

THE
EDUCATION ACT
1944

PROVISIONS, POSSIBILITIES,
AND
SOME PROBLEMS

H.C. Dent

NEW EDITION

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SOME PROBLEMS

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"A Landmark in English Education"

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INTRODUCTION

The Education Act, 1944, the first of the Coalition Government's major measures of social reconstruction, became law on 3rd August of that year. It is a very great Act, which makes possible as important and substantial an advance in public education as this country has ever known. But "legislation can do little more than prepare the way for reform," as Mr. Butler's White Paper of July 1943 rightly reminded us. The value of an Act of Parliament depends upon how fully it is put into operation and how well it is administered; and this in turn depends very largely upon the public approval and support that the measure commands.

Let no one imagine that it is going to be easy to bring all the provisions of this Education Act into operation either fully or quickly. Given the best will in the world and the utmost resolution, the task will still remain extremely difficult—and very costly. It will be the more difficult in that it will have to be carried out during a period of economic and social dislocation and simultaneously with other massive schemes of reconstruction. Yet nothing less than full operation of the Act will suffice to satisfy the nation's needs.

Those who have to administer the Act will need all possible help from the general public. This can only be given if every citizen—man and woman—knows what is in the Act, what opportunities it offers, and what difficulties and problems its administration presents.

This book is intended to help members of the general public to play their part in making the new Education Act a success. In it I propose to outline, as simply as may be, the main provisions of the Act, and to comment briefly upon

some of its possibilities and snags. Many of both, of course, will not become fully apparent until the Act has been in operation for some time. But its clauses were given a very close and detailed examination while the Bill was being passed through Parliament, and this threw considerable light upon a large number of administrative and other problems. The Regulations, circulars and memoranda being issued by the Minister of Education are further defining and clarifying these. A brief summary of the most important bodies of Regulations is given at the end of the book.

The Act concerns intimately every one of us—man, woman, and child. It lays **unprecedented obligations** upon both the public authorities and the private citizen. It may make all the difference between a happy and glorious future for our country and an unhappy and inglorious one. To make it a real success, the full co-operation of every citizen will be required. On all these counts I commend the study of it to every thoughtful man or woman.

SUMMARY OF CONTENTS

The Act is arranged in 5 Parts containing 122 Sections, or Clauses, and 9 Schedules dealing in detail with matters arising out of various clauses.

Part I (Sections 1-5) deals with the Central Administration: the duties of the Minister; his officers, and the Advisory Councils which are to advise him.

Part II (Sections 6-69) deals with the Statutory System of Education, that is, the educational services provided or assisted out of public funds and available to the general public; primary, secondary, part-time, technical, and adult education, and the Service of Youth; and the various services ancillary to these, such as the School Medical Service and the provision of milk and meals at school.

Part III (Sections 70-75) deals with independent, that is private, schools.

Part IV (Sections 76-107) contains a variety of miscellaneous provisions, dealing with such matters as the inspection of schools, the powers of the local authorities to grant scholarships, the rights of parents, and the financial arrangements between the Ministry, the local authorities, and the voluntary bodies co-operating in the educational services.

Part V (Sections 108-122) deals mainly with bringing the Act into operation, and includes an "interpretation" clause defining the more important terms used in the Act.

The schedules deal with such matters as the composition and functions of local education authorities and other bodies, and the amendment and repeal of previous Acts.

Parts I and V came into operation the day the Act received

the Royal Assent, Parts II and IV on 1st April 1945.¹ Part III will come into operation on an appointed day to be fixed by an Order in Council.

In the following pages I deal with the Parts and Clauses as they are arranged in the Act, except that various financial and supplementary provisions are noted in connection with main clauses to which they refer.

¹ With a reservation concerning the date of the raising of the compulsory school age to 15. See page 41.

PART I

CENTRAL ADMINISTRATION

From 1900, when the Board of Education was established, until 1944 the Minister was styled the President of the Board of Education (though in fact the Board never met), and his responsibility to Parliament and the public was "the superintendence of certain matters relating to education in England and Wales."

