested. These persons may also be entitled to act as managers, but in the case of most elementary schools the two bodies are distinct.

For the purposes of this Act it is indifferent whether the application is made by the trustees or by the managers, but in any case the application should be signed by a majority of the body which applies. It is also obviously desirable that before applying the managers and trustees should consult one another, and also the owner if there is one.

8. Application should be made on the special form provided for the purpose (Form E. A. 2), and it is important that full information under the several heads should be given. Any failure to supply information required may lead to considerable delay in dealing with the case. Applications should be either sent directly to the Secretary, Board of Education, Whitehall, or transmitted through the secretary of any voluntary school association to which the school may belong. The latter course is perhaps the most convenient, in order that the applications may reach the Board in batches corresponding to geographical or administrative divisions, and that time may be saved in dealing with them.

Appndx. 9. In cases where an order is required (see below, paragraph 17) to adapt the provisions of the deed to the new conditions of management created by the Act, and where the trust deed departs from the usual type or contains unusual provisions as to the management of the school, it is desirable that special recommendations should be made by the applicant as to the provisions to be embodied in the order. In other cases recommendations may conveniently be made (in the case of denominational schools) in or by reference to one of the forms adopted by the National Society, or associations of Church of England, Roman Catholic, Wesleyan, or other schools. It is desirable that where schools have trust deeds of a similar type uniformity in the provisions relating to the appointment of foundation managers should be secured, as far as is possible consistently with due regard to the trust deed and local circumstances.

A. I.
 Recom-
 mendations.

No deed, but implied trusts. 10. Where there is no trust deed and the school is not claimed as private property, but is held on implied trusts (*i.e.*, such as may be presumed from usage), it is undesirable that the persons now managing the school should attempt to make a trust deed (*c*); they should either apply to the Board for an order under section 11 of the Act, or, in case of doubt or difficulty as to their rights and duties, for direction under the Charitable Trusts Acts.

Existing lease. 11. Where school premises are held by lease or agreement from a private owner, it is not open to the owner, pending the term of the tenancy, to modify the trusts on which the premises are held. In such cases, if the conditions of letting do not allow of the appointment of the number of foundation managers required by the Act, it is the duty of the owner or the managers to apply to the Board for an order under section 11 (see also below, paragraph 14).

(*c*) See notes to s. 11 for power of managers to make deeds.—EDD.

12. In cases of doubt or difficulty where the trust deed **Appndx.** is defective or insufficient in any particulars, the trustees **A. I.** should not attempt to supplement it by a new deed, but Defective deed. should apply for direction to the Board of Education (exercising the powers formerly belonging to the Charity Commissioners in respect of purely educational endowments).

13. The defects in a deed may be cured by an order Schemes. under section 11 ; where this is not possible it is open to the trustees to apply to the Board of Education for a scheme, but no schemes will be made at present unless it is clearly shown that an order would be insufficient to secure the proper management of the school.

14. Where school premises are the property and in the possession of a private owner free from any trusts, express or implied, for educational purposes, several courses are open to him (*d*). No trusts—schools which are absolute property of owner

- (i) He may retain them in his own hands and as his absolute property, permitting them to be used by managers appointed by himself. In this case, as there is no trust deed, he will have to apply to the Board of Education for an order appointing foundation managers. This course is perhaps the least convenient.
- (ii) He may execute a declaration of trust making himself, either alone or jointly with others, trustee of the school, either in perpetuity or for a fixed period.
- (iii) He may convey the school to trustees in perpetuity.
- (iv) He may let the school to managers by lease or agreement for a term of years, or from year to year, at a nominal or a substantial rent. This

(*d*) See above, p. 91, and E.A. 13, p. 199, below.—EDD.

Appndx.
A. I.

rent must now be paid by the managers out of funds other than those provided by the local education authority, and must not be charged in the school accounts.

In the second, third, and fourth cases above-mentioned he may insert in the trust deed, lease or agreement, such provisions as to management and mode of appointing managers as he thinks fit. If these provisions are consistent with and sufficient for the purposes of the Act, no order under section 11 will be required. It is obviously desirable that in any case he should act under competent legal advice, and the Board of Education cannot undertake to advise an owner as to the manner in which he should carry out his intention.

It may be noted that if the owner lets the school to a local education authority it becomes a "provided" school subject to the "Cowper-Temple clause," and all the other provisions of the Act applicable to such schools will attach to it. The relations between the owner and the local authority will be merely those of landlord and tenant.

Lost deed. 15. An order under section 11 will be required in all cases where there is no trust deed or where the trust deed is not available. Where a trust deed is known to have existed, every effort should be made to discover it (*e*). Where the trust deed cannot be found, particulars should be given in the application form of any draft, abstract, or other documents from which the trusts of the school may be collected.

Where deed never existed. 16. Where no trust deed is known to have existed, it is important that full particulars of the usage which has prevailed in the management of the school at different periods should be supplied. The direction contained in section 11 (4) that the Board "shall have regard to . . .

(*e*) See above, p. 94, as to Searches in the Record Office for LOST DEEDS.—EDD.

the principles on which the education given in the school has been conducted in the past," is specially applicable to such cases. **Appndx.**
A. I.

17. It is apprehended that where there is a trust deed an order will usually be required in the following cases : Order
required to
supplement
deed.

- (a) Where the trust deed contemplates a number of managers either greater or less than four.

Four is the normal number of foundation managers contemplated by the Act and will usually be found the most convenient. Under the provisions, however, of section 6 (3) (b), the local education authority may increase the total number of managers, the foundation managers and local authority's managers being proportionately increased. In the circumstances to which section 6 (2) (b) of the Act applies (viz., where the local education authority are the council of a borough or urban district) the number of managers of the two classes respectively might be 6 and 3 ; but where the local education authority are the council of a county, the number of managers must be increased (if increase is thought desirable) to 8 and 4 respectively, or to some other multiple of 4 and 2. It will probably be found in most cases that 12 is an inconveniently large number of managers. Orders of the Board under section 11 will be so drawn as to meet the case of future increase in the number of managers. Number of
foundation
managers.

- (b) Where the trust deed gives (i) no directions as to the appointment of managers, or (ii) such directions as cannot be fulfilled.
- (c) Where by reason of changes in local or other circumstances, the trust deed has become inapplicable for the purposes of the management of the school, or a strict adherence to the letter of the deed would defeat its intention.

Appndx. 18. In order to avoid delay in bringing this Part of the Act into operation, it is probable that most orders under this section will, in the first instance, be made in the form of "interim orders," which will not be confirmed until the local education authorities have had time to make preparation for the proper consideration of the notices and draft final orders, which, under the section, will be sent to them as well as to the owners, trustees, and managers.

A. I.
Interim orders.

In ordinary cases, notices and draft final orders will also be sent by the Board of Education to the parish council or parish meeting or other minor local authority of the area in which the school is situated, as representing "other persons interested."

Clerk. 19. It will greatly assist the Board if bodies of trustees and managers will appoint some person to receive and distribute all notices and orders on their behalf.

Additional copies of this memorandum and of the form of application under section 11 may be obtained, free of charge, from the Board of Education.

II.

FORM OF APPLICATION TO THE BOARD OF EDUCATION FOR AN ORDER UNDER S. 11 OF THE EDUCATION ACT, 1902.

* Name some person authorised to receive draft orders and notices on behalf of the trustees and managers.

† Strike out words not applicable.

Applicants should state whether they sign as owners,

County ———.
Parish ———.
School ———.
School Number ———.
*Clerk ——— (name and address).
Association (if any) ———.
Denomination (if any) ———.

E.A. 2.

The undersigned, being *owners, trustees, managers*† of the said school, and having regard to the statement of facts

set out below, do hereby apply to the Board of Education for an order constituting a body of foundation managers under s. 11 of the Education Act, 1902.

**Appndx.
A. II.**

As witness our hands this day of 1902.

trustees or managers. The application should be signed by at least a majority of the trustees or managers.

‡ Recommendations should be strictly confined to the following space.

‡ RECOMMENDATIONS.

The applicants recommend that provisions to the following effect should be embodied in the order :

[See next form for draft of recommendation suggested by the National Society to be inserted here.]

Recommendations may be made by reference to forms adopted by the National Society, Roman Catholic, Wesleyan, or other Associations of which copies have previously been deposited with the Board of Education.

STATEMENT OF FACTS.

A.—Form to be used where there is a Trust Deed or other written instrument declaring the Trusts.

1.—§ DEED, state—

- (a) date of deed (of conveyance, lease or declaration of trust) —.
- (b) date of enrolment (if enrolled) —.
- (c) whether conveyance purports to be under School Sites Acts and whether voluntary or for valuable consideration —.
- (d) date of any order of Court of Chancery, county court, Charity Commissioners appointing trustees, or affecting the school or its endowment —.
- (e) whether the deed is in the form of a model deed of any society or denomination, or places the school in union with the National or any other society —.
- (f) name and address of person having the custody of the deed, or the place where it is kept —.

§ If the deed is lost, state whether a draft or abstract is in existence.

Appndx.
A. II.

* This head is to be filled up if the school premises are held by lease or agreement or at will.
† If the school premises were conveyed to the vicar, churchwardens or overseers, and their successors or any of them, it is sufficient to state this fact, and the three following heads (b), (c), (d) need not be filled up, unless the deed has been modified by scheme.

2.—* OWNER, state—

- (a) name and address of owner or lessor or his agent —.
- (b) date and term of lease or agreement —.

3.—TRUSTEES, state—

- (a)† who were the trustees appointed by the deed or the persons to whom the school premises were conveyed or leased —.
- (b) directions given by the deed as to future appointment of trustees —.
- (c) date of last instrument or order appointing trustees —.
- (d) names and addresses of present trustees (other than vicar, churchwardens and overseers ex officio) and mode of appointment —.
- (e) any special powers given to trustees, *e.g.*, powers of acting as or appointing managers —.
- (f) if the trustees of the school are as such trustees of any endowment applicable in connection with the school, the name of such endowment —.
- (g) if the original trust deed has been modified by any scheme, particulars of such scheme —.

4. MANAGERS, state—

- (a) full number of managers, and the mode of appointment and qualifications *prescribed by deed*,

Full number.	
<i>i.e.</i> , ex officio	— state qualifying office —.
nominated	— state by whom nominated —.
elected	— { state by whom elected —.
	— { denominational qualification
Total -	— { of electors —.
	— { qualifying subscription of
	— { electors —.
	denominational qualification
	of managers —.
	qualifying subscription of
	managers —.

(b) whether the chairman of the managers is elective or **Appndx.**
 ex officio —. **A. II.**

(c) names and addresses of present managers—

- | | | |
|--|---|--|
| (i) legally appointed under deed - - - | } | _____

_____ |
| (ii) Acting managers not legally appointed, giving mode of appointment - - | } | _____

_____ |

(d) any special powers given to managers —.

5. SUBSCRIBERS AND DONORS, state—

1900. 1901. 1902.

(a) number of subscribers of—

(i) amount specified in deed - - -

(ii) sums of 2s. 6d. and upwards - - -

in each of last three years.

(b) number of surviving donors of £5 in one sum and upwards to the funds of the school or towards purchase of site and erection or extension of buildings —.

(c) names of societies who have contributed £10 in one sum and upwards —.

*6. CHARACTER OF SCHOOL AND INSTRUCTION, state—

(a) any general directions of the deed as to the principles on which the school is to be conducted —.

(b) any directions of the deed as to religious instruction and the persons by whom it shall be given or superintended —.

* This head need not be filled up in the case of schools united by deed with the National Society.

Appndx.
A. II.

† The particulars asked for in the following Form B. 3 should be given here.

The statement of facts should be certified by one of the trustees or managers of the school or by some person appointed by them.

- (c) † if there are no directions as to religious instruction, state the usage which has prevailed during the last twenty years —.

I certify that the above statement is correct to the best of my knowledge.

Signature —.

Address —.

B.—Form to be used where there is no Trust Deed or other written instrument declaring the Trusts.

1. **ORIGIN OF SCHOOL**, state—

- (a) earliest date at which the school is known to have existed —.
- (b) mode of establishment of school, if known —.
- (c) subsequent history of school, giving dates and particulars of expenditure on buildings, and the sources from which it was provided —.
- (d) date and effect of any order of the Court of Chancery, county court or Charity Commissioners relating to the school, its endowments, or management —.

2. **MANAGERS**, state—

- (a) names, addresses, and mode of appointment of persons now acting as managers —.
- (b) manner in which vacancies among managers have usually been filled up —.

3. **CHARACTER OF SCHOOL**, state—

- (a) whether the school has been united with the National or any other society, and if so, at what date and on what conditions —.
- (b) the usage which has prevailed during at least the last twenty years as regards religious instruction —.
- e.g.* (i) whether religious instruction has been given in accordance with the principles of the Church of England or any other denomination —.

(ii) whether it has been superintended by the minister **Appndx.**
 or any other person ex officio ——. **A. II.**

(c) any special usage affecting the character of the school ——.

4. DONORS AND SUBSCRIBERS, state—

1900. 1901. 1902.

(a) number of subscribers of sums of
 2s. 6d and upwards in each of
 the last three years - -

(b) number of surviving donors of £5 in one sum and
 upwards to the funds of the school or towards
 purchase of site and erection or extension of
 buildings ——.

(c) names of societies who have contributed £10 in one
 sum and upwards ——.

I certify that the above statement is correct to the best
of my knowledge.

Signature ——.

Address ——.

The state-
ment of
facts should
be certified
by one of the
managers or
by some
person
appointed
by them.

