CHAPTER 62.

An Act to amend and extend the provisions of the Law of Scotland on the subject of Education. [6th August 1872.]

Act of 1696.

WHEREAS an Act was passed by the Parliament of Scotland, in the First Parliament of King William, in the year one thousand six hundred and ninety-six, intituled "Act for settling of Schools:"

43 G. 3. c. 54.

And whereas another Act was passed in the session of the forty-third year of the reign of His Majesty King George the Third, chapter fifty-four, intituled "An Act for making "better provision for the Parochial Schoolmasters, and for making further regulations for "the better government of the Parish Schools, in Scotland;" and another Act was passed in the session of the first and second years of the reign of Her present Majesty, chapter

1 & 2 Vict. c. 87.

eighty-seven, intituled "An Act to facilitate the foundation and endowment of additional "Schools in Scotland;" and another Act was passed in the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred and

24 & 25 Vict. c. 107.

seven, intituled "The Parochial and Burgh Schoolmasters (Scotland) Act, 1861:"

And whereas it is desirable to amend and extend the provisions of the law of Scotland on the subject of education, in such manner that the means of procuring efficient education for their children may be furnished and made available to the whole people of Scotland:

And whereas it has been the custom in the public schools of Scotland to give instruction in religion to children whose parents did not object to the instruction so given, but with liberty to parents, without forfeiting any of the other advantages of the schools, to elect that their children should not receive such instruction, and it is expedient that the managers of public schools shall be at liberty to continue the said custom:

Be it therefore enacted by the Queen'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:

Interpretation of Act:

1. In this Act the following words and terms shall have the meanings hereby assigned to them, viz.:

"Parish:"

"Parish" shall mean any parish which does not wholly consist of a burgh or part of a burgh within the meaning of this Act, and shall include any school district formed under this Act:

"Burgh:"

"Burgh" shall mean any royal burgh, and any burgh or town returning or contributing as a burgh to return a member to Parliament, and shall include every town, whether a burgh or not, specified in the schedule of towns appended to this Act:

"Scotch Education Department:"

"Scotch Education Department" shall mean the Lords of any Committee of the Privy Council appointed by Her Majesty on Education in Scotland:

"The Board of Education:"

"The Board of Education" shall mean the Board of Education for Scotland established by this Act:

"Her Majesty's inspectors:"

"Her Majesty's inspectors" shall mean the inspectors of schools appointed by Her Majesty on the recommendation of the Scotch Education Department; and "subject to inspection" shall mean subject to be inspected by the said inspectors, or any of them:

"Parliamentary grant:"

"Parliamentary grant" shall mean a grant made in aid of a school out of moneys provided by Parliament for the civil service, intituled "for public education in "Great Britain:"

"Parent:"

"Parent" shall include guardian and any person who is liable to maintain or has the actual custody of any child:

"Parish school:"

"Parish school" shall include any school established under the recited Acts, or any of them, and any school established under this Act by the school board of a parish, or which is by this Act vested in and placed under the management of the school board of a parish:

"Burgh school" shall include any school to which that term is now legally applicable, although it may be called an academy, or a high school, or a grammar school, or any other name, and any school established in a burgh by the school board thereof, or which is by this Act vested in and placed under the management of the school board of a burgh: "Burgh school:"

"Public school" shall mean any parish or burgh school or any school under the management of a school board established under this Act: "Public school:"

"Teacher" shall include schoolmaster, schoolmistress, assistant teacher, pupil teacher, sewing mistress, and every person who forms part of the educational staff of a school. "Teacher."

2. The salaries of the officers and servants of the Scotch Education Department shall be fixed with the consent of the Lords of Her Majesty's Treasury, and shall, together with the whole expenses of the said Department, be defrayed out of moneys voted by Parliament. Expenses of Scotch Education Department.

3. With a view to greater efficiency and convenience in the institution and organization of schools and school boards under the provisions of this Act, a Board of Education for Scotland shall be and is hereby established, to endure for the term of three years from and after the passing of this Act, with power to Her Majesty, by Order in Council made before the expiration of that term, to extend the same for a further period of not more than two years; and with respect to the constitution of the said board the following provisions shall have effect: Board of Education for Scotland.

(1.) The board shall consist of five members to be appointed by Her Majesty, to hold office during Her Majesty's pleasure. Any vacancy occurring during the subsistence of the board shall be supplied by a new appointment. One of the members shall be nominated by Her Majesty to be chairman of the board, and with power to him to appoint any other member to be deputy chairman, and in the absence of the chairman and deputy chairman at any meeting of the board the members present may nominate one of their number to act as chairman of the meeting. Two members shall be a quorum:

(2.) The office and general place of business of the board shall be in Edinburgh:

(3.) Her Majesty shall appoint a fit person to be secretary of the board to hold office during Her Majesty's pleasure, and the board shall appoint such necessary clerks and officers as shall be sanctioned by the Lords of Her Majesty's Treasury to hold office during the pleasure of the board:

(4.) The board may from time to time appoint any one or more of their number to perform special duties connected with the execution of this Act, and to visit such places as may be necessary for that purpose, and in the performance of their duties the member or members so appointed shall be responsible to the board and subject to their control:

(5.) The ordinary meetings of the board shall be held in Edinburgh, and it shall be the duty of the chairman or some other member of the board, as may from time to time be arranged, and of the secretary, to give regular attendance in the office of the board at ordinary business hours during at least nine months in the year, unless when absent on the business of the board or prevented by reasonable cause:

(6.) The board and the members thereof shall be responsible to the Scotch Education Department, and on the expiration of the original or extended term of their endurance their powers and duties shall devolve and are hereby devolved upon the said department, and thereafter the various clauses and provisions of this Act in which the term "Board of Education" occurs shall be construed and have effect as if the term "Scotch Education Department" were substituted therefor.

4. The first meeting of the Board of Education shall be held in Edinburgh on the third Friday of October one thousand eight hundred and seventy-two, or on such other day thereafter as shall be appointed by the Scotch Education Department, and at such place Meeting of the Board.

in Edinburgh as the said department shall appoint. Subsequent meetings shall be held at such times and places as the Board shall direct. Ordinary meetings shall be held in the office of the Board, (except during the months of August and September,) at intervals which shall not without reasonable cause exceed one month, and special meetings may be held at any time according to the pleasure of the Board. Any meeting may be adjourned.

Board to frame draft minute as to distribution of parliamentary grant.

5. The Board of Education shall submit for the consideration of the Scotch Education Department the conditions according to which, in their opinion, parliamentary grants may be most advantageously distributed in Scotland: Provided always, that the duty of determining from time to time the rates and conditions according to which the said grants may be given under the provisions of this Act, and of framing and from time to time revising the minutes containing the same, shall be upon the Scotch Education Department.

Board to make record of their proceedings, and to submit an annual report.

6. The Board of Education shall make a record of their proceedings, in which shall be entered minutes of all meetings held by them, or any committee appointed by them, and all resolutions passed and orders made by them, and all other matters which the Board may judge proper; and the Board shall, once in every year, submit a report of their proceedings under this Act, during the preceding year, to the Scotch Education Department, in order to its being laid before both Houses of Parliament.

Expenses of Board.

7. The chairman and two ordinary members and the secretary of the Board of Education shall have such salaries as may be assigned to them by the Lords of Her Majesty's Treasury, and the same, together with the whole expenses of the Board and of their establishment and reasonable travelling expenses, shall be defrayed out of money to be voted by Parliament.

Election of school boards.

8. Within twelve months after the passing of this Act a school board shall be elected in and for each and every parish and burgh, in accordance with the provisions of this Act.

Area of a parish and area of a burgh.

9. The area of a parish shall for the purposes of this Act be exclusive of the area of any burgh or part of a burgh situated therein for which a school board is required to be elected, and the area of every such burgh shall for the purposes of this Act be taken to be the limits within which the municipal, or where there are no municipal, then within which the police assessments thereof are levied; and any question or dispute regarding the area of any parish or burgh for the purposes of this Act shall be settled by the Board of Education, or by the sheriff of the county in which the same or the greater part thereof is situated, on an application by the school board authorised by the Board of Education, and the determination of the Board of Education or of the sheriff, as the case may be, shall be final.