Under the new Act his title becomes that of Minister. He is in charge of a Ministry of Education, and his duty is to—

promote the education of the people of England and Wales and the progressive development of institutions devoted to that purpose, and to secure the effective execution by local authorities, under his control and direction, of the national policy for providing a varied and comprehensive educational service in every area. (Clause 1.)

This Clause clearly places very large powers in the hands of the Minister. Fears have been expressed, in Parliament and outside, lest they were too great, and an amendment was moved in the House of Commons to omit the words "under his control and direction." Mr. Butler resisted this, and was supported by the House. Sir Percy Harris voiced the general feeling when he said that if the Act was to work it was vital that the Minister "should be armed with full power and authority to force education authorities up to one common level"; and Mr. Butler was warmly applauded when he declared that he intended the central authority to "lead boldly and not follow timidly"—without, he was at pains to

emphasize, in any way removing or diminishing the spirit of partnership in which it had always worked with the local authorities.

There is an overwhelming case for effective central direction and control. It has been a major defect in English educational administration that local authorities could be laggard or reactionary in their provision, thus denying children (and adults) in their areas opportunities available in the areas of enlightened and progressive authorities; and that the President of the Board of Education had no effective power to compel these backward authorities to raise their standards.

Yet there is substance in the fear lest such large powers as the Act gives to the Minister might open the door to an educational dictatorship. This fear need never be realized, provided Parliament and the public are alive to their responsibilities. The Minister is answerable for his actions and those of his department to Parliament, to which he must render an annual report "giving an account of the exercise and performance of the powers and duties conferred and imposed upon him by this Act" (Clause 5). Any Regulation he makes must be laid before Parliament, and either House has power to annul it (Clause 112). He can be publicly questioned by any member of the House of Commons¹ on any day the House is sitting (and privately by any citizen at any time) concerning any action of his own, of any of his officers, or of any person engaged in the public service of education. It is important to remember in this connection that every citizen has the right (and the duty) to bring to the notice of his member of Parliament any matter into which he feels inquiry ought to be made.

A further check is imposed upon the Minister by Clause 4,

¹ The House of Lords has no "question time."

which provides for two Central Advisory Councils for Education, one for England and one for Wales and Monmouthshire. The duty of these councils is—

to advise the Minister upon such matters connected with educational theory and practice *as they think fit*, and upon any questions referred to them by him.

The vitally important words in this charge are those which I have italicized. There was previously as part of the machinery of the Board of Education a Consultative Committee to which the President could, and did, refer matters for detailed inquiry and report; and some exceedingly valuable reports resulted from the investigations of this committee.¹ But it had no power to conduct inquiries on its own initiative. The new councils have this power, and provided they are composed of men and women of independent mind, with the courage of their convictions, they should be not only of the greatest assistance to the Minister but also an effective deterrent to arbitrary or irresponsible action on his part.

It is true that the Minister himself is to appoint the members, the chairmen, and the secretaries of the councils, and by Regulations to determine their terms of office and conditions of retirement. This would seem to take away much of their value as a check upon him. But against this has to be set the fact that he must include in his annual report to Parliament an account "of the composition and proceedings" of the councils (Clause 5).

A prolonged debate took place in the House of Commons concerning the composition of these councils. Various members desired to see direct representation of specific

¹ Notably the "Hadow" Report on *The Education of the Adolescent*, on the basis of which the reorganization of the elementary schools was begun.

interests—industry, agriculture, adult education, technical education, for example. Mr. Butler resisted all such proposals, saying that he wanted the councils to be as broadly representative of the national life as possible. Despite strong pressure, he stuck to the purposed vagueness of Clause 4 (3), which merely requires that each council shall include persons with experience of the statutory system of education and persons with experience of other educational institutions. The House of Lords inserted a proviso that as to one-third of the members of the councils the Minister must consult beforehand the President of the Board of Trade and the Minister of Agriculture, but happily the Commons rejected this singularly ill-conceived proposal.