[This space may be used for giving any material informa-
tion or explanations which cannot conveniently be com-
pressed into the above forms. It should not be used for
recommendations, which should be strictly confined to the
space on page 175.]

NATIONAL SOCIETY'S RECOMMENDATION FOR
 INSERTION IN E.A. 2, ABOVE.

The National Society recommends that, in cases where
the managers of church schools have to apply for an order
from the Board of Education to bring the constitution of
the committees of management into agreement with the
requirements of the Education Act, 1902, a management
clause on the lines following should be applied for :

The foundation managers under the Education Act,
1902, shall consist of the principal officiating minister of

Appndx. the ecclesiastical parish or district in which the school is
A. II. situated, *ex officio*, and three (or such other number as may
 be required to make up the number of foundation managers
 as provided under the Act) other persons, being *bonâ fide*
 members of the Church of England, who shall in the first
 instance be* nominated by the persons who are the
 managers of the school at the time of the application to
 the Board of Education (*or* who shall in the first instance*
be elected by the annual subscribers to the school at the time of
the application to the Board of Education or other persons
who are entitled under the terms of the school trust deed to vote
in the election of or appoint managers). †The persons so
 nominated (*or elected*) shall hold office for three years, and
 thereafter the non-official foundation managers shall be
 elected triennially by such of the annual subscribers to
 the foundation of at least two shillings and sixpence (*f*)
 during the two years immediately preceding the election
 as are *bonâ fide* members of the Church of England, and
 such of the contributors to the foundation at any time of
 not less than five pounds in one sum as are *bonâ fide*
 members of the Church of England. Provided that any
 society which may have contributed to the foundation at
 any time not less than ten pounds in one sum shall have
 the right to a vote and may nominate one of its officers or
 other person to exercise the right of voting in its behalf
 (*or, †vacancies in the number of the non-official foundation*
managers shall be filled by nomination on the part of the
remaining foundation managers of another person or persons
being bonâ fide a member or members of the Church of
England).

*One of
 these alter-
 natives to be
 struck out.

† One of
 these alter-
 natives to be
 struck out.

(*f*) See above, Transition Period, as to this qualification for
 electing the foundation managers, and Circular 472 below.—
 EDD.

III.

Appndx.
A. III.

This Order may be referred to as E.A. Order
(Provisional) No. 1.

BOARD OF EDUCATION.

**INTERIM ORDER MADE UNDER SECTION 11
OF THE EDUCATION ACT, 1902.**

Whereas application has been made to the Board of Education by the owners, trustees or managers of the schools specified in the Second Schedule hereto for an order appointing foundation managers of the said schools :

Now the Board of Education do hereby order as follows—

1. The appointment of foundation managers of each of the schools specified in the Second Schedule hereto shall be made in accordance with the provisions specified in the First Schedule hereto.

2. This order shall take effect as an interim order for the purposes of section 11 of the Education Act, 1902, from the appointed day on which Part III. of the said Act comes into operation in the area in which the said schools are situated, and shall continue in force until a further or final order is made under that section.

3. If in the case of any of the said schools it is hereafter shown to the satisfaction of the Board of Education that, after the date of the application and before the appointed day, the owner of that school has executed a trust deed within the meaning of the said Act, giving sufficient directions for the appointment of foundation managers, or that the circumstances have otherwise so changed as to render an order on the application unnecessary, this order shall not apply, and shall be deemed not to have applied, to that school.

Given under the Seal of Office of the Board of Education this Ninth day of March, 1903.

Appndx.

THE FIRST SCHEDULE.

A. III.

1. The first foundation managers shall consist of four persons appointed by the persons who at the date of this order are *de facto* managers of the school, that is to say, managers as defined by section 3 of the Elementary Education Act, 1870 (*g*), provided that, if the principal officiating minister of the ecclesiastical parish or district in which the school is situated is a manager of the school *ex officio*, he shall be one of the said four persons. Any vacancy occurring among the first foundation managers appointed as aforesaid, shall be filled by the appointment of some person, by the remaining foundation managers.

2. Any disputes as to the right of any person to appoint the first foundation managers under the terms of this order, or to act as one of the first foundation managers *ex officio*, shall be referred to and determined by the Board of Education.

Appndx.

IV.

A. IV.

MEMORANDUM ON EDUCATION COMMITTEES
UNDER THE EDUCATION ACT, 1902.

Various applications have been made to the Board of Education for suggestions with respect to the constitution of education committees and the framing of schemes for the purpose.

The details of any scheme must be settled by the councils by whom the schemes are made. But with a view to assisting councils who have not as yet framed schemes for themselves and desire assistance, the Board make the following suggestions as to the main matters which should be provided for by the scheme.

Heading.

1. The heading of the scheme should be—

(*h*) COUNTY EDUCATION COMMITTEE,

or

(*h*) BOROUGH EDUCATION COMMITTEE,

or

(*h*) URBAN DISTRICT EDUCATION COMMITTEE.

(*g*) NOTE.—This definition is as follows :

“The term ‘managers’ includes all persons who have the management of any elementary school, whether the legal interest in the school house is or is not vested in them.

(*h*) Here insert the name of the area for which the committee is appointed.

Proposed Scheme for the Constitution of an Education Committee under the Education Act, 1902. Appndx.
A. IV.

2. The following clause contains suggestions for the constitution of the committee, all or any of which can be adopted, as circumstances require :

The education committee (hereinafter called the committee) shall, when complete, consist of members, including persons of experience in education, and persons acquainted with the needs of the various kinds of schools in the , appointed by the council (hereinafter called the council), being :

- (i) Members of the council ;
- (i) Ex-officio members (*e.g.*, the chairman or vice-chairman of the council) ;
- (i) Nominated members, one nominated by each of the following bodies, *e.g.* :
 - The council of the University of ;
- (i) Recommended members, one (*j*) recommended by each of the following bodies, *e.g.* :
 - The Chamber of Commerce of ;
 - The Agricultural Society of ;
 - The Association of ;
 - The Governing Body of the ;
 - An electing body consisting of ;
- (i) Members appointed after consultation with—
 - The ;
- (k) Selected members, of whom at least shall be women.

The following interests :

University education ;

The secondary education of boys and girls in its higher and lower grades ;

(i) Here insert number (if any).

(j) It may often be found convenient to define the mode in which the members are to be recommended, and to insert after "one" some such phrase as the following: "selected by the Council from not less than two nor more than four persons,"—
EDD.

(k) Here insert number (if any).

Appndx.
A. IV.

Technical instruction and commercial and industrial education having special regard to the industries of the ;

The training of teachers ;

Elementary education in council schools and in voluntary schools ;

shall always be represented either among the members appointed from the council or among members appointed from outside the council.

In the event of any of the nominating or recommending bodies ceasing to exist, the county council shall substitute such other body as in their opinion is of the same character or represents the same interests as the body which has ceased to exist.

3. It will possibly be advisable to make it clear whether a member of the council is to be eligible as a nominated or recommended member of the committee, or whether it is necessary for a nominated or recommended member to be a member of the nominating or recommending body. The following paragraphs, each drawn in an alternative form, are suggested for the purpose of making this clear ; they could be added to the foregoing clause :

(1) $\left\{ \begin{array}{l} \text{A} \\ \text{No} \end{array} \right\}$ member of the council shall be eligible as a nominated or recommended member of the committee.

(2) A nominated or recommended member $\left\{ \begin{array}{l} \text{must} \\ \text{need not} \end{array} \right\}$ be a member of the nominating or recommending body.

Term of office.

4. Some provision should be made with respect to the term of office of the members of the committee.

Members of the council who are appointed *as such* will necessarily go out of office if they cease to be members of the council. The term of office of such a member should, therefore, unless a shorter term is fixed, be made coincident with his ordinary term of office as a councillor.

It will, however, be noticed that in boroughs, and in urban districts where the members retire in rotation, and not simultaneously, it will be very difficult to formulate any plan in practice which provides for the simultaneous retirement of all members of the committee, and also provides for the term of office of a councillor as a member of the committee being coincident with his term of office as a member of the council.

Appndx.
A. IV.

As regards outside members it may be convenient that their term of office should, in counties, and in urban districts where the members retire simultaneously, expire at the same time as the term of office of members of the committee who are members of the council. On the other hand, this is not at all necessary, and, from the point of view of continuity of policy, may be inadvisable.

If simultaneous retirement is not adopted, the term of office for outside members can be fixed without regard to the term of office of members of the committee who are members of the council, and, if necessary, different terms of office may be fixed for different classes of outside members.

There is also another alternative, namely, to leave the term of office of members of the committee to the discretion of the appointing council.

To meet these various cases the following alternative clauses are suggested :

The term of office of members of the committee shall be years, except that the first members, instead of being appointed for years, shall be appointed each for a term of office ending on the next ordinary day of retirement of councillors (*l*).

Or,

The term of office of members of the committee who are members of the council appointed by the council as

(*l*) It will be found that a provision of this sort is practically only applicable in counties, and in urban districts, where the members retire simultaneously.

Appndx.
A. IV.

such, shall be the same as their term of office as members of the appointing council (*m*).

The term of office in the case of members of the committee not appointed by the council as members of the council shall be—

- (a) in the case of nominated members, years ;
 - (b) in the case of recommended members, years ;
- and so on :*

Or,

The term of office of each member of the education committee shall be such as may be determined in each case by the council appointing the committee.

Casual
vacancies.

5. A provision limiting the term of office of members appointed to fill casual vacancies will not be required except in cases where the whole committee go out of office together, or where regular rotation is provided for. If any such provision is required, it might be in the following form :

Members appointed to fill casual vacancies shall be appointed only for the remainder of the term of office of the outgoing member, and subject to the same provisions as regulated the appointment of that member.

Election of
a member.

6. It is possible that in some cases the scheme will provide for one of the nominated or recommended persons being elected by some body of persons with no machinery available for the purpose, *e.g.*, by the headmasters of secondary schools in the area, or by the teachers in elementary schools in the area, or by the managers of a large number of schools. If this is the case, it will be well to provide for the mode in which the election is to take place (*e.g.*, by voting papers or by calling a meeting),

(*m*) Possibly some shorter term may be desirable in the case of aldermen.

and for the determination of the persons who are qualified to elect. But this is a matter which may, of course, be left to the council appointing the committee ; at any rate, power should be given to the council to alter any regulations laid down with regard to this matter in the scheme.

Appndx.
A. IV.

If it is necessary to make provision on this subject the following clause is suggested :

“The person to be nominated or recommended as a member of the committee by an electing body consisting of shall be elected in accordance with regulations framed from time to time by the council for the purpose, or [in accordance with the regulations contained in the schedule to this scheme ; but those regulations shall be subject to alteration by the council from time to time].”

If it is decided that the regulations should be attached to the scheme, the Board of Education will be glad, if desired, to suggest a form of regulations.

7. It will probably be found advisable to make some provision as to the determination of office of members (not being members of the council who are appointed as such) in addition to that made by the Act as respects disqualification. A clause could easily be framed for the purpose on the lines of section 46 of the Local Government Act, 1894, or the following clause could be adopted :

Determina
tion of
office.

Any member who is incapacitated from acting, or who communicates in writing to the committee a wish to resign, or who is absent from all meetings of the committee during a period of months (except for some reason approved by the committee), or who being, when appointed, a member of the council ceases to be a member of the council, shall thereupon cease to be a member of the committee.

8. The foregoing provisions seem to be all the provisions which are required in an ordinary scheme.

Appndx. All matters relating to the proceedings of the committee
A. IV. are matters which are more properly determined by the
 appointing council under paragraph (1) of the First Schedule to the Act than determined by the scheme.

The powers to be exercised, and the duties to be performed, by the council, so far as they are not regulated by the Act, are also matters which should be regulated by the council from time to time and should not be included in the scheme.

The same remark applies with even greater force to any provision in the scheme as to the delegation of powers.

It will no doubt be found in future most convenient that all the provisions relating to the constitution, duties, and proceedings of the committee should be collected in one document for the use of the committee. It will, therefore be very useful if the council, after the committee have got into working order, could print under one cover :

- (1) The scheme for the constitution of the committee ;
and
- (2) The provisions of the Act specially affecting the education committee, *e.g.*, section 17 (2) and (4) and Schedule I., A. (1)—(6) ; and
- (3) Any standing orders or regulations made by the county council under Schedule I., A., paragraph (1).

ROBERT L. MORANT.

February 9th, 1903.

Appndx.
A. V.

V.

Form E.A. 7.

MEMORANDUM.EDUCATION ACT, 1902, SECTION 13.
ENDOWMENTS.BOARD OF EDUCATION,
WHITEHALL, LONDON, S.W.,
16th February, 1903.

1. This memorandum has been prepared to assist trustees of endowments, applicable or applied in connection with elementary schools, and also local education authorities in cases of difference of opinion or doubt as to the effect of section 13 of the Education Act, 1902.

It is concerned solely with the proper procedure in such cases and does not attempt to state the principles on which the decision of questions arising under the section will be based.

2. By section 13 of the Education Act, 1902, it is provided :

- (1) Nothing in this Act shall affect any endowment, or the discretion of any trustees in respect thereof :
Provided that, where under the trusts or other provisions affecting any endowment the income thereof must be applied in whole or in part for those purposes of a public elementary school for which provision is to be made by the local education authority, the whole of the income or the part thereof, as the case may be, shall be paid to that authority, and in case part only of such income must be so applied and there is no provision under the said trusts or provisions for determining the amount which represents that part, that amount shall be determined in case of

Appndx.
A. V

difference between the parties concerned, by the Board of Education ; but if a public inquiry is demanded by the local education authority, the decision of the Board of Education shall not be given until after such an inquiry, of which ten days' previous notice shall be given to the local education authority and to the minor local authority and to the trustees, shall have been first held by the Board of Education at the cost of the local education authority.

