

THE  
STATUTES AT LARGE  
OF THE  
STATE OF MINNESOTA

COMPRISING

THE GENERAL STATUTES OF 1866

*As amended by subsequent Legislation to the close of the Session of 1873*

TOGETHER WITH

*ALL LAWS OF A GENERAL NATURE IN FORCE, MARCH 7, A.D. 1873*

WITH REFERENCES TO

JUDICIAL DECISIONS OF THE STATE OF MINNESOTA, AND OF OTHER  
STATES WHOSE STATUTES ARE SIMILAR

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT,  
THE ACT AUTHORIZING A STATE GOVERNMENT, AND THE  
CONSTITUTION OF THE STATE OF MINNESOTA

*VOL. I.*

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COMPILED AND ARRANGED BY

A. H. BISSELL

ATTORNEY-AT-LAW

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CHICAGO  
CALLAGHAN AND COMPANY

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## TITLE I.

## UNIVERSITY OF MINNESOTA.

(This Title is Chap. I. of the Laws of 1868, as amended by Chap. X. of the Laws of 1872. \*)

SECTION 1. *Established.*—(Vide ART. VIII. SEC. 4, CONSTITUTION, *supra*).

SEC. 2 (1). *Object.*—The object of the university of Minnesota, established by the constitution, at or near the Falls of St Anthony, shall be to provide the means of acquiring a thorough knowledge of the various branches of literature, science, and the arts, and such branches of learning as are related to agriculture and the mechanic arts, including military tactics, and other scientific and classical studies.

SEC. 3 (2, AS AMENDED BY ACT OF FEBRUARY 29, 1872). *The departments of the university.*—There shall be established in the university of Minnesota five or more colleges or departments, that is to say, a department of elementary instruction, a college of science, literature, and the arts, a college of agriculture, including "military tactics," a college of the mechanic arts, a college or department of law,

\* The university of Minnesota was established by the Statutes of 1851, chap. 28, p. 142, which chapter was repealed by the Laws of 1860, which was in turn repealed by chap. 120 of the General Statutes of 1866. Vide also S. L. 1864, 61; S. L. 1865, 34; and S. L. 1866, 33.

and also a college or department of medicine. The department of elementary instruction may be dispensed with, at such rate and in such wise as may seem just and proper to the board of regents.

S. L. 1872, 55.

SEC. 4 (3, AS AMENDED BY ACT OF FEBRUARY 29, 1872). *Governed by board of regents—of whom to consist.*—The government of the university shall be [invested] in a board of ten regents, of which the governor of the state, the state superintendent of public instruction, and the president of the university, shall be members, *ex officio*, and the seven remaining members thereof shall be appointed by the governor, by and with the advice and consent of the senate. Whenever a vacancy therein occurs, for any cause, the same shall be filled for the unexpired term in the same manner. Of the regents thus appointed two shall be commissioned, and hold their offices for one year, and two for two years, and three for three years. Their successors shall be appointed in like manner, and shall hold their office for the full term of three years, from the first Wednesday of March succeeding their appointments, and until their successors are appointed and qualified. The president of the university shall have the same powers, rights, and privileges as other members, except the right of voting, and he shall be, *ex officio*, the corresponding secretary of the board of regents.

S. L. 1872, 55.

SEC. 5 (4, AS AMENDED BY ACT OF FEBRUARY 29, 1872). *Corporate name—power of board—quorum.*—The regents of the university shall constitute a body corporate under the name and style of "University of Minnesota," and by that name may sue and be sued, contract and be contracted with, make and use a common seal, and alter the same at pleasure. A majority of the voting members shall constitute a quorum for the transaction of business, and a less number may adjourn from time to time.

S. L. 1872, 55.

SEC. 6 (5, AS AMENDED BY ACT OF FEBRUARY 29, 1872). *Officers of board—term of office—to give bonds, etc.*—The board of regents shall elect from the members of the board a president of the board, recording secretary and treasurer, who shall hold their respective offices during the pleasure of the board. And the president and treasurer each, before entering upon the duties of his office, shall execute a bond in the penal sum of fifty thousand dollars, with at least two sufficient sureties, to the state of Minnesota, to be approved by the governor, conditioned for the faithful and honest performance of the duties of his office according to law. Which bonds when so approved shall be filed in the office of the secretary of state.

S. L. 1872, 56.

SEC. 7 (6, AS AMENDED BY ACT OF FEBRUARY 29, 1872). *Board to enact by-laws for the government of the same—elect officers and fix salaries, etc.*—The board of regents shall have power, and it shall be their duty, to enact by-laws for the government of the university of Minnesota in all its departments, to elect a president of the university, and in their discretion a vice-president, and the requisite number of professors, instructors, officers, and employees, and to fix their salaries, also the term of office of each, and to determine the moral and educational qualifications of applicants for admission, and in the department of professors, instructors, and other officers and assistants of the university, and in

prescribing the studies and exercises thereof, and in all the management and government thereof no partiality or preference shall be shown to one sect or religious denomination over another, nor shall anything sectarian be taught therein; and the board of regents shall have power to regulate the courses of instruction, and prescribe the books and authorities to be used, and also to confer such degrees and grant such diplomas as are usual in universities, in their discretion. It shall be the duty of the recording secretary to record all the proceedings of the board, and carefully preserve all its books and papers, and before entering upon the duties of his office he shall take and prescribe an oath, to perform his duties honestly and faithfully as such officer. It shall be the duty of the treasurer to keep an exact and faithful account of all moneys, bills receivable, and evidences of indebtedness, and all securities and property, received or paid out by him, and before entering upon his duties he shall take and subscribe an oath that he will well and faithfully perform the duties of treasurer thereof. It shall be the duty of the president to preside at the meetings of the board; and in case of his inability to preside, the board may appoint a president *pro tempore*.

S. L. 1872, 56.

SEC. 8 (7). *Appropriation to be placed at the disposal of the said board.*—In addition to all the rights, immunities, franchises, and endowments hereafter granted or conferred to or upon the university of Minnesota for the endowment, support, and maintenance thereof, there shall be, and is hereby inviolably appropriated and placed at the disposal of the board of regents thereof, to be drawn from the state treasury upon the order of the president drawn upon the state auditor, countersigned by the secretary of the board, and payable to the order of the treasurer of the board, all the interest and income of the fund to be derived from the sales of all the lands granted and to be granted to the state of Minnesota by virtue of an act of congress entitled “an act donating lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts,” approved July 2, A.D. 1862; and also all such gifts, grants, and contributions to the endowment thereof as may be derived from any and all sources.

SEC. 9 (8). *Settlement, how effected.*—And in order to effect a settlement of all remaining indebtedness of the university, all the powers and authorities given by chapter eighteen, of the laws of 1864, entitled “an act relating to the university of Minnesota,” and chapter eleven, of the laws of 1866, entitled “an act to amend an act entitled an act relating to the university of Minnesota,” approved March 4, 1864, to the regents therein mentioned, are hereby given to and conferred upon the board of regents of the university of Minnesota aforesaid; and the said acts are hereby continued and shall be in force until such outstanding indebtedness is fully liquidated.

*Vide* sec. 51, chap. xiv. *supra*.

SEC. 10 (9). *When first meeting to be held—annual meeting, etc.*—The first meeting of the board of regents under the provisions of this act shall be holden at the university building, on the first Wednesday of March 1868, at which meeting the officers of the board shall be elected, and the annual meeting of the board shall be holden on the second Tuesday of December in each and every year thereafter. Special meetings of the board shall be called and holden at such times and in such manner as the board of regents shall determine.

SEC. 11 (10). *Endowment of professorship.*—Any person or persons contributing a sum not less than \$15,000, shall have the privilege of endowing a professorship in the university, the name and object of which shall be designated by the bond of regents.

SEC. 12 (11). *Regents to have control of books.*—The said board of regents shall succeed to and have the control of the books, records, building, and other property of the university; and the said board of regents shall be dissolved immediately upon the organization of the board herein provided for: *provided*, that all contracts made and at that time binding upon the board then dissolved shall be assumed and discharged by their successors in office.

SEC. 13 (12). *To provide experimental farm.*—It shall be the duty of the board of regents herein provided for, to make arrangements for securing suitable lands, pursuant to the act of congress above mentioned, in the vicinity of the university, for an experimental farm; and as soon as may be thereafter, to make such improvements thereon as will render the same available for experimental purposes in connection with the course in the Agricultural College; and for such purpose the board of regents is hereby authorized to expend a sum not exceeding the amount specified in the act of congress aforesaid.

SEC. 14 (13, AS AMENDED BY ACT OF FEBRUARY 24, 1872). *Report of the board of regents.*—On or before the second Tuesday of December in each and every year, the board of regents, through their president, shall make a report to the governor, showing in detail the progress and condition of the university during the previous university year—the wants of the institution in all its various departments—the nature, costs, and results of all improvements, experiments, and investigations—the number of professors and students—the amounts of money received and disbursed—and such other matter, including industrial and economical statistics, as they may deem important or useful. One copy of the said report shall be transmitted to each of the other colleges, which shall be endowed under the provisions of said act of the congress, and one copy to the secretary of the interior.

S. L. 1872, 56.

SEC. 15 (14, AS AMENDED BY ACT OF FEBRUARY 29, 1872). *President executive head of university.*—The president of the university shall be the president of the general faculty and of the special faculties of the several departments or colleges, and the executive head of the institution in all its departments. As such officer, he shall have authority, subject to the board of regents, to [give] general direction to the practical affairs and scientific investigations of the university, and in the recess of the board of regents to remove any employee or subordinate officer not a member of the faculty, and supply, for the time being, any vacancies thus created. He shall perform the customary duties of a corresponding secretary, and may be charged with the duties of one of the professorships. He shall make to the superintendent of public instruction, on or before the second Tuesday in December in each and every year, a report, showing in detail the progress and condition of the university during the previous university year—the number of professors and students in the several departments—and such other matters relating to the proper educational work of the institution as he shall deem useful. It shall also be the duty of the president of the university to make to the board of regents, on or before the second Tuesday in December in each and every year, a report, showing in detail the progress and condition of the university during the previous university year—

the nature and results of all important experiments and investigations—and such other matters, including economical and industrial facts and statistics, as he shall deem useful.

S. L. 1872, 56.

Sec. 15 of the Act of February 18, 1868, repeals chap. 80, S. L. 1860, chap. 87 of S. L. 1862, and all inconsistent acts. S. L. 1872, 86, provides for a natural history survey of state under charge of regents of university; it was amended in 1873. S. L. 1873, 254.

