

**THE CONSCIENCE CLAUSE**  
**in**  
**RELIGIOUS EDUCATION and COLLECTIVE WORSHIP**

**Conscientious objection or curriculum choice?**

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# THE CONSCIENCE CLAUSE in RELIGIOUS EDUCATION and COLLECTIVE WORSHIP

## Conscientious objection or curriculum choice?

### 1. Review of the Historical Evidence

Given some of the current uncertainty as to the grounds upon which parents are able to withdraw their children from religious education or collective worship, an historical analysis of the relevant education acts and of their context is very timely. This uncertainty has been compounded by the fact that nowhere in the text of the 1870 Education Act is the term 'conscience clause' actually mentioned. Is it therefore an historical myth or is there compelling evidence that the withdrawal clause was intended to be used on grounds of conscience only? This paper argues for the latter. It reviews the range of evidence and gives direct extracts of the relevant evidence itself.

#### 1. The place of RE in the school curriculum

In mid 19<sup>th</sup> century education without RE was considered incomplete; the schools were founded by churches and expected to provide RE. A requirement for a building grant was that the Authorised Version of the Bible be read every day; hence it was not until the 1850s that Roman Catholic and Jewish schools were able to get grants. Eventually, secular schools were able to get the government grants.

The 1870 Act did not make RE compulsory, and it was expected that there would be one or two school boards which ran secular schools as a way of avoiding denominational issues.

The 1944 Act, for the first time, made RE and worship compulsory, reflecting the existing practice.

The 1988 Act strengthened this requirement.

#### 2. The type of RE to be provided in non-voluntary schools

In 1842-43, there was a proposal for a Government Normal School to train teachers; the RE was to be partly "general" (undenominational) and partly "specific" (denominational). There were ructions about the RE so the proposal fell, mainly because of arguments about the general RE. Churchmen considered that RE could only be denominational.

By 1860s Dissenters were beginning to believe that the only way to protect their consciences in the face of Anglican might was to prefer secular schools.

The 1870 Act specified the type of RE to be provided in board schools – Cowper-Temple clause. This was NOT undenominational, but allowed teachers to teach the content of the catechism and liturgy without making the children learn the actual words. Hence it could be denominational.

During the 1930s there was the development of Agreed Syllabuses which were undenominational, and this therefore represented an enormous shift in opinion.

The idea of an Agreed Syllabus was picked up by the 1944 Act and has remained the type of RE in non-voluntary schools.

Agreed syllabuses require the teacher to teach *about* religion, whereas the Cowper-Temple clause allowed teachers to teach from *within* a faith.

#### 3. The purpose of the conscience clause.

The conscience clause was brought in voluntarily by some church schools from the 1820s onwards. Because of the intransigence of the National Society, what had been informal arrangements had to be made formal; the Committee of Privy Council on Education made it compulsory for all new schools assisted by building grants from about 1852. The concern was with single school areas which had Church of England schools and the consciences of Dissenters whose children were forced either to attend these schools or do without education.

To address this issue the 1870 Act introduced the “timetable Conscience clause” to make it easier for children to be withdrawn from RE; many schools did not have a separate room where the children could be taught something else during RE, so this was seen as the simplest option.

Most discussion about the conscience clause was about the timetable aspect.

The 1944 Act, in introducing daily collective worship, kept it at the beginning of the school day, though RE was given more freedom, because, in county schools, it was based on the Agreed Syllabus.

The Act includes the requirement that arrangements be made for parents who demand RE of their own denominational choice in both county and voluntary schools to have the facility to withdraw their children from the RE of the school to be taught elsewhere.

The 1988 Act freed up the time for worship.

It can therefore be argued that the conscience clause pre-dated nondenominational religious education, and that it was designed to protect parents’ consciences about the type of denominational RE their children received. Since 1870, it has hardly been discussed in Parliament – just carried through from one Act to the next, on the assumption that it is “a good thing”.

In today’s community schools, there is a case for parents to be able to exercise it over worship, and for a few, members of the more “closed-minded” sects (eg Jehovah’s Witnesses, Mormons), over RE; but there does not appear to be a case for most parents to use their consciences. The provisions for an alternative form of RE are still included in the “conscience clause” – and no other suggestions.

## 2. The Main Hansard references

	clauses	series	vol	columns	columns
<b>1870 Act</b>					
Commons					
first reading		third	199	438-498	
second reading			199	1919-1954	1993-2068
			200	212-303	
recommitted			202	266-300	495-596
			202	788-850	895-949
committee stage	7		202	1027-1051	1090-1113
	14		202	1236-1282	
Lords					
second reading			203	821-865	
committee stage	7		203	1162-1176	
	14		203	1177-1182	
report			203	1265-1268	
<b>1944 Act</b>					
Commons					
White paper		fifth	391	1825-1928	
second reading			396	207-232	405-499
committee stage	24		397	2395-2427	
	25			2428	
report			402	919-982	
Lords					
committee stage	24		132	346-360	
<b>1988 Act</b>					
Commons					
second reading		sixth	123	771-868	
report	2		130	398-426	
Standing Committee J clause 79			X	1255-1266	
Lords					
second reading		fifth	495	1211-1349	1362-144
committee stage			496	485-520	

### 3. The Evidence

#### Pre-1870

1. The religious difficulty:  
James Kay Shuttleworth, *Four periods of public education as reviewed in 1832, 1839, 1846, 1862*, Longman, Green, Longman and Roberts, 1862 [Brighton: Harvester Press, 1973], pp 239-240.
2. Requirement for Bible reading:  
Minutes of the Committee of Privy Council on Education, 1862 xlii, p xvi, Revised code, preliminary chapter.
3. The need for a conscience clause:  
James Kay Shuttleworth, *Public education as affected by the Minutes of the Committee of Privy Council from 1846 to 1852: with suggestions as to future policy*, Longman, Brown, Green and Longmans, 1853, pp 14-16.
4. Material to be inserted in a school trust deed about conscience clause:  
Minutes of the Committee of Privy Council on Education, 1852, xxxix, p 71.
5. Reduction in number of children for whom new schools have been provided because of National Society's refusal to incorporate conscience clause.  
Minutes of the Committee of Privy Council on Education, 1864, xlv, p xiv – xv.

#### General histories:

HJ Burgess, *Enterprise in education: The story of the work of the Established Church in the education of the people prior to 1870*, National Society and SPCK, 1958.

Marjorie Cruickshank, *Church and State in English education*, Macmillan 1964, p 10:

Perhaps nothing in the educational controversies of the nineteenth century did more to inflame denominational bitterness than the Anglican refusal to concede rights of conscience, for it bred deep resentment and distrust which were to rankle in dissenting hearts for many years to come. Herein lay the problem of the single-school area, where there was only one school and that a Church school. The Dissenters were never reconciled to the Anglican monopoly of the village schools, and right into the twentieth century they had good cause to regard it as the most humiliating of their injustices.

