

vestryman, deacon, director, minister or any other officer or officers of any church or organized religious society in trust for the use and benefit of such society of which they are such officer or officers which have been or may be made, done or executed, shall vest in their successor or successors in office, or other officer which such society may at any time designate all the legal or other title to the same extent and in all respects the same, as trustee of such trust for the use and benefit of such society which such bishop, dean, rector, vestryman, deacon, director, minister or other officer or officers; had under such grant, deed or act; and all transfers or sales made by such officer or officers so acquiring title by virtue of this act by succession in office shall have all the validity, force and effect that it would have had, had it been made by such bishop, dean, rector, vestryman, deacon, director, minister or other officer or officers, while holding under and by virtue of such grant, deed or act of such legislative body.

All transfers by such officer declared legal.

SEC. 2. This act shall take effect and be in force from and after its passage and approval by the Governor.

When to take effect.

Approved, January 11th, 1871.

## SCHOOLS.

### CHAPTER XXXV.

#### AN ACT TO ESTABLISH A PUBLIC SCHOOL LAW FOR THE TERRITORY OF DAKOTA.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

SECTION 1. There shall be elected at each regular delegate election in this Territory, a superintendent of public instruction.

Superintendent of public instruction, when elected and for what term.

tion, who shall hold his office for two years and until his successor is elected and qualified. And if a vacancy shall occur in said office of superintendent by death, resignation, or otherwise, it shall be the duty of the governor to appoint some suitable person to fill such vacancy.

Superintendent to take oath and file same.

SEC. 2. The superintendent of public instruction, shall, before entering upon the discharge of the duties of his office, take and subscribe an oath to support the constitution of the United States, and the organic act of this Territory, and to faithfully discharge the duties of his office, which oath shall be filed with the clerk of the supreme court of the Territory of Dakota.

Duties of superintendent.

SEC. 3. It shall be the duty of the superintendent of public instruction to keep a record of his official acts, and to exert himself constantly and faithfully to promote the interests of education in the Territory, and to this end he shall confer with county superintendents and visit schools in company with them and furnish to them blank forms for collecting statistics of the various schools in the Territory. He shall prepare and present to the legislature during the first week of the session, in each year, a report of his official doings for the preceding year with a full statement of the condition of common schools in the Territory, and the expenditure of the public school moneys and shall make such suggestions for the improvement and support of common schools together with such other information in regard to the modes of instruction and systems of the organization of schools in other states and countries as he shall deem proper.

Shall make report to the legislature.

May grant certificates.

SEC. 4. The superintendent of public instruction, shall also have power to grant certificates of qualification to teachers of proper learning and ability to teach in any public school in the Territory, and to regulate the grade of county certificates. The superintendent of public instruction shall have power to appoint a deputy, for the performance of any special work, who shall receive the same pay for such service as the superintendent would be by law entitled to receive.

Appoint deputy.

Superintendent's compensation and allowances.

SEC. 5. The compensation of superintendent of public instruction for his services shall be the sum of four dollars per day for the time spent in the discharge of his official duties, and the expense of procuring blank forms, postage, station-

ery and such books as are necessary for the use of his office, and publication of his annual report, all of which allowances shall be paid by the Territorial treasurer on the certificate of the Territorial auditor.

SEC. 6. It shall be the duty of the Territorial superintendent of public instruction to select a set of text books for the use of the public schools of this Territory, and when he shall have made such selection he shall cause due notice thereof to be published and after the publication of such notice it shall not be lawful to use in the public schools of this Territory any text books not recommended by him. The superintendent of public instruction shall discourage the use of sectarian books, and sectarian instruction in the schools; to advise in the selection of books for school district libraries, and to open such correspondence abroad as may enable him to obtain, so far as practicable, information relative to the system of common schools and their improvements in other states and countries, which he shall embody in his annual report to the legislature, or so much thereof as shall be deemed of sufficient importance; he shall prescribe rules and regulations for the management of school district libraries, and the penalties which shall be imposed by the district boards for any violation of such rule and regulations. He shall prepare for the use of the common school officers, suitable forms for making reports and contracting all necessary proceedings, and he shall cause the laws relating to common schools, with the rules, regulations, and forms aforesaid, and such instructions as he shall deem necessary to be printed, together with a suitable index, in pamphlet form, at the expense of the Territory; and he shall cause the same to be distributed among the several school districts, and other officers having the care of common schools throughout the Territory. He shall examine and determine all appeals duly made to him from the decision of any county superintendent, informing or altering any school district, or concerning any other matter under the common school law of this Territory, and his decision shall be final. The superintendent of public instruction shall prepare a sufficient number of his annual report to be distributed as follows: One copy to each member of the legislature; one copy to each county superintendent of schools; one copy to each school district officer; and one copy to each teacher in the Territory whose

Duties of superintendent

Shall prepare forms.

Shall hear appeals.

Annual report, how distributed.

certificate of qualification has not expired, and such other of the county and Territorial officers as may be by him deemed proper, not to exceed five hundred copies in one year.

Superintendent to hold  
teachers institute.

SEC. 7. The Territorial superintendent of public instruction with the several county superintendents shall hold annually, at some convenient place, a Territorial teachers' institute for the instruction and advancement of teachers; said institute not to continue less than four days and not to exceed ten days, which institute shall be free to all teachers and those preparing to teach in this Territory.

County superintendent to be  
elected. Term  
of office.

SEC. 8. The several counties of this Territory shall at the same time and in the same manner as other county officers are elected, elect a suitable person to be superintendent of public schools within such county, who shall hold his office for two years, and from the first of January next succeeding his election, unless he shall be elected to fill a vacancy, in which case he may immediately qualify into office, and shall hold his office until his successor is elected and qualified, and

Compensation

who shall receive three dollars for each day spent in the discharge of his official duties, and a reasonable compensation for his annual report to the superintendent of public instruction, and every superintendent of schools shall make out in detail his account for official service, stating the date and time spent as well as the kind of service rendered, and make oath or affirmation to the correctness of the same before some justice of the peace in the county in which he resides, which oath or affirmation shall be certified by said justice before such superintendent's account shall be presented to the county commissioners for allowance, who shall audit and allow the same, or so much thereof as is just and reasonable, and the same shall be paid out of the county treasury upon the order of the county commissioners who are empowered to draw orders for the same; but no order shall be drawn to any superintendent until he shall have filed with the auditor the receipt of the superintendent of public instruction for the statistical returns of the preceding school year, in pursuance of the requirements of section twenty of this act.