## TITLE II.

### NORMAL SCHOOLS.

(*This Title is the Act of March 7, 1873 (S. L. 1873, 89), which was substituted for Chapter XXXVII. of the General Statutes.*)

SEC. 16 (1). *Established and located.*—The normal schools heretofore established to educate and prepare teachers for the common schools of the state, shall hereafter be designated and known as the state normal school at Winona, the state normal school at Mankato, and the state normal school at St Cloud, respectively.

S. L. 1860, 185, 268; 1865, 37.

SEC. 17 (2). *Governor shall appoint directors—terms of office.*—The governor of the state shall, on or before the first Friday in March, one thousand eight hundred and seventy-three, nominate and appoint by and with the advice and consent of the senate, six normal school directors, not more than one of whom shall be resident of the same county, who, together with the state superintendent of public instruction, shall constitute the state normal school board. Three of the directors so appointed shall hold their offices for two years, and the remaining three for four years from the first day of June, one thousand eight hundred and seventy-three. The terms of office of each director so appointed shall be designated by the governor. On the last Tuesday in February, one thousand eight hundred and seventy-five, and biennially thereafter, the governor, by and with the advice and consent of the senate, shall appoint three directors to fill the vacancies occurring under the provisions of this act, and each of whom shall hold his office for four years from the first day of June next succeeding his appointment. The governor shall also, by and with the advice and consent of the senate, fill all vacancies that may arise by reason of death, resignation, or otherwise: *provided further*, that one member of said board and no more shall be appointed from each of the counties of Winona, Blue Earth, and Stearns.

SEC. 18 (3). *Officers of board.*—The officers of the state normal school board shall be a president and secretary. The members of the board at their first session, and biennially thereafter, shall elect by ballot from their own number a president. The state superintendent of public instruction shall be the secretary of the board.

SEC. 19 (4). *Shall take oath.*—Each member of the state normal school board, before entering upon the duties of his office, shall file with the secretary of state an oath to support the constitution of the United States and of the state of Minnesota, and that he will well and faithfully discharge the duties of his office.

SEC. 20 (5). *Their duties.*—The state normal school board shall have the general supervision, management, and control of the state normal schools, and of all the property real and personal thereunto appertaining. They are hereby authorized and empowered to contract for the erection of all buildings connected

with the schools under their charge, to appoint all professors and teachers in said schools, to fix the salaries of the same, to prescribe the course of study, the conditions of admission, and generally to adopt all such rules and regulations as may be necessary to secure the highest efficiency of the schools. It shall be the duty of the board as a whole, or through committees of their own number, to visit and thoroughly inspect the grounds, buildings, modes of instruction, and the discipline and management of each school at least once during each term. They shall report to the governor on or before the first day of December in each year, through their president, the condition of each school, its receipts and disbursements, its wants and prospects, together with such recommendations for its improvement as they may deem proper and necessary.

SEC. 21 (6). *Board shall organize model schools.*—The state normal school board shall have power to organize, in connection with each normal school, such model schools as they may deem expedient for the illustration of the best methods of teaching and government: *provided*, that no more than one teacher shall be employed in either of the model schools, except at the school at Winona, where the education of the soldiers' orphans are provided for, the board may employ one additional teacher at its discretion.

SEC. 22 (7). *No charge for tuition, to whom.*—There shall be no charge for tuition, the use of text books, or for incidental expenses to the students of any normal school who shall have filed with the principal thereof a declaration of intention to engage in the work of teaching in the common schools of this state for not less than two years after his or her connection with said normal school shall cease. The board may fix such rates of tuition for pupils in the model schools as in their judgment may be equitable and just. The board may fix such rates of tuition for students not intending to teach as in their judgment may be equitable and just.

SEC. 23 (8). *Shall disburse funds and keep accounts, etc.*—The members of the board residing at the location of each normal school respectively shall receive and disburse, under direction of the board, all moneys accruing in any manner to such school, and shall keep a full and accurate account of such receipt and disbursement, including the receipt from tuition in the model schools, and shall report the same to the board whenever they shall direct. He shall give a bond payable to the state of Minnesota, in such sum as the board shall direct, with one or more sureties, to be approved by them, for the faithful performance of the duties mentioned in this section.

SEC. 24 (9). *Shall be reimbursed for expense.*—The members of the state normal school board, except the superintendent of public instruction, shall be reimbursed for the actual expenses incurred by them while engaged in duty for the normal schools, said expenses to be paid out of the current fund belonging to the normal schools.

SEC. 25 (10). *Warrants shall be drawn, how.*—All warrants upon the state auditor for defraying the expenses of the state normal schools shall be drawn by the president, and countersigned by the secretary of the board.

SEC. 26 (11). *Act shall not impair prior rights.*—Nothing contained in this act shall be so construed as to impair or annul any right or obligation existing in behalf of or against the state of Minnesota in relation to the state normal schools at Winona, Mankato, or St. Cloud.

SEC. 27 (12). *Board shall limit the number of teachers.*—It is hereby made



the duty of the state normal board to limit the number of teachers and their compensation, and all other annual expenses thereof, to the amount appropriated by the legislature for the purpose, and all expenditures made by said board in excess of the sum so appropriated, are hereby declared to be unlawful and void, and shall be deemed a malfeasance on the part of said board, for which the members thereof can be removed from office by the governor.

Sec. 13 of the act repealed all inconsistent acts (S. L. 1867, 7). *Vide* S. L. 1868, 7.

### TITLE III.

#### COMMON SCHOOLS.

(*This Title is the Act of March 3, 1873 (S. L. 1873, 51), which repealed Chapter XXXVI. of the Statutes of 1866, and all inconsistent acts,\* vide infra.*)

#### ARTICLE I.

##### PUBLIC SCHOOLS.

SEC. 28 (1). *School districts declared corporate bodies.*—Every school district in the state that has been set off and established, under general laws or by special charter, or which may be hereafter formed, set off, or established, is hereby declared to be a body corporate, to be known and designated by the name and style of school district number            in the county of            : *provided, however,* that such districts as have adopted, or may hereafter adopt any other name, such name may be prefixed to said title “school district,” and by such designation may contract, and be contracted with, sue and be sued, in any of the courts of this state having competent jurisdiction.

SEC. 29 (2). *What are public schools.*—All schools supported wholly or in part by the state current school fund shall be styled the “public schools,” and admission to them shall be free, and without any charge, to all persons between five and twenty-one years of age residing in the district: *provided, however,* that boards of trustees and boards of education may suspend or expel pupils for insubordination, immorality, or infectious disease.

SEC. 30 (3). *School districts classified.*—School districts shall be, and they are hereby classified as follows: *First*, common school districts, embracing all districts organized and operating under title one of chapter thirty-six of the general statutes of Minnesota. *Second*, independent school districts, embracing all districts organized and operating under title three of said chapter thirty-six, or that may hereafter be organized under article (title) three of this title (act). And *third*, special school districts, embracing all districts organized or that may hereafter be organized, wholly or in part under any special law of this state.

SEC. 31 (4). *How numbered.*—The numbers of districts now existing and numbered in each county, shall be continued to such districts respectively; and such districts as may hereafter be formed, shall be numbered in the several counties in consecutive order, by the county auditors, who shall make and keep, in the record

\* School districts are under the control of the legislature, *Connor v. Board of Education of St Anthony*, 10 Minn. 439.

of their offices respectively, a clear and well-defined description of each school district, and of such formations and alterations as may be made from time to time.

SEC. 32 (5). *May hold lands.*—Every district shall hold in the corporate name of the district the title of lands and other property now owned, or which may hereafter be acquired for school district purposes in such districts, and no property held by school districts for public school purposes shall be subject to taxation.

SEC. 33 (6). *Title to lands in doubt, how to proceed.*—When the title to lands or other property held for school purposes is in doubt, or is vested in other parties than those prescribed in the preceding section, the trustees of the district or board of education shall procure the title to such lands or other property, to be vested as provided therein.

SEC. 34 (7). *New districts, how formed.*—The county commissioners of the several counties in the state may form new school districts, alter the boundaries of districts, or unite districts, upon the petition of a majority of the freeholders who are legal voters, residing in each district to be affected thereby.

SEC. 35 (8). *Notice to be posted.*—Upon presentation of any such petition, the county commissioners shall appoint a time and place for a hearing upon it, and shall post notice thereof in the most public places in the territory to be affected, and cause to be served, a copy thereof upon the clerk of each district to be affected, at least ten days before the time appointed for such hearing.

SEC. 36 (9). *How to proceed on hearing.*—At the time and place so appointed for such hearing, the commissioners having publicly read the petition, shall proceed to consider the same, with anything which may be said by interested persons for or against granting the prayer of the petitioners. At the conclusion of such hearing, which may be adjourned from time to time, they shall cause to be entered upon the records of such board their decision, which shall be in the form of an order particularly describing the districts affected thereby, signed by the chairman and attested by the auditor, who shall, if the action of the commissioners be affirmative, cause a copy thereof to be filed with, or addressed by mail, to the clerk of each district affected: *provided*, that when the territory of the district or the districts to be affected by such formation, alteration, or consolidation, consists of parts of two or more counties, the petition shall be presented to the commissioners of such counties who shall in a joint board hear the petition in the manner directed, and the determination of such joint board shall be entered upon their records in the several counties, by the several county auditors who shall file the copies thereof with the clerks of districts affected thereby, in their respective counties, in the manner directed: *provided, further*, that if any five or more voters who are freeholders residing in the district, who may feel aggrieved by the alteration or organization of their district, shall make a written application to the county commissioners for a hearing of any matter in relation to school districts, upon which they have entered their order; said commissioners shall cause notice of a rehearing of such matter to be served upon the clerks of districts, and posted as provided in section eight; and at the time and place stated in such notice, they shall hear such grievance and make such order in the premises as they may think justice requires: *provided, further*, that upon a petition of any legal voter to said commissioners stating that it is the desire of the petitioner to be set off from the district in which he then is, to some district adjoining the same, which petition shall show that the

petitioner is a resident of, and a freeholder in, the district in which he desires to be set off, and that his land is adjoining the district to which he wishes to become attached, and also the reason for the same, which petition shall be verified by the oath of the petitioner, to the effect that the statements therein contained are true to the best of his knowledge and belief; then said commissioners having given notice as provided in section thirty-five (eight) may change the boundaries of the district in which said petitioner resides, so as to set him off to some other district adjoining the same, whenever it shall seem to them just and proper to do so: *provided, further*, that the county commissioners of such organized counties as contain nominal school districts in which officers shall not be elected within one year after their formation, or territory not embraced in any school district, shall set off, and attach all such territory to existing organized districts adjoining.