#### Elementary Education Act, 1870.

6. Text of clauses 7, 14, 97.
7. Extracts from debates in Parliament, Hansard 3<sup>rd</sup> series  
Commons: Forster, first reading; vol 199, cols 447–449, 457.  
Dixon, second reading, speech on amendment: vol 199, cols 1921, 1926.  
Forster's response to a question from Sir George Gray, vol 201, cols 1496-8.  
Winterbotham's question and Forster's reply, vol 201, cols 1702 – 3.  
Gladstone during re-commitment, vol 202, cols 272, 276.  
Forster's speeches during committee stage, vol 202, cols 1036, 1045, 1251.  
Gladstone on clause 14, vol 202, col 1255-1256.  
Lords  
Earl de Grey and Ripon, Second reading, vol 203, col 827.  
Earl of Shaftesbury committee, clause 7, vol 203, col. 1168.  
Lord Cairns proposed an amendment: vol 203, cols 1173-74.  
Viscount Stratford de Redcliffe. clause 14, vol 203, cols 1177-78.  
Lord Chancellor, vol 203, col 1182.

8. The working of the Elementary Education Acts:  
*Final Report of the Royal Commission appointed to inquire into the working of the Elementary Education Acts, England and Wales*, presented to both Houses of Parliament by Command of Her Majesty, 1888, Eyre and Spottiswood, 1888, [IUP, 1970, Elementary Education, 37], pp 119-121.
9. The evidence supplied to the Cross Commission:  
*Third Report of the Royal Commission appointed to inquire into the working of the Elementary Education Acts, England and Wales*, presented to both Houses of Parliament by Command of Her Majesty, 1887, Eyre and Spottiswood, 1887, IUP, 1970 [Elementary Education, 36]  
Patrick Cumin [Secretary of the English Education Department since 1884], questions 59127, 59129.  
JG Fitch, Senior HMI, questions 57025-26.

General histories:

James Murphy, *Church, State and Schools in Britain, 1800-1970*, Routledge & Kegan Paul, 1971.

James Murphy, *The Education Act, 1870, Text and Commentary*, Newton Abbot: David & Charles, 1972.

### **Education Act 1944.**

10. Text of sections 25 and 26.
11. Archbishops' Five Points on religious education in schools, (based on what they considered was already the case in the country):  
quoted in PHJH Gosden, *Education in the Second World War: a study in policy and administration*, Methuen, 1976, p 272.
12. *Educational Reconstruction*, White Paper, 1943, paragraphs 36 – 38, 54.
13. Extracts from debates in Parliament: Hansard Fifth series  
Commons Butler introducing the White Paper, vol 391, cols 1832-33.  
Second reading, Butler: RI provided in the Bill, vol 396, col 229 – 230.  
Chuter Ede, col 488 – 492.  
Committee stage, clause 24, Butler on worship vol 397 col 2402.  
Chuter Ede senior pupils in secondary schools, vol 397, col 2425-6.  
Clause 25, Mr Brooke amendment, vol 397, col 2428.
14. Legal opinion of meaning of clauses  
WP Alexander and F Barraclough, *County and voluntary schools*, Councils & Education Press, second edition, 1953.

General histories:

Michael Barber, *The making of the 1944 Education Act*, Cassell Education, 1994.

PHJH Gosden, *Education in the Second World War: a study in policy and administration*, Methuen, 1976.

Patrick C Souper and William K Kay, *The school assembly debate: 1942-1982*, University of Southampton, Department of Education, 1982.

(Good section on the debate in Parliament, pp 17-27, though without dealing with conscience clause.)

## **Education Reform Act, 1988**

15. Text of sections 2, 6, 7, 8, 9, 10, Schedule 1.
16. Extracts from debates in Parliament, Hansard, sixth series  
Commons: Second reading 1.12.1987 Kenneth Baker, vol 123, col 773-4.  
Committee Bob Dunn on collective worship. Vol X, col 1257.  
Report Sir Hugh Rossi amendment to clause 2 col 400.  
Baker col 419-421.
- 17 Education Act 1996 replaced all sections of Education Reform Act shown above.  
section 352(1)
- 18 School Standards and Framework Act, 1998 which replaced much of Education Act, 1996.  
sections 69, 71.

## 4. Extracts of the Evidence

### 1. The religious difficulty:

James Kay Shuttleworth, *Four periods of public education as reviewed in 1832, 1839, 1846, 1862*, Longman, Green, Longman and Roberts, 1862 [Brighton: Harvester Press, 1973], pp 239-240:

From letter to the Lord President of the Council from Lord John Russell [Home Secretary], 1839:

The National Society, supported by the Established Church., contend that the schoolmaster should be invariably a Churchman; that the Church Catechism should be taught in the School to all the scholars; that all should be required to attend church on Sundays, and that the Schools should be, in every case, be under the superintendence of the clergyman of the parish.

The British and Foreign School Society, on the other hand, admit Churchmen and Dissenters equally as schoolmasters, require that the Bible should be taught in their Schools, but insist that no catechism should be admitted.

...

On this subject, I need only say, that it is her Majesty's wish that the youth of this kingdom should be religiously brought up, and that the rights of conscience should be respected.

### 2. The requirement for Bible reading:

Minutes of the Committee of Privy Council on Education, 1862 xlii, p xvi Revised code, preliminary chapter

Every school assisted from the grant must be either:

- (a) A school in connexion with some recognized religious denomination; or
- (b) A school in which, besides secular instruction, the Scriptures are read daily from the authorized version.

### 3. The need for a conscience clause:

James Kay Shuttleworth, *Public education as affected by the Minutes of the Committee of Privy Council from 1846 to 1852: with suggestions as to future policy*, Longman, Brown, Green and Longmans, 1853, pp 14-16.

The claim of an exclusive authority to teach, advanced by this party, was based on the assumption, either that the Church had no mission to those who had not been received within her pale by the rite of baptism, or that, if such a mission were admitted by the servants of that Master who directed them, when the bidden guests excused themselves, to go forth to the way sides and hedges, and compel the outcasts of the world to His Feast, then, it was contended, that the Church could not neglect to teach her whole doctrine to those who accepted any part of her instruction. Consequently, the children of a Romanist, a Jewish, or a Dissenting family, inhabiting a parish, in which there was no other than the Church of England school, could not be received into it by the sound Churchman, without a violation of conscience. Here was the dilemma. The parent must place his child under instruction and training detrimental, if not fatal (in his conviction) to its spiritual interests, or he must abandon it to ignorance. The clergyman must either admit this child to his school, and allow it to be withdrawn from any matter of instruction to which the parent might, on religious grounds object, or leave it to perish from lack of knowledge. ... Parliament does not sympathise, with that part of the clergy of a church, established for the benefit of the nation, who would render instruction inaccessible to any part of the people.

### 4. Material to be inserted in a school trust deed about conscience clause

Minutes of the Committee of Privy Council on Education, 1852 xxxix, p 71:

Deed of conveyance for a school to be occupied as a school in connection with any particular manufacturing establishment or mining or foundry works:

and it is hereby declared that the instruction at the said school shall comprise at least the following branches of school learning, namely reading, writing, arithmetic, geography, Scripture, history and in the case of girls needlework. And it is hereby further declared that it shall be a fundamental regulation and practice of the said schools that the Bible be daily read therein by the children and that no child shall be required to learn any catechism or other religious formulary or to attend any Sunday school or place of worship to which respectively his or her parent or guardian shall on religious grounds object but the selection of such Sunday school and place of worship shall in all cases be left to the free choice of such parent or guardian without the child's thereby incurring any loss of the benefits and privileges of the school the trusts whereof are hereby declared.