County superintendent's  
duties.

SEC. 9. The county superintendent of public schools shall have charge of the common school interest of the county. He shall, before he enters upon the discharge of the duties of his

office, take and subscribe an oath or affirmation to support the constitution of the United States and the act organizing this Territory, and faithfully to discharge the duties of his office, which oath or affirmation shall be filed in the county clerk's office. He shall also execute a bond with approved security, payable to the board of county commissioners for the use of common schools in said county, in the penal sum of five hundred dollars. Said bond must be approved by the county commissioners, and filed in the register of deeds' office.

Take oath and give bonds.

SEC. 10. That it shall be the duty of the county superintendent of schools, in addition to the other duties required of him, to divide his county into school districts when necessary, and sub-divide the same when petitioned by a majority of the citizens thereof, and to furnish the county commissioners of such county with a written description of the boundaries of each district, which description must be filed in the register of deeds' office, before such district shall be entitled to proceed with its organization by the election of school district officers, and it shall be his duty to keep on file in his office all petitions and remonstrances, which shall show the date of reception, and the action had thereon, and it shall be his further duty on the division of, or change of district boundaries, to notify the clerk of the districts interested of the change made. Whenever it shall be deemed necessary to form a school district from parts of two or more counties, it shall be the duty of the county superintendent of each county in which any part of the proposed joint district shall be situated, to unite in laying out such joint district; and each county superintendent so assisting shall file a description of said joint district in the register of deeds' office of his county.

County superintendent to divide county into school districts.

Joint district.

SEC. 11. It shall be the duty of the judge of probate, on the first Monday of March, in each year, to furnish the county superintendent of public schools with a statement of the amount of money in the county treasury, belonging to the school fund, and he shall pay the same upon the order of said superintendent, to the proper district officers.

Judge of probate to furnish certain statement.

SEC. 12. It shall be the duty of the county superintendent of public schools, on the second Monday of March in each year, or as soon thereafter as he shall receive the statement of

County superintendent to apportion school moneys.

the judge of probate, certifying the amount of money in the county treasury for the use of common schools for the current year, to apportion such amount to the several districts or parts of districts within the county in proportion to the number of children residing in each, over the age of five and under the of twenty-one years, as the same shall appear from the last annual reports of the clerks of the respective districts, and he shall immediately notify by mail or otherwise the district clerks of each district of the amount of money due to his district, and he shall draw his order on the county treasurer in favor of the several district treasurers for the amount apportioned to each district: *Provided*, No district shall be entitled to receive any portion of the common school fund in which the text books selected by the Territorial superintendent shall not be used, and which shall not have held a school meeting at the time appointed by law for holding annual school meetings in this Territory, or within thirty days thereafter, and made out and forwarded to the county superintendent of public instruction their annual report within sixty days of the time fixed by law for the holding of the annual school meetings of this Territory.

Proviso.

Duty to visit  
schools.

SEC. 13. It shall be the duty of the superintendent to visit such common schools within their respective counties as shall be organized according to law, at least once in each year, or oftener if they shall deem necessary. At such visitation the superintendent shall examine into the state and condition of such schools as respects the progress in learning and the order and government of the schools; and they may give advice to the teacher of such schools as to the government thereof, and the course of study to be pursued therein, and shall adopt all requisite measures for the inspection, examination and regulation of the schools, and for the improvement of the schools in learning. Every superintendent of common schools shall also make out his account for official services in the manner hereinbefore required, and deliver a copy of the same to the county commissioners of the county in which such superintendent was elected or appointed, on or before the day previous to the annual county election next after the election or appointment of such superintendent, and the same shall be filed and kept in the office of register of deeds.

Account for  
services.

SEC. 14. He shall see that the annual reports of the clerks of the several school districts in his county are made correctly and in due time, and shall hear and determine all appeals from the decision of district boards.

SEC. 15. He shall hold public examination of all persons offering themselves as teachers of common schools, at the county seat of his county, on the last Saturdays of April and October of each year, notice of which shall be given as publicly as possible, at which time he shall grant certificates for not less than three months, or more than one year, to such persons as he may find qualified as to moral character, learning and ability; and any person receiving such certificate shall be deemed a qualified teacher within the meaning of this act. Persons applying to the county superintendent for a certificate at any other time than at the public examination shall pay to the said superintendent the sum of one dollar for his services.

SEC. 16. Whenever a school district shall be formed in any county, the county superintendent of schools of such county shall, within fifteen days thereafter, prepare a notice of the formation of such district, describing its boundaries and stating the number thereof, and appointing a time and place for the district meeting. He shall cause the notice thus prepared to be posted in at least five public places in the district, at least ten days before the time appointed for such meeting; and when a joint district is derived from portions of two or more counties, the county superintendents of each county, from which any portion of the new district is taken, shall unite in giving the customary notices, and the new district shall be numbered by the superintendent of the county having the highest number of districts. A majority of the voters in any school district being dissatisfied with the formation of their district, or of the action of their county superintendent, shall have the right of appeal from the decision to the Territorial superintendent, if an appeal be taken within sixty days.

SEC. 17. The county superintendent of public schools shall perform all other duties of said office that now are or hereafter may be prescribed by law; and he shall deliver to his successor, within ten days after the expiration of his term of office, all the books appertaining to his office.