SEC. 37 (10). *Officers of school district—vacancy, how filled.*—The officers of each common school district shall be a director, a treasurer, and a clerk, who shall be elected at the annual meeting, which shall be held on the first Saturday in October of each year; and their term of office shall commence on the twelfth day of the month in which they are elected, and continue three years, and until their successors are elected and qualified: *provided*, that of the boards elected at the annual meeting in October 1872, the director shall hold his office one year; the treasurer two years; and the clerk three years, and thereafter one trustee shall be elected annually. But when a new district is formed, a meeting for organization may be called by a notice stating the object of such meeting, signed by three freeholders or householders residing within the limits thereof, and posted in five conspicuous places in the district ten days before the time fixed for holding such meeting, and such meeting so called shall have the same powers as annual meeting: *provided*, that the board of trustees elected at such meeting shall hold their respective offices till the next annual meeting; and of the officers elected by any district at the first annual meeting after its organization, the director shall hold his office one year, the treasurer two years, and the clerk three years. In case of any vacancy in the board of trustees the vacant office shall be filled by the remaining members until the next annual meeting, when the vacancies shall be filled by election for the unexpired term.

SEC. 38 (11). *Annual meetings.*—Annual meetings shall be held at seven o'clock P.M., unless a different hour shall have been fixed by vote at the last preceding annual meeting.

SEC. 39 (12). *Officers to file acceptance.*—All persons elected as district officers under this article (title), shall within ten days after notice thereof by the clerk, file their acceptance of the same in the office of the district clerk.

SEC. 40 (13). *Who are trustees, their powers.*—The director, treasurer, and clerk of each common school district shall constitute a board of trustees, and in that capacity have the general charge of the interests of schools and school houses in their district; shall lease or purchase, in the corporate name of the district, a site for a school house designated by a majority of the legal voters of the district; shall build, hire, or purchase a suitable school house with the funds provided for that purpose; and when directed by a majority of the qualified voters at any legal meeting of the district, may sell or exchange any such site or school house; and it shall be the duty of said board of trustees, when such school district shall have determined, by a majority of qualified voters at any legal meeting thereof, to open more than one school, to grade said schools so determined to be opened, assigning to each school its

proper grade of scholars ; and any two of such board may do any act which the board as such are authorized to do.

Powers of trustees, School Dist. v. Thompson, 5 Minn. 280 ; Robbins v. School Dist. No. 1, Anoka Co., 10 Minn. 340 ; Jenness v. School Dist. No. 1, Washington Co., 12 Minn. 448 ; Sanborus v. School Dist. No. 10, Rice Co., *ib.* 17.

SEC. 41 (14). *Trustees to visit schools.*—Each member of the board of trustees shall visit the school at least once in each term, and give such advice to the teachers as may be for the benefit of the school, and said trustees shall submit to the legal voters of their district, at their annual meeting, an estimate of the expenses of the district for the coming year, including in their estimate a school for at least three months and all things necessary for such a school.

SEC. 42 (15). *Shall hire teachers.*—The board of trustees shall hire for and in the name of the district such teachers only as have a certificate of qualification, and make a written contract with such teacher, specifying the wages per month and the time employed as agreed upon by the parties, and file such contract in the office of the clerk : *provided*, that the term month, whenever it occurs in any section in this act, shall be construed to mean four weeks of five days each. They shall provide fuel for the schools of the district, if voters of the district make no provision for fuel at their annual meeting ; shall furnish all things necessary for the school house during the time a school shall be taught therein ; which shall be at least three months in each school year, and such further time as the district, by vote, may direct.

McKinney v. School Dist. No. 45, Dakotah Co., unreported ; \* *vide* also 18 Wis. 191.

SEC. 43 (16). *Instruction, in what language.*—All instruction in the common school districts shall be given in the English language, excepting that the board of trustees may provide for instruction, during one hour only, of each day, in any one of the foreign languages.

SEC. 44 (17). *Who to appear in action brought by or against district.*—The director shall appear for and in behalf of his district in all actions brought by or against it whenever no other direction is given by a lawful meeting of the legal voters thereof.

*Vide* 10 Wis. 117.

#### DUTIES OF DISTRICT TREASURERS.

SEC. 45 (18). *Treasurer to receive and pay money.*—The treasurer of each district shall receive and pay out all moneys appropriated to or belonging to his district, and keep an accurate account of the public school fund and of the district fund or funds raised by tax.

SEC. 46 (19). *To execute a bond, such bond to be filed.*—The treasurer of each district shall execute a bond to the district in double the amount of money, as near as can be ascertained, which will come into his hands as treasurer, during his term, with sufficient surety to be approved by the director and the clerk, conditioned for the faithful discharge of his duties. Such bond shall be filed with the clerk of the district, and in case of any breach of any condition thereof, the director shall cause an action to be commenced thereon and prosecuted in the name of the district, and the money when collected shall be applied to the use of the district. The treasurer failing to give a bond as provided herein, or for any cause being unable

\* To go in 19 Minn.

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to attend to his duty, the director and the clerk of the district shall proceed to appoint another treasurer, who shall give bond as required herein.

SEC. 47 (20). *Shall file statement of money received.*—The treasurer shall present and file with the clerk, three days before each annual meeting, a report in writing signed by him, and containing a statement of all moneys received by him during the year preceding, and of all his disbursements, exhibiting vouchers therefor; also the amount received by him of taxes assessed upon the taxable property of the district during the year, the purpose for which they were assessed, the amount assessed for each purpose, which report shall be recorded by the clerk; and if it appears that there is any balance in the hands of the treasurer, he shall pay such balance to his successor in office upon his filing his bond as prescribed in section nineteen. The director and clerk shall examine said report, and if correct, they shall indorse the same.

SEC. 48 (21). *Clerk shall record proceedings.*—The clerk shall record the proceedings of the district meetings and of the board of trustees in a book provided for that purpose by the district; he shall enter therein copies of all his reports made to the county auditor or county superintendent; keep and preserve all records, books, and papers belonging to his office, and deliver the same to his successor in office; he shall act as the clerk of the district in all its meetings, or if absent, record the minutes of the clerk *pro tem.*, and keep an account of all expenses of the school and school house, and of out buildings, fences, woods, stoves, and all the conveniences of the school room, such as maps, charts, blackboards, and school libraries.

SEC. 49 (22). *Shall give ten days' notice of meetings.*—The clerk shall give at least ten days' notice of each annual or special meeting by posting three notices thereof in conspicuous places in the district. Every notice for a special meeting shall set forth all the objects for which such meeting is called. Special meetings shall be called on the order of the board of trustees, or by the written request of five or more freeholders of the district: *provided*, that whenever there is no district clerk, or the clerk refuses or neglects for three days to post notices for a special school meeting after being requested by five or more freeholders of the district, a special school meeting may be called by posting three notices thereof in three conspicuous places in the district, duly signed by five or more freeholders, or householders, being qualified electors in the district: *and provided further*, that at any annual meeting the legal voters present may act upon any matter properly before them, except the raising of money for building or purchasing a school house, or fixing the site thereof, without its being particularly set forth in the notice. The clerk of each school district shall, before the tenth day of October in each year, make an enumeration of all persons over five and under twenty-one years of age residing in his district on the thirtieth day of September in each year, showing the age and sex of each, but not including in such enumeration persons in charitable or reformatory institutions, being educated at the expense of the state. The clerk shall report to the county superintendent the time of the commencement of each term of school two weeks before the time of the commencement of such term.

SEC. 50 (23). *Clerk shall report to county superintendent—what report shall state.*—The clerk of each school district shall, on or before the tenth day of October in each year, make and transmit to the county superintendent a report in writing, showing:

*First.* The names of all persons, male and female, designating the age of each respectively, between the ages of five and twenty-one years, residing in his district on the last day of September preceding the date of such report, and if his district be a joint one, composed of territory lying in two or more counties, he shall report to each of the county superintendents of the counties in which the parts of the territory is situated, the number of scholars only, embracing the county of each.

*Second.* The number who have attended school within the year.

*Third.* The length of time a school has been taught by a qualified teacher, and the amount of wages paid to teachers within the year.

*Fourth.* The amount received from the county treasurer within the year, of money apportioned by the county auditor.

*Fifth.* The amounts received from the county treasurer arising from district taxes collected, the purposes for which such taxes were levied; the manner in which said sums have been expended; the condition of school houses and grounds; the text books used, and such other facts as the superintendent of public instruction may require.

*Sixth.* An attested copy of his record of the proceedings of the annual school meeting [of his district, including the names of newly-elected trustees, and the post office address of them severally, which report shall be verified by the oath of the clerk, which may be administered by any officer authorized to administer oaths, or by the county superintendent, who is hereby authorized to administer the same in such cases.

SEC. 51 (24). *Shall furnish copy of record to county auditor.*—The clerk of the district shall, on or before the tenth day of October in each year, furnish to the county auditor an attested copy of his district record, stating the amount of money voted to be raised by the district for school purposes at any annual or special meeting within the year.

SEC. 52 (25). *Shall transmit statement of tax to county auditor.*—When a tax is voted by a district composed of parts of two or more counties, the clerk shall, on or before the tenth of October of that year, transmit to the county auditor of each of the counties a statement of the amount so voted. The said auditors shall thereupon transmit, each to the other, an abstract of the assessment in that part of the district in their respective counties, and shall levy the amount required in proportion to the amount of property in that part of the district situated in their respective counties. The money arising from such assessment shall be drawn by the district treasurer from the county treasurer of each county in which the district is situated. The number of scholars in each fraction of the district shall be returned to the superintendent of the county in which said portion of the district is situated, and all moneys apportioned shall be drawn by the district in the same manner as when the district is in one county.

SEC. 53 (26). *New districts formed—duties of clerk.*—When any new school district shall be formed, either from territory not heretofore included in any organized district, or by a change in the boundary of old districts, or upon any change in boundaries affecting the enumeration or census of persons of school age in such districts, it shall be the duty of the clerk of each district affected by the creation of such new district forthwith to make an enumeration of the persons in his district (as now required by law, on the thirtieth day of September), and return the same to the county auditor, whose duty it shall be to take such returns as a basis for the apportionment of school funds to such districts on the last Wednesday of March and October of that year.