## 5. Reduction in number of children for whom new schools have been provided.

Minutes of the Committee of Privy Council on Education, 1864 xlv, pp, xiv – xv.

The reduction would probably have been less, if the establishment of National schools in parishes containing dissenters, and not able to maintain a second school, had been provided for in the National Society's terms of union. At present, those terms often conflict with the principles which we feel bound to observe in applying public money to the permanent establishment of new schools in such parishes and exclude our grants. This is the more to be regretted, as the parishes in question are those which have been least reached by the measures taken during the last 25 years for the improvement of public education, and the erection of a decent and commodious school-house is generally the first step which a new incumbent, or other new resident desirous to improve the instruction of the poor in such parishes, is anxious to take. Our recent correspondence with the National School Society, which we have already submitted to Parliament, has not removed the difficulty. Our proposal\* was strictly confined to enabling parents to withdraw their children from religious instruction of which they themselves disapprove; it authorized no modification of the religious instruction itself, which would have remained, as before, under the superintendence of the parochial clergyman, and the control of the bishop (on appeal). We made the proposal from a sincere desire to remove an obstacle in the way of extending education in connexion with the Established Church to parts of the country where no other religious community can provide it, and we are firmly persuaded that the concession to dissenting parents, which would enable us to co-operate unreservedly in such an extension, would be found to be consistent with the objects which the National School Society was founded to promote.

\*The (*persons authorized by the trust deed to manage the school*) shall be bound to make such orders as shall provide for admitting to the benefits of the school the children of parents not in communion with the (*Church or denomination with which the school is connected*); but such orders shall be confined to the exemption of such children, if their parents desire it, from attendance at the public worship, and from instruction in the doctrine or formularies of the said (*Church or denomination*) and shall not otherwise interfere with the religious teaching of the scholars as fixed by (the trust deed) and shall not authorize any other religious instruction to be given in the school.

## 6. Elementary Education Act, 1870

### 7. Regulations for conduct of public elementary school.

Every elementary school which is conducted in accordance with the following regulations shall be a public elementary school within the meaning of this Act; and every public elementary school shall be conducted in accordance with the following regulations (a copy of which regulations shall be conspicuously put up in every such school); namely,

- (1) It shall not be required, as a condition of any child being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school, or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs;
- (2) The time or times during which any religious observance is practised or instruction in religious subjects is given at any meeting of the school shall be either at the beginning or at the end, or at the beginning and the end of such meeting, and shall be inserted in a time table to be approved by the Education Department, and to be kept permanently and conspicuously affixed in every schoolroom; and any scholar may be withdrawn by his parent from such observance or instruction without forfeiting any of the other benefits of the school.

...

### 14. Management of school by school board

Every school provided by a school board shall be conducted under the control and management of such board in accordance with the following regulations:

...

- (2) No religious catechism or religious formulary which is distinctive of any particular denomination shall be taught in the school.

...

### 97 Conditions of annual parliamentary grant

The conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant shall be those contained in the minutes of the education department in force for the time being, and shall amongst other matters provide that ...

- (1) Such grant shall not be made in respect of any instruction in religious subjects;

...

but such conditions shall not require that the school shall be in connexion with a religious denomination, or that religious instruction shall be given in the school, and shall not give any preference or advantage to any school on the ground that it is or is not provided by a school board;

## 7. Debates in Parliament, Hansard, 3<sup>rd</sup> series:

First reading, 17.2.1870, Forster [Vice-President of the Committee of Privy Council on Education] detailing conditions for schools to be public elementary schools, vol 199, col 438-466  
secular efficiency, undenominational inspection, ... col 447–448:

I come now to another condition upon which also up to this year there would have been much difference of opinion, but as to which I expect there will be very little at present, and that is that after a limited period we attach what is called a Conscience Clause as a condition to the receipt by any elementary school of public money. I do not think there needs much argument to prove the propriety of such a condition. It seems to me quite clear, if we approach the subject without any prejudice, that in taking money from the taxpayer to give his children secular education, we have no right to interfere with his feelings as a parent or to oblige him to accept for his children religious education to which he objects. Therefore, inviting public money, or making public provision for elementary schools, we hold that they ought not to be schools from which the public would be excluded. The principle of that condition is so clear, and the violation of it has been found so mischievous, that I am glad to find the opposition to the proposed change has almost disappeared. ...

clause read out - required parent to write to managers or principal teacher col 449:

The proposed clause will apply to all schools, secular as well as denominational, and will give to the parent the power of withdrawing his child from instruction if, on religious grounds, he thinks that instruction to be such as the child ought not to hear.

Second reading, 14.3.1870, amendment immediately tabled by Mr Dixon vol 199, cols 1921, 1926, attacking the provision for rate aid to be given to voluntary schools combined with compulsory attendance:

...when the Dissenter was called on to pay for, and send his child to a Church of England school, when the Protestant was called on to pay for and send his child to a Roman Catholic school, or a Roman Catholic to a Protestant school? This religious difficulty, under these circumstances will assume much greater proportions. How did the Bill propose to meet it? It was said that where there was no school board formed the present religious teaching was to be continued, when the boards were formed the character of the teaching was to be decided by those school boards and that in all cases where an objection was taken to this religious teaching a Conscience clause was to come into operation as a protection to the religious conscience of the parent. ...

But they were told that, although in nearly every school there might be religious teaching based on dogmas, nevertheless efficient protection would be given by a stringent conscience clause. The Conscience Clause had been tried and found wanting, and had been finally rejected by the Nonconformists. It did not really give the protection it professed, and the poor were frequently unable to avail themselves of it, because the influence of their superiors in social position was too strong to be resisted.

leading up to timetable clause.

Question, from Sir George Grey 27.5.1870 vol 201, col 1496-8. Forster's response:

...That debate seemed to show that the clauses of the Bill were by some hon. members supposed not to fully carry out two important principles which we had always intended to embody in it - namely, the most complete protection of the conscientious scruples of feelings of the parent, and the utmost possible security that the Boards which have to deal with the education of the children should be freely elected by the parents.

Question, 31.5.1870, vol 201, col 1702 – 3:

Mr Winterbotham said, he wished to ask the Vice-President of the Council, Whether the power of withdrawal during the time of religious instruction given by the Time-table Conscience clause in the Government amendments authorise withdrawal from the school during that time, or only withdrawal from the lesson?

Mr WE Forster: I must point out to my hon. and learned friend the actual wording of the time-table clause. It has been carefully worded, and it is intended to carry out its exact meaning. The last line of that clause says -

“The scholar may be withdrawn by his parents from such observance or instruction without forfeiting any other benefit of the school,”

such instruction being instruction in religious subjects. The power of withdrawal is withdrawal from the instruction, not from the school. Of course, the clause must have that interpretation; but the way in which it will

practically work will be this - that if the school is so managed that the child can be put to other instruction - as, for instance, sent to another class-room, then it will be in the power of the managers to send the child to that other instruction; whereas, if the school is so arranged that it would be impossible for him to be withdrawn from the religious instruction without being withdrawn from the school, then the child will be withdrawn from the school.