Where vacancy occurs in office of county superintendent

**SEC. 18.** If a vacancy occur in the office of county superintendent of public schools, by death, resignation or otherwise, notice thereof shall be given by the register of deeds to the county commissioners, who shall, as soon as practicable, appoint some suitable person to fill the vacancy, and the person receiving such appointment shall, before entering upon the discharge of the duties of his office, file his oath or affirmation in the county clerk's office, as hereinbefore provided, and shall discharge all the duties of the office of county superintendent of public schools until a successor is elected and qualified. He shall also give a like bond to that required by this act to be given by the county superintendent of schools.

County superintendent shall make annual returns.

**SEC. 19.** The county superintendent shall make full and complete annual returns to the superintendent of public instruction, between the first and tenth days of November of each year, of the number of children between the ages of five and twenty, in the school districts within their respective counties; also, the number of qualified teachers employed, the length of time each district school has been taught during the year, the kind of text books used, and the amounts expended in each district out of any money raised for educational purposes, and for what purpose such amount was expended; the amounts raised in each county and district by taxation or otherwise for educational interests, and any other items that may be of service to the superintendent of public instruction in preparing his annual report. The district clerk shall report to the county superintendent the names of the school district officers with their post office address, which shall also be reported to the Territorial superintendent by the county superintendent.

Duty of district clerk.

#### SCHOOL DISTRICT MEETINGS.

Power of inhabitants of school district.

**SEC. 20.** The inhabitants qualified to vote at a school district meeting, lawfully assembled, shall have power:

1. To appoint a chairman to preside at said meeting in the absence of the director;
2. To adjourn from time to time;
3. To choose a director, clerk, and treasurer, who shall possess the qualifications of voters as prescribed in the next section of this act, at the first and each annual meeting thereafter;
4. To designate by vote a site for a district school house;

Same.

5. To vote a tax annually, not exceeding one per cent. on taxable property in the district, as the meeting shall deem sufficient to purchase or lease a site, and to build, hire or purchase a school house, and to keep in repair and furnish the same with necessary fuel, stoves and benches; Power of inhabitants of school district.

6. To vote a direct tax annually, not exceeding one-half of one per cent. on taxable property in the district, for pay of teacher's wages in the district;

7. To authorize and direct the sale of any school house, site, or other property belonging to the district, when the same shall no longer be needful for the district; Same.

8. To vote such a tax as may be necessary to furnish the school house with blackboards, outline maps, and apparatus necessary for illustrating the principles of science, or to discharge any debts or liabilities of the district, lawfully incurred; *Provided*, That said tax shall not exceed one per cent. per annum, and may be applied to any other purpose by a vote of the district at any regularly called meeting;

9. To give such direction and make such provision as may be deemed necessary in relation to the prosecution or defense of any suit or proceeding in which the district may be a party; Same.

10. To alter or repeal their proceedings from time to time as occasion may require, and to do any other business contemplated in this act;

11. To vote a tax not exceeding \$25 in any one year, to procure a district library consisting of such books as they may direct any person to procure.

SEC. 21. The following persons shall be entitled to vote at any district meeting; all persons possessing the qualifications of electors, as defined by the laws of the Territory, and who shall be actual residents of the district at the time of offering to vote at such election. Who shall vote at district meetings.

SEC. 22. If any person offering to vote at a school district meeting shall be challenged as unqualified by any legal voter, the chairman presiding shall declare to the person challenged the qualifications of a voter, and if such challenge be not withdrawn, the chairman, who is hereby authorized, shall tender to the person offering to vote, the following oath or affirmation: "You do solemnly swear, (or affirm) that you are an actual resident of this district, and that you are qualified When person offering to vote shall be challenged.

by law to vote at this meeting." Any person taking such oath or affirmation, shall be entitled to vote on all questions voted upon at such meeting.

#### ORGANIZATION OF DISTRICTS.

When school district considered organized.

SEC. 23. Every school district shall be deemed duly organized when the officers constituting the district board shall be elected and qualified. Every school district officer shall signify his acceptance of his office to the county superintendent, in writing, within twenty days after he shall be notified of his election by any person voting at such meeting, which acceptance shall be filed with such superintendent, and upon filing such acceptance, said party shall be deemed to have duly qualified. The officers of joint districts shall signify their acceptance to the superintendents of the several counties which form a part of the joint districts. Every person duly elected to the office of director, clerk, or treasurer of any school district, who shall refuse or neglect, without sufficient cause, to accept of such office and serve therein, or who having entered upon the duties of his office shall neglect or refuse to perform any duty required of him by the provisions of this act, shall forfeit the sum of ten dollars to the school district fund.

Duty of officers of joint districts.

The officers of a school district.

SEC. 24. The officers of each school district shall be a director, clerk, and treasurer, who shall constitute the district board, and who shall hold their respective offices until the annual meeting next following their election or appointment, and until their successors are elected and qualified.

Powers of school district.

SEC. 25. Every school district, organized in pursuance of this act, shall be a body corporate, and shall possess the usual powers of a corporation for public purposes, by the name and style of school district No. . . . , (such number as may be designated by the county superintendent,) . . . . . county (the name of the county in which the district is situated,) Territory of Dakota, and in that name may sue and be sued, and be capable of contracting and being contracted with, and hold such real and personal estate as it may come in possession of by will or otherwise, or is authorized to be purchased by the provisions of this act.

Annual meeting, when held.

SEC. 26. An annual school meeting for each district shall be held at the school house or at the place usually occupied for school purposes, or at some central place in the dis-

trict, on the first Saturday in September, at such hour as the district board may direct. Annual school meetings shall be called by the district clerk ten days previous to the time of meeting, who shall post five notices of the time and place of holding such meeting. But if the district clerk shall neglect or refuse to notify an annual school meeting, a special meeting may be called as provided in section 27, at which time it shall be lawful to elect school district officers and transact any other business usually done at the annual school meetings. Special school meetings may be held at any time by giving notice for ten days of the time and place of said meeting and the business to be acted upon at said meeting, no school district meeting shall be legal unless written or printed notice of said meeting shall be posted for ten days previous to said meeting.

Annual school meetings, how called.

Special meetings.