SEC. 54 (27). *Shall draw orders on treasurer—requisites of order—clerk shall procure register—other duties.*—The clerk shall draw orders on the treasurer of the district for the payment of teachers, or for any other lawful purpose; and when such orders are attested by the director they shall be paid by the treasurer. Each order shall be dated and numbered, state the service or consideration for which it was drawn, and the person rendering such service or consideration, and shall be recorded in a book kept by the clerk for that purpose. The clerk shall procure from the county superintendent of schools, and furnish to the teacher a register of his school, which register shall be deposited by the teacher with the clerk at the close of each term, and before any money shall be paid or order drawn for the payment of such teacher. The clerk shall procure from the county superintendent blanks upon which to make his reports to such superintendent. The clerk shall procure from the county auditor record books and blanks for the use of the clerk and treasurer of the district, containing such forms and instructions as may be prescribed by the state superintendent of public instruction. The county auditor of each county may procure and furnish to the clerk of each school district in his county such record books and blanks, the expense of which shall be paid by the county treasurer out of the funds arising from the two mill school tax, to be paid on the warrant of the county auditor: *provided*, that if any order drawn for the payment of a teacher is presented to the treasurer for payment, and is not paid for the want of funds, the treasurer shall make a written statement over his signature, by indorsing on such order, with date showing such presentation and non-payment, and shall make and keep a record of such indorsement: such order shall thereafter draw interest at the rate of ten per cent. per annum until the treasurer shall notify the clerk in writing that he is prepared to pay such order.

SEC. 55 (28). *In case of refusal to draw, how to proceed.*—In case of absence, inability, or refusal of the clerk to draw orders for the payment of money, authorized by a vote of a majority of the board to be paid, the orders may be drawn by the director and paid by the treasurer, a statement thereof with a copy of such orders being delivered to the clerk by the treasurer, or the office of clerk may be declared vacant, and filled by appointment.

#### DUTIES OF COUNTY AUDITORS.

SEC. 56 (29). *Auditor to file copy.*—It is hereby made the duty of the county auditor to file the copy of said record referred to in section fifty-two (twenty-five), and levy the amounts specified therein upon the real and personal property of the district, and to enter upon his assessment roll for the year, in a separate column, the tax levied thereon: *provided*, that the county auditor, in extending such tax, shall not be required to use as a rate per cent. any fractional part of a mill other than a half mill.

SEC. 57 (30). *To make apportionment.*—The county auditor, on the last Wednesday of March, and on the last Wednesday of October of each year, shall make apportionment of the money in the county treasury for the support of schools among the several school districts in the county in which a school has been taught for three months during the year by an authorized teacher, which apportionment shall be in proportion to the number of persons in the district between the ages of five and twenty-one years, as shown by the reports of the several districts, and he shall transmit to the clerk of each district a copy of the apportionment of said district:

*provided*, that this section shall not deprive districts which have been organized within one year of their apportionment.

SEC. 58 (31). *Report to superintendent of instruction.*—It shall be the duty of each county auditor in the state, on the last Wednesday of March and on the last Wednesday of October of each year, to make a report to the superintendent of public instruction, showing the whole amount of money by him apportioned on that day among the several school districts in this county; the sources from which said money was received into the county treasury; the aggregate number of scholars in the county, and the number of districts receiving a portion of said school money; and upon the violation of the provisions of this section he shall forfeit the sum of fifty dollars to the benefit of the school fund of his county.

SEC. 59 (32). *Send the name of county superintendent.*—The county auditor of each county shall transmit to the state superintendent of public instruction the name and post office address of the superintendent of schools in his county, as soon as such officer has been qualified.

#### DUTIES OF COUNTY TREASURERS.

SEC. 60 (33). *County treasurer to pay apportionment money.*—The county treasurer shall pay over upon the order of the county auditor, to the treasurer of any school district only, or upon his written order, any money in his hands belonging to said school district, by any apportionment, or by collection of any delinquent taxes, or other money belonging to said district; but the county treasurer shall pay no school moneys to any district treasurer until such district treasurer has filed in the office of the county auditor notice from the clerk of his district, countersigned by the director thereof, that such district treasurer has filed in the office of the district clerk his official oath and bond, as provided in section forty-six (fifteen\*) aforesaid.

#### POWERS OF DISTRICT SCHOOL MEETINGS.

SEC. 61 (34). *Legal voters have power, etc.*—The legal voters, when lawfully assembled, not less than five being present, shall have power, by a majority of votes of those present:

*First.* To appoint a moderator.

*Second.* To adjourn from time to time.

*Third.* To elect a director, clerk, and treasurer, and, when necessary, to choose a clerk *pro tem*.

*Fourth.* To designate a site for a school house: *provided*, that the site for a school house shall not be changed after being designated, without having two-thirds of the legal voters of the district voting in favor of such change.

*Fifth.* To vote an amount of money to be raised by a tax on the taxable property of the district, sufficient, with the apportionment of the common school fund, to support a school the length of time voted by the district in addition to the three months required by law, to purchase or lease a site for a school house, and to build, hire, or purchase such a school house when the same is necessary; to keep in repair and provide the same with the necessary furniture and appendages; to procure fuel, and to purchase or increase a library and school apparatus. But no school district shall in any one year levy a tax exceeding eight mills on the

\* Should be nineteen.



dollar, for the purpose of building a school house, or leasing or procuring a site for a school house: *provided*, that any district in which the above rate will not produce the sum of six hundred dollars, may raise by a tax a sum not exceeding six hundred dollars; *provided*, the rate for such tax levied does not exceed twenty-five mills on the dollar, on all taxable property of the district.

*Sixth.* To repeal or modify their proceedings from time to time. But the board of trustees have power, and it shall be their duty, to levy a tax sufficient to support a school three months in the year without a vote of the district, and it shall be their duty to provide such school; and the legal voters may vote to have a school any length of time more than three months: *provided*, the legal voters of any school district, containing less than ten voters, when lawfully assembled, not less than three being present, have power, by a majority of the votes of those present, to do and perform all the acts mentioned in the several subdivisions of this section, except that such meeting shall not vote a tax to exceed in amount one hundred dollars in any one year.

3 Denio. 114; 4 Barb. 25; but *vide* 18 John. 351; 9 Wend. 36; 17 Wend. 437, controverting. *Vide* cases cited under sec. 40, *supra*.

#### GENERAL LAWS.

SEC. 62 (35). *Trustees empowered to issue bonds, etc., when.*—The trustees or board of education of any school district in this state, are hereby authorized and fully empowered to issue the orders or the bonds of their respective districts, with coupons, in such amounts and at such periods as they may be directed, by a vote of two-thirds of the legal voters present and voting at any legally called meeting of the same; said orders or bonds to be payable in such amounts and at such times not exceeding ten years, as the legal voters thereof at such meeting shall determine, with interest not to exceed twelve per cent. per annum, payable annually, which orders or bonds, and coupons, shall be signed by the director and countersigned by the clerk of said district, or by the president and clerk of the board of education; *provided*, that nothing herein contained shall be construed to authorize the issuing of such orders or bonds, unless two-thirds of all the legal voters present and voting shall vote in favour thereof, at an annual or special meeting of the legal voters of said school district.

SEC. 63 (36). *No bonds to be negotiated for less than par value.*—No bonds shall be issued or negotiated under authority of this act by any board of trustees or board of education for less than par value; nor shall such bonds or the proceeds thereof be used or appropriated for any purpose other than the purchase of a site for, and in the erection, completion, and furnishing of a school house in and for the district issuing such bonds.

SEC. 64 (37). *Board of trustees to levy tax to pay said bonds.*—The board of trustees or board of education of any district issuing such bonds, shall, on or before the tenth day of October next, after the date of such bonds, and each and every year thereafter, on or before the tenth day of October, until the payment of such bonds and interest is fully provided for, levy and in due form certify to the auditor of the county or counties in which such district is situated, a tax upon the taxable property of such district equal to the amount of principal and interest maturing after such levy, and in the discretion of the board such further sum as it

shall deem expedient, not exceeding twenty per cent. of such maturing bonds and interest, which taxes shall be paid in money, and shall constitute a fund for the payment of such bonds and the interest thereon.

SEC. 65 (38). *Legalizing bonds already issued.*—All taxes levied, or orders or bonds issued since February 28th, 1866, and prior to March 1, 1867, by school districts in this state, for purchasing site for, and the erection, completion, and furnishing school houses, are hereby legalized and declared valid.

SEC. 66 (39). *Taxes, how levied and collected.*—All taxes raised by virtue of this title, or for any public school purpose in pursuance of law, shall be levied and collected in like manner, and by the same persons, as county taxes are levied and collected.

SEC. 67 (40). *Teacher shall procure register—admission of scholars.*—Every teacher shall procure a register for his school from the clerk of the district, keep a daily record of attendance and of such other matters as may be required in such register, and receive all persons sent to him between the ages of five and twenty-one years, residing in the district; and such other persons as may attend school under any arrangement with the board of trustees: *provided*, that the board of education and board of trustees shall have sole power to admit the attendance of persons over the age of twenty-one years, or non-residents of their districts; upon payment of such rates of tuition as may be determined by the board: *provided further*, that admission to any school organized under the provisions of this act, or any special school law of the state, sustained in whole or in part by state school funds, shall be gratuitous to the children of all actual residents in the district wherein such school is taught, between the ages of five and twenty-one years, and to all other persons between the same ages who may be in good faith living in said district, and have not come into the same for the purpose of attending school.

SEC. 68 (41). *Teachers to be paid, how.*—Any teacher duly qualified, and having complied with the provisions of the school laws, and having fulfilled his contract with a district to teach, shall be paid out of the first moneys in the district treasury for payment of teachers' wages, before the payment of any claims for teachers' services rendered subsequently; and no money for teachers' wages in any district treasury shall be applied to any other purpose. And any school district treasurer who shall violate the provisions of this section, shall be personally liable to the teacher who was entitled to such moneys, which may be recovered against such treasurer and his bail in any court having jurisdiction of the action, provided that nothing herein contained shall authorize the treasurer to pay teachers out of any money other than that raised or apportioned for the payment of teachers.

*Vide 16 Wis. 316.*

SEC. 69 (42). *Annual tax to be levied to maintain public schools.*—For the purpose of maintaining public schools, the commissioners of each county shall levy an annual tax of one-fifth of one per cent. on the amount of the assessment made by the assessor for the same year, which tax so levied shall be extended upon the assessment rolls of the year, by the county auditor, in a separate column, and this shall be collected in the same manner and by the same person as other county taxes are collected, except that the school tax shall be collected in gold or silver, or United States national currency, and the money so collected shall be paid into the county treasury for the support of public schools, to be apportioned as provided in

this title. As a further provision for the support of schools, there shall be set apart by the county treasurer of each county the proceeds of all fines for the breach of any penal law in this state not otherwise appropriated by law, and all moneys arising from the issuing of liquor licenses, and from unclaimed moneys arising from the sale of estrays as provided for by amendment to section twelve, chapter nineteen,\* of the general statutes. And the county auditor shall open an account with each district in his county, and keep an accurate account of all moneys received by or due to each of said districts, and all such matters as are necessary to show the condition of accounts between each of said districts and the county treasury; and for this purpose he shall examine any or all of the books in the office of the county treasurer.