Re committed 16.6.1870, vol 202, col 266 – 300, dealing with government amendments to the Bill - introduction of time table conscience clause: Gladstone [Prime Minister] col 272:

In the first place, as regards the insufficiency of the conscience clause, that, I hope, in principle, we have adequately met by the addition of the time table. ...I may say that the time-table Clause which we propose has its origin in our admission of the necessity that something of that kind is required to give working efficacy to the principle of the Conscience Clause. The very best Conscience Clause that can be devised in terms may be, to a great extent, neutralised, where there is a disposition to neutralise it, unless it be also further guarded by some conditions as to time. We therefore propose a time-table Conscience Clause founded upon the double principal of an entire freedom, so far as the interposition of the clause goes, in the matter of religious instruction - although the time for that instruction must necessarily be circumscribed - and an entire freedom on the part of the parents corresponding with the freedom of the teacher to teach.

Necessity for having RI, although allowing for secular schools: col 276:

Accepting that which undoubtedly appears to be the general desire, I will assume that religious instruction should not be excluded from schools, even during school hours, taken in the strictest sense of the term;

leading on to Cowper-Temple clause

Committee stage 27 June 1870, vol 202, mixed up with timetable aspect, Forster: col 1036:

it was, therefore, advisable to provide that in case a child was compelled to attend school it could not be said that child was also compelled to accept religious instruction not approved by its parents. He thought that hon. gentlemen who were anxious for religious education in the country would feel with him how necessary it was that they should remove any cause of offence or objections in the minds of the working classes.

Forster: hoped committee wouldn't alter clause. col 1045:

the real wish of the committee - that whoever objected to his child's religious instruction or presence at religious observance, should be able, without forfeiting any other benefits of the school, to withdraw his child from that instruction or observance. The hon. member for Birmingham (Mr Dixon) seemed to have put the same construction on the Time-table Conscience clause as his (Mr WE Forster's) son, who said - "Oh, I wish we had that at Rugby! Would not we all turn Dissenters and cut first lesson?" That was not the intention of the Government. It was not desired to break into the discipline of the schools. [Mr Horsman said, he wished to know where the children would be withdrawn to for secular instruction?] He could not positively say where they would be withdrawn to, for the reason that he did not know the circumstances of every school in the kingdom. In most schools - certainly in most Government schools, there were class-rooms, and wherever there was a class-room it would be perfectly easy to put the child to secular instruction during the time set apart for religious instruction. Where these were not, the matter must be left to the managers to make the best arrangements to carry out the intentions of Parliament under the supervision of the Government inspectors. He saw no reason why the child should have less teaching than the other children because his parents objected to his receiving religious instruction.

Committee stage 30 June vol 202, col 1251, Forster on Clause 14:

Why was there an objection in the country to catechisms and special formularies? It was not so much on account of the actual words of the catechisms and formularies, but because the putting of them into the hands of children appeared to be like claiming those children as belonging to a particular Church. This circumstance induced the Government to propose the exclusion of catechisms and special formularies in cases where the aid of the ratepayers as called in.

Gladstone on clause 14, col 1255-1256:

We have before us the proposal of my right hon. friend. Another is to be recommended in the shape of a compulsory use of the Bible in all schools; another in the form of the permissive use of the Bible to the extent of reading only; and another in the form of a permissive use of the Bible, with a limited faculty of exposition. That limited faculty of exposition has been described by some as the system of the British and Foreign School Society, and it has been said - I think inaccurately - by the noble Lord the Member for North Leicestershire (Lord John Manners), that the system of that Society is the one which Parliament is going to establish in the rate schools. If that be so, let us consider what it is. We are about to be invited to provide by Act of Parliament that the exposition of the Bible in the schools shall be undenominational and unsectarian; or if these epithets are not to be revived, others still more stringent and trenchant are to be used in their place, and it is to be asked of us that in an Act of Parliament we shall impose these fetters upon the exposition of the Bible in schools. My right hon. Friend near me (Mr W E Forster) has said that the government sympathized with the desire for unsectarian teaching in schools, and I am prepared to support that statement in what I conceive to be its true sense - namely that it is our wish that the exposition of the Bible in schools should take its natural course, that it should be confined to the simple and devout method of handling which is adapted to the understanding and characters of children; but we do not admit that that simple and devout character of teaching can be secured by an attempt to exclude all reference to tenets and doctrines. That is an exclusion which cannot be effected, and, if it could be, ought not to be; it is an invasion of the freedom of religious teaching such as ought not to be tolerated in this country; ...

House of Lords

Second reading 25.7.1870 introduced by Earl de Grey and Ripon 3rd series, vol 203, col 827, existing schools, provided by religious bodies, will come into national system:

Now we do not ask them to give up their connection with those bodies, nor do we forbid them to teach, in the most unrestricted manner, the doctrines and faith of those denominations. All we desire is that, when they become national schools, we should take care, by the extension of the system of a Conscience Clause, that they are open to children of all denominations; so that where they stand alone, as in many cases they undoubtedly will, we shall guarantee admission to all children within the district. For that purpose we propose what is called a Time-table Conscience Clause.

re Cowper Temple initially left local school boards to decide on RI. - objected to by religious bodies so the Bill was modified. col 830-831:

The change made was that, whereas, under the Bill in its original shape, the managers of schools would be enabled to regulate the religious instruction which should be given in them, we have now provided that no religious catechism or distinctive formularies shall be taught in any rate-supported schools. There were two other propositions of a different character, which, in dealing with this point, were strongly urged on the attention of the Government. The one was, that we should not require anything in respect of religious matters to be taught which was either in favour of or opposed to the doctrines of any religious denomination. Now, I would speak with the utmost respect of a proposition which was supported by such respectable advocacy; but, for my part, I should not place the slightest faith in any religious system which consisted in eliminating all distinctive religious doctrine, and then supposing that something of the form and substance of religion would remain behind. The Government, therefore, laid that proposition aside. But they were met by another of a simpler and more logical character. It was proposed that they should do away with religious teaching altogether, and have nothing taught in those schools except that which now-a-days comes under the denomination of secular instruction. Well, the present Government, like that of which the noble duke opposite was a member, were perfectly ready to make grants to secular schools on the same footing as other schools; but we would not consent that in all schools established under school boards religious teaching should be distinctly and by Act of Parliament proscribed. In this I am confident we acted in accordance with the general opinion of the country. We accepted, however, as a mode of avoiding the difficulty, the proposal that the catechism and distinctive formularies should be excluded from the instruction given.

Committee 29 July clause 7 Earl of Shaftesbury vol 203, col 1168:

He thought the Government had saved a great deal for the friends of scriptural education. They had saved the admission of the Bible into the schools and they had saved religious instruction as an integral part of the education to be given in them. ... [acceptance of an amendment] ... would be regarded in the House of Commons as a breach of the compromise, and consequently would cause the loss of the Bill. He should very much regret such a result. And why? Because he felt as sure as he did of anything, that if this Bill were lost a measure of purely secular education would be passed by the House of Commons next year. He believed that even many of those who had stood up for the Bible this

year would in another give up the struggle from more weariness. He implored their lordships not to run the risk of exposing the country to the loss of this Bill.

