STATUTORY INSTRUMENTS

1976 No. 1480 (S. 122)

EDUCATION, SCOTLAND

Melville College Trust Scheme 1976

Made - - - - 2*nd September* 1976

Coming into Operation 2*nd September* 1976

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In exercise of the powers conferred on him by section 118(1) of the Education (Scotland) Act 1962(**a**) and section 125(2) of the said Act as substituted by section 19 of the Education (Scotland) Act 1969(**b**) and all other powers enabling him in that behalf and after—

(*a*) preparing a draft scheme to amalgamate ten educational endowments pertaining to Melville College;

(*b*) carrying out the procedure specified in section 125(1) of the said Act, and

(*c*) no objections or proposed amendments to the draft scheme having been received by him,

the Secretary of State hereby makes the following scheme:—

(**a**) 1962 c. 47. (**b**) 1969 c. 49.

PART I

CITATION AND INTERPRETATION

Citation

1. This scheme may be cited as the Melville College Trust Scheme 1976.

Interpretation

2.—(1) In this scheme, unless the context otherwise requires—

"Board" means the Merchant Company Education Board incorporated by section 9 of the Order of 1909, reconstituted by section 2 of the Scheme of 1931, and continued by sections 1 and 2 of Edinburgh Merchant Company Educational Endowments Scheme 1960.

"Daniel Stewart's and Melville College Former Pupils Club" means the former pupil Club of the school known as Daniel Stewart's and Melville College.

"Governing body" means the Governors of the Melville College Trust constituted in terms of paragraph 3 of this scheme.

"Merchant Company" means the Company of Merchants of the City of Edinburgh incorporated by Royal Charter in the year 1681 and reincorporated by the Edinburgh Merchant Company Act 1898(a).

"School" means Daniel Stewart's and Melville College.

"School Company" means the School Company known as Melville College registered under the Companies Act 1948 and incorporated under Memorandum and Articles of Association dated 31st December 1954.

"Trust" means the Melville College Trust formed under paragraph 21.

"Trustees" means the Trustees of Melville College Trust appointed under the Declaration of Trust dated 16th September 1947 and recorded in the Books of Council and Session on 27th September 1947.

(2) The Interpretation Act, 1889(b) shall apply for the interpretation of this scheme as it applies for the interpretation of an Act of Parliament.

(3) References in this scheme to any enactment or scheme shall, except where the context otherwise requires, be construed as references to that enactment or scheme as amended by or under any other enactment or scheme or as contained in any other enactment or scheme substituted for that enactment or scheme.

(4) References in this scheme to a paragraph, schedule, part or column shall, except where the context otherwise requires be construed as references to a part or paragraph of or a schedule to this scheme or a part or column of such a schedule as the case may be.

PART II

CONSTITUTION OF THE GOVERNING BODY

Constitution of the governing body

3. For the purpose of carrying this scheme into effect a governing body shall be constituted under the name of "The Governors of the Melville College Trust" and under that name shall be a body corporate with perpetual succession and a common seal, and with all rights, privileges and powers of a body corporate.

(a) 61 Vict. c. xxii (b) 1889 c. 63.

Composition of the governing body

4.—(1) The governing body shall consist of ex officio governors, elected governors and life governors for the time being.

(2) The following persons shall be the ex officio governors, that is to say:—

(*a*) The Chairman of the Merchant Company Education Board ex officio or a person to be appointed by him and who is also a member of the Merchant Company;

(*b*) The Vice-Chairman of the Merchant Company Education Board ex officio or a person to be appointed by him and who is also a member of the Merchant Company; and

(*c*) The President of the Daniel Stewart's and Melville College Former Pupils Club ex officio.

(3) Eight persons to be elected by the members of Daniel Stewart's and Melville College Former Pupils Club.

(4) The ordinary governors of the School Company in post on shall be life governors.

Ex officio governors

5.—(1) The Chairman of the Merchant Company Education Board shall not later than two months after 2nd September 1976 intimate to the Secretary to Melville College School Company his acceptance of office as a governor or the name of the person appointed governor by him.

(2) When a Chairman of the Board who is acting as governor ceases to hold office as Chairman he shall thereupon cease to be a governor and his successor as Chairman shall within three months of his appointment intimate to the clerk of the governing body his acceptance of office as governor or the name of the person appointed governor by him. The Chairman of the Board shall at any time after accepting office as a governor be entitled to resign the said office and he shall in such a case appoint a person to be a governor. Any governor appointed by the Chairman of the Board shall, subject to the provisions of paragraph 9 of this scheme hold office for a period of three years, provided that if before the expiry of the said period the Chairman by whom he was appointed ceases to hold office as Chairman the said governor shall thereupon cease to hold office. When the said governor ceases to hold office the vacancy shall be intimated by the clerk or other proper officer of the governing body to the Chairman of the Board. In the case of a vacancy caused by the expiring of the normal period of tenure of office as a governor the said intimation shall be made not less than one month before the date of the vacancy. In other cases the vacancy shall be intimated as soon as may be after its occurrence. The Chairman of the Board shall within three months of the said intimation inform the clerk of the governing body of his acceptance of office as a governor or of the name of the person appointed governor by him.