Mr. Butler defined the intended function of the councils very clearly. They were not to concern themselves with administration, but to—

pay some attention to what is taught in the schools and . . . to all the most modern and up-to-date methods, and by reviewing the position continually consider the whole question of what may be taught to the children. (*Hansard*, 8th February 1944, Vol. 396, No. 26, col. 1707.)

The rest of this Part of the Act calls for little comment. Clause 1 (3) empowers the Minister to appoint a Parliamentary Secretary, and “such other secretaries, officers, and servants as the Minister may, with the consent of the Treasury, determine.” The statutory provision here remains unchanged. How the new Ministry is organized internally is, of course, a matter of administrative, not legislative, action. Clauses 2 and 3 deal with the transfer of property and functions to the Minister and the authentication of documents issued by him.

PART II

THE STATUTORY SYSTEM OF EDUCATION

(i) LOCAL ADMINISTRATION

Clause 6 provoked more discussion in the House of Commons than any other. It lays down that—

subject to the provisions of Part I of the First Schedule to this Act, the local education authority for each county shall be the council of the county, and the local education authority for each county borough shall be the council of the county borough.

This implies something of a revolution in the local administration of education. It means, first, that 169 of the then existing 315 local education authorities ceased to exist on 1st April 1945, when this Part of the Act came into operation. Hence the excitement.

Why should such a drastic change be necessary? For the answer one must go back to the Education Act of 1902. This set up the machinery of local administration which has now been so strikingly modified. It made the county councils and the county borough councils local education authorities for all forms of public education. (These authorities, because their powers and duties were specified in Part II of the 1902 Act, became known as "Part II Authorities.") It also made municipal boroughs with a population exceeding 10,000 at the 1901 census and urban district councils with a population exceeding 20,000 local education authorities *for elementary education only* within their areas. These were the "Part III Authorities." It is the Part III Authorities which have been abolished under the new Act.

As they stood, they were bound to be. Under Clause 7 of the Act the category "elementary" disappeared from the English educational system, and *ipso facto* local education authorities for elementary education only had to disappear also. But that did not mean, said the champions of the Part III Authorities, that these authorities should cease to exist altogether. No: raise their status, not extinguish them. Make them "all-purpose" education authorities, like the county councils and the county borough councils. They have been exercising educational functions for over forty years, and in many cases doing so extremely well. Among their ranks are some of the most progressive and efficient education authorities in the country—notably more so than many counties. Moreover, some of them, being ancient boroughs, have been exercising other local government functions for centuries, while some have grown so rapidly since 1902 that they are today larger in population and wealthier than some of the counties and county boroughs.

But there were weak links in this apparently strong case. The majority of the Part III Authorities, it had to be admitted, were too small, and lacked the necessary financial resources, for so comprehensive an educational service as the Act projected. There were urban districts without educational powers that were far larger and wealthier. To pick and choose an entirely new set of authorities would take time—lots of time; and Mr. Butler wanted his Act in operation quickly. So, too, he knew, did an overwhelming majority of the people of England and Wales. There was no time for a comprehensive inquiry into the structure of local government.

Still, something had clearly to be conceded to the Part IIIs. A compromise had to be arranged. That compromise

is to be found in the First Schedule to the Act.

Part I of this Schedule provides that the Minister may constitute a "joint education board"¹ for the areas of two or more counties or county boroughs judged too small or poor to carry by themselves the full burden of the new education service.

Part III of the Schedule provides that the areas of counties (the provision does not apply to county boroughs) may be partitioned "into such divisions as may be conducive to efficient and convenient administration," and that in these bodies of persons, to be known as "divisional executives," shall be constituted to exercise on behalf of the authority "such functions relating to primary and secondary education² as may be so specified." The only powers which the authority may not delegate are those of borrowing money and raising a rate.