Bishops argued against the place in timetable of RI – marginalised by being at the beginning or end of the day. Lord Cairns proposed an amendment: col 1173-74:

Any scholar so withdrawing shall receive instruction in other subjects if the same can be done without the scholar being in the same room in which such religious instruction is being given.

withdrawn - impractical

clause 14 Viscount Stratford de Redcliffe, col 1177-78:

The great difficulty in connection with the subject of education was that which arose from the difference of religion; and this Bill had to encounter all those difficulties which sprang from the religious animosities which were the bane of this country. He admired much of the machinery for national education provided by the Bill; but he thought it a subject of great regret that there was no clear indication in this Bill that it was the intention of Parliament that there should be religious teaching in these schools. ... it was their duty to speak out clearly and distinctly their opinion that religion was an essential part of education. Now there were allusions to religious teaching in the Bill; but there was no distinct declaration that there should be religious teaching.

Debate about whether the Apostles' Creed or Lords Prayer were covered. col 1182:

The Lord Chancellor said, this Act would be interpreted, as all Acts were, according to the reasonable meaning of the words. If a man was found teaching the contents of the Church catechism in a sectarian spirit or as a formulary he would be checked.

## 8. The working of the Elementary Education Acts.

*Final Report of the Royal Commission appointed to inquire into the working of the Elementary Education Acts, England and Wales*, presented to both Houses of Parliament by Command of Her Majesty, 1888, Eyre and Spottiswood, 1888, [IUP, 1970 *Elementary Education*, 37]

The existing law : The operation of conscience clause, p 119:

The chief Regulations as to Religious Teaching contained in the Education Acts are to be found in the provisions which allow a parent to withdraw his child from instruction in religious subjects of which he disapproves, in voluntary and board schools alike, and in what is known as the Cowper-Temple clause, which prohibits the use of distinctive religious formularies in a rate-supported school. ...

... But the 14th section of the Act, which forbids any denominational catechism or formulary to be taught in board schools, merely provides for perfect neutrality among Christian denominations. It does not exclude from public elementary schools instruction in the religion of nature, that is the existence of God, and of natural morality, which, apart from belief in the existence of God, cannot be intelligibly taught. ...

Its provision for securing Rights of Conscience were not intended to abolish religious influence, pp 119-121:

Mr Forster advocated for our children “a good Christian training, a training, that is of a Christian type” - he asserted it to be the opinion of the “enormous majority of the Country” that the “standard of right and wrongs based on religion;” and, “religious instruction was imparted during the ordinary course of teaching,” he replied, “that he had carefully worded the conscience clause to prevent its having such an effect,” declining to allow any alteration in that clause which would prevent the “possibility of any allusion to religious subjects during the ordinary hours of instruction.” To have done so would, moreover, as stated by the secular teachers quoted by Mr Mundella in the House of Commons, have excluded from our schools the works of the greatest English writers, and would have called for the invention of a new language and a new literature. We desire to point out that, under the seventh section of the Act of 1870, what a parent may claim for his child is exemption from instruction in religious subjects.” So under the Endowed Schools Act of 1869 (also passed by Mr Forster) he may claim (section 15) exemption from “any lesson, or series of lessons, on a religious subject”; and the teacher is further forbidden “in the course of other lessons” to teach

“systematically and persistently any particular religious doctrine from the teaching of which exemption has been claimed.” ...

But while we are most anxious that the Conscientious Objections of Parents to Religious Teaching and Observances in the case of their children should be most strictly respected, and that no child should, under any circumstances, receive any such training contrary to a parent’s wishes, we feel bound to state that a parent’s conscientious feeling may be equally injured, and should equally be respected and provided for, in the case where he is compelled by law to send his child for all his school time to a school where he can receive no religious teaching.

This grave injury to conscience may easily now arise in the case where a single Board or Voluntary school suffices for the whole school supply of a district, or where only one school is within a reasonable distance of a man’s home. In that school, as we have seen is at this moment the case with a certain number of voluntary and board schools, the Bible may not be read, or taught, and there may be no religious teaching. While careful and, we believe, ample securities are taken by law to provide for the case of a parent who objects to religious teaching for his child, no parent is able to claim for his child that instruction in the Bible, which is the basis of the Christianity of the nation. This grievance, we are of opinion, must be met.

## 9. The evidence presented to the Royal Commission:

*Third Report of the Royal Commission appointed to inquire into the working of the Elementary Education Acts, England and Wales*, presented to both Houses of Parliament by Command of Her Majesty, 1887, Eyre and Spottiswood, , 1887, [IUP, 1970, Elementary Education, 36]

Patrick Cumin [Secretary of the English Education Department since 1884] questioned by Archdeacon Smith on 13 July 1887

question 59127 Smith:

...alleged grievance of the Nonconformists that the conscience clause is no protection to them...

Cumin:

I think that it is not of the slightest use. The conscience clause is all very well but it is a thing on paper in this sense; what the conscience clause means is, that you are not to give what is called religious instruction at particular times. ...

59129 Smith:

The point is this, that there does exist, according to the contention of these persons, a serious grievance in the minds of a large proportion of the population, because the conscience clause is no effective protection to their children against teaching of which they disapprove; ...

Cumin:

You know, of course, that what Mr Forster always relied on was this. At a meeting, either in Exeter Hall or St James’s Hall, at which Lord Shaftesbury was present, he said, that the religious instruction, although separated was part of the school instruction, and an essential part. And the Sir Roundel Palmer of that day (Lord Selborne now), when he was in the House of Commons, was asked, “How can you deal with this Conscience Clause? If it is part of the religious instruction, and the boy is in the room at the time of course he will necessarily imbibe some religious instruction.” He said to Mr Dixon, “Well I suppose the honourable member has forgotten that he was ever at school, because if he ever was at school he would know perfectly well that you might be in one corner of the room doing your arithmetic, and another boy in another corner doing something else, and the one boy would not hear what the other boy was doing.” Therefore he supported the motion that the religious instruction as to be part of the instruction given in the school.

[This comment relates to part of a debate on an amendment to the 1870 Act suggesting that RI shouldn’t be taught in the same room as secular - pointed out that many schools only had the one room.]

JG Fitch, Senior HMI, questioned by Mr Richard on 6 July 1887

question 57025 Mr Richard:

You cannot suppose that it is a matter of indifference, for instance, to Nonconformist parents to have their children made to recite the Church catechism, when things have to be recited, which on the lips of their children would be false?

Fitch

Undoubtedly, I think that a parent is justified in requesting that the child may be withheld, either from the whole of the religious instruction, or only from the instruction in formularies and catechisms

57026 Richard

Do you not think that it is rather a hard condition to be placed on a poor man that before he can have his child educated he should be obliged to make that request?

Fitch

I confess I do not see the hardship; he appears to be sufficiently protected by the existing law, and he is availing himself to a great extent of the subscriptions and of the religious supervision, and of all the moral influences with which voluntary managers try to surround their schools. I think it is very reasonable that unless he makes special objection his child should share with others in instruction.

On the whole, the evidence from HMI and Anglicans was that the Conscience Clause "worked"; from Nonconformists, that it didn't work.