(3) The provisions of the last foregoing sub-paragraph shall with the necessary modifications apply to the Vice-Chairman of the Merchant Company Education Board.

(4) The President of the Daniel Stewart's and Melville College Former Pupils Club shall not later than two months after 2nd September 1976 intimate to the Secretary of the Melville College School Company his acceptance of office as governor. When a President who is acting as governor ceases to hold office as

President, he shall thereupon cease to be a governor. His successor in office as President shall within one month of his appointment intimate to the clerk of the governing body his acceptance of office as governor.

Elected governors

6. The election of governors under sub-paragraph 3 of paragraph 4 of this scheme shall be made at the Annual General Meeting of the Daniel Stewart's and Melville College Former Pupils Club or at meetings summoned for the purpose which shall be convened and conducted according to the ordinary rules and practice of the club.

Life governors

7. The life governors shall, subject to the provisions of paragraph 9 of this scheme, hold office for the periods of their respective lives, and on the occurrence of vacancies among them the said vacancies shall not be filled.

Periods of office

8. Subject to the provisions of paragraph 9, the term of office of an elected governor shall be three years:

Provided that a governor elected to succeed a governor who has died or otherwise vacated office before the end of his term of office shall hold office only during the unexpired portion of the said governor's term.

Resignations, etc.

9. Any governor who shall intimate in writing his resignation of office, or who shall become bankrupt or otherwise incapacitated to act or who shall for the space of one year without reasonable cause fail to attend any meeting of the governing body, shall be held to have vacated office.

Vacancies

10. Every vacancy whether occasioned by the expiry of a term of office as a governor or by resignation or any other cause shall be entered in the minute book. Each vacancy among the governors shall be intimated to the remaining governors by the clerk to the governing body. In the case of a vacancy caused by the expiry of a normal term of office, intimation shall be made not less than one month before the date of the vacancy and in any other cases as soon as may be after its occurrence.

Re-election

11. Subject to the provisions of paragraph 9, elected governors shall be eligible for re-election:

Provided that such governors shall serve for a maximum of six years and shall thereafter vacate office for a period of one year before becoming eligible for further re-election.

Validity of proceedings of the governing body

12. The proceedings of the governing body shall not be invalidated by any vacancy among the governors or by any defect in the election of any of the governors.

Execution of Deeds

13. All deeds and other writings sealed with the corporate seal and signed by one of the governors and by a duly authorised officer of the governing body appointed for the purpose, shall be held to be validly executed on behalf of the governing body.

Transitional arrangements

14.—(1) The Trustees in office on 2nd September 1976 shall remain in office and shall continue to administer the Melville College Trust until the first meeting of the governing body.

(2) Of the eight governors first elected by the members of the Daniel Stewart's and Melville College Former Pupils Club under paragraph 4(3) of the scheme, three shall hold office for three years, three for two years only and two for one year only.

(3) The first meeting of the governing body shall be convened by the Secretary to Melville College School Company and shall be held not later than three months after 2nd September 1976. At that meeting the governing body shall from their own number appoint a Chairman and two Vice-Chairmen. They shall also appoint a clerk and such other officers as they consider necessary.

PART III

ADMINISTRATIVE ARRANGEMENTS

Chairman and Vice-Chairmen

15.—(1) The governing body shall at their annual meeting appoint one of their own number to be chairman and two of their own number to be vice-chairmen and in the absence of the chairman, the governors shall appoint one of the vice-chairmen to preside at any meeting.

(2) The chairman and vice-chairmen shall serve for a period of three years always provided that a vice-chairman shall be eligible for re-election as such for a second term or as chairman and in an election for chairman preference shall be given to any governor who has previously served in office as a vice-chairman.

Committees

16.—(1) The governors may appoint such committees of their number as they think fit, appoint the convener of each committee, confer on each committee all such powers and give all such instructions as may appear expedient and fix the quorum of each committee.

(2) The governors may appoint as additional members of any committee persons not being members of the governing body whom the governors deem specially fitted to assist in the work of such committee and any persons so appointed shall hold office for such period as the governors may determine.

Administrative staff

17.—(1) The governors shall appoint such administrative officers as they consider necessary at such reasonable salaries and under such conditions of service as they may determine. Such staff shall hold office at the pleasure of the

governors. Any officer of the governors whose duties include intromissions with the funds vested in the governors shall find such caution for his intromissions as the governors may require.

(2) A governor acting as clerk or other officer of the Trust shall not be entitled to any remuneration.

Meetings of the governing body

18.—(1) The governing body shall hold at least one ordinary meeting in each year at such place and time as they may determine.

(2) The Chairman may at any time convene a special meeting of the governing body.

(3) Any two governors may for any cause which seems to them sufficient require a special meeting to be convened by giving notice in writing to the clerk to the governing body specifying the business to be transacted.

(4) At least seven days' notice of meetings shall be given and such notice, which shall be in writing, shall specify the date, time and place of the meeting and the business to be transacted:

Provided that the chairman or any governor duly authorised by the chairman may convene a meeting on less than seven days' notice but no resolution or motion carried at that meeting shall be valid unless not less than two-thirds of the governors present and voting have voted in favour of it or unless it is confirmed at any subsequent meeting on the usual notice being given.

Quorum of governing body

19.—(1) At all meetings of the governing body five shall form a quorum and, subject to the proviso to sub-paragraph (4) of paragraph 18, all questions shall be determined by a majority of the governors present. In any case where there is equality of votes, the chairman of any meeting shall have a second or casting vote in addition to a deliberative vote.

(2) If at any time appointed for a meeting or if before the business of any meeting has been completed the number of governors present is less than five, the governors present shall adjourn the meeting to such day or time as they may determine, and the meeting may be reconvened on less than seven days' notice being given.

Rules and standing orders

20. Subject to the provisions of this scheme, the governing body may make such rules and standing orders for the regulation of their proceedings, the keeping of records, the execution of documents and such other matters connected with the business of the governing body as they think fit.

PART IV

VESTING AND FINANCIAL ARRANGEMENTS

Vesting and amalgamation of funds

21.—(1) From and after 2nd September 1976 the following endowments shall be transferred to and vested in the governing body without the necessity of any new instrument or conveyance and they shall be amalgamated to form the Melville College Trust Fund that is to say:—

(*a*) The endowments named opposite to serial numbers 1 to 5 in Part I of Schedule I, being endowments vested in the Trustees,

(*b*) the endowments named opposite to serial numbers 6 to 9 in Part II of Schedule I, being endowments vested in the School Company; and

(*c*) the endowment named opposite to serial number 10 in Part III of Schedule I which is vested in the Trustees of Melville College Boarding House Trust.

(2) The said Trust Fund as so augmented shall be held, administered and applied by the governing body in accordance with the provisions of this scheme.

Transfer of cash balances, books and papers

22.—(1) The trustees or other governors of the endowments named in Schedule I shall as soon after 2nd September 1976 as may conveniently be arranged hand over to the governing body all cash balances to which they have right, together with all books, deeds and papers which relate wholly or mainly to the endowments referred to in paragraph 21.

(2) The governing body shall discharge the lawful debts of any endowment vested in them by paragraph 21(1):

Provided that the liability of the governors shall be limited to the amount which can be realised from the assets of that endowment, and the governors shall grant to the said trustees or other governors a discharge of their intromissions after the accounts of that endowment have been audited and found correct.

Additional donations

23. The governing body may accept donations, legacies, annuities, subscriptions and other gifts (hereinafter referred to as "additional donations") for the purposes of this scheme, or for other charitable purposes connected therewith. Such additional donations shall be applied in accordance with the directions of the respective testators or donors. In the absence of any specific directions relating thereto the governing body shall apply any additional donation to the capital or the income of the Trust or in such proportions as they think fit to both the said capital and income.

Powers of investment

24. In regard to the investment of the Trust, the governing body shall have all powers competent to them under the Common Law of Scotland as a body corporate.

Application of income

25.—(1) The governing body after paying the necessary expenses of management and the burdens and taxes affecting the Trust shall in each financial year apply as nearly as possible the whole of the free income of the Trust, including any balance carried forward from the previous financial year under sub-paragraph (2) of this paragraph, in the following manner:—

(*a*) they shall make the special payment set forth in Schedule 3

(*b*) they shall meet any expenditure incurred under paragraph 26(1)

(*c*) they shall pay the prizes awarded under paragraph 30: and

(*d*) they shall apply the balance of the free annual income in fulfilling the provisions of paragraphs 27, 28 and 29 all of this scheme.

(2) If at the end of any financial year there is an unexpended balance of income it shall be in the power of the governing body to carry the said balance or part thereof forward to the following financial year or to add the said balance or part thereof to the capital of the Trust.

PART V

PURPOSES OF THE TRUST

War Memorial to former pupils

26.—(1) The main purpose of the Trust is to perpetuate the memory of those former pupils of Edinburgh Institution and Melville College who lost their lives in the two World Wars and the governing body shall maintain and upkeep the existing memorials or any substitute memorials to and records of those former pupils.

(2)(*a*) The grants awarded under paragraph 27 shall perpetuate the memory of those former pupils who fell in the First World War; and

(*b*) The grants awarded under paragraph 28 shall perpetuate the memory of the former pupils who fell in the Second World War.

War Memorial Grants under paragraph 26(2)(*a*)

27. The governing body may make grants up to a maximum of one-third of the total free income of the Trust Fund constituted under paragraph 21(1) of this scheme for any or all of the following purposes:—

(*a*) the provision of equipment for the Combined Cadet Force including the Band;

(*b*) the provision of equipment and grants for pupils and staff engaged in special studies in connection with educational and community projects;

(*c*) the provision, stocking and maintenance of a suitable library for the pupils at the School;

(*d*) the provision of musical instruments for the use of the pupils at the School; and

(*e*) the provision of equipment and facilities for sports and outdoor activities in connection with the School.

War Memorial Grants under paragraph 26(2)(*b*)

28. The governing body may make grants in cases of financial hardship—

(*a*) for the education at the School of dependants of any former pupil of Melville College or Daniel Stewart's College who lost his life in or as a result of the War which commenced 3rd September 1939:

(*b*) for the maintenance or assistance of former pupils of Melville College or Daniel Stewart's College who shall have been wounded or incapacitated in the aforementioned War;

(*c*) for the maintenance or assistance of former pupils of the School or of Melville College or Daniel Stewart's College who shall be incapacitated as a direct result of an accident or from any other cause approved by the governors;

(*d*) for the maintenance or assistance of pupils attending the School; and

(*e*) for the assistance of former employees of Melville College and of employees and former employees of the School.

Grants in aid of the School

29. The governing body may make grants in aid of the School, including the boarding houses, playing fields and clubs within the School.

Prizes

30.—(1) The governing body shall award annually the prizes described in Schedule 2. The sums to be expended and the special conditions of a specific prize shall be as stated in columns (3) and (4) respectively opposite to the name of that prize in column (2) of Schedule 2.

(2) It shall be in the power of the governing body to decide the particular form a prize shall take.

(3) The governing body may, if in their opinion no pupil is of sufficient merit for the award of a particular prize in any year, withhold that prize in that year.

(4) If the award of prizes is discontinued in any department of the School mentioned in column (4) of Schedule 2 it shall be in the power of the governors to expend the sum stated in column (3) opposite the name of the prize in column (2) of the said Schedule, on the promotion of educational projects by or in connection with the School. Such sums shall be additional to funds which the Board may reasonably be expected to provide for similar purposes. Wherever possible the projects should be allied to the subject and department shown in column (4) of Schedule 2.

Limitation of value of awards

31. The amount of any award under this scheme to a person who holds, or is to hold, a scholarship or other allowance which is paid out of monies provided by Parliament or out of any fund aided by grants from Parliament, shall not be such as may cause the said scholarship or other allowance to be reduced.

PART VI

MISCELLANEOUS AND GENERAL PROVISIONS

Names of founders

32. The governing body shall as far as possible associate the names of the founders of the endowments to which this scheme relates with awards made under this scheme.

Continuation of benefits

33. Any person who at 2nd September 1976 is a beneficiary under an endowment to which this scheme relates shall continue to enjoy the benefit thereof subject always to the conditions under which it was awarded.

Copies of scheme

34. The governing body shall maintain a supply of printed copies of this scheme and shall cause a copy to be kept available for inspection by any member or officer of the governing body and copies shall be available for sale to the public at a reasonable price.

Revocation

35. The governing instruments described in column (4) of Schedule 1 shall, subject to the provisions of this scheme, cease to have effect on 2nd September 1976.

Given under the seal of the Secretary of State for Scotland

J. F. McClellan
Assistant Secretary.

Scottish Education Department,
New St Andrew's House,
Edinburgh.
2nd September 1976.

Paragraph 21

SCHEDULE 1

PARTICULARS OF THE ENDOWMENTS TO WHICH THIS SCHEME RELATES

Serial No. (*1*)	*Name of Endowment* (*2*)	*Founder* (*3*)	*Governing Instrument* (4)
		Part I	
1.	Melville College Trust	Robert Bruce and others	Declaration of Trust dated 16th September 1947 constituting the Melville College Trust and supplementary Declaration of Trust dated 27th October 1948 registered in the Books of Council and Session on 27th September 1947 and 1st November 1948 respectively.
2.	W. R. Annan Memorial Prize Fund	John L. Annan	Letter dated 3rd November 1949 setting forth trust purposes.
3.	Connell Prize Fund	Sir Charles Connell	Letters dated 4th and 6th February, 1969 setting forth trust purposes.
4.	Alastair Leslie Memorial Prize Fund	H. Harper Leslie	Minute of Meeting of Melville College Trust dated 28th July 1948 and letter dated 31st January 1957 setting forth trust purposes.
5.	Wight Rutherford Awards Fund	James Wight Rutherford	Declaration of Trust dated 16th, 20th and 21st June 1972 and registered in the Books of Council and Session on 27th June 1972.

SCHEDULE 1—*continued*

Serial No. (*1*)	*Name of Endowment* (*2*)	*Founder* (*3*)	*Governing Instrument* (*4*)
		Part II	
6.	Melville College:— General funds of the School Company, known as Melville College comprising the net assets thereof (excluding the expenses of liquidation and the properties, heritable and moveable at 1 to 11 Melville Street, Edinburgh together with the whole fittings and fixtures therein, which have been transferred to and vested in the Merchant Company Education Board).	Robert Bruce and others	Memorandum and Articles of Association of Melville College signed by order of the Board of Trade on 10th December 1954.
7.	Cockburn Prizes Fund	Malcolm J. Cockburn	Letter dated 22nd August 1971 setting forth trust purposes.
8.	The Tom Sturrock Fund	Mr. and Mrs. Alexander M. Sturrock	Deed of gift dated 16th January 1961 setting forth trust purposes.
9.	John Walker Prize Fund	Duncan Lothian Ker, Walker Port Chalmers, New Zealand	Declaration of Trust dated 7th May 1928 and registered in the Books of Council and Session on 23rd May 1928.
		Part III	
10.	Melville College Boarding House Trust	Right Honourable Edward T. Salvesen and others.	Declaration of Trust dated 26th and 30th October 1933, registered in the Books of Council and Session on 22nd December 1933.

Paragraph 30

SCHEDULE 2

PRIZES

Serial No. (1)	*Name of Prize* (2)	*Sum to be Expended Annually* (3)	*Purpose* (4)	*Serial No. in Schedule 1* (5)
		£		
1.	W. R. Annan Memorial Prize	8·00	Prize for proficiency in mathematics to be awarded in Form III in the Upper School. Prize for proficiency in mathematics to be awarded in the highest Form in the Primary School. Prize to be awarded to the best pupil in architectural drawing in the senior drawing class.	2
2.	Cockburn Prizes	8·00	Prize to be awarded to the best pupil in English in the First Form of the Upper School. Prize to be awarded to the best pupil in mathematics in the Transition Year.	7
3.	Connell Prize	3·50	Prize to be awarded to the best pupil in Science in Form III.	3
4.	Alastair Leslie Memorial Prize	32·00	Prize to be awarded to the best scholar of the year to assist him to meet the cost of his course of study at a university or institution of further or higher education. The holder of the award shall also be given a book as a permanent reminder of the prize.	4
5.	John Walker Prizes	10·00	Prize for the best all round athlete, who is also well up in his studies. Prize for a handicap race of 300 yards open to former pupils of the school. Prize for mechanical drawing.	9

SCHEDULE 2—*Continued*

Serial No. (*1*)	*Name of Prize* (*2*)	*Sum to be Expended Annually* (*3*)	*Purpose* (*4*)	*Serial No. in Schedule* 1 (*5*)
		£		
6.	Wight Rutherford Awards	42·00	A memento for the Head Boy of the School Senior Boarding House or Houses if more than one. Three progress awards for boys in the School Boarding House or Houses. Two awards for goal kicking for rugby playing boys in the School Boarding House or Houses, to be decided by a competition.	5

Paragraph 25(1)(*a*)

SCHEDULE 3

SPECIAL PURPOSE

Serial No. (*1*)	*Name of endowment* (*2*)	*Sum to be expended annually* (*3*)	*Purpose* (*4*)	*Serial No. in Schedule* 1 (*5*)
		£		
1.	The Tom Sturrock Fund	10·50	Annual income to be used to purchase books for the school library or equipment for the Cairngorm Club of the School. If in any year the income is not sufficient to purchase the books or equipment considered desirable by the headmaster, the governors may apply the income along with any other funds available or accumulate the income until the desired purchases can be made.	8

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