SEC. 27. Whenever the time for holding annual meeting in any district shall pass without such meeting being held, the clerk, or in his absence, any member of the district board, within fifty days after the time for holding said annual meeting shall have passed, may give notice of a special meeting by putting up written notices thereof in three public places within the district, at least ten days previous to the time of meeting. But if such meeting shall not be notified within sixty days aforesaid, the county superintendent may give notice of such meeting in the manner provided for forming new districts, and the officers chosen at such special meeting shall hold their respective offices until the next annual meeting, and until their successors are elected and qualified.

Duty of school officers when time for annual meeting passes without election.

SEC. 28. The qualified voters at each annual meeting or at any special meeting, duly called, may determine the length of time a school shall be taught in their district for the then ensuing year; and whether such school shall be taught by a male or female teacher, or both, and whether the school money to which the district may be entitled, shall be applied to the support of the summer or winter term of school, or a certain portion to each; but if such matters shall not be determined at the annual or special meeting, it shall be the duty of the district board to determine the same.

Powers of qualified voters

SEC. 29. The director of each district shall preside at all district meetings, and shall sign orders drawn by the clerk

Director to preside, &c.

authorized by the district meeting, or by the district board, upon the treasurer of the district for moneys collected or received by him to be disbursed therein. He shall appear for and in behalf of the district in all suits brought by or against the district, unless other direction shall be given by the voters of such district at a district meeting.

#### DISTRICT CLERK.

Duties of district clerk.

SEC. 30. The clerk of each district shall record the proceedings of his district in a book provided by the district for that purpose; and enter therein copies of all the reports made by him to the county superintendent, and he shall keep and preserve all records, books and papers belonging to his office, and deliver the same to his successor in office.

Same.

SEC. 31. The said clerk shall be clerk of all district meetings; but if such clerk shall not be present at such district meeting, the voters present may appoint a clerk for such meeting, who shall certify the proceedings thereof, and the same shall be recorded by the clerk of the district.

Clerk shall give notice of meetings.

SEC. 32. It shall be the duty of the clerk to give at least ten days notice previous to any annual or special district meeting, by posting up notices thereof at three or more public places in the district, one of which notices shall be affixed to the outer door of the school house, if there be one in the district, and said clerk shall give the like notice of every adjourned meeting, when such meeting shall have been adjourned for a longer period than one month. Every notice for special district meeting shall specify the objects for which such meeting is called, and no business shall be acted upon at any special meeting, not specified in said notice.

Clerk shall draw all orders.

SEC. 33. The clerk of the district shall draw orders on the treasurer of the district for moneys in the hands of such treasurer, which have been appropriated to or raised by the district to be applied to the payment of teacher's wages, and apply such money to the payment of teacher's wages, as shall have been employed by the board, or by the citizens of the district, and the said clerk shall draw orders on the said treasurer for moneys in the hands of such treasurer to be disbursed for any other purpose ordered by a district meeting, or by a district board, agreeable to the provisions of this act.

SEC. 34. It shall be the duty of the assessor to deliver (by mail or otherwise) to the clerk of each school district between the 1st and 15th of April in each year, a list of persons owning or holding property in their respective districts, on the 1st of January preceding, and to make out a tax list of all taxes legally authorized by the district, and annex to such tax lists a warrant under the hand of said clerk, directed to the district treasurer, to collect the sums therein named, except in such cases as the district shall by vote direct the clerk to notify the county clerk of the rate of tax and request him to enter their district tax on the county tax list for collection.

SEC. 35. The clerk of each district shall, between the first and fifteenth days of September in each year, make out and transmit a report in writing to the county superintendent of public schools for each county in which part of his district may lie; showing,

Report to be rendered by clerk to county superintendent.

1. The number of children, male and female, designated separately, residing in the district or parts of districts, on the last day of August previous to the date of such report, over the age of five and under the age of twenty-one years;

2. The number and sex of children attending school during the year, and branches studied;

3. The length of time a school has been taught in the district by a qualified teacher, the name of the teacher, the length of time taught, and the wages paid;

4. The amount of money received from the county treasurer within the year, and the manner in which the same has been applied;

5. The amount of money raised by the district, in such year, and the purposes for which it was raised;

6. The kind of books used in the school, and such other facts and statistics in regard to the district schools as the county superintendent may require.

SEC. 36. Whenever a school district shall lie partly in two or more counties, the clerk of such district in making his annual report, shall carefully designate the number of children resident in the parts of the counties composing the district, and shall report to the county superintendent of common schools of each of the counties in which such district may be situated.

When school district lies in two counties.

SEC. 37. The treasurer shall execute to the district a bond in double the amount of money, as near as can be ascertained,

Treasurer to execute bonds.

to come into his hands as treasurer of the district, with sufficient securities to be approved by the director and clerk, conditioned to the faithful discharge of the duties of said office. Such bond shall be filed with the district clerk, and in case of the breach of any condition thereof, the director shall cause a suit to be commenced thereon, in the name of the district, and the money collected shall be applied by such director to the use of the district as the same should have been applied by the treasurer, and if such director shall neglect or refuse to prosecute, then any householder of the district may cause such prosecution to be instituted.

When treasurer fails to give bond.

SEC. 38. If the treasurer shall fail to give bonds as required in this act, or from sickness or any other cause shall be unable to attend to the duties of said office, the district board shall appoint a treasurer, who shall possess all the powers of the district treasurer, and shall before entering upon the duties of said office, give bonds as the district treasurer is required to give.

Duties of treasurers.

SEC. 39. The treasurer of each district shall apply for and receive from the county treasurers all school moneys appropriated to his district, and shall collect all district taxes assessed in pursuance of the provisions of this act and pay over on the order of the clerk, signed by the director of such district, all money so received or collected by the said treasurer. But when the district shall by vote request the collection of any district tax by the county treasurer, the district treasurer shall not be entitled to collect the same.

Where treasurer is defaulter.

SEC. 40. If any district treasurer shall refuse or neglect to pay over any money in the hands of such treasurer belonging to the district, it shall be the duty of his successor in office to prosecute, without delay, the official bond of such treasurer, for the recovery of such money.

Treasurer responsible for school moneys.