SEC. 70 (43). *Nothing in title (chapter) to change terms of existing contracts.*—Nothing herein in changing the title, condition, or relation of existing school district property, shall affect or prejudice any right of such district to enforce by law against the proper parties thereto, any contract, right, obligation, or cause of action now existing, or prejudice any right of any party who holds any contract, obligation, right, or cause of action, or lien upon any such district or the property thereof.

SEC. 71 (44). *Differences of opinion arising, attorney general to be consulted.*—If any differences of opinion arise among the officers of the districts, towns, or counties, who are empowered to carry out the provisions of this title relative to the legal construction of the same, the attorney general, on the written application of the superintendent of public instruction, submitting such questions of doubt or difference, shall give his legal opinion in writing, to such superintendent on the points thus submitted; and his opinion thus given, shall be binding until annulled by the judgment or decree of a court of competent jurisdiction.

SEC. 72 (45). *Librarian appointed.*—When a district has a library, the board of trustees may appoint a librarian, and make all needful rules for its circulation, preservation, and increase.

SEC. 73 (46). *Enumeration of scholars.*—Each of the incorporated towns and cities in this state having by their several charters a common or special school system, shall, by its clerk or some proper officer thereof, make to the school superintendent of their proper county a report of the enumeration of scholars and other matters by this title made necessary to be reported, the same as is required of other school districts, and shall be entitled to apportionments of public school funds, to be apportioned and drawn substantially as provided by law.

#### PENALTIES.

SEC. 74 (47). *Expulsion of scholars without cause, penalty for.*—If any child of suitable age is denied admission to, or any scholar suspended or expelled without sufficient cause, or on account of color, social position, or nationality, from any public school, the board by whose direction the offense was committed shall forfeit and pay a fine of fifty dollars for each offense, and nothing herein or in any act amendatory thereof shall be so construed as to authorize any school trustees, board of education, or other school officer or authorities to classify the scholars with reference to color, social position, or nationality, or to set apart the children so classified into separate

\* Chapter xxvii. part 1, of this compilation.

schools without their consent and the consent of the parents or guardians of such children. And no town, city, or school district which shall offend in this respect, or in which any child of suitable age shall be refused admission to any school in the proper locality or ward on account of color, social position, or nationality, shall be entitled to any portion of the school funds of this state. And it shall be the duty of the state superintendent of public instruction in making apportionments of school funds in all cases when satisfied of the commission of such offense, by complaint of the aggrieved party or otherwise, to withhold from the county wherein the offense was committed an amount of such school funds proportionate to the school population of the town or city committing such offense; and it shall be the duty of the auditor of such county to withhold all said state school funds from the city or town in which such offense was committed.

SEC. 75 (48). *Neglect of duties—penalty.*—Every person duly elected to and accepting the office of director, treasurer, or clerk of any school district or member of board of education, who shall neglect or refuse to enter upon the duties of his office and serve therein faithfully, shall forfeit the sum of ten dollars to the use of said district, which may be collected by action before any justice of the peace in the county, to be prosecuted by the director of the district, or by any legal voter therein.

SEC. 76 (49). *Failure of clerk to make report—penalty.*—Any failure on the part of a clerk of a school district to make report to the county superintendent, as provided by law, shall be punishable by a fine not to exceed fifty dollars, for the use of the district.

SEC. 77 (50). *Drawing order—illegally.*—Any school district clerk who shall draw an order upon the district treasurer, directing the public school funds from their legitimate channel, shall be held personally responsible for twice the amount of such order.

SEC. 78 (51). *Neglect to keep books in proper manner.*—Any school district clerk who shall neglect to keep the books and records of the office in the manner prescribed by law, or shall refuse to deliver up the books and papers belonging to his office as clerk to his successor in office, shall be liable to a fine of ten dollars for each offense.

SEC. 79 (52). *County superintendent neglect to make report.*—If any county superintendent of schools shall fail to make, and report to the auditor of his county on the day before the last Wednesday in October of each year, an abstract from the annual reports of the several district clerks in his county, showing in tabular form the number of persons between five and twenty-one years of age residing in his several districts, on the last day of September previous, and the number of months of school taught in each district by a legally-qualified teacher as shown by the annual reports of school district clerks, legally made to him, for the school year ending September 30th, last past; and to make his statistical and written report to the state superintendent of public instruction on or before the first day of November in each year, embracing the several items included in section twenty-three, he shall be deemed guilty of a misdemeanor, and he shall forfeit for every such omission the sum of fifty dollars, to be deducted from his salary by the county commissioners.

SEC. 80 (53). *Delinquent officer to be notified.*—It is hereby made the duty of any and every officer to whom reports are by law required to be made in relation to schools and school districts, in case any officer shall have failed to make

any report required by law, within the time fixed by law for making such report, and for which failure a penalty is prescribed, to give in writing immediate notice to the delinquent and to the county attorney of the proper county of such failure.

SEC. 81 (54). *Duty of county attorney.*—It shall be the duty of the county attorney, on receipt of the notice mentioned in the preceding section, to institute legal proceedings to collect with proper costs the prescribed penalty in the name and for the use of the proper county or district.

SEC. 82 (55). *No officer to be interested in the sale of any book.*—No teacher, state, county, township, or district school officer shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school in this state with which such officer or teacher may be connected: *provided*, that no person interested in any manner, directly or indirectly, in the sale or manufacture of school books, apparatus, or furniture, shall hold any office in any school district or board of education in any incorporated city, village, or town, nor shall any such person be eligible to or remain a member of any school district board or board of education.

SEC. 83 (56). *Punishment of such officer.*—Any such teacher or officer who shall receive any commission or compensation, either directly or indirectly, for the sale of any book, apparatus, or furniture, used or to be used in any school in this state, upon conviction thereof by complaint before a justice of the peace, shall be fined not less than fifty nor more than two hundred dollars for each such offense.

SEC. 84 (57). *Legal proceedings against person violating law.*—Whenever any school officer shall violate any of the provisions of the school law to which a penalty is attached, it shall be the duty of the county attorney of the proper county, upon complaint of the county superintendent or other person interested in having the law administered, to institute legal proceedings to collect with proper costs the prescribed penalties, in the name and for the use of the proper county or district.

#### COUNTY SUPERINTENDENTS.

SEC. 85 (58). *County commissioners to appoint county superintendent.*—The county commissioners of each and every county of the state, excepting the counties of Todd, Wadena, Ottertail, Clay, Becker, Wilkin, Traverse, Pope, Pembina, and Beltrami, shall, at the January session of the board in the year 1874, and biennially thereafter, appoint a fitting person of high moral character and literary attainments, and who holds a first grade certificate from the state superintendent of public instruction, or the president of the state university, county superintendent of schools, who shall enter upon the discharge of his duties upon the first Tuesday of April next after his appointment, and hold his office for two years, and until his successor is appointed and qualified: *provided*, that if they fail to make the appointment at the January session, they may make it at a subsequent session.

SEC. 86 (59). *Vacancy, how filled.*—A vacancy occurring in the office of county superintendent of schools by death, resignation, or otherwise, shall be filled by the county commissioners at the next special or general session of the board of commissioners after such vacancy happens, and such appointee shall hold his office for the balance of the unexpired term.

SEC. 87 (60). *Compensation.*—The compensation of the county superintendent of schools shall be fixed by the county board of commissioners, and paid in the

same manner as the salaries of other county officers are paid: *provided*, that the said compensation shall be not less than at the rate of ten dollars for each organized district in any county, except the number of such districts shall exceed one hundred, in which case the compensation shall be not less than one thousand dollars, nor more than twelve hundred and fifty dollars per annum: *provided*, that the county superintendent shall, on the first day of July, October, January, and April, in each year, file with the county auditor a statement of the number of schools he has visited during the preceding quarter, which statement shall contain the number of the district, the date of visitation, and shall be verified by the oath or affirmation of such superintendent.

SEC. 88 (61). *Removed from office.*—The county superintendent of schools may be removed from office by the board of county commissioners upon satisfactory evidence of incompetency or willful neglect of duty: *provided*, that no removal shall be valid unless the person so removed has had at least twenty days' notice of the charges brought against him, and opportunity to be heard in his own defense: *and provided further*, that the superintendent and the person or persons preferring the charges, or either of them, shall have the right of appeal to the superintendent of public instruction, at any time for fifteen days after the decision of the county commissioners.

SEC. 89 (62). *Duties of county superintendent.*—The county superintendent of schools shall examine and license teachers, and annul certificates on proper cause shown; visit and instruct the schools of his county at least once in each term, and give such advice to the teachers as may be requisite and necessary; he shall organize and conduct at least one institute for the instruction of teachers in each year, if he deems the same necessary; encourage teachers' associations; introduce to the notice of teachers and the people the best modes of instruction, the most approved plans of building and ventilating school houses, and ornamenting and adapting school grounds for the cultivation of the taste and healthful exercise of the children; stimulate school officers to the prompt and proper discharge of their duties; receive the reports of the several school district clerks, and transmit an abstract of the same to the state superintendent, adding thereto a report of the condition and prospects of the schools under his charge, together with such other information and suggestions as he deems it expedient to communicate. To insure accuracy and uniformity in such reports, he may annually, at a suitable time and place, call a convention of the district clerks in his county, to continue one day in session considering methods of obtaining and reporting statistics, and discussing other matters involving such educational topics and interests as may come within the sphere of district and county school officers.

SEC. 90 (63). *Shall hold meetings for the examination of teachers.*—Each county superintendent of schools shall hold, each spring and fall, in and for his county, at least three meetings for the examination and licensing of teachers, one of which shall be held at the county seat, of which meetings at least ten days' notice shall be given by publication in the newspapers in the county, and the posting of such notices in such public places as may be deemed necessary by the county superintendent, and the expense of such publication shall be paid by the county. The examinations thus held shall be public, and be conducted by written and oral questions and answers. They shall be uniform in the county in which they are held, and no certificate of qualification shall be given by any county superintendent,

except upon his own personal examination held in accordance with the provisions of this section: *provided*, that any teacher may be examined by the county superintendent at any time other than as above specified, on proof that such teacher was unable to be present at the public examination above provided for, and on payment to the county superintendent of fifty cents for making such examination.

SEC. 91 (64). *Examination shall consist of what branches.*—The county superintendent shall examine any person proposing to teach a common school in the county, in orthography, in reading, in English, penmanship, arithmetic, grammar, modern geography, and the history of the United States, and if he is satisfied that such person is of good moral character and qualified to teach all the aforesaid branches, he shall give such a person a certificate, the grade of which shall be determined by the examination. County superintendents are authorized to issue three grades of certificates—viz., first grade, valid in the county for two years; second grade, valid in the county for one year; third grade, valid in a given district only, for six months. The county superintendent may renew such certificate at its expiration by indorsement thereon: *provided*, that all applicants for first-grade certificates shall be examined in elementary algebra, elementary geometry, physical geography, physiology, and the theory and practice of teaching, in addition to the other branches prescribed in this section.