United parishes.

10. When two or more parishes or parts of parishes are now united, whether quoad omnia or quoad sacra, such united parishes or parts of parishes shall for the purposes of this Act be esteemed one parish.

Burghs may be united with parishes in certain cases.

11. It shall be lawful for the Board of Education, within six months after the passing of this Act, to order that any burgh with a population not exceeding three thousand shall be dealt with under this Act, and for the purposes thereof, as part of the parish in which the same or the greater part thereof is situated; and every such order shall be final, and shall not be questioned on the ground of any error in estimating the population of the burgh, or on any other ground.

First election of school boards.

12. The first election of school boards shall take place and be conducted in accordance with the following provisions:

(1.) The number of members of a school board shall be such number, not less than five and not more than fifteen, as may be determined by the Board of Education with respect to each parish and burgh:

(2.) The electors shall consist of all persons being of lawful age, and not subject to any legal incapacity whose names are entered on the latest valuation roll applicable to the parish or burgh for which the board is to be elected, made up and completed not less than one month prior to the election, as owners or occupiers of lands or heritages of the annual value of not less than four pounds, situated within such parish or burgh, and the valuation roll, or a certified copy thereof, shall be conclusive evidence that the persons therein named had and continue to have the qualifications annexed to their names respectively in the said roll:

(3.) In each parish the heritors and minister who under the law as existing at the passing of this Act have the management of the parish school and the appointment of the parish schoolmaster shall, as soon as conveniently may be after the publication of the rules and directions for the conduct of first elections of school boards to be issued as herein-after directed by the Board of Education, meet and fix a time and place for the election of a school board, and appoint a fit and proper person to be returning officer at the election, and shall make due publication of the time and place so fixed and of the person so appointed, and transmit written intimation thereof to the Board of Education; and should such heritors and minister in any parish fail for three months after the publication of the rules as aforesaid to perform the duty hereby assigned to them and to make intimation as aforesaid to the Board of Education, the said Board shall require the sheriff of the county to perform the said duty, and he shall perform the same accordingly:

(4.) In each burgh having a town council, the town council, and in each burgh not having a town council, the bodies specified with respect to such burghs respectively in the schedule of towns hereto annexed, shall, as soon as conveniently may be after the publication of the rules and directions for the conduct of first elections of school boards, to be issued as herein-after directed by the Board of Education, meet and fix a time and place for the election of a school board, and appoint a fit and proper person to be returning officer at the election, and shall make due publication of the time and place so fixed, and of the person so appointed, and transmit written intimation thereof to the Board of Education; and should such town council, or such bodies specified in the said schedule of towns, fail for three months after the publication of the rules as aforesaid to perform the duty hereby assigned to them and to make intimation as aforesaid to the Board of Education, the said Board shall require the sheriff of the county to perform the said duty, and he shall perform the same accordingly:

(5.) Within six months after the passing of this Act the Board of Education shall frame and issue such rules and directions as may be necessary for the conduct of the first election of school boards, and such rules and directions shall be published in the Edinburgh Gazette, and shall have the same validity and effect as if the same had been hereby enacted, and all first elections of school boards shall be conducted in accordance therewith.

At every election every voter shall be entitled to a number of votes equal to the number of the members of the school board to be elected, and may give all such votes to one candidate, or may distribute them among the candidates, as he sees fit.

No teacher of a public or State-aided school in any parish or burgh shall be eligible as a member of a school board under this Act.

Time for elections subsequent to the first to be appointed by the department.

13. Each school board elected under the provisions of this Act shall remain in office until a new election shall take place as herein-after provided, and the time for every election subsequent to the first shall be appointed by the Scotch Education Department, having regard to the circumstances and convenience of the locality in which the election is to take place, and so that so far as practicable and convenient there shall be an election in each parish and burgh for which a separate school board is appointed to be elected once, and not oftener, in every period of three years, and that each school board shall remain in office for three years, and no longer; and it shall be lawful for the said department to appoint the time or times for the elections subsequent to the first in each

parish and burgh by general order, which shall subsist until a new order shall be made; and the school board in office shall, a convenient time before the time so appointed for the next election, take such steps as they shall deem necessary, or as shall be directed by the said department, for the election of a new school board accordingly; and should any election not take place as required by this Act, and at the times herein-before specified, the Scotch Education Department may issue an order for an election at such time and place as the said department shall determine, or may allow the existing school board to continue in office, or may nominate a school board for the parish or burgh in which the failure has occurred, in the manner herein-after provided with respect to any parish or burgh which on the expiration of twelve months from the passing of this Act shall be without a school board, and any board so nominated shall continue in office for the same period as a board elected under this Act at the time when the failure occurred, and shall have all the powers and be required to perform all the duties of a board so elected; and should a vacancy occur in any board during the currency of its period of office, such vacancy shall be supplied by the board itself nominating a person to supply such vacancy, and every person so nominated shall go out of office at the same date as the school board.

Determination of questions regarding the election of school boards.

14. The candidates having the majority of votes at any election, whether the first or any subsequent election, shall be elected, and in every case of equality the returning officer shall determine which candidate is to be deemed duly elected. Any question or dispute regarding the election of a candidate shall be summarily determined by the sheriff of the county on the petition of any person interested having a legal title and interest to raise such question, and the determination shall be final; and unless and until the sheriff shall otherwise determine, the school board shall be deemed to consist of the members who have been declared by the returning officer to be elected, and the acts and proceedings of such board shall be deemed to be valid accordingly, and no subsequent declaration or finding that any member was not duly elected shall affect the validity of the acts and proceedings of the boards in which such member may have taken part.

Invalid elections.

15. In case the election of any person or persons shall be declared to be invalid, and the full number of members shall not, without such person or persons, have been validly elected, the school board, if a quorum exist, shall nominate and appoint a person or persons to be a member or members of the school board in room and place of such person or persons whose election has been declared to be invalid, and if a quorum do not exist, or if the school board fail for three weeks to make such nomination and appointment as aforesaid, the Board of Education may order a new election of as many members of the school board as shall be necessary to make up the full number of members; and all persons who shall be so nominated and appointed by the school board shall be deemed and taken to be duly elected members of the school board.

Notice of election to be sent by returning officer.

16. Notice of the election of a person to be a member of a school board shall be sent to that person by the returning officer, together with a notice to attend the first meeting of the school board, at the prescribed time and place; and the time and place of the first meeting shall be announced at the time of declaring the election, and the time shall be not later than fourteen days after the date of the election.

As to small parishes and school districts.

17. If the Board of Education are of opinion that any parish is too small, or contains too few inhabitants to be entitled to act as a separate parish for the purposes of this Act, they may by order direct that it shall for the purposes of this Act be added to an adjacent parish, and thereupon it shall for these purposes be deemed to be part of the parish to which it is so added. It shall be lawful for any two or more school boards of adjoining parishes, with the consent and approbation of the sheriff of the county in which such parishes or any of them are situated to separate and detach from the parishes of which they are the school boards, such portion or portions of such parishes respectively as they shall deem it expedient to unite together and form into a school district, and to form the same into a school district accordingly.

18. It shall be lawful for the Board of Education at any time, but not before the lapse of three years after the passing of this Act, and from time to time thereafter, to order that a school board shall be elected for any burgh or town for which a school board has not previously been elected, and to frame and issue all proper rules and directions for carrying such order into execution, and from and after the period specified in the order such burgh or town shall, according to the limits thereof as specified in said order, cease for the purposes of this Act to be included in the area of the parish in which it is situated, and shall be esteemed to be a burgh within the meaning and for the purposes of this Act, and a school board shall be elected therefor accordingly in pursuance of the order.

Election of a school board in a burgh for which a school board has not previously been elected.

19. It shall be lawful for the Board of Education at any time, but not before the lapse of three years after the passing of this Act, and from time to time thereafter, to order that any burgh or town for which a school board has been elected shall, from and after a time to be specified in such order, cease to have a separate school board, and shall for the purposes of this Act be included in the area of the parish in which it is situated, and be subject to the school board of such parish. Any order made by the Board of Education in pursuance of the powers conferred by this and the two preceding sections shall, when no urgent reason to the contrary exists, be so framed as to come into operation at the next ensuing general election of a school board for the locality in which it is to have effect.

