# CHAP. 56.

An Act to amend the Law relating to Endowed Schools and other Educational Endowments in England, and otherwise to provide for the Advancement of Education. A.D. 1869.

[2d August 1869.]

WHEREAS the Commissioners appointed by Her Majesty under letters patent dated the twenty-eighth day of December one thousand eight hundred and sixty-four, to inquire into the education given in schools not comprised within the scope of certain letters patent of Her Majesty, bearing date respectively the thirtieth day of June one thousand eight hundred and fifty-eight and the eighteenth day of July one thousand eight hundred and sixty-one, have made their report, and thereby recommended various changes in the government, management, and studies of endowed schools, and in the application of educational endowments, with the object of promoting their greater efficiency, and of carrying into effect the main designs of the founders thereof, by putting a liberal education within the reach of children of all classes; and have further recommended other measures for the object of improving education:

And whereas such objects cannot be attained without the authority of Parliament:

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:

*Preliminary.*

**1.** This Act may be cited as "The Endowed Schools Act, 1869." Short title.

**2.** This Act shall not apply to Scotland or Ireland. Application of Act.

**3.** This Act shall come into operation on the passing thereof, which date is in this Act referred to as the commencement of this Act. Commencement of Act.

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Definition of "endowment."

**4.** In this Act, unless the context otherwise requires, the term "endowment" means every description of property, real, personal, and mixed, which is dedicated to such charitable uses as are referred to in this Act, in whomsoever such property may be vested, and in whosesoever name it may be standing, and whether such property is in possession or in reversion, or a thing in action.

Definition of "educational endowment."

**5.** In this Act, unless the context otherwise requires, the term "educational endowment" means an endowment or any part of an endowment which, or the income whereof, has been made applicable or is applied for the purposes of education at school of boys and girls or either of them, or of exhibitions tenable at a school or an university or elsewhere, whether the same has been made so applicable by the original instrument of foundation or by any subsequent Act of Parliament, letters patent, decree, scheme, order, instrument, or other authority, and whether it has been made applicable or is applied in the shape—of payment to the governing body of any school or any member thereof, or to any teacher or officer of any school, or to any person bound to teach, or to scholars in any school, or their parents, or—of buildings, houses, or school apparatus for any school, or otherwise howsoever.

Definition of "endowed school."

**6.** In this Act, unless the context otherwise requires, the term "endowed school" means a school which is (or if it were not in abeyance would be) wholly or partly maintained by means of any endowment: Provided that a school belonging to any person or body corporate shall not by reason only that exhibitions are attached to such school be deemed to be an endowed school.

Interpretation of terms.

**7.** In this Act, unless the context otherwise requires,—

The term "exhibition" means any exhibition, scholarship, or other like emolument; and the term "exhibitioners" and other terms referring to exhibitions are to be construed accordingly:

The term "governing body" means any body corporate, persons or person who have the right of holding, or any power of government of or management over any endowment or, other than as master, over any endowed school, or have any power, other than as master, of appointing officers, teachers, exhibitioners or others, either in any endowed school, or with emoluments out of any endowment:

The term "Committee of Council on Education" means the Lords of the Committee of Her Majesty's Privy Council on Education.

**8.** Nothing in this Act, save as in this Act expressly provided, shall apply—

Nothing in this Act, except as expressly provided, to apply to certain schools herein named.

(1.) To any school mentioned in section three of the Public Schools Act, 1868, or to the endowment thereof:

(2.) To any school which, on the first of January one thousand eight hundred and sixty-nine, was maintained wholly or partly out of annual voluntary subscriptions, and had no endowment except school buildings or teachers residences, or playground or gardens attached to such buildings or residences:

(3.) To any school which, at the commencement of this Act, is in receipt of an annual grant out of any sum of money appropriated by Parliament to the civil service, intituled "For Public Education in Great Britain," or to the endowment thereof; unless such school is a grammar school, as defined by the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter seventy-seven, or a school a department of which only is in receipt of such grant:

(4.) To any school (unless it is otherwise subject to this Act) which is maintained out of any endowment the income of which may, in the discretion of the governing body thereof, be wholly applied to other than educational purposes, or to such endowment:

(5.) To any school (unless it is otherwise subject to this Act) which receives assistance out of any endowment the income of which may, in the discretion of the governing body of such endowment, be applied to some other school:

(6.) To any endowment applicable and applied solely for promoting the education of the ministers of any church or religious denomination, or for teaching any particular profession, or to any school (unless it is otherwise subject to this Act) which receives assistance out of such endowment:

(7.) To any school which, during the six months before the first of January one thousand eight hundred and sixty-nine, was used solely for the education of choristers, or to the endowment of any such school if applicable solely for such education.

*Reorganization of Endowed Schools.*

Schemes for application of educational endowments.

**9.** The Commissioners (appointed as in this Act mentioned), by schemes made during the period, in the manner and subject to the provisions in this Act mentioned, shall have power, in

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such manner as may render any educational endowment most conducive to the advancement of the education of boys and girls, or either of them, to alter, and add to any existing, and to make new trusts directions and provisions in lieu of any existing, trusts directions and provisions which affect such endowment, and the education promoted thereby, including the consolidation of two or more such endowments, or the division of one endowment into two or more endowments.

Schemes as to governing bodies.

**10.** The Commissioners by any scheme relating to an educational endowment made during the period, in the manner and subject to the provisions in this Act mentioned, shall have power to alter the constitution, rights, and powers of any governing body of an educational endowment, and to incorporate any such governing body, and to establish a new governing body, corporate or unincorporate, with such powers as they think fit, and to remove a governing body, and in the case of any corporation (whether a governing body or not) incorporated solely for the purpose of any endowment dealt with by such scheme, to dissolve such corporation.

Educational interests of persons entitled to privileges.

**11.** It shall be the duty of the Commissioners in every scheme which abolishes or modifies any privileges or educational advantages to which a particular class of persons are entitled, and that whether as inhabitants of a particular area or otherwise, to have due regard to the educational interests of such class of persons.

Schemes to extend benefit to girls.

**12.** In framing schemes under this Act, provision shall be made so far as conveniently may be for extending to girls the benefits of endowments.

Saving of interest of foundationer, master, governing body, &c.

**13.** It shall be the duty of the Commissioners to provide in any scheme for saving or making due compensation for the following vested interests; namely,

(1.) The interest of any boy or girl who was at the time of the passing of this Act on the foundation of any endowed school:

(2.) The tenure by any person of any exhibition dealt with by any such scheme which was held by him at the time of the passing of this Act:

(3.) Such interest as any teacher or officer in any endowed school appointed to his office before the passing of the Endowed Schools Act, 1868, may have:

(4.) Such interest as any person may have in any pension or compensation allowance to which he was entitled at the passing of the Endowed Schools Act, 1868:

(5.) Such interest as any member of the governing body of any educational endowment appointed to his office before the

passing of the Endowed Schools Act, 1868, may have in any emolument payable to him as such, or in any right of patronage which has a marketable value, and is capable of being sold by him :

It shall also be the duty of the Commissioners in any scheme relating to any endowed school to have regard to the rights of patronage which may be at the passing of this Act exercised by any member of the governing body of such school in consequence of any gift or donation made by him.

Not to authorize schemes for interfering with modern endowments, cathedral schools, &c.

