CHAPTER 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.

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 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.

PART II.

HIGHER EDUCATION.

2.—(1) 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 under section one of the Local Taxation (Customs and Excise) Act, 1890, and shall carry forward for the

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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.

(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.

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.

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 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 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.

(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

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.

PART III.

ELEMENTARY EDUCATION.

5. The local education authority shall, throughout their area, have the powers and duties of a school board and school attendance committee under the Elementary Education Acts, 1870 to 19
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 not provided by them; and school boards and school attendance committees shall be abolished.

6.—(1) All public elementary schools provided by the local education authority shall, where the local education authority are the council of a county, have a body of managers consisting of a number of managers not exceeding 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 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; 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 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 managers is proportionately increased.

7.—(1) The local education authority shall maintain and keep efficient all public elementary schools within their area which are necessary, and 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 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;

(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 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 tear 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.

(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 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 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 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 relating thereto, and shall be under the control of the managers: Provided that nothing in this subsection 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 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 appointing and dismissing teachers.

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

9. The Board of Education shall, without unnecessary delay, determine, in case of dispute, whether a school is necessary 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, 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.

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—

(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 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.

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.

(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.

(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.

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.

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 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; 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 this Part 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.

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.

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

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 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.
PART IV.

GENERAL.

17.—(1) 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 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, 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.

(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.

(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.

(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 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.

18.—(1) The expenses of a council under this Act shall, Expenses. 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 of the Elementary Education Act, 1876, as respects the expenses mentioned in that section: Provided that—

(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 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, 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.

(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.

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.

(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 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 subsections two and three of section two hundred and thirty-four of the Public Health Act, 1875.
20. An authority having powers under this Act—
   (a) may make arrangements with the council 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
       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.

21.—(1) Sections two hundred and ninety-seven and two
   hundred and ninety-eight of the Public Health Act, 1875 (which
   relate to provisional orders), shall apply to any provisional order
   made under this Act, as if it were made 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.

22.—(1) In this Act and in the Elementary Education Acts,
   the expression "elementary school" shall not include any school
   carried on as an evening school under the regulations of the Board
   of Education.

   (2) The power to provide instruction 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.
23.—(1) The powers of a council under this Act shall include the provision of vehicles or the payment of reasonable travelling expenses for 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.

(5) The Mortmain and Charitable Uses Act, 1888, and so much of the Mortmain and Charitable Uses Act, 1891, 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 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) Subsections one and five of section eighty-seven of the Local Government Act, 1888 (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, shall apply to any public inquiry so held or held under any other provision of this Act.

24.—(1) Unless the context otherwise requires, 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) 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" shall, unless the context otherwise requires, have the same meanings as in the Local Government Act, 1888.

(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.

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.

(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.

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, 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, 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.
SCHEDULES.

FIRST SCHEDULE.

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.

(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.

(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 by the local education authority shall deal with such matters, relating to the management of the school, and subject to such conditions and restrictions, as the local education authority determine.

(5) A manager of a school not provided by the local education authority, appointed by that authority 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 ever three months.
1902. 

**Education Act, 1902.**

(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.

**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.

(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 first-mentioned fund or rate, of which the expenses of the council under this Act are payable, instead of on the first-mentioned fund or rate.

(5) Section two of this Act shall apply to any balance of the residue under section one of the Local Taxation (Customs and Excise) Act, 1890, remaining unexpended and unappropriated by any council at the appointed day.

(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 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.

(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

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Section 25.
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 trans-
ferred 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.

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

(a) References to "the appointed day" 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 com-
mittee which is abolished or a council which ceases, under the
provisions of this Act, to exercise powers and duties, shall be deemed
to be powers and duties transferred under this Act; and

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

(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 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.

(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 charge 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 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 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, 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.

(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 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 therefofore; 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 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 Poor Law Officers' Superannuation Act, 1896, applies 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.

(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 Local Government Act, 1888, 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 of or in consequence of this Act, suffer 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.

(22) Section sixty-eight of the Local Government Act, 1894 (which
relates to the adjustment of property and liabilities), shall apply with
respect to any adjustment required for the purposes of this Act.

THIRD SCHEDULE.
MODIFICATION OF ACTS, &C.

(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 of the Elementary Education
Act, 1876, and in subsection (1) of section two of 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.

(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 a 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 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:

"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.

(7) Section ninety-nine 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.

(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.

(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.

(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, 1880 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 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 Provisional Order and any scheme under the Municipal 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.