SEC. 41. If by neglect of any treasurer any school moneys shall be lost to any school district, which might have been received from the county treasurer, or collected from the district tax assessed, said treasurer shall forfeit to such district the full amount of money so lost.

Treasurer to make report.

SEC. 42. The treasurer shall present to the district at each annual meeting, a report in writing containing a statement of all moneys collected by him from the county treasurer during

the year from assessments in the district, and the disbursements made, and exhibit the vouchers therefor, which report shall be recorded by the clerk, and if it shall appear that any balance of money is in his hands at the time of making such report, he shall immediately pay such balance to his successor.

#### DISTRICT BOARD.

SEC. 43. The district board shall purchase or lease such site for a school house as shall have been designated by voters at a district meeting, in the corporate name thereof, and shall build, hire or purchase such school house as the voters of the district in a district meeting shall have agreed upon, out of the funds provided for that purpose, and make sale of any school house, site or other property of the district, and if necessary, execute a conveyance of the same in the name of their office, when lawfully directed by the voters of such district at any regular or special meeting, and shall carry into effect all lawful orders of the district. Duties of district board.

SEC. 44. The district board shall have the care and keeping of the school house and other property belonging to the district. They shall have power to make such rules and regulations relating to the district library, as they may deem proper, and to appoint some suitable person to act as librarian, and to take charge of the school apparatus belonging to the district. Same.

SEC. 45. The district board shall have power to admit scholars from adjoining districts, and remove scholars for disorderly conduct, and when scholars are admitted from other districts the district board may in their discretion require a tuition fee from such scholars. Same.

SEC. 46. The district board in each district shall contract with and hire qualified teachers for and in the name of the district, which contract shall be in writing, and shall specify the wages per week or month, as agreed upon by the parties, and such contract shall be filed in the district clerk's office. Shall hire teachers.

SEC. 47. The district board shall provide the necessary appendages for the school house, during the time school is taught therein, and present the same for allowance at any regular district meeting. Other duties.

District  
schools acces-  
sible to whom.

SEC. 48. The district schools established under the provisions of this act, shall at all times be equally free and accessible to all children resident therein, over five and under the age of twenty-one years, subject to such regulations as the district board in each may prescribe.

Branches  
taught.

SEC. 49. In every school district there shall be taught orthography, reading, writing, English grammar, geography and arithmetic, if desired, during the time the school shall be kept and such other branches of education as may be determined by the district board.

In case of  
vacancy in dis-  
trict board.

SEC. 50. If a vacancy should occur in the district board, in any district, the county superintendent shall appoint some suitable person to fill such vacancy, upon the recommendation of the remaining members of the district board, or upon the petition of residents of the district.

#### REVENUE.

County taxes  
for support of  
schools.

SEC. 51. It shall be the duty of the county or town assessor of each county or town, at the time of making the annual assessment, to levy a tax of one dollar on each elector in the county or town, for the support of district schools; and a further tax of two mills on the dollar, upon the taxable property of the county or town, to be applied to the same purpose, to be collected at the time and in the manner prescribed by law for the collection of taxes; which tax, when collected shall be distributed to the several school districts, in proportion to the number of children over five and under twenty-one years of age therein; and shall be drawn from the county treasury upon the order of the superintendent of schools.

School taxes  
on what as-  
sessed.

SEC. 52. All taxes raised and collected in any school district for any of the purposes authorized in this act, shall be assessed on the same kind of property as taxes for county purposes are assessed.

Duty of dis-  
trict clerk.

SEC. 53. The clerk of the school district, in making out any tax list shall enter therein the names of all persons liable to pay a school tax, the amount of personal property to be taxed to each person, and a description of all taxable real estate in the district, distinguishing that owned by non-residents of the district, and he shall set opposite to each description of taxable property, the valuation of the same, and the

amount of tax charged upon such property, and to each person respectively, or tract of land owned by non-residents, and such description and valuation of taxable property shall be ascertained as far as possible from the last assessment roll of the county or town: *Provided*, That in any case any person or persons are residing in and holding property in any district, at the time when a tax shall have been voted at any meeting in said district, and their names do not appear on the last assessment roll, the district board shall have power to assess such persons. Provided.

SEC. 54. Whenever any real estate in any school district shall not have been separately valued in the assessment roll of the county, and the value of such real estate cannot be definitely ascertained from such assessment roll, the board of such district shall estimate the value of the same, and apportion the taxes thereon. District board to value certain real estate.

SEC. 55. The warrant annexed to any tax list shall be under the hand of the clerk of the district, and shall command the treasurer of such district to collect from each of the persons and corporations named in said tax list, and of the owner of the real estate described therein, the several sums set opposite the persons and corporations so named, and to the several tracts of land owned by non-residents, within forty days from the date thereof; and within twenty days from the date of such warrants to personally demand such tax of the persons charged therewith; and that if any tax shall not be paid within ten days thereafter, to collect the same by distress and sale of property in the same manner as county taxes, and the said treasurer shall execute the said warrant and return the same to the clerk at the expiration of the time limited therein for the collection of such tax list. The warrant to tax list, what to command.

SEC. 56. The warrant issued by the clerk of any school district for the collection of any district tax authorized by any of the provisions of this act may be executed any where within the limits of the county, and such warrants shall have the like force and effect as a warrant issued for the collection of county taxes; and the treasurer of the district to whom any such warrant may be delivered for collection of a tax list, shall possess the like powers in the execution of the same as are provided by law for the collection of county taxes. If Warrant for collection of tax, where executed.