## 10. The Education Act, 1944

25 General provisions as to religious education in county and in voluntary schools

(1) Subject to the provisions of this section, the school day in every county school and in every voluntary school shall begin with collective worship on the part of all pupils in attendance at the school, and the arrangements made therefor shall provide for a single act of worship attended by all such pupils unless, in the opinion of the local education authority or, in the case of a voluntary school, of the managers or governors thereof, the school premises are such as to make it impracticable to assemble them for that purpose.

(2) Subject to the provisions of this section, religious instruction shall be given in every county school and in every voluntary school.

(3) It shall not be required, as a condition of any pupil attending any county school or any voluntary school, that he shall attend or abstain from attending any Sunday school or any place of religious worship.

(4) If the parent of any pupil in attendance at any county school or any voluntary school requests that he be wholly or partly excused from attendance at religious worship in the school, or from attendance at religious instruction in the school, or from attendance at both religious worship and religious instruction in the school then, until the request is withdrawn, the pupil shall be excused from such attendance accordingly.

(5) Where any pupil has been wholly or partly excused from attendance at religious worship or instruction in any school in accordance with the provisions of this section, and the local education authority are satisfied:-

(a) that the parent of the pupil desires him to receive religious instruction of a kind which is not provided in the school during the periods during which he is excused from such attendance;

(b) that the pupil cannot with reasonable convenience be sent to another county or voluntary school where religious instruction of the kind desired by the parent is provided; and

(c) that arrangements have been made for him to receive religious instruction during school hours elsewhere, the pupil may be withdrawn from the school during such periods as are reasonably necessary for the purpose of enabling him to receive religious instruction in accordance with the arrangements:

Provided that the pupil shall not be so withdrawn unless the local education authority are satisfied that the arrangements are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of the school session on that day.

(6) No directions shall be given by the local education authority as to the secular instruction to be given to pupils in attendance at a voluntary school so as to interfere with the provision of reasonable facilities for religious instruction in the school during school hours; and no such direction shall be given so as to prevent a pupil from receiving religious instruction in accordance with the provisions of this section during the hours normally set apart for that purpose, unless arrangements are made whereby the pupil shall receive such instruction in the school at some other time.

26. Special provisions as to religious education in county schools.

Subject as hereinafter provided, the collective worship required by subsection (1) of the last foregoing section shall not, in any county school, be distinctive of any particular religious denomination, and the religious instruction given to any pupils in attendance at a county school in conformity with the requirements of subsection (2) of the last section shall be given in accordance with an agreed syllabus adopted for the school or for those pupils and shall not include any catechism or formulary which is distinctive of any particular religious denomination:

Provided that, where a county secondary school is so situated that arrangements cannot conveniently be made for the withdrawal of pupils from the school in accordance with the provisions of this Act to receive religious instruction elsewhere, then, if the local education authority are satisfied:-

- (a) that the parents of pupils in attendance at the school desire them to receive religious instruction in the school in accordance with the tenets of a particular religious denomination; and
- (b) that satisfactory arrangements have been made for the provision of such instruction to those pupils in the school and for securing that the cost of providing such instruction to those pupils in the school will not fall upon the authority:

the authority shall, unless they are satisfied that owing to any special circumstances it would be unreasonable so to do, provide facilities for the carrying out of those arrangements.

### 11. **Archbishops' Five Points**

Archbishops' [Canterbury, York and Wales] Five Points, 13 February 1941, quoted in PHJH Gosden, *Education in the Second World War: a study in policy and administration*, Methuen, 1976, p 272:

- that a Christian education be given to children in all schools (council and voluntary)
- that religious education should become a full "optional" subject in training colleges;
- that the existing statutory restriction that religious instruction should only be given as the first or last lesson in the day should be abolished;
- that religious teaching should be inspected by HM inspectors;
- that all schools should start the day with an Act of Worship.

### 12. **Educational Reconstruction, White Paper, 1943**

36. There has been a very general wish, not confined to representatives of the Churches, that religious education should be given a more defined place in the life and work of the schools, springing from the desire to revive the spiritual and personal values in our society and in our national tradition.

37. In order to emphasize the importance of the subject, provision will be made for the school day in all primary and secondary schools to begin with a corporate act of worship, except where this is impracticable owing to the nature of the school premises, and for religious instruction to be given. At present this is the practice in the great majority of schools and this practice will receive statutory sanction and be universal.

38. This does not, of course, mean that all children will be required to participate in the corporate act of worship or in religious instruction. In this respect the old established rights of conscience will remain inviolate and it will be open to the parent to withdraw his child from all or any form of religious worship or instruction.

...

54. It is clear that the solution must take different lines here [from Scotland] and cannot ignore the principle embodied in the Cowper-Temple Clause of the 1870 Act and firmly rooted in the convictions of many elements in this country that the State, concerned though it is to ensure a sound religious basis for all education, cannot take on itself the full responsibility for fostering the teaching of formularies distinctive of particular denominations designed to attach children to particular worshipping communities. ...

### 13. **Debates in Parliament: Hansard Fifth series**

Butler introducing the White Paper, vol 391, cols 1832-33.  
dual system, religious teaching

It is the Government's intention that the present practice in our schools shall be fostered and made to endure. I have purposely said "present practice", because it has been said that our schools are godless and that our teachers are pagan. I indignantly repudiate any such suggestion. There is religious teaching over the length and breadth of this country, accompanied by forms of religious worship in schools, but like many Debates in this House, the standard is uneven, and it is the Government's intention that this shall be put on a better basis. We have been encouraged in this matter by the development which has been taking place over the last seven years in the framing of what are known as agreed syllabuses of religious teaching. They are called "agreed" because the main denominations come together and frame them and reach agreement upon them with the teachers and the authorities. These syllabuses are widely used all over the country and are extremely successful. They include no distinctive doctrine or the tenets or formularies of particular creeds and do no violence to the Cowper-Temple clause, which prohibits the teaching of doctrine in council schools.

Second reading of bill, Butler: RI provided in the Bill, vol 396, col 229 – 230:

The contents of Clause 24, providing that in all county and auxiliary schools the school day shall begin with a collective act of worship and that religious instruction shall be given in every such school, have been widely welcomed as indicating the spirit in which this part of the Bill has been drawn. This provision is accompanied by the usual Conscience Clause for the rights of the parents must remain inviolate. Is it too much to hope that our discussions will help remove the historic grievances dating from the Act of 1902? It is indeed a happy augury to note the coming together of those between whom a gulf has been fixed for so long.

We must consider in that spirit in the Bill such provisions as those in clause 27 and elsewhere which are designed to ease the single-school area problem. Let us hope that our children - to use words found in one agreed syllabus - "may gain knowledge of the common Christian faith held by their fathers for nearly 2,000 years; may seek for themselves in Christianity principles which give a purpose to life and a guide to all its problems."

Chuter Ede, col 488 – 492

There was never a moment in the history of our country when fewer people were definite adherents to any particular denomination. Yet there is a great body of opinion - and I have met it at many meetings all over the country - which says, "If the teaching of the Hebrew prophets and the lessons taught in the New Testament were applied to the lives of us individually and as a country it would be a great deal better for all of us and we desire our children to get some knowledge of these matters." I believe that that is the view of the overwhelming mass of our people.