**14.** Nothing in this Act shall authorize the making of any scheme interfering—

(1.) with any endowment, or part of an endowment, (as the case may be,) originally given to charitable uses, or to such uses as are referred to in this Act, less than fifty years before the commencement of this Act, unless the governing body of such endowment assent to the scheme:

(2.) with the constitution of the governing body of any school wholly or partly maintained out of the endowment of any cathedral or collegiate church, or forming part of the foundation of any cathedral or collegiate church, unless the dean and chapter of such church assent to the scheme:

(3.) with the constitution of the governing body of any school, which governing body is subject to the jurisdiction of the governing body of the people called Quakers, or of the congregation of United Brethren called Moravians, unless the governing body of such school assent to the scheme:

(4.) with the constitution of the governing body of any school or with any exhibition (other than one restricted to any schools, or school or district,) forming part of the foundation of any college in Oxford or Cambridge, unless the college assent to the scheme.

As to religious education in day schools.

**15.** In every scheme (except as hereafter mentioned) relating to any endowed school or educational endowment the Commissioners shall provide that the parent or guardian of, or person liable to maintain or having the actual custody of, any scholar attending such school as a day scholar, may claim, by notice in writing addressed to the principal teacher of such school, the exemption of such scholar from attending prayer or religious worship, or from any lesson or series of lessons on a religious subject, and that such scholar shall be exempted accordingly, and that a scholar shall not by reason of any exemption from attending prayer or religious worship, or from any lesson or series of lessons on a religious

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subject, be deprived of any advantage or emolument in such endowed school or out of any such endowment to which he would otherwise have been entitled, except such as may by the scheme be expressly made dependent on the scholar learning such lessons.

They shall further provide that if any teacher, in the course of other lessons at which any such scholar is in accordance with the ordinary rules of such school present, teaches systematically and persistently any particular religious doctrine from the teaching of which any exemption has been claimed by such a notice as is in this section before provided, the governing body shall, on complaint made in writing to them by the parent, guardian, or person having the actual custody of such scholar, hear the complainant, and inquire into the circumstances, and, if the complaint is judged to be reasonable, make all proper provisions for remedying the matter complained of.

As to religious education in boarding schools.

**16.** In every scheme (except as herein-after mentioned) relating to an endowed school the Commissioners shall provide that if the parent or guardian of, or person liable to maintain or having the actual custody of, any scholar who is about to attend such school, and who but for this section could only be admitted as a boarder, desires the exemption of such scholar from attending prayer or religious worship, or from any lesson or series of lessons on a religious subject, but the persons in charge of the boarding houses of such school are not willing to allow such exemption, then it shall be the duty of the governing body of such school to make proper provisions for enabling the scholar to attend the school and have such exemption as a day scholar, without being deprived of any advantage or emolument to which he would otherwise have been entitled, except such as may by the scheme be expressly made dependent on the scholar learning such lessons. And a like provision shall be made for a complaint by such parent, guardian, or person as in the case of a day school.

Governing body not to be disqualified on ground of religious opinions.

**17.** In every scheme (except as herein-after mentioned) relating to any educational endowment the Commissioners shall provide that the religious opinions of any person, or his attendance or non-attendance at any particular form of religious worship, shall not in any way affect his qualification for being one of the governing body of such endowment.

Masters not to be required to be in holy orders.

**18.** In every scheme (except as herein-after mentioned) relating to an endowed school the Commissioners shall provide that a person shall not be disqualified for being a master in such school by reason only of his not being or not intending to be in holy orders.

Schools excepted from provisions as to religion.

**19.** A scheme relating to—

(1.) any school which is maintained out of the endowment of any cathedral or collegiate church, or forms part of the foundation of any cathedral or collegiate church; or

(2.) any educational endowment, the scholars educated by which are, in the opinion of the Commissioners (subject to appeal to Her Majesty in Council as mentioned in this Act) required by the express terms of the original instrument of foundation or of the statutes or regulations made by the founder or under his authority, in his lifetime or within fifty years after his death, (which terms have been observed down to the commencement of this Act,) to learn or to be instructed according to the doctrines or formularies of any particular church, sect, or denomination,

is excepted from the foregoing provisions respecting religious instruction, and attendance at religious worship (other than the provisions for the exemption of day scholars from attending prayer or religious worship, or lessons on a religious subject, when such exemption has been claimed on their behalf,) and respecting the qualification of the governing body and masters (unless the governing body, constituted as it would have been if no scheme under this Act had been made, assents to such scheme).