Duties of  
treasurer of  
district.

any tax in any tax list delivered to the treasurer of any district shall remain unpaid at the time he is required by law to return his warrant to the clerk of the district, such treasurer shall within ten days make out and deliver to the county treasurer a statement in writing, containing the amount of the personal property and a description of lots and pieces of land upon which such taxes remain unpaid, together with the amount of tax assessed on each, and he shall attach thereto an affidavit that the taxes mentioned in such statement remain unpaid, and after diligent efforts he has been unable to collect the same, and whenever any school district shall embrace parts of more than one county, such treasurer shall make his return as aforesaid to the county treasurer of both counties in which the parts of such district shall be situated. The county treasurer upon delivery to him of such statement shall give a certificate to the treasurer of the district of the amount of taxes so remaining unpaid as the same shall appear from such statement, which certificate shall be deposited by the district treasurer with the district clerk, and shall be filed by such clerk, and such county treasurer shall immediately add such delinquent taxes to the delinquent tax list received by him from the county collector and collect the same within thirty days from date of such statement with fee and cost of collecting, and when so collected shall pay over the same (less his fees for the collection thereof) to the district in which said taxes were levied, upon the order of the district board.

Duty of  
county treas-  
urer.

District board  
may correct  
errors.

SEC. 57. Whenever any error may be discovered in any district tax list, the district board may order any money which may have been improperly collected on such tax list, to be refunded, and may authorize the clerk of the district to amend and correct such error in said tax list.

Where tenant  
pays taxes.

SEC. 58. Whenever any district tax, lawfully assessed, shall be paid by any person on account of any real estate whereof he is only a tenant, such tenant may charge and collect of the owner of such estate the amount of tax so paid by him, unless some agreement to the contrary shall have been made by the tenant.

Duty of regis-  
ter of deeds to  
make tax list.

SEC. 59. It shall be the duty of the register of deeds of each county, as soon as the annual assessment roll shall be collected in each year, to make out for each district in such county,

a description of all taxable property therein, with the valuations affixed thereto, as the same shall appear in the last assessment roll, which shall be certified by him and delivered by mail or otherwise, to the clerk of each school district in the county.

SEC. 60. Whenever the inhabitants of two or more school districts may wish to unite for the purpose of establishing a Proceedings for forming a graded school. a graded school in which instruction shall be given in the higher branches of education, the clerks of the several districts shall upon written application of five voters of their respective districts, call a meeting of the voters of such district at some convenient place, by posting up notices thereof in like manner as provided for calling district meeting, and if a majority of the voters of each of the two or more districts shall vote to unite for the purpose herein stated, they shall at a meeting or at an adjourned meeting, elect a board of directors consisting of a director, clerk and treasurer.

SEC. 61. The board of directors provided in the preceding section shall, in all matters relating to the graded schools, possess all the powers and discharge all the like duties of the district board as prescribed in this act. Powers of directors.

SEC. 62. The union district thus formed shall be entitled to an equitable share of the school funds, to be drawn from the Union district entitled to school funds. treasurer of each district so uniting, in proportion to the number of children attending the said graded school for each district.

SEC. 63. The said union district may levy taxes for the purpose of purchasing a building, or furnishing proper building for the accommodation of the school, or for the purpose of defraying necessary expenses and paying teachers, but shall be governed, in all respects, by the law herein provided for levying and collecting district taxes. Union district may levy taxes.

SEC. 64. The clerk of the union district shall report in writing to the treasurer of each school district uniting in the union district, the number of scholars attending the graded schools from his district, their sex and the branches studied; and the said district treasurer shall apportion the amount of school money due the union district, and pay the same over to the treasurer of the union district on order of the clerk thereof. Clerk of union district to make report.

Same.

SEC. 65. The clerk of the union district shall make a report to the county superintendent of schools and discharge all the duties of the clerk, in like manner as the clerk of the district.

Treasurer of union district.

SEC. 66. The treasurer of the union district shall perform all duties of treasurer, and give the bonds as prescribed in this act, in like manner as the district treasurer.

Public schools of cities &c. entitled to school moneys.

SEC. 67. The public schools of any city, town or village, which may be regulated by special law set forth in the charter of such city, town or village, shall be entitled to receive their proportion of the public fund; *Provided*, That the clerk of the board of education in such city or village, shall make due report within the time and manner prescribed in this act, to the superintendent of schools.

Single district may establish graded schools.

SEC. 68. Any single district shall possess power to establish graded schools, subject to the provisions of this act in like manner as two or more districts united.

Duties of county treasurer.

SEC. 69. The county treasurer shall collect all moneys due the county for school purposes, from fines, forfeitures or proceeds from the sale of estrays, and all moneys paid by persons as equivalent for exemption from military duty, and he shall pay the same to the said district treasurer, as prescribed in this act. He shall also collect the delinquent taxes on real estate in any district, whenever such delinquent tax list shall have been lawfully reported and returned to him within thirty days from date of such return with fees and cost of collecting; and he shall pay the same over to the treasurer of said district to which delinquent taxes are due less his fees and cost of collecting; and if any county treasurer shall refuse to deliver over to the order of the county superintendent any money in his possession, or shall use, or permit to be used for any other purposes than is specified in this act, any school money in his possession, he shall on conviction thereof, be adjudged guilty of a misdemeanor, and punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding one year.

Penalty where treasurer refuses to deliver over money.

#### MISCELLANEOUS.

Teacher to make report.

SEC. 70. It shall be the duty of the teacher of every district school or graded school, to make out and file with the district clerk, at the expiration of each term of school, a full report

of the whole number of scholars admitted to the school during such term, distinguishing between male and female, the text books used, the branches taught and the number of pupils engaged in the study of said branches. Any teacher who shall neglect or refuse to comply with the requirements of this section, shall forfeit his or her wages for teaching such school at the discretion of the district board.

SEC. 71. Every clerk of a district board who shall willfully sign a false report to the county superintendent of his county, shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months. Penalty for clerks signing false report.

SEC. 72. Every school district clerk or treasurer who shall neglect or refuse to deliver to their successors in office all records and books belonging severally to their offices, shall be subject to a fine not exceeding fifty dollars. Penalty for clerk's refusal to deliver books

SEC. 73. Whenever any final judgment shall be obtained against any school district, the district board shall levy a tax on the taxable property in the district, for the payment thereof; such tax shall be collected as other school district taxes; but no execution shall issue on judgment against a school district. Proceedings of district board when judgment obtained against district.

