And the said sanitary authority do hereby for themselves, their successors and assigns, covenant with the said *A.B.* and his assigns in manner following:

[*Insert here any covenants of the lessees which may have been agreed on; as with respect to payment of grand jury cess, making fences, or the like.*]

In this lease, whenever the assigns of the said *A.B.* are mentioned, the term "assigns" shall be construed to include the person or persons for the time being entitled to the reversion of the said premises immediately expectant upon the said term hereby granted.

In witness, &c.

INDORSEMENT.

Received this day of of the sanitary authority of the rural sanitary district of a counterpart of the within written indenture duly executed by them under their common seal.

CHAPTER 78.

An Act to re-organize the Educational Endowments of Ireland. [14th August 1885.]

WHEREAS it is desirable to extend the usefulness of educational endowments in Ireland:

Be it 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 terms.

1. For the purposes of this Act, unless the context otherwise requires,—

"Educational endowment" shall mean any property dedicated to charitable uses, and which has been applied or is applicable, in whole or in part, whether by the declared intention of the founder or the consent of the governing body, or by custom or otherwise, to educational purposes:

"Governing body" shall mean the commissioners, managers, governors, board, committee, or trustees of any endowment, or other persons having the administration of the revenues thereof, and shall include the Commissioners of Education in Ireland:

"The Lord Lieutenant" shall include the Lords Justices or other Chief Governor or Governors of Ireland for the time being:

"The Lord Lieutenant in Council" shall mean the Lord Lieutenant acting by and with the advice of the Privy Council in Ireland:

"The Commissioners" shall mean the Commissioners appointed under this Act, and "Commissioner" shall mean one of such Commissioners.

Short title.

2. This Act may be cited as the Educational Endowments (Ireland) Act, 1885.

Commencement of Act.

3. This Act shall, except as herein-after otherwise provided, come into operation on the first day of October one thousand eight hundred and eighty-five, which date is in this Act referred to as the commencement of this Act.

Commissioners.

Constitution of Commission.

4. The Commissioners shall be five in number, of whom two (herein-after referred to as the Judicial Commissioners) shall be or have been Judges of the Supreme Court of Judicature in Ireland, and three (herein-after referred to as Assistant Commissioners) shall be persons of experience in education.

The Right Honourable Gerald FitzGibbon and the Right Honourable John Naish are hereby constituted the first Judicial Commissioners.

The Judicial Commissioners shall hold office during good behaviour, they shall receive no payment for their services, and shall not be subjected to any personal liability for costs or otherwise in respect of anything done or omitted by them as such Commissioners.

Every scheme submitted for the approval of the Lord Lieutenant in Council under this Act shall be signed by both the Judicial Commissioners for the time being under their hands.

It shall be lawful for the Lord Lieutenant to appoint the Assistant Commissioners, who shall hold office during his pleasure; and, upon any vacancy occurring by death, resignation, or otherwise in the office of a Judicial or Assistant Commissioner, it shall be lawful for the Lord Lieutenant to supply such vacancy by the appointment of a qualified person. No Assistant Commissioner shall be subjected to any personal liability for costs or otherwise in respect of anything done or omitted by him as such Assistant Commissioner.

The Judicial Commissioners may from time to time, with the approval of the Commissioners of the Treasury, appoint a secretary, and such officers, clerks, and servants as they think fit.

The Judicial Commissioners may from time to time prescribe the duties of the Assistant Commissioners, and of the secretary, officers, clerks, and servants.

The Commissioners of Public Works in Ireland shall provide a suitable office in Dublin in which the business of the Commission may be transacted.

This section shall take effect on the passing of this Act.

Salaries and expenses.

5. The Commissioners of the Treasury shall assign such salaries as they think fit to the Assistant Commissioners, secretary, officers, clerks, and servants appointed under this Act, and, except where otherwise provided, the salaries and other expenses incurred under this Act (including the personal and travelling expenses of the Judicial Commissioners, and the travelling expenses of the Assistant Commissioners, secretary, and other officers incurred on the business of the Commission, which shall be paid on scales to be approved by the Treasury), and also any expenses incurred by the Lord Lieutenant in Council under this Act, shall be paid out of moneys to be provided by Parliament.