Schemes of divisional administration are to be made by the local education authority, but the council of any borough or urban district could, before 1st October 1944, lodge a claim to "be excepted from any scheme of divisional administration to be made by a local education authority." If the population of the borough or urban district was in 1939 not less than 60,000, or its elementary school population not less than 7,000, the Minister had to allow the claim. In other cases he consulted with the local education authority and any other councils concerned, and allowed the claim if he considered that special circumstances justified it. The council of an "excepted district" has the right to make (after consultation with the local education authority) its own scheme of divisional administration.³

¹ One joint board, for the Soke of Peterborough and the City of Peterborough, has been set up.

² And, in certain circumstances, further education.

³ There are 45 excepted districts, of which 7 earned the status on account of special circumstances.

How this somewhat intricate arrangement will work out in practice remains to be seen. Much will depend upon the quality of the men and women who serve on the education committee which each authority must set up, and upon the divisional executives. If there is co-operation in a spirit of mutual goodwill between these bodies, then, as Mr. Butler said,¹ we may well create "something new and valuable in the sphere of local government."

This is a matter in which every citizen entitled to vote in the election of a county council can help, for "at least a majority of every education committee of a local education authority shall be members of the authority" (First Schedule, Part II), that is, members of the county council which he or she assists as a voter to elect. But it is clear also that where attendance at council and/or committee meetings involves considerable journeying in addition to the time spent at the meetings, if the right men and women are to be enabled to serve on the council and the education committee, arrangements will have to be made for time off from employment and payment of reasonable travelling expenses.

(ii) THE SYSTEM RECAST

Clause 7 is the most important in the Act. It entirely recasts the structure of the statutory system of public education. Previously this was organized in two parts: elementary and higher education, the latter including all forms of education other than elementary. As secondary education began at 11+ and technical at 12 or 13, while elementary continued until 14, these two parts overlapped. But as secondary schools were available for only about 9.5 per cent. of

¹ 15th February 1944. *Hansard*, Vol. 397, No. 30, col. 78.

the children eligible by age, and junior technical schools for about 0.6 per cent., there was a very grave inadequacy of educational provision for the adolescent. For 90 per cent. of the children attending State schools an elementary education was all that was available.

This unhappy state of affairs is to be ended. Clause 7 says that—

The statutory system of public education shall be organized in three progressive stages to be known as primary education, secondary education, and further education;

and that—

it shall be the duty of the local education authority for every area, so far as their powers extend, to contribute towards the spiritual, moral, mental, and physical development of the community by securing that efficient education throughout those stages shall be available to meet the needs of the population of their area.

Hitherto, it has been the *duty* of the local authorities to provide elementary education only, though Part II authorities have had *powers* to provide or assist the provision of secondary and other higher education. How adequately those powers have been exercised has depended upon the attitude towards education of a local authority or upon the financial resources at its command; and, as everyone knows, the provision of higher education has been extremely unequal—and nowhere sufficient. It is now the statutory duty of the local education authority to make available efficient facilities for primary and secondary education for every boy and girl, and for further education for every man and woman in its area. It is the duty of every citizen to see that duty *well* done.

The financial implications of this will be discussed later. Meanwhile, it is to be noted that Clause 8 goes into considerable detail concerning the provision of primary and secondary education. The local authority must see that in its area there are sufficient schools for providing (a) primary education, which is defined as "full-time education suitable to the requirements of junior pupils" (i.e. pupils under 12 years of age), and (b) secondary education, that is, "full-time education suitable to the needs of senior pupils" (i.e. over 12 but under 19).

In amplification of the above there comes the following glorious passage, which should be hung up in the meeting-room of every local education committee and learned by heart by every citizen:

and the schools available for an area shall not be deemed to be sufficient unless they are sufficient in number, character, and equipment to afford for all pupils opportunities for education offering such variety of instruction and training as may be desirable in view of their different ages, abilities, and aptitudes, and of the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their respective needs.

A volume of commentary might be written on that passage, but it must suffice to say here that properly interpreted (and it will be the duty of every citizen to see that it *is* properly interpreted) it will mean a full and appropriate educational opportunity for every boy and girl throughout the period of compulsory schooling, and, if desired, beyond it to age 19.

No one could pretend that it will be easy to achieve this ideal. It will be extremely difficult. The school buildings of