SEC. 74. Justices of the peace shall have jurisdiction in all cases in which a school district is a party interested, when the amount claimed by the plaintiff shall not exceed one hundred dollars, and the parties shall have the right of appeals in other cases. Jurisdiction of justices.

SEC. 75. No school district officer mentioned in this act shall receive any compensation for his services out of the Territorial or county school fund. But a regularly convened district meeting, may by vote, allow the district board such compensation as they shall deem proper: *Provided*, The amount so allowed does not exceed two per cent. of the money collected by said board for school purposes. Compensation of district officers.

SEC. 76. Any person duly elected at the annual district school meeting, to either of the district offices mentioned in this act, who shall omit or refuse to serve as such officer, without substantial cause, shall forfeit the sum of ten dollars for such omission or refusal, which amount may be recovered by the district in civil action before any justice of the peace in Penalty for refusing to serve as school officer.

the county where such district is located; and shall be appropriated to the support of schools in his district by whom such action was prosecuted.

Collection of  
fines and pen-  
alties.

SEC. 77. All fines and penalties not otherwise provided for in this act, shall be collected by action in any court of competent jurisdiction.

Disposition of  
money donated  
to school.

SEC. 78. Whenever any sum of money shall be paid into the county treasury, by any educational aid society, or benevolent person or persons, for the cause of education, the county treasurer shall issue to such society or person a certificate of deposit, stating the amount of money received, from what source, and for what purpose the same is applied, whether to the payment of teachers' wages, the building or leasing of a school house, or the purchase of a site of land, and the particular school district or districts to which the said money is donated. And the said educational fund may thereafter be drawn from the county treasury, by order of the county superintendent of schools, and applied by the district board of the proper district, to the objects specified in the certificate of donation. And the county superintendent of public schools shall make a statement of the expenditures of said fund in his annual report.

#### FORMS.

Form of notice  
of first district  
meeting.

SEC. 79. The form of notice of the first school district meeting may be substantially as follows:

To ....., a householder in school district number ...,

The county commissioners have formed school district number ...., in the county of ....., of which the following is a description ....., and you are hereby directed to post this notice in at least five public places in the said district, notifying the voters of said district to attend to the first meeting thereof, which is appointed to be held at the house of ....., in said district, on the .... day of ....., 18..., at .... o'clock, ....

.....,

County Sup't of Public Instruction.

This .... day of ..... 18...

SEC. 80. The form of notice for annual district meeting may be as follows: Form of notice for annual district meeting.

Notice is hereby given to the voters of school district number . . . . , of . . . . county, that the annual meeting of said district will be held at . . . . . , on . . . . day of . . . . . , 18. . . . , at . . . . o'clock, . . . . .

This . . . . day of . . . . , 18. . . .

. . . . . ,

District Clerk.

SEC. 81. The form of order on district treasurer may be as follows: Form of order on district treasurer.

To. . . . . , treasurer of school district number . . . . . , county of. . . . . ,

Pay to the order of. . . . . , the sum of. . . . . dollars out of any money in your hands, not otherwise appropriated belonging to said district.

This. . . . . day of. . . . . , 18. . . .

. . . . . , District Clerk.

. . . . . , Director.

SEC. 82. The form of bond of district treasurer may read as follows: Form of bond of district treasurer.

Know all men by these presents, that we, . . . . . treasurer of school district number. . . . . , county. . . . . , and. . . . . his surety are held and firmly bound unto school district No. . . . . in the sum of. . . . . dollars, for the payment of which we bind ourselves severally and jointly, our heirs, executors and administrators firmly by these presents. Sealed with our seals and dated this. . . . . day of. . . . . A. D. 18. . . .

The conditions of the above obligations is such, if said . . . . . treasurer as aforesaid shall faithfully discharge the duties of his office as treasurer of school district number. . . . . , county. . . . . , as prescribed by law, then this obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered }  
in presence of }

. . . . . [SEAL.]

. . . . . [SEAL.]

. . . . .

Form of warrant for collection of tax.

SEC. 83. The form of warrant for the collection of district tax may be as follows:

To....., treasurer of school district number....., county of.....,

This is to authorize and require you to demand, within twenty days from the date of this warrant of every person or corporation named in the annexed duplicate of school tax of said district, the sum wherewith such person or corporation stands charged, and if any such tax be not paid within thirty days from the date of this warrant, you are required to proceed to collect the same as authorized by law, by distress and sale of property, and make due return according to law. Given under my hand this.....day of.....A. D. 18...

....., District Clerk.

Form of voucher.

SEC. 84. Vouchers may be in the following form:

Received....., 18..., of..... treasurer of school district number....., county of....., dollars for services rendered as teacher in the said district, for the term of..... months.

....., Teacher.

Form of teachers contract.

SEC. 85. The form of contracts between district and teacher may read as follows:

It is hereby agreed between school district number..... county of.....and.....teacher, that the said.....is to teach the common school of said district for the term of.... months, for the sum of....dollars, per....., commencing on the.....day of.....18...; and for such services properly rendered, the said school district is to pay.....the amount that may be due, according to this contract, on or before the.....day of....., 18...

....., District Clerk.

This....day of....., 18...

... .., Teacher.

Form of report of treasurer.

SEC. 86. The form of annual report of district treasurer may be substantially as follows:

I,....., treasurer of school district number....., county of....., submit the following report of all moneys received and disbursed by me since the last annual meeting:

Amount received from my predecessor, \$\_\_\_\_\_

Amount received from county treasurer, \$\_\_\_\_\_

Amount raised by tax in the district and collected, \$ \_\_\_\_\_  
 Total amount received, \$ \_\_\_\_\_  
 Paid out on order of district clerk (date of order,) \$ \_\_\_\_\_  
 On order of district clerk \_\_\_\_\_, \$ \_\_\_\_\_  
 Balance on hand, \$ \_\_\_\_\_  
 This .... day of ...., A. D. 18...

.....,  
Treasurer.

SEC. 87. The form of report of district clerk to the county superintendent of public instruction may read as follows: Form of report of district clerk.

School district number ...., county of .....