Powers of Commissioners.

6. Subject to the provisions herein-after contained, the Commissioners shall have power to prepare drafts of schemes for the future government and management of educational endowments, which schemes may provide for altering the conditions and provisions of such endowments, including the powers of investing and

from time to time changing the investment of the funds or selling the properties thereof, or amalgamating, combining, or dividing such endowments, or, in the case of endowments applicable for intermediate education, transferring such endowments to the Intermediate Education Board for Ireland, to be applied by them for the purposes of the Intermediate Education (Ireland) Act, 1878, as the Scheme may direct, or (in the case of endowments applicable for elementary education) placing the schools under the inspection of the Commissioners of National Education, as the Scheme may direct, or consolidating or dividing the schools, or removing them to different localities, or authorising the governing bodies of boarding schools to discontinue the boarding departments, or readjusting, extending, or abolishing existing schemes of exhibitions or scholarships, or altering the constitution of the governing bodies, or uniting two or more existing governing bodies, or transferring endowments from one governing body to another, or establishing new governing bodies with such powers as shall seem necessary, and to insert in such schemes clauses incorporating the governing bodies, whether old or new, or vesting endowments in any existing corporate bodies in trust for such governing bodies.

41 & 42 Vict. c. 66.

A scheme may authorise any governing body to sell, demise, exchange, or surrender a lease of any land, or to dispose of any other property vested in them, and may give such directions in relation thereto, and for investing the money arising therefrom, as the Commissioners shall think fit.

Sales, demises, and exchanges of land, and the surrender of leases of land, and other dealings with property, authorised by a scheme, shall have the like effect and validity as if they had been authorised by the express terms of the trust affecting the endowment to which they belong.

Endowments subject to Commission.

Act not to apply to certain endowments.

7. This Act shall not apply—

(1) to any endowment belonging to, or administered by, or in the gift of the university of Dublin, or Trinity college; or

(2) to any endowment solely or mainly applicable or applied for the purposes of theological instruction, or belonging to any theological institution; or

(3) to any endowment which in the discretion of the governing body may be wholly applied to other than educational purposes; or

(4) to any endowment or part of an endowment (as the case may be) given to charitable uses, or to such uses as are referred to in this Act, at any time after the passing of this Act; or

(5) to any endowment consisting of voluntary subscriptions, or accumulations, or investments thereof; or

(6) to any endowment applicable and provided exclusively for the benefit of persons of any particular religious denomination, and which is under the exclusive control of persons of that denomination,

unless the founder or the governing body of such endowment, or the senate or governing body of such university, respectively, shall

intimate in writing to the Commissioners their consent that such endowment shall be dealt with under this Act.

Apportionment of mixed endowments.

8. Where any part of an endowment is an educational endowment within the meaning of this Act, and part of it is applicable or applied to other charitable purposes, the scheme shall be in conformity with the following provisions (except so far as the governing body of such endowment assent to the scheme departing therefrom); that is to say,

(1.) The proportion of the endowment or annual income for the time being derived therefrom which is applicable to such other charitable uses shall not be diverted by the scheme from such uses, unless, in the opinion of the Commissioners,—

(*a*) there are no persons who are entitled to benefit out of such part of the endowment; or

(*b*) the purposes of such part of the endowment have failed altogether; or

(*c*) such purposes have become insignificant in comparison with the magnitude of such part of the endowment; or

(*d*) such purposes have become prejudicial to the public welfare.

(2.) The proportion of the endowment or annual income for the time being so applicable to such other charitable uses shall be deemed to be the proportion which, in the opinion of the Commissioners, is the proportion which has, according to the average of such number of years as the Commissioners shall determine, been appropriated as regards capital, or applied as regards income, to such uses; or if that proportion differs from the proportion which ought to have been so appropriated or applied according to the express directions of the instrument of foundation, or the decree of any competent court, or the statutes or regulations governing such endowment, the proportion applicable to such other charitable uses shall be the proportion which ought, according to the express directions of such instrument, or such decree, or such statutes or regulations, to have been appropriated or applied to such other charitable uses.