Parish school board may include burgh school board.

Time for making such alterations.

20. If on the expiration of twelve months from the passing of this Act any parish or burgh shall be without a school board elected in pursuance of this Act, the Board of Education shall nominate a school board for such parish or burgh, and the school board so nominated shall, during the period of one year from the date of nomination, and thereafter until a school board shall be elected in pursuance of this Act, have all the powers, and be required to perform all the duties by this Act imposed on and required of a school board duly elected; and the first meeting of a school board so nominated shall be held at such time and place as may be directed by the said Board of Education.

Nomination of school boards after the expiration of twelve months.

21. Every school board shall at the first meeting after their election appoint one of their number to be chairman during the school board's tenure of office; and should the chairman be absent from any meeting of the school board, the members present shall appoint one of themselves to be chairman of the meeting; and should a vacancy occur in the office of chairman during the currency of the school board's tenure of office, it shall be supplied by a new appointment; and at every meeting the chairman shall have a deliberative, and also, in cases of equality, a casting vote; and three members of the school board shall be a quorum.

School boards shall appoint chairman.

22. The school board of every parish or burgh shall be a body corporate by the name of the school board of such parish or burgh, and shall have perpetual succession, and power to acquire and hold land for the purposes of this Act; and it shall be lawful for any school board, from time to time as they see fit, to commit the management of any school under their charge, and to delegate any of their powers under this Act, except the power of raising money, to managers appointed by them; such managers shall not be less than three in number, shall observe such rules, conditions, and restrictions as the school board shall from time to time prescribe, and shall all, or any of them, be removable at the pleasure of the school board, and may all, or any of them, resign on giving written notice to the school board.

School board declared to be a body corporate.

Managers.

23. The parish and other schools which have been established and now exist in any parish under the recited Acts, or any of them, together with teachers houses and land attached thereto, shall be vested in and be under the management of the school board of such parish, or if situated in a burgh, then of the school board of such burgh, unless such parish school is the parish school of the landward district of a parish partly landward and partly burgal, in which case it shall be under the management of the school board of such district from and after the election of such school board, and the said school board shall thereafter with respect to school management and the election of teachers, and generally with respect to all powers, obligations, and duties in regard to such schools

Parish schools.

now vested in or incumbent on the heritors qualified according to the existing law and the minister of the parish, supersede and come in the place of such heritors and minister; and all jurisdiction, power, and authority possessed or exercised by presbyteries or other church courts with respect to any public schools in Scotland are hereby abolished; Provided that nothing in this section contained shall defeat or prejudice any right or title to the land whereon any such school or teachers houses shall be built, other than that of the heritors or others being managers of such school, or shall defeat or prejudice any charge, burden, or liability to which such land or houses may be subject.

Burgh schools.

24. Every burgh school shall be vested in and be under the management of the school board of the burgh in which the same is situated from and after the election of such school board, and the said school board shall thereafter with respect to school management and the election of teachers, and generally with respect to all powers and duties in regard to such schools now vested in the town council and magistrates, or other authorities in whom the school management and the election of the schoolmasters and teachers is at present vested, supersede and come in the place of such town council and magistrates or other authorities.

Public schools.

25. Every school under the management of the school board of a parish shall be deemed a parish school, and every school under the management of the school board of a burgh shall be deemed a burgh school, and all such schools are hereby declared to be public schools within the meaning of this Act; but nothing in this Act contained shall prejudice or affect the right of the teacher of any existing parish school, which, under the operation of this Act, may be deemed to be a burgh school, or his successors in office, to participate in the benefits of any bequest for behoof of the teachers of parochial schools, or the powers, rights, and privileges of the trustees or administrators of any such bequests.

Supply of public school accommodation.

26. There shall be provided for every parish and burgh a sufficient amount of accommodation in public schools available for all persons resident in such parish and burgh for whose education efficient and suitable provision is not otherwise made, and when a sufficient amount of such accommodation is not afforded in any parish or burgh, it shall be the duty of such school board to supply the deficiency in the manner provided by this Act: and all public schools, whether existing at the passing of this Act, or subsequently supplied in manner provided by this Act, shall be vested in and shall be under the management of the school board of the parish or burgh in which they do or shall hereafter come to exist.

School boards to ascertain amount of school accommodation.

27. It shall be the duty of every school board first elected under this Act for any parish or burgh, as soon as conveniently may be after the election thereof, and of every subsequently elected school board from time to time as shall be reasonable, to ascertain and take into their consideration the educational requirements of such parish or burgh, and the extent and quality of the provisions for supplying the same by means of schools existing and in operation within, or so situated as to be conveniently available for such parish or burgh; and should the school board be of opinion that the requirements exceed the provisions for supplying the same, it shall be the duty of the school board to determine the extent to which, and the manner in which additional school accommodation ought to be and may most conveniently and advantageously be provided, so that there shall at all times be sufficient and available provision for the efficient education of all the children resident in such parish or burgh; and the school board shall forthwith report such opinion and determination to the Board of Education, and the report shall set forth all facts and circumstances which may be necessary to enable the said Board of Education to judge of such opinion and determination; and should any school board first elected under this Act be of opinion that the requirements are not in excess of the provisions, and that it is unnecessary to provide additional school accommodation the school board shall report such opinion to the Board of Education, together with all facts and circumstances necessary to enable the said Board of Education to judge thereof; and a report in terms of the requirements of this clause shall be

transmitted to the Board of Education by each school board first elected under this Act as soon as conveniently may be, and in no case later than nine months after the election of the school board.

Accommodation to be provided.

28. The Board of Education may approve of the opinion and determination of a school board with or without qualification or addition, or may direct a further report, or may direct an inquiry by officers or persons appointed by the said Board of Education; and should the said Board of Education approve, with or without qualification or addition, of the opinion and determination of the school board with respect to providing additional school accommodation, the same shall, without unnecessary delay, be acted upon and carried into effect by the school board accordingly; and should the said Board of Education see fit to direct that additional school accommodation be provided, although not determined upon by the school board, they shall have power to do so, and their direction shall be acted on and carried into effect by the school board without unnecessary delay.

Inquiry may be ordered.

29. Should any school board first elected under this Act for any parish or burgh fail to transmit a report to the Board of Education within the period herein-before specified, and should such failure continue for one month after a requisition from the said Board of Education, or should the report of any school board be, in the opinion of the Board of Education, unsatisfactory, it shall be lawful for the said Board of Education to cause inquiry to be made by officers or persons appointed by the said Board of Education into the matters which, in the opinion of the said Board of Education, such report ought to have embraced, and thereupon to make and issue such orders and directions as they shall see fit with respect to providing additional school accommodation within the parish or burgh of the defaulting school board in the same manner and with the same force and effect as if a report had been made in terms of this Act, and the expense of such inquiry, as the amount shall be certified by the said Board of Education, shall be a charge upon and shall be defrayed by the defaulting school board, and in default of payment shall be recoverable as a debt due by such board.

Existing schools to be taken into account.

30. In considering and determining whether any and what amount of public school accommodation or additional public school accommodation is required for any parish or burgh, the school board and the Board of Education shall have regard to and take into account every school, whether public or not, and whether or not situated in the said parish or burgh, which, in their opinion, gives or will when completed give efficient education to and is or will when completed be suitable and available for the education of the children of such parish or burgh, or any portion of them; and every school board and the said Board of Education shall have power to call upon all public officers and upon all clergymen, teachers, and managers of schools for such information and for access to and delivery of all such documents as shall to the said school board and Board of Education respectively appear to be necessary to enable them to discharge their duties under this Act, and every such school board and the said Board of Education may from time to time appoint fit and proper persons to procure such information and inspect such documents, and also to enter, inspect, and examine all schools and school buildings, and scholars therein; provided that no school which is subject to inspection by one of Her Majesty's inspectors of schools shall be required to have its scholars examined by any other person.

Returns may be required from school boards.

31. It shall be lawful for the Board of Education from time to time to require from any school board a return containing such particulars with respect to the schools and the number of children requiring education in any parish or burgh as the said Board of Education may from time to time specify, and every such requisition shall be obeyed by the school board to which it is addressed, and for that purpose the school board shall have power to call upon all such persons as are in the preceding clause mentioned for such information as may be necessary to enable them to make the required return.