SEC. 92 (65). *Shall keep a record of examinations.*—Each county superintendent shall keep a record of all examinations of teachers by him in a book provided for that purpose, and of all the candidates to whom he grants certificates, noting the date of examination, the name, sex, and age of each candidate, and the grade of the certificate granted, a transcript of which record shall be included in the annual report to the state superintendent.

SEC. 93 (66). *May examine in independent school districts.*—County superintendents, when requested so to do by the examiners of an independent school district, may examine persons to teach in such districts, and his certificate in the form prescribed by the law, authorizing the organization of such districts, when countersigned by the board of examiners of the district, shall be valid as the act of such examiners.

SEC. 94 (67). *May cite any teacher for re-examination.*—The county superintendent may cite to re-examination any person holding a license and under a contract to teach any common school in the county, and being satisfied upon such re-examination or otherwise that such person is not of good moral character, or has not sufficient learning and ability to teach a common school, or if such person shall refuse or neglect to attend upon such re-examination, the superintendent shall revoke the license held by such person, filing in the office of the district clerk a statement that he has made such revocation, and shall deliver a copy thereof to the person whose license is revoked, and such revocation shall take effect and be in force from and after the filing of such statement as aforesaid, and the teacher's contract with the district shall become void therefrom: *provided, however*, that the wages of the teacher for the time taught, and at the contract price or rate, shall be paid on or before the time at which it would have been due had the contract been continued in force.

SEC. 95 (68). *Shall furnish blanks.*—The county superintendent shall receive from the state superintendent, and forward to the several clerks of districts, such blanks, reports, and circulars as shall be forwarded to him for that purpose, and shall

be guided generally in the discharge of his duty by the rules laid down by the state superintendent.

SEC. 96 (69). *Shall make report to state superintendent—what report to contain.*—On or before the first day of November in each year, the county superintendent shall report to the state superintendent, on blanks furnished by him, an abstract of the reports of the clerks of the several districts in his county, stating:

*First.* The number of districts in his county.

*Second.* The districts which have made report to him.

*Third.* The length of time a school has been taught in each district by an authorized teacher.

*Fourth.* The amount of money received from each source for the use of schools.

*Fifth.* The amount disbursed to each district and the amount on hand.

*Sixth.* The number of persons in each district between the ages of five and twenty-one years, distinguishing between the males and females, and the number that have attended school during the year; and the number between fifteen and twenty-one years of age.

*Seventh.* The amount of money raised in the district and paid for teachers' wages, in addition to the public money paid therefor; the amount of money raised for purchasing school sites, for building, hiring, purchasing, repairing, insuring, and ornamenting school houses and grounds, since the date of his report.

*Eighth.* The number of private schools, high schools, colleges, and universities in his county, their condition and resources, and the number of teachers and pupils therein. He shall also receive from the state superintendent and forward to the several clerks of school districts such blanks, reports, and circulars as are forwarded to him for that purpose.

SEC. 97 (70). *File report of number of scholars.*—It shall be the duty of the county superintendents of schools, on the day before the last Wednesday of October of each year, to file with the county auditor an abstract of the number of persons in each school district in his county between the ages of five and twenty-one years, which number shall be made the basis for the apportionment of the school money for that school year, and also of the number of months of school taught in each district by a legally qualified teacher, as shown by the annual report of school district clerks legally made to him for the school year ending September 30th, last past.

SEC. 98 (71). *May appoint a deputy.*—Any county superintendent of common schools may appoint a deputy superintendent, who shall have all the power and privileges with which the superintendent is now vested, and shall have the same qualifications as the superintendent proper: *provided*, that no such deputy or deputies shall serve in any county more than sixty days in one year.

SEC. 99 (72). *Salary.*—The salary of the deputy superintendent shall be paid by the county superintendent of schools, by whom he shall be appointed, subject to the approval of the county commissioners of the county in which said superintendent is an officer.

SEC. 100 (73). *Minnesota Journal and Teacher to be furnished, when.*—Any district clerk desiring to receive a copy of the Minnesota Teacher and Journal of Education, at the expense of his district, may in writing direct the superintendent



of schools for his county to order such copy to be sent to him, and for that purpose shall give his post office address. The superintendent shall thereupon order the publisher of said Journal to send a copy of it to such address, which shall be preserved by the clerk, and transmitted to his successor in office as the property of the district.

SEC. 101 (74). *County superintendent to file certificate of number of copies.*—When the first number of said Journal has been forwarded to the school district clerks on such subscription as provided in the preceding section, it shall be the duty of the superintendent of schools in each county to file with the county auditor a certificate of the number of copies so transmitted to the clerks of his county, and thereupon it shall be the duty of the county auditor to draw an order on the treasurer of said county in favor of said publisher, to be paid out of the proceeds of the two mill tax fund belonging to said districts, the amount due as ascertained by the aforesaid certificate of the superintendent of schools, and not exceeding one dollar and fifty cents for each yearly subscription therefor.

SEC. 102 (75). *Minnesota Teacher to publish, free of charge, orders, etc.*—The Minnesota Teacher and Journal of Education shall publish free of charge such orders, decisions, circulars, all amendments to the school laws, and other official communications relating to education, as the superintendent of public instruction may direct.

SEC. 103 (76). *Superintendent of instruction to examine each number.*—It shall be the duty of the superintendent of public instruction to examine and approve each issue of said Journal before it is issued, and to require from the publisher of the Teacher a good and sufficient bond that he will publish and distribute the same according to the terms and conditions of the subscription and payment therefor.

#### STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

SEC. 104 (77). *State superintendent to be appointed by governor.*—The superintendent of public instruction shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office for the term of two years, commencing on the first Tuesday in April following such appointment; and before entering upon the duties of his office, he shall take and subscribe an oath or make affirmation, that he will support the constitution of the United States and of the state of Minnesota, and discharge the duties of his office faithfully, and to the best of his ability, which oath or affirmation shall be filed in the office of the secretary of state.

SEC. 105 (78). *Office to be provided for him.*—An office shall be provided for him at the seat of government, in which he shall file all papers, reports, and public documents transmitted to him by county superintendents, county auditors, and from other sources; and he shall keep a fair record of all matters pertaining to his office.

SEC. 106 (79). *Annual compensation.*—He shall receive annually a salary of twenty-five hundred dollars, and also all necessary contingent expenses for traveling, postage, and stationery, pertaining to his office, to be audited and paid as the salaries and contingent expenses of other state officers: *provided*, that his contingent expenses for these purposes shall not exceed the sum of five hundred dollars

in any one year. He shall be allowed and shall keep a clerk in his office, who shall receive a salary of twelve hundred dollars per annum.

SEC. 107 (80). *State superintendent to meet county superintendents—where and when.*—It shall be the duty of the state superintendent to meet the county superintendents of each judicial district, or two or more districts combined, if he shall deem it more conducive to the interests of education, at such time and place as he shall appoint, giving due notice of such meeting, the object of which shall be to accumulate valuable facts relative to schools, to compare views, discuss principles, and in general to listen to all communications and suggestions, and enter into all discussions relative to the compensation of teachers, their qualifications, branches taught, methods of instruction, text books, district libraries, apparatus, teachers' institutes, visitation of schools, and other matters embraced in the public school system.

SEC. 108 (81). *Superintendent of public instruction to hold institutes in sparsely settled counties.*—The superintendent of public instruction shall annually hold in sparsely settled counties as many state teachers' institutes as he shall find practicable, each to continue in session one week at least; he shall give due notice thereof to all teachers and persons proposing to become such, and invite their attendance. He shall attend and have charge of each institute; invite the aid and co-operation of the superintendent of schools for the county; employ suitable instructors and lecturers to give instruction and addresses to aid the teachers in qualifying themselves for a more successful discharge of their duties: *provided*, that the average expense of such institutes shall not exceed one hundred dollars. He shall annually, in so many and such thickly settled localities as he may deem advisable, organize and with the others selected by himself conduct normal training schools for the benefit of teachers who desire such training but are unable to attend a full course at the state normal schools. Such schools shall be without charge for attendance and entirely practical, their object being to teach normal methods of teaching and conducting schools, particularly common schools. They shall continue at least four and not more than six weeks at each place, and the average cost of them shall not exceed one hundred dollars for each week of the sessions: *provided*, that during the time of holding a teachers' institute in any county of this state, it is hereby made the duty of all teachers and persons desiring a teacher's certificate to attend such institute or present to the county superintendent satisfactory reasons for not so attending before receiving such certificate, and any school that may be in session in such county shall be closed, if the teacher shall request it for the purpose of attending such institute, but the district shall not be liable for the wages of such teacher while such schools are closed.

SEC. 109 (82). *Expenses of institutes, how defrayed.*—To defray the expenses of institutes and normal training schools provided for in section one hundred and eight (eighty-one), three thousand dollars are hereby annually appropriated to be expended by the superintendent of public instruction as follows, *viz.*: To defray the expenses of such state institutes, one thousand dollars; and to defray the expenses of such normal training schools, two thousand dollars. The state superintendent shall render an account of his disbursement of such funds to the state auditor, to be examined and audited by him.

SEC. 110 (83). *Second institute not held until when.*—A second institute shall not be held in any county under the provisions of this act till a session has been

held in every county of the state, where the number of teachers or the interests of the schools in the judgment of the superintendent shall demand it.

APPORTIONMENT OF STATE SCHOOL FUND BY SUPERINTENDENT.

SEC. 111 (84). *State superintendent to apportion school fund.*—The state superintendent of public instruction shall make an apportionment of the available current school funds in the state treasury among the several counties of this state on the first Monday in March and the first Monday of October of each year, in proportion to the number of persons between the ages of five and twenty-one years residing therein on the last day of September of the previous year, and transmit a statement thereof to the county auditor of each county: *provided*, that persons of school age enumerated in districts organized within the year preceding, shall be included in the number upon which the county within which such district is situated is entitled to apportionment.

SEC. 112 (85). *Transmit copy to state auditor.*—It shall be the duty of the state superintendent of public instruction when he shall make a semi-annual apportionment of the current school funds of the state, forthwith to transmit to the state auditor a certified copy of such apportionment.

SEC. 113 (86). *Duty of state auditor.*—It shall be the duty of the state auditor when he shall receive a certified copy of any semi-annual apportionment, as provided in this act, forthwith to draw a warrant on the state treasurer, payable to the order of the treasurer of each county named in the said copy of the apportionment, for the amount apportioned to such county, and transmit the same to the county treasurer.