Number of children residing in the district over five and under the age of twenty-one years. \_\_\_\_\_

Males, \_\_\_\_\_

Females, \_\_\_\_\_

Total number, \_\_\_\_\_

Number of months a school has been taught, \_\_\_\_\_

.... months by Mr. ...., \_\_\_\_\_

.... months by Miss ....., \_\_\_\_\_

Wages paid Mr. ...., \$ \_\_\_\_\_

Amount of school money received ....., \$ \_\_\_\_\_

..... county treasurer, \$ \_\_\_\_\_

Amount raised by district tax for teacher's wages, \$ \_\_\_\_\_

Amount raised by district tax for public school house, \$ \_\_\_\_\_

Amount raised by district tax for furnishing school house, \$ \_\_\_\_\_

Amount paid for teacher's wages, \$ \_\_\_\_\_

Amount expended for building school house, \$ \_\_\_\_\_

Amount expended for furnishing school house, \$ \_\_\_\_\_

This .... day of ...., 18...

.....  
District Clerk

To which may be added a copy of teachers' report, giving the names, age, and total number of male and female pupils, number of days taught, the kind of text books used, the number of scholars in each branch of study, and the greatest number of miles to be traveled by scholars living on the borders of the district.

Form of  
teachers certi-

SEC. 88. A school teachers' certificate may be in the following form:

Dakota Territory, }  
..... county. }

....., A. D. 18...

This is to certify that..... has been examined and found competent to give instruction in orthography, writing, arithmetic, English grammar, geography, and ....., and having exhibited satisfactory testimonials of good moral character, is authorized to teach these branches in any common school within this county.

.....,

Superintendent of Public Schools of.....county.

Form of deed  
of school prop-  
erty.

SEC. 89. Form of deed of school property may be as follows:

This indenture, made the ..... day of ....., one thousand eight hundred and ....., between....., and ..... his wife, of the county of....., Dakota Territory, parties of the first part, and..... of district board of district number....., county and Territory aforesaid, parties of the second part, witnesseth, that the said parties of the first part, in consideration of....dollars to them duly paid before the delivery thereof, have bargained and sold and by these presents do grant and convey to the said parties of the second part, their successors in office, and assigns forever, (here describe the property) with the appurtenances and all the estate, title, and interest of the said parties of the first part therein, and the said parties of the first part do hereby covenant and agree with the said parties of the second part, that at the time of the delivery hereof, the said parties of the first part were the lawful owners of the premises above granted, and seized thereof in fee simple absolute, and they will warrant and defend the above granted premises, in the peaceful possession of the said parties of the second part, their successors and assigns forever.

.....[SEAL.]

.....[SEAL.]

Sealed and delivered in presence of

.....,  
.....

The Territory of Dakota, }  
 ..... county. }

Personally appeared before me a ....., within and for the county above named ..... and ..... his wife, to me known to be the persons whose names are affixed to the above deed as grantors, and acknowledged the same to be their voluntary act and deed; and the said ..... being at the same time, by me made acquainted with the contents of the above deed, apart from her husband, acknowledged that she executed the same voluntarily and that she is still satisfied therewith.

Witness my hand and seal this....day of ....., A. D. 18...

SEC. 90. It shall be the duty of the county superintendent of schools for each county in the Territory previous to July 1, 1871 to re-district their respective counties, whenever by so doing the districts of such county will be benefited thereby, assigning new numbers to districts if necessary, and making as many new districts as may be required to accommodate the people of the county. Respect shall in all cases be had to the present boundaries of districts unless by a change some district shall be benefited thereby. When the county has been re-districted, a plat of the county with the boundaries, and numbers of school districts distinctly marked thereon, shall be filed with the county clerk and county superintendent of schools. If any person or persons are aggrieved by the action of the county superintendent in re-districting the county, they shall have the right of appeal within thirty days of the time of the publication of the notice of the county superintendent that he has re-districted the county. The county superintendent of each county is hereby required to post a notice in each school district within ten days of the time of the completion of the re-districting of the county, giving the boundaries of each district. If any new school districts are formed by re-districting the county, or any districts deprived of a majority of their school officers then it shall be lawful for the district to call a special school meeting and elect officers to fill all vacancies in their school board, which officers so elected shall hold their offices until the next annual meeting or until their successors are elected and qualified. If a vacancy occurs at any time in the school board of any district, the

County super-  
intendents to  
re-district  
counties.

county superintendent may upon the petition of a respectable number of electors in said district appoint a suitable person to the vacancy.

Teachers institute to be held annually.

SEC. 91. The Territorial superintendent of public instruction in connection with the county superintendents of each county, may annually hold a session of the teachers' institute of not more than ten days in length, and the sum of one hundred dollars is hereby appropriated from any funds in the Territorial treasury for the purpose of employing experienced teachers to assist in conducting the same and defraying other expenses. The several county superintendents are hereby required to aid in conducting said institute, and it may be required by county superintendents, of teachers applying for certificates to teach, that they shall, if consistent with their other duties, attend the session of the teachers' institutes.

District clerk to notify county clerk of rate of tax voted.

SEC. 92. It shall be lawful for any school district to authorize the district clerk to notify the county clerk of the county in which such district is located, of the rate of tax voted at any annual or special school meeting, and the county clerk shall insert in a separate column in the tax list the amount of school district tax, for which any person or property is liable, which tax shall be collected by the county treasurer, in the same manner as other taxes, and when collected paid over by the treasurer to the school district treasurer entitled to receive the same.

Certain acts repealed.

SEC. 93. Chapter 32, of the session laws of 1867-8, and all acts and parts of acts heretofore passed in relation to common schools are hereby repealed: *Provided*, That such repeal shall not effect any rights or liabilities that have accrued under and by virtue of said act or acts: and, *Provided, further*, That all officers, that have been duly elected and qualified in accordance with the provisions of said act, shall continue to hold and discharge the duties of their respective offices until their successors are duly elected and qualified.

When to take effect.

SEC. 94. This act shall take effect from and after its passage and approval.

Approved, January 13th, 1871.