Mode of obtaining returns.

32. The Board of Education shall supply to the school boards such forms as may be required for the purpose of obtaining returns; and the managers or principal teacher of

every school required to be included in any return shall fill up the form, and transmit the same to the school board within the time specified in the form.

Proceedings on failure of school board to make returns.

33. If a school board fail to make any return required under this Act, the Board of Education may appoint a person or persons to make such return, and the person or persons so appointed shall for that purpose have the same power and authority as the school board, and the expense of making such return shall be recoverable as a debt due by the defaulting school board to the person or persons making the same.

Inquiry by inspectors.

34. The Board of Education may appoint any persons to act as inspectors of returns, and such persons shall inquire into the accuracy and completeness of any return made in pursuance of this Act, and into the efficiency and suitability of any school included therein, or which ought to have been mentioned therein, and inspect and examine the scholars mentioned therein. When there is no return, the inspector shall proceed as if there had been a defective return.

Refusal to fill up form and to admit inspectors.

35. If the managers or teachers of any school refuse or neglect to fill up the form required for the said return, or refuse to allow the inspector to inspect the school house or examine any scholar, or examine the school books and registers, or to make copies or extracts therefrom, such school shall not be taken into consideration among the schools giving efficient education.

Maintenance of schools by school boards, &c.

36. The school board of every parish and burgh shall maintain and keep efficient every school under their management, and shall from time to time provide such additional school accommodation as they shall judge necessary.

A school board may with the sanction of the Board of Education discontinue or change the site of any school under their management, and may sell and dispose of any land and buildings connected with any school so discontinued or the site of which is so changed.

If at any time the said Board are satisfied that a school board of a parish or burgh have failed to maintain and keep efficient any school provided by them, or to provide such additional school accommodation as in the opinion of the Board is necessary to supply a sufficient amount of public school accommodation in the parish or burgh, the said Board may send them a requisition requiring them to fulfil the duty which they have so failed to perform; and the school board shall comply with the said requisition without undue delay, and if they fail may be summarily compelled to do so by the Court of Session on a petition and complaint at the instance of the Lord Advocate.

Proceedings for providing schools.

37. In performing their duties under this Act, it shall be lawful for any school board to acquire by purchase or otherwise sites for schools, teachers houses and gardens, and to enter into contracts for the erection of schools and teachers houses thereon, and to have such schools and teachers houses erected, and also to acquire by purchase or to take on lease any existing schools and teachers houses, together with any land used or suitable to be used in connexion therewith, not being schools, houses, and land of the description to which the provisions of this Act in the two immediately succeeding sections, regarding the transference of existing schools, are applicable, and from time to time to improve, enlarge, and furnish any school of which they have the management, and all charges and expenses consequently incurred by them shall be paid out of the school fund. And for the purpose of the purchase by a school board of any land or building in pursuance of the provisions of this Act, the clauses of the Lands Clauses Consolidation (Scotland) Act, 1845, with respect to the purchase of lands by agreement, shall be incorporated herewith, and the expression "the promoters of the undertaking" in the said Lands Clauses Consolidation Act shall, for the purposes of this enactment, mean the school board of any parish or burgh.

Transference of existing schools, &c.

38. With respect to schools now existing or which may hereafter exist in any parish or burgh erected or acquired and maintained or partly maintained with funds derived from contributions or donations (whether by the members of a particular church or religious body, or not) for the purpose, or authorised by the contributors or donors to be applied for the purpose of promoting education; be it enacted, that it shall be lawful for the person or persons vested with the title to any such school, with the consent of the

person or persons having the administration of the trusts upon which the same is held, to transfer such school, together with the site thereof and any land or teacher's house held and used in connexion therewith, to the school board of the parish or burgh in which it is situated, to the end and effect that such school shall thereafter be under the management of such board as a public school in the same manner as any public school under this Act, and it shall be lawful for the school board, with the sanction of the Board of Education, to accept of such transference, and on the same being made and accepted the said school, with the site and any land and teacher's house included in the transference, shall be vested in the school board, and the school shall thereafter be deemed to be a public school under this Act, and shall be maintained and managed by the school board, and be subject to all the provisions of this Act accordingly; and the existing teachers, if any, of such school may be continued as such teachers by the school board, and their continuance in office may be made a condition of the transference of the school to the school board; and when so continued such teachers shall be in all respects in the same position, and have the same rights and be subject to the same provisions as teachers appointed by a school board under this Act to a public school of the same class as the school so transferred. And the use of the school house at such times and for such purposes as shall not interfere with the use thereof under the provisions of this Act by the school board may also be made a condition of the transference thereof to the school board.

Consents to transference.

39. The consent of any number of persons having the administration of the trusts on which any school is held, to the transference of such school, with the site and house and land, if any, held and used in connexion therewith, to a school board under this Act, may be given by a majority of not less than two thirds of the persons having the administration of such trusts present at a meeting duly summoned for that purpose, and the transference may be effected by an ordinary disposition or other deed of conveyance by the persons vested with the title, recorded in the register of sasines, and no stamp or other duty shall be exigible on such disposition or other deed; and the persons whose consent is hereby required need not be parties to the conveyance, and the validity of the transference and the title of the school board shall not be subject to challenge on the ground that the requisite consents were not duly given, unless such challenge shall be judicially made within six months after the recording of the deed of conveyance.

Establishment of infant and evening schools.

40. It shall be lawful for a school board to establish and maintain one or more infant schools for the instruction of children under seven years of age, and also one or more evening schools for the instruction of scholars above thirteen years of age; and for the purposes of such evening schools a school board may use any schoolrooms vested in them under this Act, or they may hire rooms suitable and convenient for the purpose; and it shall be lawful for a school board to build, purchase, or take on lease such premises as may be necessary for the accommodation of any such infant schools as they are hereby authorised to establish and maintain; and for this purpose they shall possess and be entitled to exercise any of the powers which are by this Act conferred upon school boards; and infant and evening schools established under this Act shall be deemed public schools.

Establishment of industrial schools.

41. A school board of any parish or burgh may, with the consent of the Board of Education, establish and maintain therein certified industrial schools within the meaning of the Industrial Schools Act, 1866, and shall for that purpose have the same powers as they have for the purpose of providing sufficient public school accommodation for such parish or burgh; provided that the school board, so far as regards any such industrial school, shall be subject to the jurisdiction of one of Her Majesty's Principal Secretaries of State in the same manner as the managers of any other industrial school are subject, and such school shall be subject to the provisions of the said Act, and not of this Act.

Combination of school boards.

42. Any two or more school boards, whether of parishes or burghs, with the consent of the Board of Education, may combine and agree together for any purpose relating to public schools in such parishes and burghs, and in particular may combine and agree together for the purpose of providing, maintaining, and keeping efficient, schools common to such parishes and burghs, and for the employment of a teacher or teachers of special subjects in all or any of the public schools under their charge.

School fund.

43. The expenses of the school board, including those incident to the election thereof (but not including the expenses of any member or candidate), in any parish or burgh under this Act shall be paid out of the school fund. There shall be carried to the school fund all moneys received out of moneys provided by Parliament, or raised by way of loan, or otherwise received by the school board for the purposes of that fund, and not by this Act or otherwise specially appropriated, and any deficiency shall be raised by the school board as provided by this Act.

Power to impose rates.

44. Any sum required to meet a deficiency in the school fund, whether for satisfying present or future liabilities, shall be provided by means of a local rate within the parish or burgh in the school fund of which the deficiency exists.

The school board of each parish and burgh shall annually and not later than the twelfth day of June in each year certify to the parochial board or other authority charged with the duty of levying the assessment for relief of the poor in such parish or burgh the amount of the deficiency in the school fund required to be provided by means of a local rate, and the said parochial board or other authority is hereby authorised and required to add the same under the name of "school rate" to the next assessment for relief of the poor, and to lay on and assess the same, one half upon the owners and the other half on the occupiers of all lands and heritages, and to levy and collect the same along with the assessment for relief of the poor when that assessment is so imposed and levied, and to pay over the amount to the school board; and where any burgh, parish, or school district with a school board under this Act shall include two or more parishes or parts of two or more parishes having separate parochial boards under the Act of the eighth and ninth years of the reign of Her present Majesty, chapter eighty-three, the school board shall certify to the parochial boards of such parishes respectively the amount of the rate on each pound of rental which they shall lay on and collect as "school rate," along with their several assessments for the relief of the poor, within such burgh, parish, or school district for which the school board acts; and any surplus of school rate which may arise in any one year shall be applied for the purposes of the succeeding year, and in like manner any deficiency which may occur in any year may be included in the assessment for the succeeding year; and should there be no assessment for the poor, or should that assessment not be laid one half on the owners and the other half on the occupiers of all lands and heritages within such parish or burgh, the school board shall be entitled and bound directly to assess for and levy the said school rate in the same manner as if it were poor's assessment duly authorised to be assessed and levied in the same manner, and for that purpose shall have all the powers and authorities of any parochial board or other authority with respect to assessing, levying, and collecting poor's assessment, and the school rate shall in all cases be levied and collected in the same manner as poor's assessment, and the laws applicable for the time to the imposition, collection, and recovery of poor's assessment shall be applicable to the school rate.

Borrowing by school board.

45. Where a school board shall require to incur expense in providing or enlarging a schoolhouse, they, with the consent of the Board of Education, may spread the payment over several years, not exceeding fifty, and may for that purpose borrow money on the security of the school fund and the school rate, and may charge that fund and the school rate with the payment of the principal and interest due in respect of the loan. They may, if they so agree with the lender, pay the amount borrowed, with the interest, by equal annual instalments, not exceeding fifty, and if they do not so agree, they shall annually set aside one fiftieth of the sum borrowed as a sinking fund.

10 & 11 Vict. c. 16.

For the purpose of such borrowing the clauses of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act; and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the school board which is borrowing shall be deemed to be the commissioners.

The Public Works Loan Commissioners may lend any money required under this section on the security of the school fund and school rate without requiring any further or other security, such loan to be repaid within a period not exceeding fifty years, and to bear interest at the rate of three and a half per centum per annum.

Funds for behoof of public schools to be transferred to school boards.

46. When, in any parish or burgh, property or money has been or shall be vested in the heritors or kirk session, or in any person or persons as trustees for behoof of such parish school, or in the town council or in the magistrates of any burgh, or in any person or persons as trustees for behoof of the burgh school or for the promotion of any branch of education in such schools respectively, or to increase the income of any teacher thereof, the income or revenue of such property or money shall, as it accrues, be accounted for and paid to the school board of such parish or burgh, and shall be applied and administered by the said board, according to the trusts attaching thereto; and the town council of every burgh shall at the term of Martinmas yearly pay to the school board thereof such sum as it has been the custom of such burgh prior to the passing of this Act to contribute to the burgh school out of the common good of the burgh, or from other funds under their charge, and the same shall be applied and administered by the said school board for the purpose of promoting higher instruction; and it shall be lawful for the school board from time to time, with the sanction of the Board of Education, to vary or depart from the said trusts, with a view to increase the efficiency of the parish or burgh school by raising the standard of education therein or otherwise; provided always, that nothing herein contained shall prejudice or interfere with the rights of any teacher or retired teacher of a parish or burgh school under any contract subsisting at the passing of the Act.

School boards may receive and administer bequests.

47. Every school board shall be at liberty to receive any property or funds which may from time to time be conveyed, bequeathed, or gifted to such board for behoof of any school or schools under the management thereof, whether generally or for the promotion of any particular branch or branches of education or instruction, or for increasing the income of any teacher, and it shall be the duty of the board to administer such property, funds, or money according to the wishes and intentions of the donors, and in such manner as to raise the standard of education and otherwise increase the educational efficiency of the school or schools intended to be benefited.

Appointment of treasurer to school board.

48. Each school board shall at the first meeting thereof, or as soon thereafter as conveniently may be, appoint during the pleasure of the school board a fit and proper person or fit and proper persons to be treasurer to the school board, with such remuneration as the school board shall see fit, and it shall be the duty of the treasurer to keep and preserve in a proper book or books an accurate account of the school fund, and of all other property and funds under the administration of the school board, and of the expenditure thereof; and the account of the school fund shall be kept separate from the account of all other property and funds; and the amount of every property or fund held on a separate trust shall be kept separate. And once in each year an account showing the money receipts and payments of the board, and the state of the funds and property under their charge, shall be made up and transmitted, together with the vouchers, by the treasurer to the accountant of the Board of Education, who shall audit and report on the same, and re-transmit the same to the treasurer, to be preserved as the school board shall direct, and such account and vouchers shall be patent at all reasonable and convenient times to any member of the school board, or to any ratepayer who demands inspection on the written requisition of not fewer than five ratepapers. And the Board of Education, or any person they may authorise, shall be entitled to inspection of the said account and vouchers, and also of the books of the treasurer at any time; and the said Board of Education may order any account to be printed at the expense of the school board, and such order shall be obeyed without unnecessary delay.

Transmission of accounts by treasurers to accountant.

49. The first account of every treasurer shall be transmitted to the accountant on or before the first day of January one thousand eight hundred and seventy-four, made up to the term of Whitsunday one thousand eight hundred and seventy-three, and thereafter the account shall be transmitted as herein-before directed annually on the first day of January made up to the term of Whitsunday preceding; and any treasurer failing to do his duty in this respect as herein-before required, may be compelled to do so by order of the Court of Session on the petition and complaint of the accountant.

Accountant.

50. It shall be lawful for the Board of Education to appoint during their pleasure a duly qualified person to be accountant, to perform the duties herein required; and

he shall have an office in Edinburgh, and shall be remunerated in such manner as the Board of Education, with the consent of the Lords of Her Majesty's Treasury, shall determine.

Abstract of receipts and expenditure to be laid before Parliament.

51. The accountant shall cause to be annually prepared an abstract showing the total amount of the receipts and expenditure of each school board, and shall transmit the same together with such report as he shall see fit to the Board of Education, who shall transmit the same to the Scotch Education Department in order that the same may be laid before Parliament.

Appointment of officers.

52. A school board may appoint a clerk or clerks and other necessary officers, to hold office during the pleasure of the school board, and may assign them such salaries or remuneration as they think fit, and may from time to time remove any of such officers; but no such appointment shall be made, except at the first meeting of such school board, unless notice in writing has been sent to every member of the board.

Two or more school boards may arrange for the appointment of the same person to be the treasurer or other officer to both or all such school boards, and such treasurer and other officers shall perform such duties as may be assigned to them by the board or boards who appoint them.

School fees.

53. The school board shall, subject to the provisions herein-after contained with respect to higher class public schools, fix the school fees to be paid for attendance at each school under their management, and such fees shall be paid to the treasurer of the board, and a separate account shall be kept of the amount of the fees derived from each school, and it shall be lawful for the school board, if they see fit, to pay to the teachers of a school the fees derived from such school, and to divide the same among them as the school board shall determine.

Teachers houses.

54. Teachers houses now existing and possessed under the recited Acts, or any of them, shall be maintained during the continuance in office of the teachers now in possession thereof, and thereafter so long as the school boards shall think proper; and it shall be lawful for school boards to provide teachers houses and gardens in such places as they judge necessary or convenient; and for this purpose they shall possess and be entitled to exercise all the powers by this Act conferred with respect to school houses or buildings.

Teachers in office before the passing of Act.

55. Subject to the provisions herein-after contained regarding the removal of the teachers of public schools appointed previously to the passing of this Act, such teachers shall not, with respect to tenure of office, emoluments, or retiring allowance as by law, contract, or usage secured to or enjoyed by them at the passing of this Act, be prejudiced by any of the provisions herein contained, and such emoluments and retiring allowances shall be paid and provided by the school board having the management of such schools respectively. After the passing of this Act the right and duty to appoint teachers of public schools shall be in the respective school boards having the management of the schools, who shall assign to them such salaries or emoluments as they think fit, and every appointment shall be during the pleasure of the school board.

Teachers appointed after the passing of Act.

Qualified teachers.

56. No person shall be appointed to the office of principal teacher in a public school who is not the holder of a certificate of competency. But any person who at the time of the passing of this Act is the principal teacher of a school under the recited Acts or any of them, or of a burgh school, or the holder of a certificate from, or registered as a certificated teacher by, the Lords of the Committee of Council on Education, or who is a teacher in a burgh school and a member of the council of a Scotch university, shall be deemed to be a holder of a certificate of competency.

Examinations of teachers.

57. It shall be the duty of the Scotch Education Department immediately after the passing of this Act, and thereafter from to time, to make such regulations as they may see fit in regard to the time and manner and the subjects and the standards of the examinations to be passed by such persons as desire to obtain a certificate of competency, and to regulate the conditions on which candidates may be admitted to examination, and the notice to be given thereof; and such examinations shall be conducted by examiners

appointed by the department from time to time, and shall be held at such times and places as shall be fixed by the Department.

Certificates.

58. Every candidate for a certificate of competency shall be examined according to the regulations issued by the Scotch Education Department, and the examiners shall satisfy themselves of his skill in the theory and practice of teaching, and make such report as to the result of the examination as may be required by the said Department, who may grant a certificate accordingly; and any certificate which may be granted by the said Department shall specify the class or degree of competency, and the subjects to which it applies, and shall be conclusive evidence that the holder thereof has passed the required examination, and has been found qualified for the said office in the class or degree or the subjects therein specified.

University degrees may come in place of examination.

59. When a degree in arts or science of any university in the United Kingdom conferred after an examination in all or any of the subjects specified by the Departments as subjects for the examination of candidates for a certificate of competency is held by any such candidate, the examiners may lawfully dispense with his examination in such of the said subjects as he has already been examined in on obtaining the degree.

Removal of teachers.

60. Any teacher of a public school appointed previously to the passing of this Act may be removed from his office in manner following; that is to say,

(1.) It shall be lawful to the school board of any parish or burgh to make a complaint to the sheriff of the county, charging any such teacher with immoral conduct or cruel or improper treatment of the scholars under his charge, and specifying in such complaint the particular acts in respect of which the complaint is made; and a copy of such complaint shall be served upon the teacher, who shall be required on an induciæ of eight days to appear before the sheriff to answer to the said complaint; and the teacher shall, if he deny the charge, and if he think fit, answer the particulars of the complaint in writing, or may plead generally that he is Not Guilty; and the sheriff shall thereafter proceed to the trial of the complaint, and take the evidence, in the manner observed in the Sheriff Court in taking proofs in civil causes; and if he shall find such complaint or any material and relevant part thereof to be proved, he shall give judgment accordingly, and pronounce sentence of deprivation, which sentence shall be final, and not subject to review:

(2.) If the school board of any parish or burgh shall consider that any such teacher is incompetent, unfit, or inefficient, they may require a special report regarding the school and the teacher from Her Majesty's inspector charged with the duty of inspecting such school; and on receiving such report the school board may if they see cause remove such teacher from office; provided that before proceeding to give judgment on the matter they shall furnish to the teacher a copy of such report, and that a judgment removing the teacher shall not have effect until confirmed by the Board of Education: Provided also, that in the case of teachers of parish schools appointed previously to the passing of this Act who may be so removed, the school boards shall have the same powers of granting retiring allowances, and the teachers shall have the same rights to retiring allowances, as were vested in heritors and ministers and in parish schoolmasters respectively by sections nineteen and twenty of the Parochial and Burgh Schoolmasters (Scotland) Act, 1861, in the case of parish schoolmasters permitted or required to resign or dismissed or removed from office as therein provided.

Retiring allowance.

61. A school board may permit any teacher of a public school to resign his office upon the condition of receiving a retiring allowance, and the said board may award and pay to such teacher out of the school fund such retiring allowance as they shall think fit: Provided always, that nothing herein contained shall affect the right under the existing law to a retiring allowance of any teacher appointed under the recited Acts, or any of them.

Higher class public schools. —Burgh.

62. With respect to burgh schools existing at the passing of this Act, in which the education given does not consist chiefly of elementary instruction in reading, writing, and

arithmetic, but of instruction in Latin, Greek, modern languages, mathematics, natural science, and generally in the higher branches of knowledge, the following provisions shall have effect:

(1.) Such schools shall be deemed to be higher class public schools, and shall be managed by the school boards accordingly, with a view to promote the higher education of the country:

(2.) A school board having the management of any such school may from time to time fix the standard of qualification of all or any of the teachers to be appointed thereto, and determine the subjects of the examination to be passed by them respectively, and from time to time appoint examiners (who shall be professors of some Scotch university or teachers of distinction in a higher class public school) to conduct the same, and the foregoing enactments regarding certificates of competency shall not apply to teachers of higher class public schools whose qualifications have been fixed and ascertained under this provision; but any person who at the time of the passing of this Act, being a master in a higher class school, is a member of council of any of the universities of Scotland, shall be deemed to be the holder of a certificate of competency for the office of teacher in any of the said higher class schools:

(3.) The funds and revenues of such schools shall consist of,—1. Contributions payable from the common good of the burghs in which they respectively exist. 2. All endowments applicable to the general purposes of the respective schools. 3. Endowments for the promotion of instruction in particular subjects, or for the benefit of teachers of particular branches in the respective schools; and 4. Fees paid by scholars. And the whole funds and revenues of any such school shall be administered exclusively for the purposes thereof, and the fees of each school shall be paid to the treasurer of the board, who shall keep a separate account thereof, and the full amount of the fees shall be divided and distributed among the teachers as the board shall determine; and the Board of Education shall be entitled from time to time to require from the school board a statement of the funds and revenues of each school and of the application of the same:

(4.) A school board having the management of any such school shall, so far as practicable and expedient, subject to the approval of the Board of Education, relieve the same of the necessity of giving elementary instruction in reading, writing, and arithmetic to young children, by otherwise providing sufficient public school accommodation for such elementary instruction, so that the funds and revenues of such higher class school, and the time of the teachers, may be more exclusively applied to giving instruction in the higher branches:

(5.) The fees to be paid for attendance at any such school shall be fixed from time to time, but at intervals of not less than three years, by the principal teacher and the ordinary teachers thereof, with the approval of the school board, subject to the determination of the Board of Education in the event of difference of opinion:

(6.) Every such school shall, with reference to the higher branches of knowledge taught therein, be annually examined by examiners appointed and employed for that purpose by the school board, and in fixing the periods of examination regard shall be had to the reasonable wishes of the head master and other teachers, and the expenses incident to the said examinations may be paid out of the school fund, and the houses of such schools shall be deemed school-houses within the meaning of the clause of this Act regarding the borrowing of money on the security of the school fund and school rate.

The schools specified in Schedule C. hereto annexed shall be deemed to be higher class public schools to which the foregoing provisions apply; and it shall be lawful for the school board of any burgh by resolution at a meeting specially called for the purpose on fourteen days notice in writing to each member thereof, to resolve, subject to the approval of the Board of Education, that any school under its management shall be

deemed to be a higher class public school, to be managed according to the foregoing provisions.

Higher class public schools.—Parish.

63. When from the existence of any endowment or foundation in whatever form, or in whatever terms, or from any other cause, a parish school existing at the passing of this Act is in the condition of being a school in which instruction in the higher branches of knowledge is given to such extent, and to such a number of scholars, that it is not reasonably to be considered as chiefly an elementary school, it shall be lawful for the school board having the management thereof by resolution passed and approved of in manner provided in the preceding clause with reference to burgh schools, to resolve that it shall be deemed to be a higher class public school, to be managed according to the provisions of the foregoing section, and thereafter such school shall be subject to the said provisions so far as applicable to the circumstances thereof.

Funds.

64. No part of the funds or revenues of a higher class public school within the meaning of the preceding clauses shall pass into the school fund, and no part of the expenses of any such school, except as herein otherwise specially provided, shall be paid out of that fund.

Evidence of orders, &c. of Department.

65. All orders, minutes, certificates, notices, requisitions, and documents of the Scotch Education Department, if purporting to be signed by a secretary or assistant secretary of the said Department, or by any officer of the Department in Scotland, performing the duties of a secretary or assistant secretary, shall, unless the contrary is proved, be deemed to have been so signed and to have been made by the Scotch Education Department.

Inspection.

66. Every public school, and every school which is subject to inspection, shall be open at all times to the inspection of any of Her Majesty's inspectors, but it shall be no part of the duties of such inspector to inquire into any instruction in religious subjects, or to examine any scholar in religious knowledge or in any religious subject or book.

Parliamentary grant.

67. Parliamentary grants according to the rates and under the conditions contained in the minutes of the Scotch Education Department in force for the time may be made—

(1.) To any school board for and in respect of the public schools under their management:

(2.) To the managers of any school which is, in the opinion of the Scotch Education Department, efficiently contributing to the secular education of the parish or burgh in which it is situated; provided that such conditions shall not give any preference or advantage to any school on the ground that it is or is not provided by a school board.

Provided that due care shall be taken by the Scotch Education Department, in the construction of such minutes, that the standard of education which now exists in the public schools shall not be lowered, and that, as far as possible, as high a standard shall be maintained in all schools inspected by the said Department, and provided that no such minute shall be in force until it has lain for not less than one month on the table of both Houses of Parliament.

Provided also that parliamentary grants shall not be made for or in respect of—

(*a.*) Instruction in religious subjects:

(*b.*) A school established after the passing of this Act, not being a public school, unless the said Department shall after due inquiry be satisfied that no sufficient provision exists for the children for whom the school is intended, regard being had to the religious belief of their parents, or that it is otherwise specially required in the locality where it is situated.

Where in any parish or burgh a school rate of not less than threepence in the pound on the rateable value of such parish or burgh shall be levied, and the whole produce of such rate is less than twenty pounds or than seven shillings and sixpence per child of the number of children in average attendance at the public schools provided by the school boards in such parish or burgh, such school board shall be entitled in addition to

the parliamentary grant in aid of the public schools provided by them to such further sum out of moneys provided by Parliament as will, together with the produce of the rate, make up the sum of twenty pounds or seven shillings and sixpence for each such child.

No parliamentary grant shall be made in aid of building, enlarging, improving, or fitting up any school, except in pursuance of a written application from a school board, containing the information required by the Scotch Education Department for enabling them to decide thereon, and sent to the said Department on or before the thirty-first day of December one thousand eight hundred and seventy-three, but without prejudice to applications made prior to the passing of this Act being dealt with according to the existing laws; and with respect to any parish situated in the counties of Inverness, Argyll, Ross, and Orkney and Shetland, where a school rate of not less than ninepence in the pound on the rateable value of such parish has been levied, such grant as aforesaid may be made of an amount not exceeding three hundred pounds for each school and one hundred pounds for each teacher's residence, without regard to the amount contributed by the school board out of the school fund or otherwise, or by local subscription, towards the building, enlarging, improving, or fitting up such school or residence; and in any parish so situated where a school rate of not less than threepence in the pound on the rateable value of the parish has been levied, the annual parliamentary grant to a school shall not be reduced by its excess above the income of the school derived from fees, rates, and subscriptions.

Conscience clause.

68. Every public school, and every school subject to inspection and in receipt of any public money as herein-before provided, shall be open to children of all denominations, and any child may be withdrawn by his parents from any instruction in religious subjects and from any religious observance in any such school; and no child shall in any such school be placed at any disadvantage with respect to the secular instruction given therein by reason of the denomination to which such child or his parents belong, or by reason of his being withdrawn from any instruction in religious subjects. The time or times during which any religious observance is practised or instruction in religious subjects is given at any meeting of the school for elementary instruction shall be either at the begnning or at the end, or at the beginning and at the end of such meeting, and shall be specified in a table approved of by the Scotch Education Department.

Parents to provide elementary education for their children, and when unable to pay fees to apply to parochial board.

69. It shall be the duty of every parent to provide elementary education in reading, writing, and arithmetic for his children, between five and thirteen years of age, and if unable from poverty to pay therefor, to apply to the parochial board of the parish or burgh in which he resides, and it shall be the duty of the said board to pay out of the poor fund the ordinary and reasonable fees for the elementary education of every such child, or such part of such fees as the parent shall be unable to pay, in the event of such board being satisfied of the inability of the parent to pay such fees, and the provivisions of this clause shall apply to the education of blind children, but no such payment shall be made or refused on condition of the child attending any school in receipt of the parliamentary grant other than such as may be sclected by the parent.

Defaulting parents may be proceeded against by the procurator fiscal on a certificate from the board.

70. It shall be the duty of every school board to appoint an officer to ascertain and report to the school board what parents, resident within the parish or burgh, have failed and omitted, and are failing and omitting, to perform the duty of providing for their children such elementary education as aforesaid, and it shall be the duty of such officer to keep the school board constantly informed of the names and designations of all such parents; and the clerk of the school board or some other appointed by the school board for that duty, shall keep, and from time to time revise, add to, and correct a list of all such parents and their children who have not received and are not in course of receiving such elementary education as aforesaid; and the school board is hereby authorised to summon any such parent to appear before the school board at any meeting thereof, and to require from him every information and explanation respecting his failure of duty with respect to the education of his child or children; and if he shall either fail to appear or on his appearance to satisfy the school board that he has not failed in such duty without

reasonable excuse for such failure, and shall not undertake to the satisfaction of the school board to perform such duty by forthwith providing such elementary education as aforesaid for his children, it shall be lawful to and shall be the duty of the school board to certify in writing that he has been and is grossly and without reasonable excuse failing to discharge the duty of providing elementary education for his child or children, and on such certificate being transmitted to the procurator fiscal of the county or district of the county in which the parent resides, or other person appointed by the school board, he shall prosecute such parent before the sheriff of the county for such failure of duty as is in the certificate specified, and on conviction the parent shall be liable to a penalty not exceeding twenty shillings, or to imprisonment not exceeding fourteen days; and such procedure as aforesaid may be repeated against the same parent, and in respect of a continuance of the same failure of duty, at intervals of not less than three months. All fines recovered under this clause shall be paid into the school fund.

Method of procedure.

71. Every prosecution under the preceding section shall be in the form prescribed by the "Summary Procedure (Scotland) Act, 1864," and the judgment of the sheriff therein shall be final, and shall not be subject to the review of or the proceedings to be removed to any superior court upon the merits, or on informality or want of jurisdiction, or any other ground; and expenses not exceeding twenty shillings may be awarded by the sheriff against the parent complained of, but it shall not be lawful to award expenses against the procurator fiscal; and the reasonable expenses of the prosecution, as the same may be certified by the sheriff, shall, in so far as not awarded against and recovered from the parent, be paid by the school board on whose certificate it proceeded out of the school fund.

Employers of children shall be deemed to undertake the duty of a parent,

72. Any person who receives into his house as a domestic servant, or who employs as a farm servant, or as a worker in a mine, factory, or workshop, or assistant in a shop, a child under the age of thirteen who has not attended school regularly for at least three years between the ages of five and thirteen and is unable to read and write, and who continues such child in his employment after notice from the school board of the parish or burgh, or an officer thereof, that he has not received elementary education, shall be deemed thereby to undertake the duty of a parent with respect to the elementary education of such child, so long as he remains in his employment, and shall be liable to be proceeded against, and to be fined or imprisoned as herein-before provided in the case of a parent, should he grossly and without reasonable excuse fail to perform such duty; but the duty of the parent shall not thereby be discharged or diminished, nor shall the parent be thereby exempted from liability to be proceeded against as aforesaid.

but parent not thereby exempted from liability.

Exemptions.

73. A certificate of ability to read and write, and of a knowledge of elementary arithmetic, granted in favour of any child by one of Her Majesty's inspectors, shall exempt the parent and all employers of such child from any prosecution or other proceeding under this Act for neglecting to provide for the education of such child.

Report by school board.

74. Every school board shall make such report and returns, and give such information to the Board of Education as the board may from time to time require.

Annual report.

75. The Scotch Education Department shall in every year cause to be laid before both Houses of Parliament a report of their proceedings under this Act during the preceding year; and such report shall contain a special report upon each school erected or established after the passing of this Act, not being a public school, which in the opinion of the said Department is entitled to receive parliamentary grant.

The registrar to perform certain duties imposed upon the schoolmaster of a parish.

76. The duties imposed upon the schoolmaster of a parish by the Act of the forty-second year of the reign of King George the Third, chapter ninety-one, and by the Act of the seventh year of the reign of King William the Fourth and the first year of the reign of Her present Majesty, chapter eighty-three, and by the Act of the eighth and ninth years of the reign of Her present Majesty, chapter thirty-three, and any other duties not relating to teaching which according to any law or statute in force at the date of the

passing of this Act are imposed upon the schoolmaster of a parish, shall be performed by the schoolmaster of the parish in office at the date of the passing of this Act, so long as he continues to be teacher of a public school in the parish; and upon his ceasing to be teacher of a public school in the parish the said duties shall be performed by the registrar appointed for such parish, or for the registration district in which the whole or the greater part thereof is comprised under the provisions of the Act of the seventeenth and eighteenth years of the reign of Her present Majesty, chapter eighty; and the said registrar shall do and perform all acts and things required by any such law or statute to be done and performed by such schoolmaster in the manner and subject to the conditions, and with the rights specified by such law or statute, as if he were the officer appointed by such law or statute to do and perform the same.

This Act not to affect Schoolmasters Widows Fund Act, 9 & 10 Vict. c. 226.

77. Every person who at the time of the passing of this Act is a contributor to the fund regulated by the Act ninth and tenth Victoria, chapter two hundred and twenty-six, intituled "An Act for better raising and more securely constituting the fund for the "relief of widows and children of burgh and parochial schoolmasters in Scotland," shall, whether he continue in the school of which he is now teacher or be appointed teacher of any parish or burgh school by or under this Act, remain liable to all the obligations and be entitled to all the benefits to which he would have been liable and entitled if this Act had not been passed, and if the constitution of parish and burgh schools had not been altered by this Act: Provided always, that nothing in the said Act or this Act contained shall oblige any person who shall be hereafter appointed a teacher of any parish or burgh school to contribute to the said fund unless he be a contributor at the time of the passing of this Act.

Repeal of Acts at variance with this Act.

78. The recited Acts of the first Parliament of King William, in the year one thousand six hundred and ninety-six, of the forty-third year of the reign of His Majesty King George the Third, chapter fifty-four, and of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred and seven, shall be and are hereby repealed, and all other Acts, in so far as inconsistent with the provisions of this Act, are also hereby repealed; provided always, that the assessments authorised and required to be imposed and levied by the said recited Acts, or any of them, shall continue to be imposed and levied according to the said Acts and the law as existing prior to the passing of this Act, to the extent and effect of imposing and levying in each parish in the course of the year immediately ensuing the passing of this Act, an assessment equal in amount to that which was imposed and levied in such parish in the course of the year immediately preceding the passing of this Act, and that the proceeds thereof shall be expended according to the provisions of the existing law by the authorities now charged with the administration thereof until school boards shall be elected for the respective parishes, when any portion of the said proceeds which shall then remain unexpended shall be handed over to the said school boards respectively; and further provided, that no vacancy in the office of teacher under the said recited Acts, or any of them, or in the office of teacher in a burgh school, occurring after the passing of this Act, shall be filled up, except under the provisions of this Act. But should a vacancy occur in a parish or burgh before a school board has been elected therefor, it shall be lawful for and shall be the duty of the managers of the school in which it occurs to make due provision for the temporary discharge of the duties of the vacant office until it can be filled under this Act; and provided, that any sum payable to a schoolmaster prior to the passing of this Act, under the Act of the first and second years of the reign of Her present Majesty, chapter eighty-seven, shall continue to be paid to him so long as he holds the office of schoolmaster on account of which such sum was payable to him, and shall thereafter be paid to the school board of the parish in which he held such office, for the purposes of the school fund.

Saving of rights, &c.

79. Nothing contained in this Act shall interfere with or diminish the powers, rights, and privileges of the trustees of Dr. John Milne's bequest, for the promotion of education in the county of Aberdeen, and parish of Banchory, Devenick, in the administration and

management of that bequest, or deprive any of the schools entitled at the passing of this Act to participate in said bequest of their right to do so in future, and the grants made by said trustees from the funds under their management shall continue as heretofore to be paid over by them to the teachers whom they may select to receive the same.

80. This Act may be cited for all purposes as "The Education (Scotland) Act, 1872." Short title.

SCHEDULE A.

Schedule of Towns.

Name of Town.	Municipal or Managing Body.
Girvan	Bailies and councillors.
Wick and Pulteneytown	Town council and commissioners.
Alloa	Commissioners of police.
Kirkintilloch	Bailies, treasurer, and councillors.
Dalkeith	Trustees.
Broughty Ferry	Commissioners of police.
Bathgate	Commissioners.
Kilsyth	Bailie and councillors.

SCHEDULE B.

General Rules respecting Election of Members of a School Board subsequent to the First Election.

1. The number of members of the school board shall be such number not less than five nor more than fifteen as may be determined by the Scotch Education Department with respect to each parish and burgh, and, within the said limits, the number of the members of any school board may before any triennial election be changed by the said Department.

2. The electors shall consist of all persons being of lawful age, and not subject to any legal incapacity, whose names are entered on the latest valuation roll applicable to the parish or burgh for which the board is to be elected, made up and completed not less than one month prior to the election, as owners or occupiers of lands or heritages of the annual value of not less than four pounds, situated within such parish or burgh, and the valuation roll, or a certified copy thereof, shall be conclusive evidence that the persons therein named had, and continue to have, the qualifications annexed to their names respectively in the said roll.

3. The chairman of the school board shall be the returning officer, and failing him, some person appointed by the school board.

4. The election shall be held at such times, and in such manner, and in accordance with such rules and directions as the Scotch Education Department may from time to time by order prescribe, and the Scottish Education Department may, by order, appoint or direct the appointment of any officers requisite for the purpose of such election, and do all other necessary things preliminary or incidental to such election.

5. All expenses incident to the election of a school board (but not including the expenses of any candidate) in any parish or burgh shall be paid by the said school board out of the school fund.

6. At every election every voter shall be entitled to a number of votes equal to the number of the members of the school board to be elected, and may give all such votes to one candidate or may distribute them among the candidates as he sees fit.

SCHEDULE C.

Name of Burgh.	Name of School.
Aberdeen	New grammar school.
Ayr	Academy.
Dumfries	Academy.
Edinburgh	High school.
Elgin	Academy.
Glasgow	High school.
Haddington	Burgh school.
Montrose	Academy.
Paisley	Grammar school and academy.
Perth	Academy.
Stirling	High school.

CHAPTER 63.

An Act for further promoting the Revision of the Statute Law by repealing certain Enactments which have ceased to be in force or have become unnecessary. [10th August 1872.]

WHEREAS, with a view to the revision of the Statute Law, and particularly to the preparation of the Revised Edition of the Statutes now in progress, it is expedient that certain enactments (mentioned in the schedule to this Act) which may be regarded as spent, or have ceased to be in force otherwise than by express and specific repeal, or have, by lapse of time and change of circumstances, become unnecessary, should be expressly and specifically repealed:

Be it therefore enacted by the Queen'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:

Enactments in schedule repealed.

1. The enactments described in the schedule to this Act are hereby repealed, subject to the exceptions and qualifications in the schedule mentioned:

Saving.

Provided, that where any enactment not comprised in the schedule has been repealed, confirmed, revived, or perpetuated by any enactment hereby repealed, such repeal, confirmation, revivor, or perpetuation shall not be affected by the repeal effected by this Act:

and the repeal by this Act of any enactment shall not affect any Act in which such enactment has been applied, incorporated, or referred to;

nor shall such repeal of any enactment affect any right to any hereditary revenues of the Crown, or affect any charges thereupon, or prevent any such enactment from being put in force for the collection of any such revenues, or otherwise in relation thereto;

and this Act shall not affect the validity, invalidity, effect, or consequences of anything already done or suffered,—or any existing status or capacity,—or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof,—or any release or discharge of or from any debt, penalty, claim, or demand,—or any indemnity,—or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law or equity, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, franchise, liberty, custom, privilege, restriction, exemption, office, appointment, payment, allowance,