SEC. 114 (87). *Annual appropriation.*—There is hereby annually appropriated of the moneys in the state treasury belonging to the general school fund, a sum equal to the amount of the current school funds due the common schools of the state, and agreeably to law apportioned among the several counties by the state superintendent of public instruction.

SEC. 115 (88). *State superintendent to distribute school registers.*—The state superintendent of public instruction shall prepare and distribute, through the county superintendents, proper school registers for teachers, and blanks to the clerks of districts for their reports to the county superintendents, and also blanks for the county superintendents and county auditors, upon which to report to the state superintendent; and he is hereby authorized to procure such registers and blanks from the state printer, providing the cost of such registers shall not exceed twenty cents each.

STATE CERTIFICATES.

SEC. 116 (89). *May grant state certificate—to whom and when.*—The state superintendent of public instruction is hereby authorized to grant and issue state certificates of eminent qualifications as teachers to such persons as may be found worthy to receive the same upon due examination by himself, or by a committee of practical teachers of eminent scholarship, appointed by him for that purpose, and who shall exhibit satisfactory evidence of practical experience and success in teaching.

SEC. 117 (90). *Force of such certificates.*—State certificates shall supersede

the necessity of any and all other examinations, and shall be valid in any county and school district in the state for the period of seven years; but a state certificate may be cancelled by the state superintendent, upon proof of immoral or unprofessional conduct.

## UNIFORMITY IN TEXT BOOKS.

SEC. 118 (91). *Board of commissioners, to consist of whom—to recommend text books.*—The superintendent of public instruction, the principal of the university of Minnesota, and the secretary of state shall constitute a board of commissioners, whose duty it shall be to recommend the text books to be used in the common schools of this state: *provided*, that said commissioners shall not recommend any change in the series of text books now in use within three years from the passage of this act; *and provided further*, that said text books now in use shall be furnished and sold to all persons at a price thirty per cent. less than the present lowest retail prices, as appears by published catalogue thereof, now in circulation in this state.

SEC. 119 (92). *State superintendent to insert books recommended in school registers.*—It shall be the duty of the superintendent of public instruction to insert in the blank school registers the books recommended in accordance with the provisions of this act.

SEC. 120 (93). *Board to hold their session, where.*—Said board of commissioners shall hold their session at St Paul, in the office of the superintendent of public instruction. The members of said board shall receive no compensation for their services, except that the travelling expenses of the president of the university of Minnesota to and from St Paul and St Anthony shall be paid out of the state treasury.

## STATE SUPERINTENDENT'S REPORT.

SEC. 121 (94). *Report to contain, what.*—The state superintendent shall prepare, on or before the fifth day of December, and submit to the legislature in each year, a report containing:

*First.* An abstract of the common school reports received by him from the several county superintendents, showing the number of organized school districts in the state, the number of schools taught, the number of persons between the ages of five and twenty-one years, distinguishing between male and female, the number between fifteen and twenty-one years of age, and the whole number taught in the public schools.

*Second.* A statement of the condition of public schools, and of all other institutions of learning in the state that may report to him.

*Third.* The amount of school moneys collected and expended each year from all sources, specifying the amounts from each source respectively.

*Fourth.* All matters relating to his office, the public schools of the state, and the school fund, the number and character of teachers, and whatsoever he may deem expedient to communicate.

## ARTICLE II.

## INDEPENDENT SCHOOL DISTRICTS.

SEC. 122 (95). *Independent school district, how organized.*—Any city, town, village, township, or school district, now or hereafter organized, may be organized into and established as an independent school district, in the manner and with the powers hereinafter specified: *provided*, that this title shall not apply to any township or school district containing less than five hundred inhabitants, unless said school district consists in whole or in part of an incorporated city, town, or village: *provided further*, that the provisions of this title shall not apply to any city, town, or village, or any part thereof, which has now any special law regulating its schools.

SEC. 123 (96). *Notice to be posted and signed.*—In order to such organization, written notices shall be posted in three of the most public places in the contemplated district, signed by at least six resident freeholders of the same, requesting the qualified electors in said district to assemble upon a day and at some suitable place in said district, to be named in said notices, then and there to vote by ballot for or against the adoption of this title, which notices shall be so posted at least ten days next prior to said meeting.

SEC. 124 (97). *Electors to proceed, how, at election.*—The electors assembled at said time and place shall proceed to appoint a chairman, assistant chairman, and clerk, who shall be judges of said election. The electors in favor of the adoption of this title for said district shall write upon their ballots "Independent district, yes!" and those opposed thereto, "Independent district, no!" the adoption or rejection of this title to be determined by a majority of votes cast in manner aforesaid.

SEC. 125 (98). *Shall choose directors—shall serve for how long.*—In case a majority of votes are cast for said law the electors of said district shall assemble at the place last aforesaid, within twenty days thereafter, of which at least ten days' previous notice shall be given by said chairman and clerk in the manner aforesaid, and shall then and there choose by ballot six directors of the public schools of said district, two of whom shall serve for one year, two for two years, and two for three years; the time that each shall serve to be designated on the ballot, and annually thereafter, on the first Saturday in October, there shall be chosen in the same manner two directors, each of whom shall serve for three years and until their successors are elected and qualified. The persons so elected shall, within five days after their election, file in the office of the clerk of said district their several oaths as required by law.

SEC. 126 (99). *Directors shall be a body corporate.*—Said directors and their successors in office shall be a body corporate by the name of "the board of education of \_\_\_\_\_" (the name of the city, town, village, or township), and such and by such name shall have perpetual succession, and shall receive all moneys and other property belonging or accruing to said district, or to said city, town, village, or township, or any part of the same, for the use or benefit of the public schools therein, and succeed to all the rights and be subject to all liabilities of the same, and the said board shall be capable of receiving any gift, grant, bequest, or devise

made for the use of the public schools in said city, town, village, township, or district, and all moneys accruing to said city, town, village, township, or district, under any law of this state for the use of the public schools therein, shall be paid over to the treasurer of said board of education.

SEC. 127 (100). *Board shall meet and organize—shall elect what officers.*—Said board shall, within ten days of their election as aforesaid, and annually thereafter, on the third Saturday of October, meet and organize by choosing a president, clerk, and treasurer, who shall hold their offices as such for one year, and until their successors are elected and qualified: *provided*, that the current term of office of the several directors, the president, treasurer, and clerk of such district, is hereby extended and continued until the twelfth day of October, eighteen hundred and seventy-one, or any other year within which their respective terms of office may expire. The board of education may also elect by ballot a superintendent, who shall hold his office during the pleasure of the board, and shall receive such compensation as shall be fixed by the board. The superintendent shall be *ex officio* member of the board, but not entitled vote therein. The board may, for satisfactory reasons, remove any member or officer of the board, and fill the vacancy: *provided*, that no member shall be removed except by a concurrent vote of at least four members of the board, and at a meeting of the time, place, and object of which he was duly notified.

SEC. 128 (101). *What officers entitled to compensation.*—No other member of said board shall receive any compensation for his services, except the clerk and treasurer, whose compensation shall be fixed by the board.

SEC. 129 (102). *Quorum.*—Four members of said board shall constitute a quorum for the transaction of business at any meeting.

SEC. 130 (103). *Vacancy, how filled.*—In case of vacancy, the board of education shall have power to fill the same by appointment until the next annual district election, when the electors of said district may choose a suitable person to fill the remainder of such term: *provided*, the clerk of said board shall give notice of such vacancy as required in other cases.

SEC. 131 (104). *Superintendent to visit schools.*—The superintendent shall visit the schools of the district and report their condition to the board as often as they prescribe; he shall superintend the grading of the schools and examinations for promotion, and shall perform such other duties as the board prescribe.

SEC. 132 (105). *President and clerk to file acceptance.*—The president and clerk shall file in the office of the clerk of the district their written acceptance of office as such. The president shall preside at all meetings of the board and district (except that a president *pro tempore* may be chosen in his absence), shall sign all orders drawn upon the treasurer for moneys voted to be paid by said board, and perform such other duties as the board prescribe.

SEC. 133 (106). *Clerk of board to act as clerk of district—his duties.*—The clerk shall act as clerk of the district as well as of the board (except that in his absence, inability, or refusal to act, a clerk *pro tempore* may be chosen), shall keep a record of the proceedings of all district meetings, as well as of the meetings of the board, and of all reports made by him to the county auditor and county superintendent, and shall keep an account of the expenses of said district, and a correct and full list of the property of said district; shall furnish to the county auditor, on or before the tenth day of October in each year, an attested copy of his record,

stating the amount of money voted to be raised by the district for school purposes at any annual or special meeting, or by the board of education; he shall give due notice of all the meetings of the district; shall, upon the order of the board, draw and sign orders upon the treasurer of the district for the payment of money, stating in every such order the consideration for which it was drawn, and the name of the person rendering such consideration, and the particular fund upon which it was drawn, and shall take a receipt for every such order from the person to whom the same is delivered, and preserve the same; he shall keep all records, books, and papers belonging to his office, and deliver the same to his successor. He shall, on or before the tenth day of October in each year, make and transmit to the county superintendent a report in writing, showing:

*First.* The names of all persons, male and female respectively, residing in the district on the last day of September preceding the date of his report, between the ages of five and twenty-one years; and the number between the ages of fifteen and twenty-one years.

*Second.* The number of those who have attended school within the year.

*Third.* The length of time schools have been taught by qualified teachers, and the total wages paid such teachers.

*Fourth.* The amount of money received from the county treasurer, apportioned by the county auditor.

*Fifth.* The amount of money received from taxes voted to be raised by the district, the purposes for which they were raised, the manner in which said amount has been expended, kinds of books used, and such other facts as the condition of school houses and grounds state superintendent may require, which report shall be verified before some competent officer. Any failure on the part of such clerk to make report to the county auditor and county superintendent, as provided herein, is a misdemeanor, punishable by a fine not exceeding five hundred dollars, for the use of the district. Said clerk shall furnish to each teacher, before the commencement of any school, and as often thereafter as may be deemed necessary, a school register. Said clerk shall perform such other duties as may be designated by the board.

SEC. 134 (107). *Records, properly signed, to be prima facie evidence of what.*—The records of said board, signed by the president, or a transcript thereof, or any part thereof, and all papers belonging to the office, or a transcript thereof, certified by the clerk, shall be *prima facie* evidence of the facts therein stated, and all records, books, and papers belonging to said board, shall be subject to the inspection of any legal voter of said district.