(3.) If the proportion applicable to other charitable uses amounts to or exceeds one half of the whole of the endowment, the governing body of such endowment existing at the date of the scheme shall, so far as regards its non-educational purposes, remain unaltered by the scheme.

(4.) Where the governing body remains so unaltered, that body shall pay or apply for educational purposes such proportion as, under the former provisions of this section, is applicable to those purposes, or such less sum as may be fixed by the Commissioners.

(5.) When any portion of the endowment or the annual income of such portion has been accumulated and not applied to any purpose, the Commissioners shall determine whether, and in what proportion, such portion or income is to be considered for the purposes of this section as having been appropriated or applied for educational purposes or for other charitable uses.

Subject to the foregoing provisions of this section, the Commissioners shall have power by any scheme to deal with such endowment and with the governing body thereof, in the same manner in all respects as if the whole of it were an educational endowment.

Application to education of non-educational endowments.

9. The Commissioners of Charitable Donations and Bequests, or any other governing body having an endowment or fund which is not an educational endowment within the meaning of this Act, if there are no persons who are entitled to benefit out of the endowment, or if the purposes of the endowment have failed altogether, or have become obsolete or useless, or are otherwise sufficiently provided for, or are insignificant in comparison with the magnitude of the endowment, or are, in the opinion of such governing body, not substantially beneficial to the class of persons for whom such endowment was originally intended, or if it has been found impossible, either from the inadequacy of the endowment or the impracticable character of the founders intentions, to carry these intentions into effect, may, if they think fit, intimate in writing to the Commissioners their assent to the endowment being deemed to be, and thereafter such endowment may be dealt with in all respects as if it were, an educational endowment.

The Commissioners, with the consent of "the Commissioners of Education in Ireland," may by any scheme or schemes under this Act confer upon the said Commissioners of Education all or any such further, additional, or amended powers as may appear necessary or expedient for the management and control of the endowments vested in or controlled by the said Commissioners of Education, or for the efficient exercise of the powers of the said Commissioners.

Endowments for apprenticeship fees, maintenance, and clothing to be deemed educational.

10. For the purposes and subject to the provisions of this Act, endowments for the payment of apprenticeship fees, or for marriage portions, or for the maintenance, nurture, or clothing, or otherwise for the benefit of poor children or young persons, shall be deemed to be and may be dealt with as educational endowments.

Requisites of Schemes.

Vested interests.

11. In framing schemes the Commissioners shall save or shall make due compensation for the vested interests of individuals holding any office, place, employment, pension, compensation allowance, bursary, or emolument under or arising out of the educational or other endowment at the date of the passing of this Act, and shall provide that no funds now applied in terms of the founders directions to free elementary education shall be directed to any other purpose, except to the extent to which such funds are manifestly in excess of the requirements for the purpose of free elementary education of the localities to which they belong. "Elementary education" shall mean such education as may be given in the National schools which are aided by grants from the Commissioners of National Education in Ireland.

Interests acquired after passing of Act.

12. Every interest, right, privilege, or preference which any person may acquire after the passing of this Act in or relative to any educational endowment, or in the governing body thereof, or as member of any such governing body, or in or relative to any office, place, employment, pension, compensation allowance, bursary, or

emolument in the gift of any such governing body, shall be subject to the provisions of any scheme made under this Act; and the governing body of an educational endowment shall not, during the continuance of the power of making schemes under this Act, begin to build, rebuild, or enlarge any school buildings, or teachers residences, or buildings connected therewith, except with the written consent of the Commissioners, or under the directions of such a scheme; but this provision shall not prevent them from continuing any works begun before the passing of this Act, or from doing anything necessary for the repair or maintenance of buildings or residences existing at the passing of this Act.

Interests of particular classes to be kept in view.

13. In framing schemes it shall be the duty of the Commissioners, with respect alike to the constitution of the governing body and to educational provisions, to have regard to the spirit of founders intentions; and in every scheme which abolishes or modifies any privileges or educational advantages to which a particular class of persons is entitled, whether as inhabitants of a particular area or as belonging to a particular class in life or otherwise, they shall have regard to the educational interests of such class of persons: Provided always, that where the founder of any educational endowment has expressly provided for the education of children belonging to the poorer classes, either generally, or of a particular class, or within a particular area, or otherwise for their benefit, such endowment for such education, or otherwise for their benefit, shall continue, so far as requisite, to be applied for the benefit of such children.

Selection of beneficiaries.

14. In framing schemes the Commissioners shall provide that in making a selection from amongst those eligible for the benefits of any educational endowment due regard shall be paid to merit as ascertained by examination, or in such other manner as the Commissioners shall determine.

Benefits to be extended to girls.

15. In framing schemes provision shall be made, so far as can be equitably arranged and as the circumstances of each particular locality require, for extending to both sexes the benefit of endowments.

Tenure of office of teachers, &c.

16. In every scheme the Commissioners shall provide for the dismissal of every officer in the employment of the governing body, and of every teacher and officer in the endowed school or schools to which the scheme relates, including the principal teacher or teachers, with or without power of appeal in such cases, and to such authority as to the Commissioners may seem expedient.

Inspection and audit.

17. Every scheme shall provide for the periodical inspection by an inspector to be appointed by the Lord Lieutenant of any school sharing in any endowment, and for the periodical audit by an auditor of the Local Government Board or other competent authority of the accounts of any endowment dealt with by the scheme; and that the reports of such inspector shall be presented to the Lord Lieutenant. The remuneration of an inspector shall be fixed by the Lord Lieutenant, and shall be defrayed by the governing bodies of such endowments as the scheme may provide.

Provision for future alteration of schemes.

18. In any scheme the Commissioners may provide for the alteration of the scheme from time to time by the Commissioners of Charitable Donations and Bequests for Ireland upon application

made by the governing body or any party interested, provided such alteration shall not be contrary to anything contained in this Act.

Procedure.

Preliminary inquiry.

19. Before preparing the draft of a scheme for any endowment or endowments the Commissioners, if they deem it necessary, may make such public examination or inquiry as they think proper, and shall give the governing body or governing bodies an opportunity of being heard.

Governing body may lodge draft scheme.

20. Any governing body or any governing bodies jointly may, within two months after the commencement of this Act, give notice in writing of their intention to submit a draft scheme for the consideration of the Commissioners, and if after such notice they submit such a scheme within four months after the commencement of this Act, the Commissioners shall take it into consideration before preparing their scheme.

Printing and publication of draft schemes.

21. When the Commissioners have prepared the draft of a scheme, they shall cause it to be printed, and printed copies of it to be sent to the governing body or governing bodies of the endowment or endowments to which it relates, and shall also cause the draft, or a proper abstract thereof, to be published in such manner as they think sufficient for giving information to all persons interested.

Governing body may lodge objections.

22. During two months after the first publication of the draft of a scheme the Commissioners shall receive any objections made to them in writing by any public body or persons interested respecting such scheme, and any amendments proposed thereon; and at any time after the expiration of such two months the Commissioners, if they think fit, may hold, either collectively, or by two or more of their members, a local public inquiry concerning the subject matter of such scheme.

As to framing of schemes.

23. As soon as may be after the expiration of the said two months, or the holding of such inquiry by the Commissioners or by two or more of their members, the Judicial Commissioners shall proceed to consider objections made to them in writing respecting the draft scheme, and any amendments proposed thereon, and thereupon they shall, if they think fit, frame a scheme in such form as they think expedient, and submit it for the approval of the Lord Lieutenant in Council; provided that where a scheme has been prepared and submitted in pursuance of this Act to the Commissioners before the Commissioners have prepared the draft of a scheme, the Commissioners shall, if requested by the governing body who submitted it, submit such scheme with their own to the Lord Lieutenant in Council.

Approval of Lord Lieutenant to schemes.

24. The Lord Lieutenant in Council, as soon as a scheme is submitted to him, shall, before provisionally approving the same, cause the scheme, or a proper abstract thereof, to be published in such manner as he thinks sufficient for giving information to all persons interested, together with a notice stating that during two months after the first publication of such notice the Lord Lieutenant in Council will receive any objections made to him in writing by any public body or persons interested respecting such scheme.

After the expiration of the said two months the Lord Lieutenant in Council may, if he thinks fit, provisionally approve the scheme, or may remit the scheme, with such declaration as the nature of the case seems to him to require, to the Commissioners, and if he remits the scheme with a declaration the provisions contained in the immediately succeeding section shall apply.

The Lord Lieutenant in Council, as soon as he provisionally approves a scheme, shall forthwith, in such manner as he thinks sufficient for giving information to all persons interested, publish a notice that the scheme has been provisionally approved by him, and that, unless within two months after the first publication of such notice a petition is presented to him as in this section mentioned, such scheme may be finally approved by an Order in Council without being laid before Parliament.

During the said two months a petition praying that the scheme may be laid before Parliament may be presented to the Lord Lieutenant in Council by the governing body of the endowment to which the scheme relates, or by the town council or town commissioners of any town or district directly affected by the scheme, or by any ratepayers (not less than twenty) of any poor law union or place directly affected by the scheme, or by any person or persons having a vested interest in the endowment or any part of it.

Proceedings where scheme is remitted.

25. Where a scheme is remitted with a declaration, the Lord Lieutenant in Council shall transmit to the Commissioners any objections made to him in writing respecting such scheme, and the Judicial Commissioners may thereupon proceed to prepare an amended scheme, and may submit the same for the approval of the Lord Lieutenant in Council in the same manner and subject to the same provisions as are in this Act provided in the case of the approval of a scheme, and so on from time to time as often as occasion may require.

Quorum of governing body.

26. The majority of members of a governing body who are present at a meeting of their body duly constituted shall have power to do anything that may be required to be done by a governing body for the purposes of this Act: Provided that this power shall be in addition to and not in restraint of any power which any meeting of such governing body may have independently of this Act.

Scheme to be approved by Order in Council.

27. If, at the expiration of the time for a petition to the Lord Lieutenant in Council praying that a scheme be laid before Parliament, no such petition has been presented, it shall be lawful for the Lord Lieutenant by Order in Council to declare his approbation of such scheme without the same being laid before Parliament.

When to be laid before Parliament.

If any such petition has been presented, the Lord Lieutenant shall, as soon as may be, cause the scheme to be laid before both Houses of Parliament; and after it has lain two months before Parliament, then, unless within such two months a resolution has been adopted by one or other of the said Houses disapproving of such scheme or any part thereof, it shall be lawful for the Lord Lieutenant by Order in Council to declare his approbation of such scheme, or any part thereof to which such resolution does not relate.

A scheme, when approved by the Lord Lieutenant in Council, shall have full operation and effect from the date of such Order in

Council, in the same manner as if it had been enacted in this Act; and thereupon every Act of Parliament, letters patent, statute, deed, instrument, trust, or direction relating to the subject matter of the scheme, so far as inconsistent with the provisions thereof, shall be repealed and abrogated.

Amendment of schemes.

28. Schemes may be from time to time framed and approved for amending any scheme approved under this Act, and all the provisions of this Act relative to an original scheme shall apply also to an amending scheme, mutatis mutandis.

Validity of scheme.

29. The Order in Council approving a scheme shall be conclusive evidence that such scheme was within the scope of and made in conformity with this Act, and the validity of such scheme and Order shall not be questioned in any legal proceedings whatever.

Inquiry by Commissioner or Commissioners.

30. Where the Commissioners, or any of them, hold a local public inquiry under this Act, they or he shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the place where the endowment or endowments to which the scheme relates is situate or administered, and shall thereat take and receive any evidence, oral or documentary, offered, or which may have been called for or produced under the powers contained in the immediately succeeding section, and shall hear and inquire into any objections respecting the scheme or the endowment or endowments, with power from time to time to adjourn any sitting.

Notice shall be published, in such manner as the Commissioners direct, of every such sitting (except an adjourned sitting) fourteen days at least before the holding thereof.

Power to summon witnesses, &c.

31. In the execution of this Act the Commissioners shall have the same powers as a judge of the High Court of Justice with regard to the summoning and examination of witnesses, and the discovery and inspection of documents; and it shall not be necessary that any summons or order shall be signed by more than one Commissioner; and if any summons or order of the Commissioners in exercise of the said powers is not obeyed, a judge of the High Court of Justice may, on summary application by the Commissioners, make such order as might be made in case of disobedience to a summons or order of the High Court.

This section shall authorise the summoning and examination of witnesses and the discovery and inspection of documents before the Commissioners or any of them, and any Commissioner may administer an oath or affirmation, as the case may be, to any witness.

Cost of publishing scheme, &c.

32. The cost incurred by or under the direction of the Commissioners in publishing and circulating any draft scheme, or scheme, or any abstract thereof, under this Act, other than cost of any publication in the Dublin Gazette made by order of the Lord Lieutenant in Council or of the Commissioners, shall be paid out of the funds of the endowment or endowments to which the same relates.

Miscellaneous.

Service of notices.

33. Notices and documents required to be served on or sent to a governing body for the purposes of this Act may be served or sent by being left at the office, if any, of such governing body, or being

served on or sent to the chairman, secretary, clerk, or other officer of such body, or if there be no office, chairman, secretary, clerk, or other officer, or none known to the Commissioners after reasonable inquiry, by being served on or sent to the principal teacher of the endowed school, if any, under such governing body.

Service by post.

34. Notices and documents required to be served or sent for the purposes of this Act may be served or sent by post, and shall be deemed to have been served and received at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notices or documents was properly addressed and put into the post office.

Annual reports.

35. The Commissioners shall in every year make to the Lord Lieutenant a report of their proceedings under this Act during the preceding year, and the Lord Lieutenant shall cause such report to be laid, with all convenient speed, before both Houses of Parliament.

Returns, &c. by governing body.

36. Every governing body shall make such reports and returns, and give to the Commissioners such information as to the funds, estates, property, and income under the control of the governing body, as the Commissioners may from time to time require.

Every governing body shall make such reports and returns, and give such information to the Lord Lieutenant or otherwise, as he may from time to time require, or as any scheme framed under this Act may direct.

Provision for default of governing body.

37. If the governing body of any educational endowment fail to give effect to the provisions of any scheme approved under this Act, it shall be lawful for the Lord Lieutenant or for the Commissioners of Charitable Donations and Bequests for Ireland, upon the application of the town council or governing body of any town directly affected by such scheme or provisional order, or of any ratepayers (not less than twenty) of any poor law union or place directly affected thereby, or of any person or persons having a vested interest in the endowment, or any part of it, or upon the report of any inspector appointed under this Act, to send a requisition to the governing body of such endowment requiring them to give effect to the provisions of the scheme; and the governing body shall comply with the said requisition without undue delay, and if they fail, may be summarily compelled to do so by the High Court on application by or at the instance of the Attorney General.

Duration of powers of making schemes.

38. The powers of making and approving of a scheme under this Act shall not, unless continued by Parliament, be exercised after the thirty-first of December one thousand eight hundred and eighty-eight: Provided that it shall be lawful for the Lord Lieutenant in Council, if special cause is shown, to extend the time limited by this section with reference to any endowments specified by the Lord Lieutenant. Upon the expiration of the said powers the office of the Commissioners, and of their secretary, officers, and clerks, shall cease; and no Assistant Commissioner, secretary, officer, or clerk, appointed under this Act, shall, by reason of such appointment, be entitled to any compensation, superannuation, or other allowance in respect of his office.