### FOURTH SCHEDULE

#### ENACTMENTS REPEALED

**PART I.**

<table>
<thead>
<tr>
<th>Session and Chapter</th>
<th>Short Title</th>
<th>Extent of Repeal</th>
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<tbody>
<tr>
<td>53 &amp; 54 Vict. c. 60.</td>
<td>The Local Taxation (Customs and Excise) Act, 1890.</td>
<td>In section one, subsections two and three.</td>
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**PART II.**

<table>
<thead>
<tr>
<th>Session and Chapter</th>
<th>Short Title</th>
<th>Extent of Repeal</th>
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</thead>
</table>
| 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
<table>
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<tbody>
<tr>
<td>35 &amp; 34 Vict. c. 75.—cont.</td>
<td>The Elementary Education Act, 1870.</td>
<td>&quot;to any requisition or not&quot;; sections twenty-nine to thirty-four; in section thirty-five, the words &quot;a clerk and a treasurer&quot; and other&quot; and the words from &quot;but no such appointment&quot; to &quot;member of the board&quot;; sections forty to forty-eight; sections forty-nine to fifty-one; in section fifty-two, the words &quot;under the provisions&quot; of this Act with respect to the appointment of a body of &quot;managers&quot;; sections fifty-three to fifty-six; sections sixty to sixty-six; in section sixty-nine, the words &quot;in the &quot;metropolis&quot; and the words from &quot;appointed under this Act&quot; to &quot;returns under this Act&quot;; in section seventy-three, the words &quot;of the school district,&quot; the words from &quot;(if any)&quot; &quot;or if&quot; &quot;inquiry relates&quot; and the words &quot;or if there is &quot;no school board as a debt due from the rating authority&quot;; 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.</td>
</tr>
<tr>
<td>36 &amp; 37 Vict. c. 86.</td>
<td>The Elementary Education Act, 1873.</td>
<td>Sections five to twelve; sections seventeen and eighteen; sections twenty-one and twenty-six; the First Schedule; the Second Schedule; the Third Schedule.</td>
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<tr>
<td>37 &amp; 38 Vict. c. 90.</td>
<td>The Elementary Education (Orders) Act, 1874.</td>
<td>The whole Act.</td>
</tr>
<tr>
<td>39 &amp; 40 Vict. c. 79.</td>
<td>The Elementary Education Act, 1876.</td>
<td>Section seven. from &quot;(and (2) &quot;in every&quot; to &quot;appointing the committee,&quot; and the words &quot;and school attendance committee&quot;; in section fifteen the words &quot;not exceeding fifty&quot;; section twenty-one; section twenty-three to &quot;or pay any fees&quot;; section twenty-seven; in section twenty-eight, the words &quot;but subject in the case of a school attendance com- mittee to the approval herein-&quot; after mentioned&quot; and the words &quot;or the officers of the</td>
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<td>39 &amp; 40 Vict. c. 79.—cont.</td>
<td>The Elementary Education Act, 1876.</td>
<td>“council or guardians by whom “the committee are appointed”; sections thirty, thirty-one, thirty-two, thirty-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.</td>
</tr>
<tr>
<td>43 &amp; 44 Vict. c. 23.</td>
<td>The Elementary Education Act, 1880.</td>
<td>Section three.</td>
</tr>
<tr>
<td>53 &amp; 54 Vict. c. 22.</td>
<td>The Education Code (1890) Act, 1890.</td>
<td>Section one.</td>
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<tr>
<td>54 &amp; 55 Vict. c. 56.</td>
<td>The Elementary Education Act. 1891.</td>
<td>Sections five, six and seven.</td>
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<tr>
<td>56 &amp; 57 Vict. c. 42.</td>
<td>The Elementary Education (Blind and Deaf Children) Act. 1893.</td>
<td>Section four from “(b) for an area” to the end of the section. Subsections (3) and (4) of section five.</td>
</tr>
<tr>
<td>60 &amp; 61 Vict. c. 5.</td>
<td>The Voluntary Schools Act, 1897.</td>
<td>In section seven, the words “a school board for a school district which is a parish or” and subsection (3).</td>
</tr>
<tr>
<td>60 &amp; 61 Vict. c. 16.</td>
<td>The Elementary Education Act, 1897.</td>
<td>Section one.</td>
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<tr>
<td>62 &amp; 63 Vict. c. 32.</td>
<td>The Elementary Education (Defective and Epileptic Children) Act, 1899.</td>
<td>The whole Act.</td>
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<tr>
<td>63 &amp; 64 Vict. c. 53.</td>
<td>The Elementary Education Act, 1900.</td>
<td>In section six, the proviso.</td>
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