SEC. 135 (108). *Treasurer to execute a bond, etc.—Duties of treasurer.*—The treasurer, before entering upon the duties of his office, shall execute a bond to the board of education in double the amount of money, as near as can be ascertained, which will come into his hands as treasurer during the year, with not less than two sureties to be approved by said board, and conditioned for the faithful discharge of his duties as treasurer. Said bond shall be filed with the clerk of the board, and in case of any breach in the conditions thereof, the board shall cause an action to be commenced thereon in the name of the board of education, and the money recovered shall be applied to the use of the district. Said board may require such treasurer to give additional security from time to time. Said treasurer shall receive, and upon the order of the board, signed by the clerk and president, pay out all

moneys belonging to the district, paying each order only out of the particular fund upon which it is drawn, and shall keep an accurate and detailed and separate account of each fund coming into his hands, in a book or books provided for that purpose. Said treasurer shall, within three days preceding the annual meeting in each year, file with the clerk of the board a report, in writing, signed by him, and containing a statement of all the moneys received by him during the year preceding, and of all his disbursements. Said report shall be examined by the board, before which the treasurer shall exhibit his vouchers before the annual meeting of the district, and be approved or disapproved by resolution, entered upon the records of said board. Said treasurer shall make such reports of the business of his office as may be called for by the board at any time. He shall keep all records, books, and papers belonging to his office, and deliver the same to his successor in office on demand. He shall pay over to his successor in office upon demand, after such successor has given bonds as hereinbefore prescribed, all money in his hands belonging to said district, and perform all other duties as may be ordered by the board.

SEC. 136 (109). *Board may hold stated meetings.*—Said board may hold stated meetings at such times and places in said district as they may appoint. Special meetings thereof may be called by the president, or by any two members, on giving one day's notice of the time and place of the same, and said board, by resolution, shall direct the payment of all moneys that shall be paid out of the treasury, and no money shall be paid except in pursuance of such resolution, and on the written order of the clerk, countersigned by the president.

SEC. 137 (110). *How to proceed when deemed necessary to purchase or erect school house.*—Whenever said board deems it necessary to purchase or erect a school house, or school houses, for said district, or to purchase sites for the same, they shall call a meeting of the legal voters of the district, by giving ten days' notice of the time and place and object of said meeting in some newspaper printed and in general circulation in said district, if any, and if there is no such newspaper, then by posting notices thereof in five or more of the most public places in said district, and said meeting may determine by a majority vote upon the erection of a school house, or school houses, and the purchase of a site, or sites, therefor, and the amount of money to be raised for the purpose aforesaid.

SEC. 138 (111). *Amount of money voted to be certified to auditor of county.*—The amount of moneys so voted shall be thereupon certified by the chairman and secretary of the board of education to the auditor of the county, and shall be levied on the taxable property in said district: *provided*, that no tax shall be levied in any one year exceeding eight mills on the dollar, for the purpose of building a school house, or school houses, or procuring sites therefor.

SEC. 139 (112). *Board of education—powers and duties.*—The board of education shall have power and it shall be their duty:

*First.* To establish and organize such grades of schools, alter and discontinue the same in said district as they may deem expedient.

*Second.* To provide necessary rooms or buildings, or school houses and grounds about the same.

*Third.* When authorized by a vote of the district, to purchase or erect one or more school houses, and purchase sites for the same.

*Fourth.* To purchase, sell, and exchange school apparatus, furniture, stoves, and other appendages for school houses, and to furnish fuel for the same.



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*Fifth.* To take care of the property of the district, and procure insurance, and make ordinary repairs upon the same, or any part thereof, when deemed expedient.

*Sixth.* To contract with, employ, and pay teachers who have received certificates as provided herein, and to discharge the same.

*Seventh.* To defray the necessary expenses of the board, pay the compensation of the clerk, treasurer, and superintendent, and for such printing, record books, stationery, and other incidental matters as may be deemed proper.

*Eighth.* To superintend and manage in all respects the schools of said district, and from time to time to adopt, alter, modify, and repeal rules for their organization, government, and instruction, for the keeping of registers, for the reception of pupils, resident and non-resident within the district, their suspension, expulsion, and transfer from one school to another; to prescribe text books and a course of study for the schools, and to visit each of the schools in said district not less than once in three months.

*Ninth.* To make rules and regulations respecting the protection, care, and safe keeping of the property of the district, and to prescribe penalties for the breach thereof, to be recovered as penalties in other cases before a justice of the peace, and to change and repeal the same.

*Tenth.* To make, change, and repeal rules relating to the organization, government, and business of said board, and the duties of its officers.

*Eleventh.* To provide for the prompt payment, at maturity, of the principal and interest of any indebtedness of the district, by voting, from time to time, taxes upon the taxable property of said district, sufficient to meet the same, making allowance for delinquency in paying any part of such taxes.

*Twelfth.* To furnish the board of examiners the necessary blanks for all such grades of such certificates as said board of education may at any time order, which certificates shall severally contain the branches fixed for the several grades of certificates.

*Thirteenth.* When authorized by a vote of the district to make, execute, and deliver, for, and in behalf of, said district, deeds, mortgages, releases, and all other instruments relating to the real property thereof.

SEC. 140 (113). *Length of time schools to be in session each year.*—Said board of education shall keep said schools in operation not less than sixteen, nor more than forty-four weeks in each year, determine the amount of the annual tax to be raised for the purpose aforesaid, including all the necessary expense of said schools, except for the erection of school houses and the purchase of sites; and on or before the tenth day of October of each year make known the amount of such tax to the auditor of the county in which said district is situated, which tax shall be assessed in said district, collected and paid over to the treasurer of said district, and said board shall keep an accurate account of their proceedings and of their receipts and disbursements for school purposes, and at the annual meeting for choosing directors in said districts, make report of such receipts and the source from which the same were derived, and of the disbursements and the objects to which the same were applied; and they shall also make report at the same time of such other matter relating to said schools as they deem the interests of the same to require.

SEC. 141 (114). *Board to appoint school examiners—duties of.*—Said board

of education, within twenty days after their election, shall appoint three competent persons, citizens of said district, to serve as school examiners of the public schools therein, one to serve one year, one for two years, and one for three years from the time of their appointment, and until their successors are appointed, and annually thereafter said board shall appoint one examiner to serve for three years, and until his successor is appointed and qualified; and said board shall fill all vacancies that may occur from death, removal, or otherwise. Said examiners, or any two of them, shall examine any persons that may apply for that purpose with the intention of becoming teachers in any of the schools of said district, and if they find the applicant, in their opinion, qualified to teach in any of said schools and to govern the same, and of good moral character, they shall give said applicant a certificate made out on such blanks as may be provided by the board of education, naming the branches in which the holder of said certificate is found qualified to teach, setting opposite each branch the degree of attainment, on a scale of which five shall be the maximum, and no person shall be permitted to teach in said schools without such certificate: *provided*, that any examination of teachers herein provided for may, at the request of the board of examiners, be made by the county superintendents of schools of the proper county, whose certificate as herein provided, when countersigned by said board of examiners, shall be valid as their own act; and said examiners may in all cases when two of their number concur, have power to annul such certificate, and when so annulled and reported to the board of education, the person holding the same shall be discharged as teacher. Said examiners shall also, separately, or otherwise, together with said board of education, or any of them, or such person as they may appoint or invite, visit said schools as often as once in every three months, and observe the discipline, mode of teaching, progress of pupils, and such other matters as they may deem of interest, and make such suggestions and report thereupon to said board as they think proper, which report may be published at the discretion of said board, together with their annual report.

SEC. 142 (115). *Taxes to be levied, how.*—All taxes raised by virtue of this title shall be levied and collected in the same manner, and by the same officers as county taxes are levied and collected.

SEC. 143 (116). *Districts organizing under this title (chapter), how governed.*—Upon and after organization as herein provided, any district so organizing or heretofore so organized, shall be governed by the provisions of this title and the general school laws: *provided*, that such provisions of article one (titles one and two) as are inconsistent with any provisions of this article (title) shall thenceforward be inoperative in such district.

SEC. 144 (117). *Article (title), how repealed.*—This article (title) shall not be repealed or affected by any subsequent act, unless specially mentioned therein.

### ARTICLE III.

#### ACTIONS BY OR AGAINST TRUSTEES.

SEC. 145 (118). *Trustee to prosecute actions, in what cases.*—The trustees of any school district organized in accordance with the provisions of this title (chapter) may prosecute actions, in their official capacity, in the following cases:

*First.* On a contract made with them in their official capacity; or,

*Second.* To enforce a liability, or a duty enjoined by law in favor of such officers, or the district; or,

*Third.* To recover a penalty or forfeiture given to such officers or the district;  
or

*Fourth.* To recover damages for an injury to their official rights or property.

SEC. 146 (119). *Action brought against them, in what cases.*—An action may be brought against them in their official capacity, either upon a contract made by such officers in their official capacity, and within the scope of their authority, or for an injury to the rights of the plaintiff, arising from some act or omission of such officers, or of the district. The actions authorized by this article (title) may be brought by or against said trustees, upon a cause of action which accrued during the term of their predecessors, as well as during their own term of office, and when brought may be continued by or against the successors in office of the parties whose names may for that purpose be submitted in the action.

SEC. 147 (120). *Process, how served.*—In legal proceedings against the trustees in their official capacity, all process and papers may be served on any one of them, and the party served shall notify the others of the fact of such service.

SEC. 148 (121). *No execution to issue in first instance—judgment, how paid.* When a judgment is recovered against any trustee in any action prosecuted by or against them in their name of office, no execution shall issue on such judgment, but the same, if for the recovery of money, shall, unless reversed or stayed on appeal, be paid by the treasurer upon demand, and the delivery to him of the certified copy of the docket of the judgment if there is sufficient money of such district in his hands not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterwards stayed on appeal.

SEC. 149 (122). *Judgment not satisfied, how to proceed.*—If such judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said school district, a certified copy of the docket of the judgment may be presented to said district at its annual meeting.

SEC. 150 (123). *Trustees shall add interest to judgment and add to tax.*—The trustees of the district shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of said district, and the same shall be certified to the county auditor, and collected as other district taxes are collected.

SEC. 151 (124). *Judgment not paid at time fixed by law for treasurer to pay over money in his hands, etc., execution to issue.*—If such judgment is not paid within thirty days after the time fixed by law for the county treasurer to pay over the money in his hands, levied for the purpose of paying such judgment next after the rendition thereof, execution may be issued on such judgment, but only the property belonging to said district shall be liable thereon.

Section 125 repeals the following acts: chap. 36, statutes of 1866; chaps. 26, S. L. 1866; 1, 2, 3, 4, and 7, S. L. 1867; 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, S. L. 1868; 1, 2, 3, 4, 5, 6, S. L. 1869; 1, 2, 3, 4, 5, 6, S. L. 1870; 1, 2, 3, 4, 5, 6, 7, 8, S. L. 1871; 2, 3, 4, 6, 7, and 9, S. L. 1872.