When I am asked, as I was, to accept the dictum of the Bishop of Oxford that we must rid ourselves of the "fatal Cowper-Temple entail" I say that that shows no knowledge at all of the mind of the great mass of our people in regard to this particular issue. I myself have taught in church schools and in council schools and the great majority of our parents, with exceptions that can be numbered on the fingers of two hands, trust the teachers to discharge their duty in this respect with due regard to the standard of personal honour that the profession has always had. I, for one, feel that the glib talk of destroying "Cowper-Templeism" is an attack on the real possibilities of maintaining the standard of religious education that we hope to secure under this Bill.

refers to speech by Mr Brooke MP for West Lewisham

He said:

"...what nearly all of us in this House wish to ensure is that parents who desire their children to receive religious education should not be at the risk of that instruction being given by teachers who have no faith whatever."

[19.1.1944, 396/277]

I agree with him in that observation. We have done a very great deal in this Bill, by the adoption entirely of what are known as the "Archbishops' Five Points" to ensure that the teachers who give religious instruction shall be people who feel that they have a calling in that direction.

Question of getting enough teachers with a calling. :

Therefore, I hope that the repeal of the statutory limitation of the hours at which religious instruction can be given, whereby people who have received suitable training in the training colleges, which possibility we have secured administratively, may be able to give such instruction over a far wider range of the school than they now can, will enable the denominational and religious tests now operating to be considerably reduced.

responds to attack on Agreed Syllabuses

I know of no Nonconformist denomination which declines to accept the agreed syllabus in England and Wales. After all, this compromise has been commended to the country, not merely by the Archbishop of Canterbury, but by the former Bishop of Durham in language which I hope the House will allow me to read. He said, writing to "The Times" on 23rd December,

"I hope Mr Butler's Bill will become law, for I am persuaded that it will not only mark a great advance in our national education but will also remove the principal defect which now attaches to religious teaching in the schools. As things now stand, religious teaching is not treated seriously. It has no secure place in the official scheme. It is not officially inspected, it is entrusted to teachers who are not adequately equipped and it is treated rather as an unimportant extra than as an element of crucial importance. Thus the prestige of Christianity is lowered in the nation and its authority over the whole area of human life is weakened. The nation as a whole desires that its citizens shall be educated in a true sense and, therefore that Christian morality should be an integral and honoured part of the citizens' education. But it rightly desires that the school should assist the solidarity of the nation and not turn to stereotype and even exacerbate its sectarian divisions. It is certain that there is no general demand for distinctive denominational teaching among the parents of the children who attend the State schools." ...

Committee stage, clause 24, 10.3.1944 vol 397:  
worship at start of school day - Butler said virtually all schools do it: col 2402  
debate about whether it is the parent or the child which should decide to exercise withdrawal, col 2420-2

Chuter Ede, senior pupils in secondary schools col 2425-6:

But inasmuch as religious instruction will now be made compulsory, and as one of the reasons put forward and pressed by the Churches was the fact that too frequently there was no religious instruction in upper forms in secondary schools, we shall have to examine this point with care.

...

I have never had, at any meeting I have addressed, any objection raised to the provision in this Clause either as to the collective act of worship or compulsory religious instruction. There is, I think, a general recognition that even if parents themselves have in the course of life encountered difficulties that have led them into doubts and into hesitations, they do desire that their children shall have a grounding in the principles of the Christian faith as it ought to be practised in this country.

worship should be Christian, col 2427.

Clause 25 Mr Brooke put an amendment to extend the provided ...to primary as well as secondary, col 2428:

In Clause 24 we are continuing arrangements, which have been the law of the land for some time, that parents whose children go to county schools but who desire those children to receive denominational instruction, or some kind of instruction different from that which is available to them in the schools, have a right to withdraw their children for that purpose in order that the instruction may be given elsewhere.

imagines new secondary school standing in the middle of fields

Therefore it is provided in the Clause that where a school is so situated that the arrangements under clause 24 would be nullified through there being no other convenient premises to which the children can be withdrawn, in that limited class of case denominational instruction may be given on the school premises.

then imagines new combined village primary schools in similar situation.

attack on undenominational RI, col 2432

#### 14. Legal opinion of meaning of clauses

WP Alexander and F Barraclough, *County and voluntary schools*, Councils & Education Press, second edition, 1953.

Standard reference work on the Act: assumes that withdrawal from RE and worship is for religious reasons - but doesn't state this in so many words.

#### 15. The Education Reform Act, 1988

2 The National Curriculum.

- (1) The curriculum for every maintained school shall comprise a basic curriculum which includes -
- (a) provision for religious education for all registered pupils at the school; and
  - (b) a curriculum for all registered pupils at the school of compulsory school age (to be known as 'the National Curriculum') which meets the requirements of subsection (2) below.

...

- (3) Subsection (1)(a) shall not apply in the case of a maintained special school.

6. Collective worship

- (1) Subject to section 9 of this Act, all pupils in attendance at a maintained school shall on each school day take part in an act of collective worship.

(2) The arrangements for the collective worship in a school required by this section may, in respect of each school day, provide for a single act of worship for all pupils or for separate acts of worship for pupils in different age groups or in different school groups.

...

7. Special provisions as to collective worship in county schools.

(1) Subject to the following provisions of this section, in the case of a county school the collective worship required in the school by section 6 of this Act shall be wholly or mainly of a broadly Christian character.

...

8. Religious education required in the basic curriculum: further provisions

(1) Section 2(1)(a) of this Act is subject to section 9 of this Act.

(2) The religious education for which provision is required by section 2(1)(a) to be included in the basic curriculum for any particular maintained school shall be religious education of the kind required by such of the provisions of sections 26 to 28 of the 1944 Act or sections 84 to 86 of this Act as apply in the case of the school.

...

9. Exceptions, special arrangements and supplementary and consequential provisions

(1) It shall not be required, as a condition of any pupil attending any maintained school, that he shall attend or abstain from attending any Sunday school or any place of religious worship.

(2) For the purposes of subsections (3) to (10) below, 'maintained school' does not include a maintained special school.

(3) If the parent of any pupil in attendance at any maintained school requests that he may be wholly or partly excused

-

(a) from attendance at religious worship in the school;

(b) from receiving religious education given in the school in accordance with the school's basic curriculum; or

(c) both from such attendance and from receiving such education;

the pupil shall be so excused accordingly until the request is withdrawn.

(4) Where in accordance with subsection (3) above any pupil has been wholly or partly excused from attendance at religious worship or from receiving religious education in any school, and the responsible authority are satisfied -

(a) that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused;

(b) that the pupil cannot with reasonable convenience be sent to another maintained school where religious education of the kind desired by the parent is provided; and

(c) that arrangements have been made for him to receive religious education of that kind during school hours elsewhere;

the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements.

(5) In this section 'the responsible authority' means -

(a) in relation to a county or voluntary school, the local education authority; and ...

(6) A pupil may not be withdrawn from school under subsection (4) above unless the responsible authority are satisfied that the arrangements there mentioned are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of the school session, or if there is more than one, of any school session on that day.