And a scheme relating to any such school or endowment shall not, without the consent of the governing body thereof, make any provision respecting the religious instruction or attendance at religious worship of the scholars, (except for securing such exemption as aforesaid,) or respecting the religious opinions of the governing body or masters.

Transfer of jurisdiction of visitors.

**20.** In every scheme the Commissioners may, if they think fit, provide for the transfer to Her Majesty of all rights and powers reserved to, belonging to, claimed by, or capable of being exercised by any person, persons, or body corporate as visitor of the endowed school or educational endowment to which the scheme relates, except in the case of cathedral schools.

They shall also provide that such rights, and powers as aforesaid, if vested in Her Majesty at the commencement of this Act, or if transferred to Her Majesty by the scheme, shall be exercised only through and by the Charity Commissioners for England and Wales.

Abolition of jurisdiction of ordinary as to licensing masters.

**21.** In every scheme the Commissioners shall provide for the abolition of all jurisdiction of the ordinary relating to the licensing of masters in any endowed school, or of any jurisdiction arising from such licensing.

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Tenure of office of teachers.

**22.** In every scheme the Commissioners shall provide for the dismissal at pleasure of every teacher and officer in the endowed school to which the scheme relates, including the principal teacher, with or without a power of appeal in such cases and under such circumstances as to the Commissioners may seem expedient.

General provisions.

**23.** In any scheme the Commissioners may insert all powers and provisions that may be thought expedient for carrying its objects into effect.

Apportionment of mixed endowments.

**24.** Where 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 uses, 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 part of the endowment or annual income derived therefrom which is applicable to such other charitable uses shall not be diverted by the scheme from such uses;

(2.) The part of the endowment or annual income so applicable to such other charitable uses shall be deemed to be the proportion which, in the opinion of the Commissioners, subject to appeal to Her Majesty in Council, is the average proportion which has during the three years before the passing of this Act been appropriated as regards capital or applied as regards income to such uses, or (if that proportion differs from the proportion which ought in accordance with the express directions of the instrument of foundation or the statutes or regulations during the said three years governing such endowment to have been so appropriated or applied) which ought to have been so appropriated or applied;

(3.) If the proportion applicable to other charitable uses 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, subject to appeal to Her Majesty in Council;

(5.) Where during the said three years any portion of the endowment as existing at the commencement of such three years, or the annual income of such portion, has been accumulated and not applied to any purpose, the Charity Commissioners for England and Wales shall determine whether 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;

(6.) Where by reason of the Act of Parliament, letters patent, decree, scheme, order, or other instrument during the said three years governing an endowment not having during the said three years been duly carried into effect, or being merely provisional, the preceding provisions of this section are not in the opinion of the Charity Commissioners for England and Wales applicable to such endowment, the Charity Commissioners shall determine what proportions shall be considered as applicable to educational purposes, and such other charitable uses respectively.

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.

New endowment mixed with old buildings, &c.

**25.** Where an endowment or part of an endowment originally given to charitable uses less than fifty years before the commencement of this Act has, by reason of having been spent on school buildings or teachers residences, or playground or gardens attached to such buildings or residences, become so mixed with an old endowment given more than fifty years before the passing of this Act, that in the opinion of the Commissioners (subject to appeal to Her Majesty in Council) it cannot conveniently be separated from such old endowment, then the whole endowment shall for the purposes of this Act be deemed to be an endowment originally given to charitable uses more than fifty years before the commencement of this Act.

Apportionment of old and new endowments.

**26.** Where part of an endowment has been originally given to charitable uses more than fifty years, and another part less than fifty years before the commencement of this Act, and the two have not become mixed, as mentioned in this Act, so that they cannot conveniently be separated, and the governing body do not assent to the scheme dealing with the modern part of the endowment, the scheme relating to the old part of the endowment shall, subject to appeal to Her Majesty in Council, apportion such parts, and may direct either that the endowment shall be divided and appropriated

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accordingly in manner provided in the scheme, or that the whole endowment shall be vested in the governing body of one of such parts; and that the portion which is to be applied by the governing body of the other part shall be a debt due to them from the other governing body, and shall be a first charge on the endowment after payment of any charges existing thereon at the date of the scheme.

Claims of cathedral schools against Ecclesiastical Commissioners.

**27.** Where an educational endowment at the commencement of this Act forms or has formed part of the endowment of any cathedral or collegiate church, the Commissioners shall inquire into the adequacy of such educational endowment, and may submit to the Ecclesiastical Commissioners for England proposals for meeting out of the common fund of the Ecclesiastical Commissioners the claims of any school receiving assistance out of the endowment of any such church to have an increased provision made for it in respect of any estates of such church which may have been transferred to the Ecclesiastical Commissioners. And the Ecclesiastical Commissioners on assenting to any such proposal or any modification of it may make such provision out of their common fund by such means and in such manner as they think best, and a scheme under this Act may with their consent be made for carrying such proposal into effect.

As to alteration of schemes.

**28.** In any scheme the Commissioners may provide for the alteration from time to time of such portions of the scheme as they think expedient by the Charity Commissioners for England and Wales in the exercise of their ordinary jurisdiction, provided such alteration shall not be contrary to anything contained in this Act.

Apprenticeship fees, &c.

**29.** For the purposes of this Act endowments attached to any school for the payment of apprenticeship fees or for the advancement in life or for the maintenance or clothing or otherwise for the benefit of children educated at such school shall be deemed to be educational endowments.

Provided that nothing shall be construed to prevent a scheme relating to any such endowment from providing, if the governing body so desire, for the continued application of such endowment to the same purposes.

Application to education of non-educational charities.

**30.** In the case of any endowment which is not an educational endowment as defined in this Act, but the income of which is applicable wholly or partially to any one or more of the following purposes; namely,—

Doles in money or kind;

Marriage portions;

Redemption of prisoners and captives;
Relief of poor prisoners for debt;
Loans;
Apprenticeship fees;
Advancement in life, or
Any purposes which have failed altogether or have become insignificant in comparison with the magnitude of the endowment, if originally given to charitable uses in or before the year of our Lord one thousand eight hundred;

it shall be lawful for the Commissioners, with the consent of the governing body, to declare, by a scheme under this Act, that it is desirable to apply for the advancement of education the whole or any part of such endowment, and thereupon the same shall for the purposes of this Act be deemed to be an educational endowment, and may be dealt with by the same scheme accordingly:

Provided that—

(1.) In any scheme relating to such endowment due regard shall be had to the educational interests of persons of the same class in life or resident within the same particular area as that of the persons who at the commencement of this Act are benefited thereby:

(2.) No open space at the commencement of this Act enjoyed or frequented by the public shall be enclosed in any other manner than it might have been if this Act had not passed.

*Procedure for making Schemes.*

Appointment of Commissioners for purposes of this Act.

**31.** For the purposes of this Act it shall be lawful for Her Majesty from time to time to appoint Commissioners (in this Act referred to as "the Commissioners"), and to appoint a secretary to such Commissioners, and to remove any Commissioners or secretary so appointed and appoint others, but the number of such Commissioners shall not exceed three at any one time.

The Commissioners of Her Majesty's Treasury may assign to the Commissioners and secretary such salaries, and allow them to employ such assistant commissioners, officers, and clerks, as the Commissioners of Her Majesty's Treasury may think proper.

The Commissioners, secretary, and other persons so appointed and employed shall not hold office after the expiration of the time limited for the exercise of their powers.

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Preparation of draft scheme.

**32.** The Commissioners, after such examination or public inquiry as they think necessary, may prepare drafts of schemes for the purposes of this Act, subject to the following conditions; namely,

(1.) Where the gross average annual income of an endowment or of the aggregate educational endowments of an endowed school during the three years next before the first of January one thousand eight hundred and sixty-nine,—

(a) exceeded ten thousand pounds a year, then before the expiration of twelve months, and where it—

(b) exceeded one thousand pounds a year, then before the expiration of six months,

after the commencement of this Act, any governing body of any such endowment may, if they give to the Commissioners such notice as in this section mentioned, prepare and submit to the Commissioners in writing a scheme relating to such endowment, and the Commissioners shall consider such scheme before they themselves prepare any draft of a scheme relating to the same endowment; and any scheme so prepared by the governing body, and submitted to the Commissioners, shall, if approved by them, be adopted and proceeded with by them in the same manner as if it were a draft scheme originally prepared by themselves:

(2.) The notice to be given by a governing body to the Commissioners is a notice of their intention to prepare and submit to the Commissioners a draft of a scheme, which notice shall be in writing, and shall be given to the Commissioners within two months after the commencement of this Act:

(3.) The certificate of the Charity Commissioners for England and Wales shall be conclusive evidence for the purposes of this section of the income of an endowment or aggregate endowments of an endowed school.

As to printing and publication of draft schemes.

**33.** 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 to the principal teacher of any endowed school to which it relates, and shall also cause the draft, or a proper abstract of it, to be published and circulated in such manner as they think sufficient for giving information to all persons interested.

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Objections and suggestions respecting scheme and alternative scheme.

**34.** During ~~three~~ two months after the first publication of the draft of a scheme the Commissioners shall receive any objections or suggestions made to them in writing respecting such scheme, and

shall receive any alternative scheme submitted to them by the governing body of any endowment to which the scheme of the Commissioners relates.

Power to make inquiry into schemes.

**35.** At any time after the expiration of the ~~three~~ two months the Commissioners, or any one of them, if they think fit, may hold an inquiry or they may refer the draft of the scheme and the alternative scheme, if any, to an Assistant Commissioner, and direct him to hold an inquiry concerning the subject matter of such scheme or schemes.

As to framing of schemes.

**36.** As soon as may be after the expiration of the said ~~three~~ two months, or the holding of such inquiry by the Commissioners or one of them, or the receipt by the Commissioners of the report of the Assistant Commissioner, on the inquiry held by him (as the case may be), the Commissioners shall proceed to consider any objections or suggestions made to them in writing respecting the draft scheme, and to consider the alternative scheme (if any), and the report (if any), 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 Committee of Council on Education: 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 which submitted it, submit such scheme with their own to the Committee of Council on Education.

Approval of Committee of Council on Education to schemes.

**37.** The Committee of Council on Education shall consider all schemes so submitted to them, and may, if they think fit, approve any scheme so submitted, and shall cause the scheme so approved to be published and circulated in such manner as they think sufficient for giving information to all persons interested.

If the committee do not approve a scheme submitted to them the Commissioners may frame and submit another scheme in the same manner as if no scheme had been previously framed and submitted; provided that where the Committee of Council on Education have not approved any scheme relating to an endowment, the governing body of which may under this Act prepare and submit a draft of a scheme before the Commissioners prepare a draft of a scheme, such governing body may, within ~~three~~ two months after notice of such non-approval (if within one month thereafter they give written notice of their intention to the Commissioners), submit to the Commissioners an amended scheme; and the Commissioners shall consider the same before they frame and submit another scheme relating to the same endowment, and such amended scheme of the governing

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body, if approved by the Commissioners, shall be adopted and proceeded with by them as if it were a scheme originally framed by themselves.

Consent of colleges or hall.

**38.** Where a scheme abolishes any restriction which makes any exhibition tenable only at a particular college or hall in any university, and the exhibition is payable out of property held by such college, or by the university in trust for such college or hall, (otherwise than as governing body of a school, or as a bare trustee,) the scheme shall not be approved if not less than two thirds of the governing body of such college or hall dissent therefrom in writing; but in every such case the Committee of Council shall make a special report to Parliament setting out the proposed scheme, and stating the dissent, and the reasons, if any, assigned for it.

Appeal to Queen in Council.

**39.** If the governing body of any endowment to which a scheme relates, or any person or body corporate directly affected by such scheme, feels aggrieved by the scheme, on the ground—

(1.) Of any decision of the Commissioners in a matter in which an appeal to Her Majesty in Council is given by this Act; or

(2.) Of the scheme not saving or making due compensation for his or their vested interest as required by this Act;

(3.) Of the scheme being one which is not within the scope of or made in conformity with this Act; or

(4.) (If the governing body are the petitioners,) of a scheme not having due regard to any educational interests, to which regard is required by this Act to be had, on the abolition or modification of any privileges or educational advantages to which a particular class of persons are entitled;

such governing body, person, or body corporate may within two months after the publication of the scheme when approved petition Her Majesty in Council stating the grounds of the petition, and praying Her Majesty to withhold her approval from the whole or any part of the scheme.

Her Majesty, by Order in Council, may refer any such petition for the consideration and advice of five members at the least of Her Privy Council, of whom two (not including the Lord President) shall be members of the Judicial Committee, and such five members may, if they think fit, admit counsel to be heard in support of and against the petition, and shall have the same power with respect to the costs of all parties to the petition as the Court of Chancery would have if the petition were a proceeding in that court by way either of petition or information for obtaining a scheme.

Any petition not proceeded with in accordance with the regulations made with respect to petitions presented to the Judicial Committee of the Privy Council shall be deemed to be withdrawn.

It shall be lawful for Her Majesty by Order in Council to direct that the scheme petitioned against be laid before Parliament, or to remit it to the Commissioners with such declaration as the nature of the case may require.

Proceedings where scheme is remitted.

**40.** Where a scheme is remitted with a declaration the Commissioners may either proceed to prepare another scheme in the matter in the same manner as if no scheme had been previously prepared, or may submit for the approval of the Committee of Council on Education such amendments in the scheme as will bring it into conformity with the declaration.

The Committee may, if they think fit, approve the scheme with such amendments, and shall publish and circulate the same in the same manner and subject to the same right of petition to Her Majesty in Council as is before directed in the case of the approval of a scheme, and so on from time to time as often as occasion may require.

Schemes, &c. to be laid before Parliament.

**41.** After the time has expired for a petition to Her Majesty in Council against any scheme, or after Her Majesty in Council has directed a scheme to be laid before Parliament, the scheme shall be forthwith laid before both Houses of Parliament, if Parliament be sitting, or if not, then within three weeks after the beginning of the next ensuing session of Parliament, and after such scheme has lain for forty days before Parliament, then unless within such forty days an address has been presented by one or other of the said Houses praying Her Majesty to withhold Her consent from such scheme or any part thereof, it shall be lawful for Her Majesty by Order in Council to declare Her approbation of such scheme or any part thereof to which such address does not relate.

Exception as to schemes for endowments under 100*l.*

**42.** Where a scheme relates to an endowment which during the three years preceding the commencement of this Act has had an average annual gross income of not more than one hundred pounds, no petition shall be presented to Her Majesty in Council with reference to such scheme, so far as it relates to such an endowment.

The certificate of the Charity Commissioners for England and Wales shall be conclusive evidence for the purposes of this section of the income of an endowment.

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New scheme on non-approval.

**43.** If any scheme or any part thereof is not approved by Her Majesty, then the Commissioners may thereupon proceed to prepare another scheme in the matter, and so on from time to time as often as occasion may require.

Amendment of schemes.

**44.** 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.

Scheme to take effect.

**45.** A scheme shall not of itself have any operation, but the same, when and as approved by Her Majesty in Council, shall from the date specified in the scheme, or, if no date is specified, from the date of the Order in Council, have full operation and effect in the same manner as if it had been enacted in this Act.

Effect of scheme.

**46.** Upon a scheme coming into operation, every Act of Parliament, letters patent, statute, deed, instrument, trust, or direction relating to the subject matter of the scheme, and expressed by such scheme to be repealed and abrogated, shall, by virtue of the scheme and of this Act, be repealed and abrogated from the date in that behalf specified, or if no date is specified, from the date of the scheme coming into operation, and all property purporting to be transferred by such scheme shall, without any other conveyance or act in the law (so far as may be), vest in the transferees, and so far as it cannot be so vested shall be held in trust for the transferees.

Evidence of scheme.

**47.** 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.

Quorum of Commissioners.

**48.** A scheme of the Commissioners shall not be submitted to the Committee of Council on Education unless two at least of the commissioners have signified in writing their approval of such scheme, but in all other respects one Commissioner may act under this Act.

Power of Commissioners, &c. as to procuring evidence. 18 & 19 Vict. c. 124. ss. 6–9.

**49.** Section eleven of the Charitable Trusts Act, 1853, (which relates to the production of documents by public officers,) and sections six, seven, eight, and nine of "The Charitable Trust Act, 1855," (relating to evidence, and the attendance and examination of witnesses,) shall extend to the Commissioners and Assistant Commissioners under this Act, as if they were the commissioners and inspectors mentioned in those sections.

Inquiry by public sittings by

**50.** Where any Commissioner or Assistant Commissioner holds a local inquiry for the purpose of a scheme under this Act,

Commissioners, &c.

whether before or after the first publication of a draft scheme, he shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the place where the endowment is situate or administered, and thereat take and receive any evidence and information offered, and hear and inquire into any objections or suggestions made or to be made during the sitting or sittings respecting the scheme or the endowment or school, 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.

As to report of Assistant Commissioners.

**51.** The Assistant Commissioner who holds a local inquiry shall make a report in writing to the Commissioners setting forth the result of the inquiry, and where a draft scheme, with or without an alternative scheme, has been referred to him whether in his opinion such draft or alternative scheme, as the case may be, should be approved with or without alteration, and if with any, then with what alteration, and his reasons for the same, and the objections and suggestions, if any, made on the inquiry, and his opinion thereon.

*Miscellaneous.*

Restriction of powers of Charity Commissioners, Court, &c.

**52.** During the continuance of the power of making schemes under this Act the Charity Commissioners for England and Wales, or any Court or Judge, shall not, with respect to any educational endowment which can be dealt with by a scheme under this Act, make any scheme or appoint any new trustees without the consent of the Committee of Council on Education.

During the same period the Charity Commissioners shall have the same power of acting upon application made to them by the Commissioners under this Act with respect to any educational endowment as they would have if such application had been made by the governing body of such endowment; and the governing body shall conform to any order made or directions given by the Charity Commissioners upon such application.

School chapels appropriated for religious worship free from parochial jurisdiction.

**53.** The chapel of an endowed school subject to this Act, which either has been before or after the commencement of this Act consecrated according to law, or is authorized for the time being by the bishop of the diocese in which the chapel is situate, by writing under his hand, to be used as a chapel for such school, shall be deemed to be allowed by law for the performance of public worship and the administration of the sacraments according

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to the Liturgy of the Church of England, and shall be free from the jurisdiction and control of the incumbent of the parish in which such chapel is situate.

Quorum of governing body for acting under this Act.

**54.** The majority of the 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.

Persons acquiring interest after passing of Act to be subject to scheme.

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

Service of notices

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

Service by post.

**57.** 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.

Expenses of Act.

**58.** The salaries paid and expenses incurred in carrying into effect this Act shall be defrayed out of monies to be provided by Parliament.

Duration of powers of making schemes.

**59.** 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 seventy-two, or such further day not later than the thirty-first of December one thousand eight hundred and seventy-three, as may be appointed by Her Majesty in Council.

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