- (2) Any money arising from an endowment, and paid to a county council for those purposes of a public elementary school for which provision is to be made by the council, shall be credited by the council in aid of the rate levied for the purposes of Part III. of this Act in the parish or parishes which in the opinion of the council are served by the school for the purposes of which the sum is paid, or, if the council so direct, shall be paid to the overseers of the parish or parishes in the proportions directed by the council, and applied by the overseers in aid of the poor rate levied in the parish.

3. This clause, it should be observed, deals solely with the income of such endowments as under the trust *must necessarily* be applied either in whole or in part to purposes for which the local education authority have to provide. Income, which must or may be applied to purposes for which managers have to provide or to educational purposes other than those for which the local authority have to provide is not dealt with by the section. Any income which is *necessarily* applicable to local authorities' purposes will be payable to the local authority and (in the case of a county council) applied by them in reduction of the rates in the area served by the school.

4. Trust deeds are often expressed in vague and general terms, giving no direction which would clearly require the application of the income of the endowment to one or

other of the purposes above-named ; and sometimes there are no written trusts. Appndx.
A. V.

In such circumstances trustees cannot safely assume that they have a discretion in the matter. This is a question of interpretation, and one which can be decided only on the merits of each case. In every case of difference of opinion or doubt trustees may apply to the Board of Education for direction in the matter, and if they act upon such direction they are completely protected against personal liability. Such application may be made under the Charitable Trusts Acts, the jurisdiction under which has, in the case of endowments held solely for educational purposes, been transferred to the Board of Education by the Board of Education Act, 1899, and the Board of Education (Powers) Orders in Council, 1900 to 1902. In case such an application is found desirable the form provided on page 2 of Form E.A. 8 should be used. In case of doubt and pending such direction, the only safe course for the trustees to pursue is to *leave in their bankers' hands any moneys not expended by them before the 26th March, 1903 (or such later date as may be fixed as the "appointed day" for section 13 of the Act to come into operation in this particular area), or received by them on or after that date.*

5. Before, however, applying to the Board of Education it is very desirable that trustees should place themselves in communication with the particular local education authority which has or may have an interest in the matter. In all cases it is very desirable that any application for advice or direction should be made jointly by the local education authority and the trustees. Each local education authority has a financial interest in the decision of questions relating to endowments applicable in connection with elementary schools within its area. The Board would therefore not be justified in giving their advice or direction to either party upon an ex parte statement. The adoption of this policy by the Board will necessarily lead to some delay in the decision of questions under this section, and there will be cases in which it would be impossible or very

Appndx. undesirable for the Board to suspend all decision or action
A. V. until the local education authority is in a position to deal
with the matter. The Board, however, recognise that in ordinary circumstances it is most desirable that full time should be allowed to the local authorities for the examination of the facts and the expression of their views.

In many cases careful consideration by both parties may show that the intervention of the Board is not required.

6. It is to be observed that under section 5 of the Charitable Trusts Act, 1860, the Board can decline to exercise jurisdiction in very contentious cases and may leave the matter to be decided by the courts. On the other hand, no legal proceedings relating to the administration of endowments held for purely educational purposes can be commenced or entertained by any court or judge without the certificate of the Board of Education (or in the case of mixed charities without the consent of the Charity Commissioners), unless the Attorney-General, acting *ex officio*, thinks fit to move in the matter.

7. It is also to be observed that under the provisions of section 23 of the Charitable Trusts Act, 1853, and section 31 of the Charitable Trusts Amendment Act, 1855, the Board have power, on the application of the parties interested, to authorise compromises of any claims against charities held for purely educational purposes or against the trustees or administrators thereof. This power will possibly be found useful in dealing with obscure or complicated questions arising under section 13, especially where the difficulty of the questions is out of proportion to the amount of money involved, and the attention of local education authorities and trustees is particularly drawn to it.

If a compromise order is desired application should be made by both parties in the manner provided in Form E.A. 8.

8. For the purpose of facilitating the determination of the questions arising under section 13 the Board have prepared a form of return in which information may con-

veniently be given as to the nature of any endowment, the trusts to which it is subject, the income and expenditure thereof for the last three years, and its financial position as on the 25th March, 1903. **Appndx. A. V.**

9. The Board are aware that in many cases it may be difficult or even impossible to give the particulars of expenditure in such detail as the form of return suggests. In such cases the Board will be satisfied with a statement of such figures as are available.

It is very desirable that before Form E.A. 8 is returned to this office, duplicate copies should be filled up and retained by the local education authority and the trustees respectively for purposes of reference.

VI.

Form E.A. 8. **Appndx. A. VI.**

EDUCATION ACT, 1902, SECTION 13. ENDOWMENTS.

FORM OF APPLICATION FOR ADVICE OR DIRECTION, OR FOR A COMPROMISE ORDER.

This Form is to be used, in case of doubt or difference of opinion, by trustees of endowments or by local education authorities who desire the advice or direction of the Board of Education.

Particulars of the trusts and of the income and expenditure should be given, as far as possible, in the Forms of Return A. and B.

County —.

Parish or place —.

Local education authority —.

Title of endowment or name of founder —.

School in connection with which the endowment is applied —.

School number —.

Clerk to the trustees of the endowment { Name —.
Address —.

Appndx. APPLICATION FOR (1) ADVICE OR DIRECTION, OR
A. VI. (2) COMPROMISE ORDER.

County ____.
 Parish ____.
 Endowment ____.

In the matter of the Charitable Trusts Acts, 1853 to 1894, the Board of Education Act, 1899, the Board of Education (Powers) Orders in Council, 1900—1902, and the Education Act, 1902.

We, being—

- (1) trustees or persons acting in the administration of the above-mentioned endowment,
 (2) the council of the **County, Borough, Urban District* of ____, and being the local education authority for the area served by the school in connection with which the said endowment is applied or applicable, in pursuance of a resolution of the said council, passed the ____ day of ____ 19 __,

*Strike out words not applicable.

hereby apply to the Board of Education

(a) for advice or direction on the following points :

- **(b)* for an order compromising any claim of the said local education authority against the said charity or the trustees or administrators thereof.

*It is essential that both parties should concur in the application for this order.

- (1) As witness our hands this ____ day of ____ 19 __.

This form should be signed by at least a majority of the trustees or persons acting in the administration.

____.
 ____.
 ____.
 ____.
 ____.

- (2) As witness our common seal this ____ day of ____ 19 __.

Common seal of
 the council
 making application.

Witness to the affixing of the seal ____.

- (a) Statement of points upon which the advice or direction by the Board of Education is required.

- (b) Statement of claim and proposal for compromise or adjustment (16 & 17 Vict. c. 137, s. 23, and 18 & 19 Vict. c. 124, s. 31). **Appndx. A. VI.**

1. —.
2. —.
3. —.
4. —.

A.—TRUSTS.

State :

1. Date of will, deed, or instrument of foundation —.
2. If there is no instrument of foundation, the approximate date of foundation and origin of the endowment —.
3. If there is no instrument of foundation, any available documentary evidence of trusts (*e.g.*, churchwardens' books) —.
4. Dates of any orders (*n*) or schemes affecting the trusts, and made by County Court, Court of Chancery, Charity Commissioners, or Board of Education, or under the Endowed Schools Acts —.
State briefly the effect of such orders or schemes.
5. Summary of trusts relating to application of income as declared by the original instrument of foundation or subsequent scheme.
6. If there is no instrument of foundation, or if the trusts have not been strictly adhered to, state the usage which has prevailed in the application of the income at different periods, giving particulars of any existing records of such usage.
7. State whether the endowment is attached to any particular public elementary school—
 - (a) By express trust —.
 - (b) By discretion of the trustees —.
8. State whether the trustees of the endowment are trustees of any public elementary school —.
 - (a) Under the trusts of the *endowment* —.
 - or (b) Under a separate trust or *de facto* —.

(*n*) Orders relating merely to management of property other than school buildings need not be mentioned. Only the last order appointing trustees need be mentioned.

B.—ACCOUNTS. I.—INCOME AND EXPENDITURE.

Particulars should be given, so far as material is available, for each of the last three complete years, reckoning by the date to which the accounts are usually made up.

	1900.	1901.	1902.
	£ s. d.	£ s. d.	£ s. d.
1. Gross income from endowment ... ..	...	...	...
2. Total cost of management of property <i>other than school premises</i> , viz.: Repairs, rates, taxes, insurance, clerk, office expenses, interest and sinking fund on loans, etc. ... ..	...	...	...
3. Net income from endowment... ..	...	...	...
	1900.	1901.	1902.
	£ s. d.	£ s. d.	£ s. d.
4. Payments to non-educational charitable purposes under trust or scheme ... ..	...	...	...
(a) Obligatory ... ..	...	...	...
(b) Discretionary ... ..	...	...	...
Total ... ..	...	...	...
5. Net income applicable to educational purposes by trust or scheme ... ..	...	...	...
	(o) T., S. or D.	1900.	1901.
		£ s. d.	£ s. d.
6. (o) Actual payments to educational purposes—			
(a) To higher education—			
(i) Maintenance of secondary or technical school			
(ii) Exhibitions			
Total			
(b) To purposes of elementary education as specified below (head 7)			
7. (o) Actual payments from endowment to purposes of or connected with elementary education—			
(p) (a) (i) Repairs of school buildings			

(o) State in the column provided for the purpose, whether the payment was made under directions of the Trust, T., or of Scheme, S., or in exercise of the trustee's discretion, D.

(p) If it is not possible to analyse the payments in such detail as is here suggested, it will be sufficient to give the totals under heads (a) and (c).

(o)
T., S. 1900. 1901. 1902. 1900. 1901. 1902.
or D. £ s. d. £ s. d. £ s. d. £ s. d. £ s. d. £ s. d.

- (q) (ii) Alterations and improvements in buildings ...
- (iii) Repayment of and interest on loans in respect of school buildings ...
- (iv) Rent (if any) of school buildings ...
- (v) Rates, taxes and insurance on school buildings ...
- Total ...
- (q) (b) Extensions and additions to buildings
- (p) (c) (i) Salaries of teachers ...
- (ii) Books and stationery ...
- (iii) Apparatus and furniture ...
- (iv) Fuel, light and cleaning ...
- Total ...
- (d) Various payments for benefit of elementary scholars—
- (i) Library ...
- (ii) Prizes or rewards ...
- (iii) Expenses of Sunday school
- (iv) Clothing elementary scholars ...
- (v) Apprenticing or advancement of elementary scholars ...
- (vi) Miscellaneous (specify) ...
- TOTAL ...

(q) Roughly speaking, the distinction between “alterations and improvements” and “extensions and additions,” is that the latter do, and the former do not, involve a substantial increase in the number of school places.

	1900.	1901.	1902.
	£ s. d.	£ s. d.	£ s. d.
8. Balance in hand of income applicable to educational purposes			
9. Debt on school buildings—			
(a) For which trustees of endowment are responsible			
(b) For which trustees of endowment are not responsible			

II.—BALANCE SHEET SHOWING POSITION OF ENDOWMENT
ON MARCH 25TH, 1903.

	T. S.
	or D. £ s. d.
Moneys owing to the endowment	
Moneys owing by the endowment	
Balance (Credit or Debit) on the 25th March, 1903 ...	

III. (r)—ANALYSIS OF BALANCE APPLICABLE TO
ELEMENTARY EDUCATIONAL PURPOSES.

(State whether the balance is applicable to any of the following objects by Trust, T., or Scheme, S., or at the Discretion of the Trustees, D.)

(a) As in head 7 on page 196... ..	
(b) " " 	
(c) " " 	
(d) " " 	
(i) Library	
(ii) Prizes or rewards... ..	
(iii) Sunday school	
(iv) Clothing elementary scholars	
(v) Apprenticing elementary scholars	
(vi) Miscellaneous	
Total	
Balance applicable at absolute discretion of trustees to any elementary educational purposes	

(r) This head is to be filled up only when the entire net income from endowment is applied or applicable to purposes of or connected with elementary education, or where the income is appropriated by trust in definite shares.

VII.

FORM E.A. 13.

Appndx.
A. VII.

MEMORANDUM.

BOARD OF EDUCATION,
WHITEHALL, S.W.
26th February, 1903.

EDUCATION ACT, 1902. SECTION 11.

SCHOOLS HELD BY PRIVATE OWNERS FREE FROM ANY
TRUSTS (s).

1. Frequent inquiries have been addressed to the Board with reference to the meaning of paragraph 14 (1) of the Memorandum (Form E.A. 1) issued by them on the 20th December, 1902. In paragraph 14 of the Memorandum the various courses open to private owners of schools were set out, and it was stated that the least convenient course for an owner to adopt was to retain the school premises in his own hands and apply to the Board for an order under section 11, appointing foundation managers.

2. The Board were led to this conclusion by the following considerations :

(a) An order under section 11 can make provision for the appointment of managers only, and cannot include any provisions relating (for instance) to the character of the instruction to be given in the school, or the use of the premises out of school hours.

(b) It is possible that in some cases a difference of opinion as to the form of order might arise between the Board and the owner of the school, which it is very desirable to avoid ; and it would therefore be more convenient that the owner should declare his own wishes as to the constitution of the managing body.

(c) When a final order under section 11 has been made, it can only be varied by a further order of the

(s) See above, p. 91, for full directions to private owners : they are not prevented by s. 11 (2) from executing deeds freely till the "appointed day."—EDD.

Appndx.
A. VII.

Board. A draft of such varying order must, under section 11 (8) of the Act, be laid before each House of Parliament for thirty days during which Parliament is sitting. In the event of either House deciding that the draft, or any part thereof, should not be proceeded with, the draft would have to be dropped and a fresh draft made which would be subject to the same procedure.

3. For these reasons, among others, the Board consider that the most convenient course for a private owner, who wishes to retain the property in and control over his own schools, is to let the school premises at a nominal (or substantial) rent for the purposes of a school. The conditions of the letting may be expressed in any simple agreement, which for the purposes of the Act would fall under the definition of a trust deed. This agreement *must* contain provisions for the constitution and continuance of a body of four foundation managers, and may also give full expression to the owner's wishes, so far as these are consistent with the provisions of the Act, as to the principles on which the school is to be conducted, the use of the premises out of school hours, and other matters in which he is interested. If such an agreement is made, an order of the Board under section 11 will not be required. The agreement may be for a tenancy from year to year, terminable by notice on either side, and if it does not work satisfactorily it can be terminated and a fresh agreement substituted without difficulty or delay.

4. The Board do not think it desirable that they should issue any model form of agreement for use by private owners. The agreement should, however, provide (a) for the appointment of the first four foundation managers, (b) for filling up any vacancies which may occur in their number. It would usually be convenient that school premises should be let to a single tenant (who may be the nominee of the landlord) for use as a school under the management of the foundation managers. If the premises were let directly to the foundation managers, a change among the managers would also involve a change among the tenants, and this might give rise to some practical inconvenience. The premises might of course also be let to

an incorporated society, but there is no practical reason why they should not be let to an individual. **Appndx. A. VII.**

5. The Board have of course no desire to evade any of the duties imposed on them by section 11 of the Act, and if any private owner prefers to dispense with an agreement and to apply for an order under section 11, the Board will act on such an application. If, however, he adopts the course suggested in this Memorandum and makes an agreement, it is desirable that he should *at once* inform the Board of the fact. When the agreement is executed it is important either that particulars of the agreement should be furnished in the Form of Return E.A. 2, already issued, or that a copy of the agreement should be sent to this office for purposes of record and future reference.

VIII.

CIRCULAR No. 470.

Appndx. A. VIII.

This memorandum is intended to set before county councils such of their powers and duties, and such of the powers and duties of the Board of Education, as it may be desirable for the councils to bear in mind when framing schemes for the establishment of an education committee.

The following notes are limited by this purpose ; they are not a summary of the Act, nor do they touch upon several matters in respect of which it may be possible at a later stage for the Board of Education to assist county councils, if invited to do so, by advice, suggestion and co-operation.

The following memorandum concerns the council of a county only.

COUNCIL OF A COUNTY (*t*).

I.—POWERS AND DUTIES.

(1) As to higher education.

To consider the needs of the area, and to take such steps as seem to them desirable, after consulting the Board of

(*t*) The Board has published similar circulars as to councils of county boroughs, and authority boroughs and urban districts (Part III.), 470A and 470B ; these are the same in almost every detail, and therefore are not printed. —EDD.

Appndx. Education, to supply or aid the supply of education other than elementary.
VIII.

To promote the co-ordination of all forms of education (*u*).

(As to matters included in education other than elementary, see s. 22 (2), (3), s. 23 (1), (2).)

(2) As to elementary education.

To take over and exercise the powers and duties of school boards and school attendance committees, and to control all secular instruction in public elementary schools. (Sect. 5.)

To appoint four managers for each school provided by them (s. 6 (1)), and also one manager or more for each school not provided by them. (Sect. 6 (2) (a) and (3) (b).)

To maintain and keep efficient all public elementary schools within their area under the conditions set forth in section 7.

To provide such additional school accommodation as may be necessary, subject to the provisions of section 8 (1), section 16.

II.—MAIN SOURCES OF INCOME.

A. For higher education.

(1) The residue under 53 & 54 Vict. c. 60, s. 1.

(2) The county rate, which for this purpose must not exceed 2*d.* in the pound unless by consent of the Local Government Board.

(*v*) (3) Parliamentary grant for instruction in science and art subject to conditions laid down by the Board of Education.

(4) Where a borough or urban district which is a local education authority relinquishes to the county its powers

(*u*) No authority beneath the rank of a county or county borough has this power. Hence a Part III. authority not co-operating with its county defeats this purpose of the Act.—EDD.

(*v*) This confirms our prediction that Clause VII. of the Directory will now universally apply.—EDD.

under Part II. of the Act (*x*), an additional rate for that borough or district not exceeding 1*d.* in the pound. **Appndx. A. VIII.**

B. For elementary education.

(1) The Parliamentary grants payable in respect of public elementary schools.

(2) The aid grant under section 10.

(3) Fees, where the local education authority allows fees to be charged ; but in the case of a non-provided school, such proportion only of the fees as is agreed upon under section 14.

(4) The use of the school house in the case of non-provided schools during school hours subject to the provisions of section 7 (1) (d) as to payment for wear and tear, and for the rent of the teacher's house (if any).

(5) The county rate.

III.—MANNER OF EXERCISE OF POWERS.

(a) Every county council shall establish an education committee or committees in accordance with a scheme to be made by the council and approved by the Board of Education.

(b) Every matter relating to the exercise of powers under the Act shall stand referred to the education committee except the power of raising a rate or borrowing money ; and the council shall, unless the matter is urgent, consider the report of the committee before acting.

(c) The council may delegate to the committee, under any conditions it pleases, any of its powers under the Act except that of raising a rate or borrowing money.

So the council—

must frame a scheme for the establishment of a committee ;

must refer every educational matter to the committee except the raising a rate or borrowing money ;

(*x*) This is only altering the body charged with the rate, no the amount of rate.—EDD.

**Appndx.
A. VIII.**

may, in case of urgency, act without awaiting the report of the committee ;

may delegate, on any terms it pleases, its powers under the Act to the committee ; but

must not delegate its power of raising a rate or borrowing money.

Under all circumstances the council is responsible, whether for its own action, or for that of the committee.

IV.—THE SCHEME OF ESTABLISHMENT.

Necessary Provisions.

(1) There must be a majority on the committee of members of the council, unless the council of the county otherwise determine.

(2) The council must appoint :

(a) persons of experience in education ;

(b) persons acquainted with the needs of the various kinds of schools within the area.

These may be obtained :

(a) by selection by the council from among its own members (*y*), or from outside ; or

(b) by nomination or recommendation of other bodies where it appears desirable.

(3) There must be at least one woman on the committee.

Optional Provisions.

(a) Among the bodies who may be invited to nominate or recommend are included associations of voluntary schools (s. 17 (3) (b)).

(b) Among the persons whom it may be desirable to appoint as members of the first committee are the members of school boards existing at the time of the passing of the Act.

(c) A separate education committee may be established for (*z*) all or any purposes for any area within a county ;

(*y*) This is very important. A council may have on it all the necessary elements except women. Hence a committee might consist of, say, twenty county councillors and one woman, and nobody else.—EDD.

(*z*) No walled-in committees separating by their *personnel* the elementary from the secondary members are likely to be admitted by the Board.—EDD.

or separate education committees may be established, for the whole or any part of a county, to deal with special departments of work. The latter mode of distribution is guarded by the provisions of s. 17 (6). **Appndx. A. VIII.**

(d) A joint committee may be formed for all or any purposes by a combination of counties, boroughs, or urban districts.

In the case of such a joint committee it is necessary that a majority of the members should be *appointed* by the councils of the counties, boroughs or districts concerned ; it does not appear necessary that a majority should be *members* of those councils.

(The formation of such committees may be convenient in the case of boroughs or urban districts which may not desire to relinquish permanently (*a*) their powers under the Act, but may, nevertheless, desire to work in close co-operation with the county in which they are situated.)

V.—NOMINATION OR RECOMMENDATION OF OTHER BODIES.

It is probable that the representation of certain educational *interests* (*b*) within the area of the council may be effected most satisfactorily by the nomination of a member of the committee by some society within the area or representative of some educational *interest* (*b*) within the area.

This course may save the council some trouble in selection, and may also be most satisfactory to the society which is to be represented. In other cases it might be more convenient that a society should be invited to recommend a representative, or to recommend certain persons from among whom the council might choose a representative.

(*a*) This is very important. This method of co-operation may be very generally adopted.—EDD.

(*b*) There is no warrant for this word in the Act. "Grades of schools" and "types of education" would be better expressions.—EDD.

Appndx. A. VIII. In the case of nomination it must be assumed that the council places itself in the hands of the body whom it invites to nominate (*c*).

In the case of recommendation, suggestions might be made on both sides with a view to the choice of someone acceptable to the council and representative of the *interest (d)* concerned.

In each case the appointment is made by the council, but either method would ensure that the person appointed was considered to be really representative by the *interest (d)* concerned.

VI.—DUTIES OF THE BOARD OF EDUCATION IN RESPECT OF SCHEMES.

(1) To give publicity to the provisions of the proposed scheme (s. 17 (6)) (*e*).

(2) To hold an inquiry if necessary (s. 23 (10)) (*e*).

(3) To be satisfied that where the scheme provides for more than one committee due regard is paid to the importance of co-ordinating all forms of education (see s. 17 (6)).

It would not be desirable to perpetuate the severance of elementary from higher education by the creation of separate committees for each (*f*). But it may often be convenient to establish *sub-committees (g)* which might under the supervision of the Education Committee, administer the various forms of education.

(*c*) It is submitted that 17 (3) (b) is fully met by the council ensuring that persons of certain qualifications shall *always* be on the committee.—EDD.

(*d*) See note (*b*), *ante*, p. 205.—EDD.

(*e*) This means publishing twice in two papers of different politics, and posting for one month in every post office in the area. It is presumed that this inquiry will be no more formidable than those held under Clause VII. of the Directory.—EDD.

(*f*) See note (*z*), *ante*, p. 204.—EDD.

(*g*) A consultative sub-committee and a large sub-committee for school attendance purposes will also be found useful.—EDD.

(4) In the event of a scheme not having been made, or **Appndx.**
not having been approved within twelve months after the **A. VIII.**
passing of the Act, to make a Provisional Order for the
purposes of a scheme.

(A ground on which the Board might be asked to withhold its approval of a scheme would be the non-representation or inadequate representation of some of the educational *interests* (*h*) within the area. An educational body or association might complain—

(a) That the *interests* (*h*) with which it was concerned were wholly unrepresented ;

(b) That the person chosen to represent it was not really *representative* (*i*) ;

(c) That no security was afforded by the scheme for the continuance of its representation.

Points such as these should be carefully considered in framing a scheme.)

VII.—FURTHER POWERS OF COUNTY COUNCIL.

Delegation to the council of any borough, district or parish, on conditions to be agreed upon, of the powers of *management* which it possesses in respect [of any school or college within the area of such borough, district or parish (*j*).

Acquisition—by arrangement and with the approval of the Board of Education—of the powers of a borough or urban district which is a local education authority under the Act, and which may relinquish to the county its powers under Part II. or Part III., or both.

VIII.—DISQUALIFICATIONS.

The circumstances which would disqualify a person for membership of the council disqualify for membership of

(*h*) This word goes further than the Act.—EDD.

(*i*) This word also does not appear in the section of the Act.—EDD.

(*j*) This should be practically universal.—EDD.

Appndx. the committee appointed by the council, except that no
A. VIII. person is disqualified by his holding office in a school or college aided, provided or maintained by the council (*k*).

A person is disqualified for voting in the County Council (*l*) on any question relating only to Part III. if he is elected for a division which consists wholly of a borough or urban district or of a part of such borough or district which is a local education authority for Part III. of the Act (*m*). (See s. 23 (3).)

IX.—DRAFT SCHEME.

Among the more important matters for which a draft scheme should provide are the following :

1. The number of the proposed committee.
2. How many are required to be members of the council.
3. The educational *interests* (*n*) which it is proposed should be *represented* (*n*).
4. How it is proposed to secure their *representation* (*n*)—by selection, recommendation or nomination.
5. What security is provided for the *permanence* (*n*) of such *representation* (*n*).
6. What provision is made for the appointment of women.
7. If more committees than one—are they constituted for separate areas or for separate administrative duties—their proposed numbers and composition—the number, duties and composition of sub-committees (*o*).
8. The term of office of members of the committee, and the arrangements for retirement and the filling of vacancies, occurring casually or at stated times.

(*k*) This refers to *old* disqualifications (contracts, etc.) under the Municipal Corporations Acts or Elementary Education Act, 1870.—EDD.

(*l*) But apparently not in committee ; see above, p. 63.—EDD.

(*m*) This is a new or *ad hoc* disqualification.—EDD.

(*n*) Words not in the Act.—EDD.

(*o*) No reference to this need be made in the scheme if one committee only is proposed.—EDD.

IX.

Appndx.
A. IX.

CIRCULAR No. 472.

**CIRCULAR TO ASSOCIATIONS OF VOLUNTARY
SCHOOLS (V.S.A. '97).**

EDUCATION ACT, 1902.

BOARD OF EDUCATION,
WHITEHALL, LONDON, S.W.*February, 1903.*

SIR,

It has been intimated to the Board of Education that in view of the provisions of the Education Act, 1902, it may be thought desirable in the case of some associations, that there should be an alteration either in the existing areas, or in the powers and functions of the governing body. Any proposals to that effect will be carefully considered by the Board of Education, but it is necessary to point out that any such reconstruction would require the assent of the managers of the schools composing the association.

The majority of the present governing bodies retire from office on 31st March next, and the constitution of the association in such cases generally provides for the election of a new governing body before that date. It is suggested that the governing bodies should in these cases take the opportunity of placing any views they may entertain on the subject of reconstruction before the managers when assembled for the purpose of such election, and obtaining from them authority to deal with the matter.

Where this is not practicable, special arrangements should be made for ascertaining the views of the managers, either through sub-associations where such exist, or by summoning a special meeting of representative managers.

It must be pointed out that the special functions of associations under the Voluntary Schools Act will not cease until the appointed day, and that where this day is later than 1st April next the governing body may be

Appndx called upon to advise as to the distribution of some aid
A. IX. grant (*p*) under the Voluntary Schools Act for the ensuing financial year.

As an alternative the Board of Education may, if they think fit, pay such grant direct to the governing body, if satisfied that proper arrangements have been made for its application. If the governing body desire to receive such grant direct, they should prepare to submit a statement as to the proposed arrangements, which should include provision for the vesting of the money in some responsible body of trustees, and for its suitable application as a fund for the benefit of the associated schools.

It is well to point out that the aid grant payable will be the proportionate amount due for the period intervening between the beginning of the new financial year and the appointed day. This day may be any day not more than eighteen months later than the 26th March next, as the Board of Education may appoint, and may differ in different areas. The later it is fixed, the larger will be the amount of aid grant payable under the Voluntary Schools Act. In the case of the other grants the amount payable will be the full amount earned by the school between the end of the last school year and the appointed day.

Any further balances which the old managers may have in hand on the appointed day are held by them in a fiduciary capacity for the purposes of the school as a Public Elementary School, and should therefore be handed over to their successors to be used at their discretion for those purposes connected with the school for which provision has to be made by them under the Act.

No other application of the money would be permissible without a scheme under the provisions of the Charitable Trusts Acts, which could only be made if the original purposes were no longer available,—if, for instance, the school was closed or transferred to the local authority.

(*p*) This grant ceases on the appointed day ; see p. 35, above.
 —EDD.

Even when the special functions of the governing body under the Voluntary Schools Act will have lapsed, there will still remain much valuable work that may be done by these bodies with regard to the responsibilities placed upon the managers of voluntary schools under the Act. These responsibilities are of a twofold nature.

Appndx.
A. IX.

Firstly, the managers must provide the school-house (other than any residence for the teacher) free of any charge to the local authority. How they do so, is a matter that concerns the managers only, and will of course depend upon the nature of their tenure of the buildings provided.

Secondly, having provided a school-house free of charge the managers must, out of funds provided by them, keep it in good repair and make such alterations and improvements as may reasonably be required by the local authority. It is with regard to these duties that governing bodies can best render assistance to school managers by undertaking the administration of a common fund, of which the aid grant above referred to will form the nucleus, and in which managers can invest or deposit any further sums which may from time to time come into their possession. There will thus be created a mutual insurance fund, upon which the managers of individual schools can depend for assistance towards the expense of such repairs and alterations as they may be called upon from time to time to carry out.

The formation of such fund is expressly contemplated by clause 12 of Schedule II. of the Act. It is there provided that the balance of any grant paid to the original managers, which may remain after the discharge of all liabilities of whatever nature that have been incurred by them on account of the school, shall be paid to the new managers, to be applied to those purposes for which they are responsible under the Act, or for the benefit of any general fund applicable for those purposes. In the governing body of the association to which the school belongs there exists an organization which is well adapted

Appndx. for the administration of such common fund, and which
A. IX. is expressly recognised in the clause as a body to whom
 — any aid grant that may be due can be entrusted. It is clear, however, that the "fund" could not be applied to the provision of new schools by building or hiring, or to such enlargements of existing ones as would come under the provisions of s. 8 (2) of the Act. On the other hand, the expense of keeping the school in good repair, and making necessary alterations and improvements is one which may be properly assisted out of such common fund.

Such contributions may be made not only from any grants which may come into the hands of the new managers under the circumstances above referred to, but also from such voluntary subscriptions as they may from time to time obtain, and from any endowment, whether by way of rent or otherwise, to which they may be entitled. It must, however, be borne in mind that any contribution from endowment (*q*) is in the nature of a deposit or an investment of a trust fund, and could only legally be made, on the express understanding that the managers would be entitled to claim an amount from the common fund at least equivalent to the amount so contributed, whenever they may require it for the purposes of their trust.

The points, therefore, to which the Board of Education desire to invite the early attention of governing bodies are as follows :

1. The submission of proposals for any alteration in the present area of the association, or in the constitution and functions of the governing body, after having consulted and obtained the consent of the managers of the associated schools.

2. Application for the direct payment of any further aid grant that may be allotted under the Voluntary Schools Act, directly to the governing body—such application should contain a clear statement of the arrangements which it is proposed to make for its proper application.

(*q*) This is equally true of balances over from parliamentary grants ; see note to Sched. II., s. 12, p. 150, above.—EDD.

3. The proposals, if, any, of the governing body as to the creation and management of a common fund for repairs and alterations, for the benefit of all such schools belonging to the association as may desire to contribute to it. **Appndx. A. IX.**

I am to suggest that each governing body of an association should take steps to make the contents of this circular known to the managers of the constituent schools.

I have the honour to be,

Sir,

Your obedient servant,

ROBERT L. MORANT.

*To the Secretary of the
Governing Body of the*

Association.

X.

CIRCULAR No. 474.

**CIRCULAR TO LOCAL EDUCATION
AUTHORITIES.**

EDUCATION ACT, 1902.

BOARD OF EDUCATION,

WHITEHALL, LONDON, S.W.

4th March, 1903.

**Appndx.
A. X.**

SIR,

The Board of Education desire to call the attention of your council to the fact that the Education Act will come into operation on the 26th of March next in any area for which some later day has not previously been appointed by the Board under section 27 (2) of the Act.

The Board consider that it will be convenient for administrative purposes that the appointed day for the purposes of the Act should be the first day of a calendar month in all cases except those in which it is desired to bring the Act into operation in an existing school board district about the commencement of October, when it will

Appndx. be more convenient that the 30th of September should be
A. X. chosen. They understand that many councils are finding
it possible to make all the necessary arrangements for beginning their educational administration for all purposes under the Act on 1st April next, and it is hoped that this date, or one as soon after as is consistent with the formalities in connection with the approval of schemes for the constitution of Education Committees, will be widely adopted.

It is desired that every local education authority will, *as soon as possible, but in no case later than 12th March*, intimate to the Board of Education the day which they wish to have appointed for their area; and, if this is later than 1st May, 1903, will furnish a statement showing fully the reasons which, in their opinion, render the postponement desirable.

Where a local education authority is not in a position at present to intimate the precise day which is desired, the Board of Education can *pro formâ* appoint a day subject to a subsequent order, and by such subsequent order fix the precise day which may ultimately be decided upon. The essential point is that the Board should know, at once, if any local education authority does not desire the 1st April. This day will in every case, so far as the substantial provisions of the Act are concerned, be substituted for the 26th March, if no further postponement is necessary.

The Board of Education will be prepared so to use their powers of making interim orders under section 11 (5) of the Act as to obviate any necessity for delay owing to the permanent arrangements for the appointment of foundation managers of voluntary schools not being complete.

The Board would urge that so far as possible the same day should, in the interests of simplicity, be suggested for all purposes of the Act, but in cases where the council show to the satisfaction of the Board that their duties in regard to elementary education cannot advantageously be assumed for some weeks or months to come, the Board

of Education will be prepared to name the 1st of April, or as early a date as may be practicable, for the purposes of Part II. of the Act, and a later day for the purposes of Part III. **Appndx. A. X.**

I am to add that an Education Committee under the Act can be set up as soon as the scheme establishing it is approved, and in advance of the appointed day for the general purposes of the Act.

I have the honour to be,
 Sir,
 Your obedient servant,
 ROBERT L. MORANT.

XI.

CIRCULAR No. 477.

**CIRCULAR TO LOCAL EDUCATION
 AUTHORITIES.**

**Appndx.
 A. XI.**

BOARD OF EDUCATION,
 WHITEHALL, LONDON, S.W.
 13th March, 1903.

SIR,

I am directed by the Board of Education to state for your information that it is proposed to pay to local education authorities instalments of annual grant after the appointed day ; but any such payment must be limited by the condition that it should not increase the total amount that would in ordinary circumstances be paid out of the Exchequer in respect of any school during the financial year ending 31st March, 1904.

The Board are therefore prepared to pay such instalments in respect of all schools maintained by your council whose school years end not later than 31st December, 1903. Where an instalment of fee grant becomes payable in the ordinary course in respect of any such school on or after

Appndx. the appointed day, the Board will pay at the same time an
A. XI. instalment of annual grant equal in amount (usually) to
twice the instalment of fee grant ; *i.e.*, at the rate of 5s. a
quarter for each unit of average attendance.

The effect of this arrangement, where the appointed day is 1st April, 1903, is shown in the accompanying schedules. Schedule A. gives the dates on which instalments will be paid in respect of schools of the various school years. Schedule B. is a re-arrangement of Schedule A., so as to show to what schools the various instalments paid on each date refer.

Where the appointed day is later than 1st April, 1903, the mode of payment will be seen by striking off, from either schedule, all payments on dates preceding the appointed day.

It should be observed that the schedule relates only to *instalments* of annual grant : the *balance* of the grants due in respect of each school year will be paid at about the same time as the whole annual grant and balance of fee grant have been paid in previous years.

It would be a convenience to this Board, and would conduce to the earlier settlement of financial arrangements, if you could furnish, with as little delay as possible, a statement showing the anticipated abnormal deficiency on the first year's working of the new Act in the area under your council.

I have the honour to be,

Sir,

Your obedient Servant,

ROBERT L. MORANT.

[Assuming 1st April, 1903, to be appointed day.]

Appndx.
A. XI.

SCHEDULE A.

(Showing at what dates the instalments in respect of schools of each school year will be paid.)

School year ending	Dates of payment of instalments.
31st March, 1903 - - -	None.
30th April, 1903 - - -	None.
31st May, 1903 - - -	None.
30th June, 1903 - - -	5s. on 1st April.
31st July, 1903 - - -	5s. on 1st May.
31st August, 1903 - - -	5s. on 1st June.
30th September, 1903 - - -	5s. on 1st April. 5s. on 1st July.
31st October, 1903 - - -	5s. on 1st May. 5s. on 1st August.
30th November, 1903 - - -	5s. on 1st June. 5s. on 1st September.
31st December, 1903 - - -	5s. on 1st April. 5s. on 1st July. 5s. on 1st October.
31st January, 1904- (or later) - - -	None.

SCHEDULE B.

(Showing to what school years the payments on each date refer.)

Date of payment.	End of school year to which instalments paid on this date refer.
1st April, 1903 - - -	30th June (5s.) 30th September (5s.) 31st December (5s.)
1st May, 1903 - - -	31st July (5s.) 31st October (5s.)
1st June, 1903 - - -	31st August (5s.) 30th November (5s.)
1st July, 1903 - - -	30th September (5s.) 31st December (5s.)
1st August, 1903 - - -	31st October (5s.)
1st September, 1903 - - -	30th November (5s.)
1st October, 1903 - - -	31st December (5s.)
1st November, 1903 - - - (or later)	None.

Appndx.
A. XII.

XII.

CIRCULAR No. 475.

CIRCULAR TO SCHOOL BOARDS.

TRANSFER OF CASH BALANCES TO LOCAL EDUCATION AUTHORITIES.

BOARD OF EDUCATION,
WHITEHALL, LONDON, S.W.
23rd March, 1903.

SIR,

Inquiries are being made as to the position of school boards, in regard to cash balances which pass to the local education authorities on the transfer of powers under the Education Act of 1902.

The Board of Education desire to call attention to the fact that section 68 of the Local Government Act, 1894, as applied by the Second Schedule (22) to the Education Act, 1902, makes adequate provision for the adjustment of all such balances, to be effected by agreement between the school boards and the new authorities. It follows that school boards need not hesitate to issue their ordinary precepts to the rating authorities or any further precepts that may be required to enable them to ensure the liquidation in full of all current debts and liabilities before the appointed day.

I have the honour to be,

Sir,

Your obedient servant,

ROBERT L. MORANT.

The Clerk to the School Board.

APPENDIX B.

DRAFT SCHEME FOR A COUNTY EDUCATION
COMMITTEE (S. 17).THE [*insert name of county*] EDUCATION
COMMITTEE SCHEME (a).

PART I.

1. There shall, as soon as may be after the date of the approval by the Board of Education of this scheme, be constituted for the advancement of all grades of education for the inhabitants of the administrative county of [*] a committee, which shall be called the “[*] Education Committee,” consisting of not less than twenty-seven nor more than thirty-seven (*b*) members, not less than twenty of whom shall be called representative members and not more than seven selected members, provided that amongst the members of the committee there shall always be persons acquainted with the needs of, and experienced in, all types of education and grades of schools in the area, including the following :

- University education,
- Agricultural education,
- Technological education,
- First grade secondary schools,
- Second grade secondary schools,
- Evening schools,
- Girls' higher education,

(a) This scheme is in effect that already adopted by the Surrey County Council.

(b) The numbers are, of course, capable of variation provided the council appoint a majority. Though appointed by the council the majority need not be members of the council (s. 17 (3) (a)). When there is a joint committee for the whole county of all authorities, under s. 17 (5), it is sufficient if the councils of all the authorities appoint the majority ; that is the arrangement suggested above.

Appndx.
B.
—

Girls' lower education,
Council elementary schools,
Voluntary elementary schools,

and if the representation of such types of education at any time is not secured by the members appointed under s. 2 (a) it shall be secured by means of the members selected under s. 5, and, if it appears desirable to the council, after consultation with persons or bodies representative of the type of education concerned.

2. The representative members shall be appointed :

(a) Twenty by the county council from its own members.

(b) Two by each of such of the [†] councils in the county being education authorities for the purpose of Part III. of the Education Act, 1902, as agree to combine with the county council in the constitution of a joint committee for all purposes of the Act.

3. The first selected members shall be :

[Insert the seven first selected members by name ; they should be leading educationists residing in the county, one representing the university interest, another a big public school, another technical education, a fourth a leading chamber of commerce, etc. At least one or more should be ladies representing ladies' colleges or schools. If preferred the scheme can permit outside bodies, e.g., voluntary associations, to nominate one or more representatives. Paragraph 5 must then be altered accordingly.]

4. Every appointment of a Representative Member shall be made at a meeting held in accordance with the ordinary practice of the electing body, and all Representative Members so appointed, if they are members of the electing body, shall cease to be members of the committee if they cease to be members of the electing body, and are not forthwith re-appointed to be members of such body.

5. After the appointment of the first committee every appointment of a Selected Member shall be made by the county council on the recommendation of the education committee and shall be for three years, provided

† Insert names of Part III. boroughs or sanitary districts.

always that no person engaged as a teacher in the county in any institution in receipt of annual maintenance grants from the county council under the Act of 1902 be eligible to be a Selected Member, and that no person be disqualified from being a Selected Member by reason of his becoming a member of the county council, provided also that the first election of Selected Members shall be for the period expiring on the 8th of March, 1906.

**Appndx.
B.**

6. (a) Representative members of the committee (2 (a)) appointed by the county council, other than ex officio members, shall hold office for three years subject to the provisos in clauses 4 and 8, and one-third as nearly as may be of such members shall go out of office on the 8th day of March in each year, but every member so retiring shall be eligible for re-election, provided that the first election of Representative Members shall be for the period expiring on the 8th of March, 1906; (b) any member of the committee may resign his membership by a notice in writing addressed to the Secretary of the Committee, who shall forthwith give notice thereof to the body by whom such member was elected or appointed.

7. Casual vacancies shall only be filled for the remainder of the term for which the vacating member was appointed to serve.

8. The county council shall determine the order of retirement of the first Representative Members appointed by it, provided that no such retirement shall take place before the 8th March, 1904.

9. Representative Members appointed by the councils in the county being education authorities for the purpose of Part III. of the Education Act, 1902, shall hold office for one or three years as may be decided by the appointing authority (c).

(c) Clauses 10 to the end, which formed part of the Surrey draft scheme, have been omitted from the final scheme adopted by the Surrey County Council, as being matters of internal regulation not necessary to be inserted in the scheme; they have

Appndx. 10. From the date of the coming into office of the representative members in 2(a) above, the powers of the present technical education committee are vested in the county education committee.

B.

11. The committee shall present to the county council, and for publication, a general report of their proceedings every quarter, and for the county council meeting in each month of May a detailed estimate of their proposed expenditure for the current year, and, subject to the above conditions, it shall have delegated to it all powers under the Education Acts, 1870 to 1902, except those of making a rate or borrowing money.

PART II.—FUNDS.

12. The county council shall pay to the committee constituted as above :

(a) For the purposes of higher education :

- (1) All sums when and as received by the county council in any year under the provisions of the Local Taxation (Customs and Excise) Act, 1890.
- (2) The proceeds of any rate under Part II. of the Act levied over the whole rateable area of the county, when and as received.
- (3) Any special rates levied over special areas of the county in connection with higher education in those areas, when and as received.

(b) For the purposes of elementary education :

- (1) Such sum as may be required after an estimate has been submitted by the finance committee of the county council.

been retained in the text, as they may contain information of use to other councils.

- (2) Any special rates levied over special areas of the county for the provision or improvement of public elementary schools, when and as received. **Appndx.**
B.
-

The committee shall keep distinct and separate accounts for (a) and (b) as above.

13. There shall also be paid to the committee :

For the purposes of higher education :

When and as received, all grants paid by the Board of Education, South Kensington, in respect of any school or institution in the county working under the provisions of clause VII. of the day or evening school regulations of the Board of Education, South Kensington.

For the purposes of elementary education :

When and as received, all grants from the Board of Education, Whitehall, in respect of elementary education, including the parliamentary grant, the fee grant, the new special aid grant, the Agricultural Rating Act grant, and all sums received from endowments affected by clause 13 of the Act.

Appndx.
C.

APPENDIX C.

(a) SCHEME FOR A GROUP OF MANAGERS
OF NON-PROVIDED SCHOOLS UNDER THE
EDUCATION ACT, 1902, s. 12.

*Insert the
name of
the local
education
authority.

1. A group of managers shall, with the consent of [*] be constituted as provided by section 12 of the Education Act, 1902, for the following non-provided schools :

[Set out names of schools.]

2. Save as herein provided the body of six managers of each of the said non-provided schools shall continue to exercise all the rights and duties of managers with regard to their own schools [(b), but they shall not exercise any of their powers of appointing or dismissing teachers, or of controlling religious instruction without the consent of the group].

*Insert the
name of
the local
education
authority.

3. The body of managers for each school shall, with the consent of [*], appoint not less than three managers as delegates to the group,—two, or a similar proportion, to represent the foundation managers ; one, or a similar proportion, to represent the non-foundation managers.

*Insert the
name of
the local
education
authority.

4. The group shall be responsible to the [*] for providing the school-house, for repairs and improvements, for damage to furniture within section 7 (2), for keeping the rooms in proper condition for school purposes (c), and

(a) Such groups will probably only be of use in moderate sized towns where joint action will secure financial stability without loss of local interest. Where possible the group might coincide with the existing Diocesan Voluntary Associations (or their Ruridecanal Sub-associations) under the Act of 1897. For a list of these, see Appendix E. The Board themselves suggest the Voluntary Associations as the basis of grouping for financial purposes. See above, Circular 472, p. 211.

(b) Where desired this clause may be omitted.

(c) Section 7 (1) (d) and (2).

for all other financial liability imposed on the managers of each school. **Appndx. C.**

5. With the consent of [*] all funds accruing to each of the schools, whether from fees, grants, endowments, or subscriptions, shall be paid to the group; the group shall hold any funds accruing to any school under Sched. II. (12) in trust for that school absolutely; and all other funds accruing to any school also in trust for that school, but with power to transfer not more than a quarter of any such fees, grants, endowments, or subscriptions (when by law transferable) so accruing to any school, to any other of the schools above-named: Provided always that such transfer of such portion of any such funds shall not be made without the consent of at least two-thirds of the whole group.

*Insert the name of the local education authority.

6. Where advisable, the group shall take action under the provisions of section 8, with a view to the provision of new schools.

7. The group shall have power to appoint a chairman and treasurer, to make rules for its own procedure, and to appoint committees.

8. This agreement shall terminate at the end of three years or sooner, on notice from all the bodies of managers, and with the consent of the [*]. The arrangement, when terminated, may be renewed at any time by the parties thereto.

*Insert the name of the local education authority.

APPENDIX D.

**THE LOCAL EDUCATION AUTHORITIES FOR HIGHER
AND ELEMENTARY EDUCATION TOGETHER WITH
THE NAMES AND ADDRESSES OF CLERKS AND
ORGANISING SECRETARIES.**

A.—THE SIXTY-TWO ADMINISTRATIVE COUNTIES.

England and Wales.

County.	Clerk.	Organising Secretary.
Anglesey -	J. Lloyd Griffith.	—
Bedford -	W. W. Marks - -	Frank Spooner, Shire Hall, Bedford.
Berks - -	J. T. Morland - -	G. J. Hill, 30, The Forbury, Reading.
Brecknock -	H. Edgar Thomas.	—
Bucks - -	William Crouch - -	C. G. Watkins, Technical Education Office, Aylesbury.
Cambridge -	Edward Hugh Jackson	Austin Keen, County Education Office, Cambridge.
Isle of Ely -	E. H. Jackson (Wisbech)	—
Cardigan -	H. C. Fryer.	—
Carmarthen -	T. Jones.	—
Carnarvon -	J. H. Bodwel-Roberts.	—
Cheshire -	Reginald Potts - -	R. P. Ward, Organising Secretary's Office, Nantwich Road, Crewe.
Cornwall -	C. L. Cowlard - -	John Gill. Gwealhellis, Helston.
Cumberland -	Charles Bernard Hodgson.	C. Courtenay Hodgson, The Courts, Carlisle.
Denbigh -	W. R. Evans.	—
Derby - -	N. J. Hughes-Hallett -	Evan W. Small, County Offices, Derby.

County.	Clerk.	Organising Secretary.
Devon - -	H. Michelmore - -	J. F. Young, County Technical Offices, Exeter.
Dorset - -	E. Archdall Ffooks - -	B. R. Swift, Shire Hall, Dorchester.
Durham - -	Ralph Simey - -	J. A. L. Robson, Shire Hall, Durham.
Essex - -	Henry Gibson - -	J. H. Nicholas, County Offices, Chelmsford.
Flint - -	T. T. Kelly.	—
Glamorgan - -	T. M. Franklen.	—
Gloucester - -	Edward T. Gardom.	—
Hereford - -	J. F. Symonds - -	John Wiltshire, Shire Hall, Hereford.
Hertford - -	Charles Elton Longmore	Albert Dean, Eastfield, St. Albans.
Huntingdon - -	J. Percy Maule.	—
Kent - -	W. B. Prosser - -	F. W. Crook, 53, Parliament Street, S.W.
Lancashire - -	Harcourt E. Clare - -	H. Lloyd Snape, County Offices, Preston.
Leicester - -	W. J. Freer - -	A. J. Baker, 33, Bowling Green Street, Leicester.
Lincoln (Kest- even).	J. Phillips - -	Hudson Donaldson, St. Catherine's Road, Grantham.
Lincoln (Lind- sey).	C. Scorer - -	S. Maudson Grant, 17, Mint Street, Lincoln.
Lincoln (Hol- land).	H. C. Johnson (Boston)	—
London - -	G. L. Gomme - -	William Garnett, 116, St. Martin's Lane, W.C.
Merioneth - -	Robert Jones.	—
Middlesex - -	Sir Richard Nicholson - -	B. S. Gott, Guildhall, Westminster, S.W.
Monmouth - -	H. Stafford Gustard - -	A. B. Badger, County Offices, Newport.
Montgomery - -	G. D. Harrison.	—
Norfolk - -	C. Foster - -	Edward Pillow, Shire Hall, Norwich.
Northampton - -	H. P. Markham - -	Byron R. Simpson, County Hall, Northampton.
Soke of Peter- borough.	L. J. Deacon.	—
Pembroke - -	W. D. George.	—

County.	Clerk.	Organising Secretary.
Northumberland.	Stephen Sanderson -	Charles Williams, Moot Hall, Newcastle-on-Tyne.
Nottingham -	Jesse Hind - - -	Shire Hall, Nottingham.
Oxford - -	Thos. M. Davenport -	Percy Elford, 8, New Road, Oxford.
Radnor - -	Edward Wood.	---
Rutland - -	B. A. Adam.	---
Salop - -	E. Cresswell Peele -	F. R. Armytage, Shire Hall, Shrewsbury.
Somerset- -	W. Dunn - - -	C. H. Bothamley, Somerset County Education Committee, Weston-super-Mare.
Southampton (Hampshire).	H. Barber, LL.B.	D. T. Cowan, Winchester.
Isle of Wight -	William H. Wooldridge	J. T. Custance, Newport.
Stafford - -	Matthew F. Blakiston -	G. Balfour, County Technical Offices, Stafford.
Suffolk (East and West).	James Cherry - - -	W. E. Watkins White House Tower Churchyard, Ipswich.
Surrey - -	Sir R. H. Wyatt - -	H. Macan, County Hall, Kingston-on-Thames.
Sussex (East and West).	Frederic Merrifield -	Edwin Young, County Hall, Lewes.
Warwick -	A. S. Field - - -	A. H. Whipple, Education Office, Warwick.
Westmoreland	J. Bolton - - -	C. J. R. Tipper, Kent Street, Kendal.
Wilts - -	R. W. Merriman - -	C. H. Corbett, County Offices, Trowbridge.
Worcester -	S. Thornely - - -	James Mason, County Hall, Worcester.
York, E. R. -	J. J. Bickersteth.	---
York, N. R. -	W. C. Trevor - - -	W. Mennell, County Offices, Northaller- ton.
York, W. R. -	Francis Alvey Darwin -	W. Vibart Dixon, West Riding Offices, Wake- field.

B.—THE SIXTY-NINE COUNTY BOROUGHES.

England and Wales.

Borough.	Clerk.	Organising Secretary.
Barrow - in - Furness.	C. F. Preston.	—
Bath - - -	Benjamin Hick Watts -	Godfrey A. Day, Municipal Technical Schools, Bath.
Birkenhead -	Alfred Gill - - -	A. H. Crosby, Municipal Science and Art Schools, Birkenhead.
Birmingham -	Edward Oxford Smith.	—
Blackburn -	Robert E. Fox - - -	Arthur W. King, Municipal Technical Schools, Blackburn.
Bolton - - -	R. G. Hinnell - - -	F. Wilkinson, Municipal Technical Schools, Bolton.
Bootle - - -	J. H. Farmer - - -	J. J. Ogle, Free Public Library and Technical School, Bootle.
Bournemouth -	Henry Beale.	—
Bradford - -	Frederick Stevens.	—
Brighton - -	F. J. Tillstone.	—
Bristol - - -	Daniel Travers Burges.	—
Buckingham -	T. R. Hearn.	—
Burnley - - -	Alfred Steele Sheldon.	—
Bury (Lancs.) -	J. Haslam.	—
Cambridge -	J. E. L. Whitehead, M.A.	Austin Keen.
Canterbury -	Henry Fielding.	—
Cardiff - - -	J. L. Wheatley - - -	J. A. Jenkins, University College, South Wales, and Monmouth- shire, Cardiff.
Chester - - -	S. Smith.	—
Coventry - -	L. Beard.	—
Croydon - - -	E. Mawdesley.	—
Derby - - -	H. F. Gadsby - - -	F. W. Shurlock, Municipal Technical College, Derby.
Devonport -	A. B. Pilling.	—
Dudley - - -	H. C. Brettell.	—
Exeter - - -	G. R. Shorto.	—
Gateshead -	W. Swinburne - - -	—

Borough.	Clerk.	Organising Secretary.
Gloucester -	G. S. Blakeway.	A. Ballinger, Municipal School, Gloucester.
Grimsby (Great).	W. Grange.	—
Halifax -	Keighley Walton -	J. Crowther, Municipal School, Halifax.
Hanley -	A. Challinor.	—
Hastings -	Benjamin F. Meadows.	—
Huddersfield -	Frederick C. Lloyd.	—
Hull (Kingston-upon-Hull).	E. Laverack.	—
Ipswich -	W. Bantoft.	—
Leeds -	Wm. John Jeeves.	—
Leicester -	James Bell.	—
Liverpool -	E. R. Pickmere -	W. Hewitt, Municipal Buildings, Liverpool.
Lincoln -	J. T. Tweed.	—
Manchester -	William Henry Talbot -	J. H. Reynolds, Municipal Technical School, Princess Street, Manchester.
Middlesbrough	George Bainbridge.	—
Newcastle-upon-Tyne.	Hill Motum.	—
Newport (Mon.)	A. A. Newman -	W. Bush, Technical Schools, Newport (Mon.).
Northampton -	W. Shoosmith	—
Norwich -	G. B. Kennett.	—
Nottingham -	Sir S. G. Johnson -	Philip H. Stevenson, University College, Nottingham.
Oldham -	A. Nicholson.	—
Oxford -	Richard Bacon -	Arthur F. Kerry, City Technical School, Church Street, Oxford.
Plymouth -	J. H. Ellis.	—
Portsmouth -	A. Hellard.	—
Preston -	H. Hamer.	—
Reading -	H. Day.	—
Rochdale -	James Leach -	A. Barnish, Municipal Technical School, Nelson Street, Rochdale.

Borough.	Clerk.	Organising Secretary.
St. Helens -	George W. Bailey -	Jefferson J. Broomhead, Municipal Technical School, Gamble Institute, St. Helens.
Salford - -	L. C. Evans - -	W. Wilson, Royal Technical Institute, Salford.
Sheffield - -	W. G. Collingwood.	—
Southampton -	R. R. Linthorne - -	—
South Shields -	J. Moore Hayton, B.A.	—
Stockport -	Robert Hyde.	—
Sunderland -	F. M. Bowey - -	B. Branford, The Technical College, Sunderland.
Swansea - -	J. Thomas.	—
Walsall - -	J. R. Cooper - -	John Turner, Municipal Science and Art Institute, Bradford Place, Walsall.
West Brom- wich.	Alfred Caddick.	—
West Ham -	Fredk. E. Hilleary, LL.D.	A. E. Briscoe, Municipal Technical School, West Ham, E.
Wigan - -	John James Charnock.	—
Wolverhampton	Horatio Brevitt.	—
Worcester -	John Warwick - -	Thomas Duckworth, Municipal Technical School, Victoria In- stitute, Worcester.
Yarmouth (Great).	Henry B. Batten.	—
York - -	W. H. Andrew.	—

**ADDITIONAL LOCAL EDUCATION AUTHORITIES
FOR ELEMENTARY EDUCATION ONLY.**

(A) THE 137 NON-COUNTY BOROUGHES WITH POPULATIONS
OF OVER 10,000.

Accrington.	Darlington.
Ashton-under-Lyne.	Darwen.
Bacup.	Deal.
Banbury.	Dewsbury.
Bangor.	Doncaster.
Barnsley.	Dover.
Barnstaple.	Dukinfield.
Batley.	Durham.
Bedford.	Ealing.
Berwick-upon-Tweed.	Eastbourne.
Beverley.	East Retford
Bexhill.	Eccles.
Blackpool.	Falmouth.
Boston.	Faversham.
Bridgwater.	Folkestone.
Bridlington.	Glossop.
Brighouse.	Grantham.
Burslem.	Gravesend.
Bury St. Edmunds.	Guildford.
Cambridge.	Harrogate.
Carlisle.	Hartlepool.
Chatham.	Harwich.
Chelmsford.	Haslingden.
Cheltenham.	Hemel Hempstead.
Chesterfield.	Hereford.
Chichester.	Heywood.
Chipping Wycombe.	Hove.
Chorley	Hyde.
Clitheroe.	Ilkeston.
Colchester.	Jarrow.
Colne.	Keighley.
Congleton.	Kendal.
Crewe.	

- Kidderminster.
 King's Lynn.
 Kingston-on-Thames.
 Lancaster.
 Leigh.
 Lewes.
 Longton.
 Loughborough.
 Lowestoft.
 Luton.
 Macclesfield.
 Maidenhead
 Maidstone.
 Mansfield.
 Margate.
 Middleton.
 Morecambe.
 Morley.
 Mossley.
 Neath.
 Nelson.
 Newark.
 Newbury.
 Newcastle-under-Lyme.
 Newport.
 Ossett.
 Pembroke.
 Penzance.
 Peterborough.
 Pontefract.
 Poole.
 Pudsey.
 Ramsgate.
 Rawtenstall.
 Reigate.
 Richmond.
 Rochester.
 Royal Leamington Spa.
 Ryde.
 St. Alban.
 Salisbury.
 Scarborough.
 Shrewsbury.
 Smethwick.
 Southend-on-Sea.
 Southport.
 Stafford.
 Stalybridge.
 Stockton-on-Tees.
 Stoke-upon-Trent.
 Sutton Coldfield.
 Swindon.
 Taunton.
 Thornaby-on-Tees.
 Tiverton.
 Todmorden.
 Torquay.
 Truro.
 Tunbridge Wells.
 Tynemouth.
 Wakefield.
 Warwick.
 Wednesbury.
 Wenlock.
 Weymouth and Melcombe
 Regis.
 Whitehaven.
 Widnes.
 Winchester.
 Windsor, New.
 Workington.
 Worthing.
 Wrexham.

(B) THE 64 URBAN DISTRICTS WITH POPULATIONS
OVER 20,000.

Aberdare.	Ince-in-Makerfield.
Abertillery.	Kettering.
Acton.	King's Norton and Northfield.
Aldershot.	Leyton.
Aston Manor.	Llanelly.
Barking Town.	Merthyr Tydfil.
Barry.	Moss Side.
Beckenham.	Mountain Ash.
Bilston.	Nuneaton and Chilvers Coton.
Bromley.	Oldbury.
Cannock.	Pemberton.
Chadderton.	Penge.
Chiswick.	Pontypridd.
Coseley.	Radcliffe.
East Ham.	Rhondda
Ebbw Vale.	Rowley Regis.
Edmonton.	ShIPLEY.
Enfield.	Stretford.
Erith.	Swinton and Pendlebury.
Farnworth.	Tipton.
Felling.	Tottenham.
Fenton.	Twickenham.
Finchley.	Wallasey.
Gillingham.	Wallsend.
Gorton.	Walthamstow.
Gosport and Alverstoke.	Waterloo-with-Seaforth.
Handsworth.	Watford.
Hebburn.	Willesden.
Hendon.	Wimbledon.
Heston and Isleworth.	Withington.
Hindley.	Wood Green.
Hornsey.	
Ilford.	

APPENDIX E.

LIST OF APPROVED VOLUNTARY ASSOCIATIONS.

(SECTION 17 (3) (b); SCHEDULE II. (12).)

CHURCH OF ENGLAND.

1. Bangor (Diocesan).
2. Bath and Wells (Diocesan).
3. Bedford.
4. Berkshire.
5. Bristol (Diocesan).
6. Canterbury (Diocesan).
7. Carlisle.
8. Chester (Diocesan).
9. Chichester (Diocesan).
10. Derby.
11. Dorset.
12. Durham (Diocesan).
13. Ely.
14. Essex (St. Albans).
15. Exeter (Diocesan).
16. Gloucester (Diocesan).
17. Hampshire.
18. Hereford.
19. Herts (St. Albans).
20. Huntingdon.
21. Isle of Wight.
22. Lincoln (Diocesan).
23. Liverpool (Diocesan).
24. Landaff (Diocesan).
25. London (Diocesan).
26. Ludlow.
27. Manchester (Diocesan).
28. Newcastle (Diocesan).

29. North Salop.
30. Norwich (Diocesan).
31. Nottingham.
32. Oxford (Diocesan).
33. Peterborough (Diocesan).
34. Ripon (Diocesan).
35. Rochester (Diocesan).
36. St. Asaph (Diocesan).
37. St. David's (Diocesan).
38. Salisbury (Diocesan).
39. Staffordshire.
40. Sudbury.
41. Surrey (Winchester).
42. Truro (Diocesan).
43. Wakefield (Diocesan).
44. Worcester (Diocesan).
45. York (Diocesan).

WESLEYAN.

46. London & S. E.
47. Midland.
48. North East.
49. North Central.
50. North West.
51. South West.

ROMAN CATHOLIC.

52. Birmingham (Diocesan).
53. Clifton and Newport (Diocesan).

- | | |
|---|--|
| <p>54. Hexham and Newcastle
(Diocesan).</p> <p>55. Leeds and Middlesbrough
(Diocesan).</p> <p>56. Liverpool (Diocesan).</p> <p>57. Nottingham and North-
ampton (Diocesan).</p> <p>58. Salford (Diocesan).</p> <p>59. Shrewsbury and Menevia
(Diocesan).</p> <p>60. Southwark (Diocesan).</p> <p>61. South West.</p> <p>62. Westminster (Diocesan).</p> | <p>BRITISH.</p> <p>63. Bristol and District.</p> <p>64. Cheshire and District.</p> <p>65. Eastern Counties.</p> <p>66. Lancashire and District.</p> <p>67. London and District.</p> <p>68. Midland Counties.</p> <p>69. Northern Counties.</p> <p>70. North Wales.</p> <p>71. South Wales and Mon.</p> <p>72. South Western.</p> <p>73. West Riding of Yorkshire.</p> <p>74. Jewish.</p> <p>75. Isles of Scilly.</p> |
|---|--|
-

APPENDIX F.

FOUNDATION MANAGERS.

(a) FINAL ORDER MADE UNDER SECTION 11
OF THE EDUCATION ACT, 1902.

E. A. 20 A

Whereas application has been made to the Board of Education by the owners, trustees, or managers of the schools specified in the Second Schedule hereto for an order appointing foundation managers of the said schools :

Now the Board of Education do hereby order as follows—

1. The appointment of foundation managers of each of the schools specified in the Second Schedule hereto shall be made in accordance with the provisions specified in the First Schedule hereto.

2. This order shall take effect from this date as a final order for the purposes of section 11 of the Education Act, 1902.

Given under the Seal of Office of the Board of Education this day of , 1903.

THE FIRST SCHEDULE.

1. The provisions contained in the First Schedule of the interim order already made in the matter of the school shall continue in force for a year from the appointed day on which Part III. of the said Act came into operation. Continuation of interim order.

2. On and after the expiration of the said period the foundation managers shall (subject as hereinafter provided) consist of one *ex officio* manager and three representative managers. Foundation managers.

(a) These final orders vary in form to suit different cases ; the form here given contains very usual provisions.—EDD.

**Appndx.
F.***Ex officio
manager.*

3. The *ex officio* manager shall be the person who is the principal officiating minister of the ecclesiastical parish or district within which the school is for the time being situated. If the said minister refuses to act, or is absent from all meetings of the managers during a period of six months, the archdeacon of the archdeaconry within which the school is situated may from time to time appoint some qualified person to act as his substitute for the current triennial period, and so in respect of each subsequent triennial period, provided that if the minister in whose place the substitute is appointed vacates the office of minister, his successor shall forthwith be *ex officio* manager in place of the said substitute.

Representative
managers.

4. The representative managers shall be qualified persons elected by qualified subscribers (*b*) to the funds of the school at a meeting to be held triennially for that purpose. Their term of office shall be three years, but they shall remain in office till their successors are elected or otherwise appointed, and shall be eligible for re-election or re-appointment.

If at the date of any meeting for the election of representative managers there are less than eight qualified subscribers, or if the qualified subscribers fail to elect, the right of the qualified subscribers shall, for that turn, be exercised by the persons who are at the time the foundation managers of the school.

Qualified
persons.

5. "Qualified persons" shall mean persons residing in or near the said ecclesiastical parish or district, or having a beneficial interest to the extent of a life estate at the least in real property situated in the said parish or district, and being and continuing to be *bonâ fide* members of the Church of England, and no person who is required to possess these qualifications shall be entitled to act as a foundation manager until he has signed a declaration that he is a member of the Church of England.

(*b*) This is the commonest form for choosing the three representative foundation managers. Sometimes, however, they are co-opted, or one is nominated by the minister or vicar and churchwardens, and the other two are co-opted or elected by subscribers.—EDD.

6. "Qualified subscribers" shall mean—

- (a) Persons who have voluntarily contributed a sum of not less than two shillings and sixpence to the funds of the school in each of the three last preceding school years.
- (b) Persons who have voluntarily contributed to the funds of the school not less than five pounds in one sum.
- (c) Societies or other bodies who have voluntarily contributed to the funds of the school not less than ten pounds in one sum.

**Appndx.
F.**

Qualifica-
tion of
subscribers.

7. The foundation managers shall keep a list (corrected up to date) of qualified subscribers, and this list shall be open to inspection by all persons interested. No person as respects his right to vote shall be regarded as a qualified subscriber unless his name is included in the said list.

List of
subscribers.

8. It shall be the duty of the foundation managers, by public notice given a sufficient time, being not less than twenty-one days before the expiration of the term of office of the first foundation managers appointed under the said interim order, and afterwards before the end of each triennial period, to call a meeting of subscribers for the purpose of electing foundation managers. Each subscriber shall have one vote only in respect of each vacancy.

Meetings
and voting.

Subscribers may give their votes either personally at the meeting or by writing delivered before the commencement of the meeting to the person named for that purpose by the foundation managers in the notice convening the meeting.

Any society or body may exercise its power of voting through its secretary or some other person authorised by it in writing for that purpose.

One of the foundation managers chosen by them shall preside at the meeting for the election, and it shall be his duty before the close of the meeting to declare the result of the election.

The names of persons elected or appointed to be foundation managers shall be communicated to the clerk of the local education authority by the foundation managers.

Appndx.**F.**

Increase of
number.

9. If at any time the local education authority, under the provisions of section 6 (3) (b) of the Education Act, 1902, increase the total number of managers, the additional number of foundation managers required shall be provided by the co-optation from time to time by the foundation managers of a sufficient number of qualified persons, who shall hold office for the same term and subject to the same conditions as if they were representative managers.

Casual
vacancies.

10. If any casual vacancy occurs among the representative managers or managers co-opted under clause 9 hereof, it shall be filled by the appointment by the remaining foundation managers of some other qualified person to hold office for the remainder of the term.

Determi-
nation of
office.

11. Any foundation manager, other than a manager *ex officio*, who ceases to be qualified as aforesaid, or who is absent from all meetings of the managers during a period of one year, or who is adjudicated a bankrupt, or who is incapacitated from acting, or who sends to the foundation managers his written resignation, shall thereupon cease to be a foundation manager.

Default
in election
or appoint-
ment.

12. If for any reason there is a failure to hold any election required by this order, or make any appointment so required, any person interested may apply to the Board of Education, and the Board of Education may by order give such directions as are necessary for the purpose of holding the election or making the appointment, and any election held or appointment made under such directions shall be as valid as if it had been held or made in pursuance of this order.

Disputes.

13. Any dispute arising out of or in relation to the election, appointment, or qualifications of foundation managers or subscribers, shall be referred to and determined by the Board of Education.

Until the contrary is proved foundation managers shall be deemed to have been duly elected or appointed.

EDUCATION (LONDON) ACT, 1903.

(3 EDW. 7, c. 24.)

An Act to extend and adapt the Education Act, 1902, to London. [14th August 1903.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. The Education Act, 1902 (in this Act referred to as the principal Act), shall, so far as applicable, and subject to the provisions of this Act, apply to London.

Application of Education Act, 1902, to London.

The principal Act did not, in its general provisions, extend to London (see s. 27 (1), p. 140, above). The local education authority for London is the London County Council (s. 1, p. 96, above), acting through its education committee, save for the purposes of finance (s. 17, p. 121, above). The original bill contained provisions for the representation of the borough councils on the education committee, but these were withdrawn. Section 17 will therefore apply in its entirety. The effect of this section is that, subject to the approval of the Board of Education, the committee may consist of none but members of the council, together with one woman outsider. Doubtless, however, the council will co-opt on to the committee a strong body of outside experts, under s. 17 (3) (b) (p. 122, above). The metropolitan borough councils have none of the powers as to elementary education possessed by ordinary boroughs with over 10,000 inhabitants, under s. 1 of the principal Act (p. 96, above) (see Sched. I., s. 1, below).

2.—(1) Every public elementary school provided by the local education authority within the

Provisions as to management and sites of provided schools.

Sect. 2. area of any metropolitan borough shall have a body of managers. The number of those managers and the manner in which schools, in cases where it is desirable, should be grouped under one body of managers shall be determined by the council of each borough, after consultation with the local education authority, and subject to the approval of the Board of Education.

Two-thirds of every such body shall be appointed by the borough council and one-third by the local education authority ; but due regard shall be had in selecting managers to the inclusion of women in the proportion of not less than one-third of the whole body of managers, and, in the case of the first body of managers, also of members chosen from the then existing bodies of managers, and the borough council and the local education authority shall carry out any directions given by the Board of Education for the purpose of giving effect to this provision.

The provisions of this sub-section replace for London s. 6 (1) of the principal Act (see Sched. I., 3, below). Subject to the veto of the Board of Education and to the requirements of the above paragraph as to the inclusion of women, there is nothing to prevent a borough council grouping all the provided schools in its area under one strong body of managers, which could, in effect, be a committee of the council. Section 12 of the principal Act as to grouping is not to apply to provided schools in London (see Sched. I., 3, below).

(2) The site of any new public elementary school to be provided by the local education authority shall not be determined upon until after consultation with the council of the metropolitan

borough in which the proposed site is situated, and in the case of compulsory purchase, if the council of the metropolitan borough does not concur in the proposed compulsory acquisition, the Board of Education shall not make the order authorising the purchase unless they are satisfied that the concurrence of the council of the borough should be dispensed with : Provided that, except in the case of compulsory acquisition, the site required for the enlargement of a public elementary school shall not be deemed to be a site required for a new public elementary school within the meaning of this sub-section. Sect. 2.

(3) Schools provided by the local education authority for blind, deaf, epileptic, and defective children, and any other schools which, in the opinion of the Board of Education, are not of a local character, shall not be treated for the purposes of this section as public elementary schools.

Nothing is said in this section as to managers in non-provided schools. Section 6 (2) and s. 11 of the principal Act, therefore, apply with the necessary modifications (pp. 104, 114, above). Every non-provided or voluntary school in the metropolis will have to have a body of six managers—four foundation managers selected under an order (s. 11, pp. 52, 114, and see E. A. 20, App. F, p. 237, for a form of final order) sanctioned by the Board of Education to represent the denominational interest or the original trustees or owners ; and two others. Of these, one will be appointed by the London County Council and one by the minor local authority (s. 6 (2) (a)), the latter being the borough council under s. 24 (2), p. 137, above (see Sched. I., 1 (a), below) ; or in the City, the Common Council (s. 4 (2), below).

There is nothing in Sched. I., below, to exempt voluntary or non-provided schools in London from the operation of s. 12 of the principal Act ; therefore several voluntary

Sect. 2. schools may be grouped under one set of managers (see above, pp. 53, 118, and for a scheme for grouping, App. C, p. 224).
NOTE.

Boundary schools.

3.—(1) As from the passing of this Act, any public elementary school provided by the London School Board before the passing of this Act, which is wholly or partly situated outside the county of London, shall, for the purposes of this Act, be treated as, and for the purposes of the principal Act be deemed to have been, wholly situated within the county of London and within the nearest metropolitan borough.

(2) Any public elementary school provided by the local education authority which is situated partly in one metropolitan borough and partly in another shall, for the purposes of this Act, be deemed to be situated in such one of those boroughs as the local education authority determine.

Modification of principal Act and interpretation.

4.—(1) The modifications of the principal Act set out in the First Schedule to this Act shall have effect for the purposes of this Act.

(2) The expression “metropolitan borough” in this Act shall include the city, and the expression “council of a metropolitan borough” shall include the mayor, aldermen, and commons of the city of London in common council assembled.

Commencement, repeal and short title.

5.—(1) This Act shall, except as expressly provided, come into operation on the appointed day, and the appointed day shall be the first day

of May nineteen hundred and four, or such other day, not being more than twelve months later, as the Board of Education may appoint, and different days may be appointed for different purposes and for different provisions of this Act. Sect. 5.

(2) In addition to the repeals effected by the principal Act, the Acts mentioned in the Second Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule.

(3) This Act may be cited as the Education (London) Act, 1903; and the Education Acts, 1870 to 1902, and this Act may be cited as the Education Acts, 1870 to 1903.

SCHEDULES.

FIRST SCHEDULE.

MODIFICATIONS OF THE PRINCIPAL ACT.

1. References in the principal Act to the council of a borough shall not be construed as references to the council of a metropolitan borough, except—

See note to s. 1, above.

(a) in paragraph (a) of section twenty (relating to arrangements between councils) and in sub-section two of section twenty-four (relating to interpretation); and

See note to s. 2 (3), above.

Sched. 1. (b) as respects the borough of Woolwich, so far as is necessary to enable the council of that borough to make any contribution which they are authorised to make under section nineteen of the London Government Act, 1899.

2. The provisions of section two of the principal Act, as to limit of rate, shall not apply.

The councils of ordinary counties are, apart from special leave of the Local Government Board, limited to a 2*l.* rate for higher education. This limit does not apply to London (p. 98, above).

3. Sub-section one of section six of the principal Act (relating to the management of schools), and so much of section twelve of that Act (relating to the grouping of schools under one management) as relates to public elementary schools provided by the local education authority, shall not apply.

See notes to ss. 1, 2 (1), above.

4. The provisos to sub-section one of section eighteen of the principal Act (relating to expenses), and sub-section two of section thirteen of that Act (relating to endowments), shall not apply, but the Board of Education may, on the application of the trustees of the endowment, or of the local education authority, direct that any money which would be payable under the said section thirteen to the county council shall be applied in manner provided by a scheme made by the Board if the Board consider that it is expedient to make such a scheme. In any such scheme, due regard shall primarily be

had to the interests of the locality for which the **Sched. 1.**
benefits of the endowment were intended.

Section 13 (1) of the principal Act provides in certain cases for the division of the income of endowments between the managers and the local education authority. This will apply to London; it is only sub-s. (2) of s. 13 which does not apply. This provides for the money which is payable to the local education authority, being credited to particular parishes (p. 119, above).

5. The words "a county council" in section nineteen of the principal Act (which relates to borrowing) shall, as respects borrowing by the local education authority, be construed as if they were "the London County Council."

6. Section twenty-seven of the principal Act (relating to extent, commencement, and short title) shall not apply except so far as sub-section three of that section is already applicable to London, and the words "the appointed day" shall be substituted for "the twenty-sixth day of March nineteen hundred and four" in that sub-section.

7. Where the London County Council delegate to their education committee any powers, and the acts and proceedings of the committee as respects the exercise of those powers are not required to be submitted to the council for their approval, sub-section one of section two hundred and thirty-three of the Municipal Corporations Act, 1882 (which provides for the inspection and the taking of copies of minutes) shall apply to the minutes of the committee relating to the exercise of those powers as it applies to the minutes of the council.

Section 233 (1) of 45 & 46 Vict. c. 50, runs as follows :

(1) The minutes of proceedings of the council shall be

Sched. 1. open to the inspection of a burgess on payment of a fee of one shilling, and a burgess may make a copy thereof or take an extract therefrom.

8. The Treasury shall be substituted for the Local Government Board in paragraph six of the Second Schedule to the principal Act.

See p. 145, above.

9. Where governors or managers are appointed by the local education authority on the governing body of any institution aided by grant from the local education authority, the provisions of the scheme or trust deed of the institution imposing any limit on the number of the members of the governing body, or requiring any qualification for those members, shall not apply as respects such governors or managers.

10. References in the principal Act to the passing of that Act shall be construed as references to the passing of this Act.

11. A manager of a public elementary school provided by the local education authority shall not be appointed for a longer period than three years, but may be re-appointed.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict. c. 75.	The Elementary Education Act, 1870.	The definition of "metropolis" in section three. Sections thirty - seven, thirty-eight, and thirty-nine. Section fifty-eight. The Third Part of the Second Schedule, and the Fifth Schedule.
36 & 37 Vict. c. 86.	The Elementary Education Act, 1873.	Section sixteen.
48 & 49 Vict. c. 38.	The School Boards Act, 1885.	Section two.

**EDUCATION (PROVISION OF WORKING
BALANCES) ACT, 1903.**

(3 EDW. 7, c. 10.)

*An Act to provide for the borrowing by Local
Education Authorities for certain purposes.*

[21st July 1903.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Provision
of working
balance by
borrowing.
2 Edw. 7,
c. 42.

1. A local education authority may, with the consent or sanction of the Local Government Board, borrow under section nineteen of the Education Act, 1902, or in such other manner as that Board may approve, such sums as in the opinion of that Board are required to provide a working balance for carrying that Act into effect, and the consent or sanction or approval so given shall be conclusive as to the power of the local education authority to borrow.

Short title.

2. This Act may be cited as the Education (Provision of Working Balances) Act, 1903.

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