...

(9) In this section - ...

(b) references to religious education given in a school in accordance with the school's basic curriculum are references to such education given in accordance with the provision included in the school's basic curriculum by virtue of section 2(1)(a) of this Act.

10. Duties with respect to certain requirements.

(1) Subject to section 9 of this Act, in relation to any maintained school (other than a maintained special school) and any school year it shall be the duty of the local education authority and the governing body to exercise their functions with a view to securing, and the duty of the head teacher to secure -

(a) that all pupils in attendance at the school take part in the daily collective worship required by section 6 of this Act; and

(b) that religious education is given in accordance with the provisions for such education included in the school's basic curriculum by virtue of section 2(1)(a) of this Act.

...

Sections 84 - 86 refer to grant maintained schools - provision of RE in accordance with their previous status.

Schedule 1: Consequential amendments relating to religious education  
The Education Act 1944

1. The following section shall be substituted for section 26 of the 1944 Act -
  - 26 Special provisions as to religious education in county schools
  - (1) In the case of a county school the provision for religious education for pupils at the school which is required by section 2(1)(a) of the Education Reform Act 1988 to be included in the school's basic curriculum shall be provision for religious education in accordance with an agreed syllabus adopted for the school or for those pupils.
  - (2) No such syllabus shall provide for religious education to be given to pupils at such a school by means of any catechism or formulary which is distinctive of any particular religious denomination; but this provision is not to be taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies.
  - (3) Subsection (4) below applies where a county secondary school is so situated that arrangements cannot conveniently be made for the withdrawal of pupils from the school in accordance with section 9 of that Act to receive religious education elsewhere.
  - (4) If in any such case the local education authority are satisfied -
    - (a) that the parents of pupils in attendance at the school desire them to receive religious education in the school in accordance with the tenets of a particular religious denomination; and
    - (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall upon the authority;the authority shall, unless they are satisfied that owing to any special circumstances it would be unreasonable to do so, provide facilities for the carrying out of those arrangements.

...

16. **Debates in Parliament:** Hansard Sixth series and Committees Vol X

2nd reading 1.12.1987 Kenneth Baker, vol 123, col 773-4:

I confirm that religious education in our schools is secured in statute by the Education Act 1944. This Bill reinforces the position of religious education as a compulsory subject. ... Clause 6 places a duty on heads, governors and local education authorities to ensure that religious education is provided. That is an advance upon the 1944 Act.

question about why its not under National Curriculum Council

... It already has a statutory position. We are now strengthening its position as a subject that must be taught. Of course, it is taught in church schools. Each denomination will teach it in its own way. In respect of county schools, a local conference usually agrees the content that is to be taught. The churches have not asked for it to be a core or foundation subject. Core or foundation subjects will be determined precisely by secular bodies. I have considerably strengthened the position of religious education as a compulsory subject and ensured that it will have to be taught and delivered.

changes have been made to Collective Worship on the advice of the churches

Jack Straw responded for opposition - no mention of the RE clauses.

Committee stage, Bob Dunn on collective worship. Vol X, col 1257

I have made it plain that there is an opportunity under the legislation as it stands at present for parents to seek to have their children or the pupils for whom they are responsible withdrawn from the daily act of worship. If it is a matter of concern within the family as parents talk to children - I accept that that is not always the case - the parents could seek to withdraw that registered child, pupil or young person from exposure to the collective act of daily worship.

He goes on to argue that collective worship applies to all schools, including sixth forms and sixth form colleges. col 1258.

Report stage 23.3.1988 vol 130

Clause 2 considered col 398-426 ; various amendments to put RE as a core/foundation subject, scripture as a foundation subject and other RE matters, and section 91 agreements, all very friendly to church schools.

Sir Hugh Rossi put the first amendment col 400-401 :

On the question of religious education, as I understand it there is no difference in principle between my right hon. Friend the Secretary of State and the Church authorities. Indeed he felt that he had done all that was necessary by leaving the provisions of the 1944 Act in pace and strengthening them by the declaration in clause 1(2)(a) about “the spiritual, moral ... and cultural development of pupils.”

I believe that he said publicly that the Church authorities were being unduly anxious and that they had not followed through his real intent. It appeared that his overriding consideration was to avoid his own responsibility, either directly or through the lay councils, for the content of religious education, which would be the case if religious education were simply a core or foundation subject under clause 3.

The amendments have been framed in a particular way to avoid the Secretary of State having to assume that responsibility, which he does not want, and at the same time upgrading religious education as a subject in the education system. The Church authorities believe that by not including religious education as a core or foundation subject, the Bill is playing down its importance. Religious education would be forced to compete with a range of optional subjects for limited classroom time and, in county schools, for resources. The Church authorities also feel that there is no effective means in the Bill of implementing the obligations that are carried over from the 1944 Act.

Baker, col 419:

The Government have continually stressed the importance that we attach to religious education. ...

goes on about teacher supply for RE and quality of teaching, col 420-421:

We have spelt out in the Bill the duty of local authorities to provide religious education in accordance with the provisions of the 1944 Act. ... In many schools that are not Church schools, religious education has become very perfunctory. We have therefore tried in the Bill to strengthen the provision for RE in the 1944 Act. Far from playing down the importance of religious education, the bill puts the promotion of spiritual and moral values at the forefront of any consideration of the curriculum and makes a statutory requirement in that respect. ...

Clause 1 provides that the curriculum of all maintained schools should promote the spiritual development of all pupils at schools and of society as a whole. Clause 6 places a direct statutory duty on local education authorities, head teachers and school governing bodies to ensure that religious education is provided and that duty is explicit rather than implicit.

## 17 Education Act 1996, amended

352 Basic curriculum for every maintained school

- (1) The curriculum for every maintained school shall comprise a basic curriculum which includes –
  - (a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of [Schedule 19 to the School Standards and Framework Act, 1998] as apply in relation to the school), ...

## 18 School Standards and Framework Act, 1998

69 Duty to secure due provision of religious education

- (1) Subject to section 71, in relation to any community, foundation or voluntary school –
  - (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
  - (b) the head shall secure,that religious education is given in accordance with the provision for such education included in the school’s basic curriculum by virtue of section 352(1)(a) of the Education Act 1996.

70 Requirements relating to collective worship

- (1) Subject to section 71, each pupil in attendance at a community, foundation or voluntary school shall on each school day take part in an act of collective worship.

71. Exceptions and special arrangements;

- (1) If the parent of a pupil at a community, foundation or voluntary school requests that he may be wholly or partly excused –
  - (a) from receiving religious education given in the school in accordance with the school’s basic curriculum,

- (b) from attendance at religious worship in the school, or
  - (c) both from receiving such education and from such attendance,
- the pupil shall be so excused until the request is withdrawn.

(2) ...

- (3) Where in accordance with subsection (1) a pupil has been wholly or partly excused from receiving religious education or from attendance at religious worship and the local education authority are satisfied –
- (a) that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused,
  - (b) that the pupil cannot with reasonable convenience be sent to another community, foundation or voluntary school where religious education of the kind desired by the parent is provided, and
  - (c) that arrangements have been made for him to receive religious education of that kind during school hours elsewhere,

the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements.