

*Provided however,* That nothing in this act shall take away or impair the rights to damages, or other legal remedy which the owner of the land may now have under the laws of this Territory.

Justice to  
certify proceed-  
ings to district  
court

Sec. 5. Nothing in this act contained, shall be held to authorize a justice of the peace to try the issue in any action where the title to real estate comes in question and whenever the answer of the defendant in any case alleges title in himself or other party from whom he derives his right of possession the justice of the peace shall immediately certify the proceedings to the district court of the county in which said action is pending, and in such district court the action shall proceed the same as in cases of appeal.

Proceedings to  
be verified

Sec. 6. All pleadings in actions arising under the provisions of this act shall be verified by the affidavit of the party, his agent or attorney.

When to take  
effect

Sec. 7. This act shall take effect and be in force from and after its passage.

Approved January 8, 1868.

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## SCHOOLS.

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### CHAPTER XXXII.

#### AN ACT TO PROVIDE COMMON SCHOOLS FOR THE TERRITORY OF DAKOTA.

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

James S. Foster  
appointed  
Territorial  
Superintendent  
of Public  
Instruction

Section 1. That James S. Foster is hereby appointed superintendent of Public Instruction for the Territory of Dakota, and shall hold his office for the term of one year from January 1st, 1868, and until his successor is elected and qualified.

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.

Superintendent  
to take oath

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.

To keep a record  
of his acts

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.

To grant certi-  
ficates

Sec. 5. There shall be elected at each regular Delegate election in this Territory, a superintendent of public instruction, who shall hold his office for two years and until his successor is elected and qualified.

Election of  
Superintendent

Sec. 6. 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, stationery and such books as are necessary for the use of his office, and the publication of his annual report, all of which allowances shall be paid by the Territorial treasurer on the certificate of the Territorial auditor.

Compensation

Sec. 7. It shall be the duty of the Territorial superintendent of public instruction to recommend the introduction of the most approved text books, and as far as practicable to secure uniformity in the use of text books in the common schools throughout the Territory.

Duties

To 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 rules 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, in forming 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 annually 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 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.

**Territorial  
teachers institute**

Sec. 8. 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.

**Election of  
county Superintendent**

Sec. 9. 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 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 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.

Sec. 10. The county superintendent of public schools shall have charge of the common school interests 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.

Superintendent  
to take oath and  
give bond

Sec. 11. 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 subdivide the same when petitioned by a respectable number 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. 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

His duties

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.

**Judge of Probate to pay out school money upon order of Superintendent**

Sec. 12. 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.

**Superintendent to make apportionment of school money**

Sec. 13. It shall be the duty of the county superintendent of public schools, on the second Monday in March, in each year, or as soon thereafter as he shall receive the statement of 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 age of twenty-one years, as the same shall appear from the last annual reports of the clerks of the respective districts, 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 a common school has not been taught at least three months during the year.*

**Further duties**

Sec. 14. It shall be the duty of the county superintendent, to visit all 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 it necessary. At such visitation the superintendents 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 scholars 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 the register of deeds.

Sec. 15. He shall see that the annual reports of the clerks of the same 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. 16. He shall hold public examination for 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.

To hold public examination and grant certificates

Sec. 17. 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, that a majority of the voters in any school district being dissatisfied with the formation of any school district shall have the right to appeal from the superintendent to the board of county commissioners, and from the board of county commissioners to the superintendent of public instruction.

To post notices of formation of districts

Sec. 18. 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.

When to deliver up books &c; to successor

Sec. 19. 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, hereinbefore provided, and

County commissioners to fill vacancies

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.

Superintendent  
to make report  
annually to  
Territorial  
Superintendent

Sec. 20. The county superintendent shall make full and complete annual returns to the superintendent of public instruction, between the first and tenth day of November of each year, of the number of children between the ages of five and twenty, in the school district 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 moneys 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.

#### SCHOOL DISTRICT MEETINGS

Powers of  
electors at  
school district  
meetings

Sec. 21. 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.

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.

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

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 provisions 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.

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. 22. 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 entitled to  
vote at such  
meeting

Sec. 23. 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:

Challenging  
voters

“You do solemnly swear (or affirm) that you are an actual resident of this district, and that you are qualified 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

Sec. 24. Every school district shall be deemed duly organized when the officers constituting the district board shall be elected. Each school district officer shall signify his acceptance.

When district  
considered as  
organized



ance 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. 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.

Officers of  
district

Sec. 25. 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.

School districts  
bodies corporate

Sec. 26. 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 holding 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 school  
meeting when  
held

Sec. 27. An annual meeting of each school district shall be held on the last Saturday of September of each year, at such hour as the district board shall name. Special meetings may be called by any member of the district board, or by any five legal voters, but notice of such special meeting, stating the purpose for which it is called, shall be posted in at least three public places within the district, ten days previous to the time of meeting.

District clerk to  
post notices of  
special meetings

Sec. 28. Whenever the time for holding an annual meeting in any district shall pass without such meeting being held; the clerk, or in his absence, any other member of the district board, within twenty days after the time for holding said annual meet-

ing 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 five days previous to the time of meeting. But if such meeting shall not be notified within twenty days as 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.

Sec. 29. 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 the school, or a certain portion to each, but if such matters shall not be determined at the annual, or any special meeting, it shall be the duty of the district board to determine the same.

Who to determine length of school terms

Sec. 30. The director of each district shall preside at all district meetings, and shall sign orders drawn by the clerk authorized by a 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.

Duties of director

#### DISTRICT CLERK

Sec. 31. 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.

Clerk to record acts of district board

Sec. 32. The said clerk shall be clerk of all district meetings when present ; but if such clerk shall not be present at such district meeting, the voters present may appoint a clerk of

To be clerk of district meeting

such meeting, who shall certify the proceedings thereof, and the same shall be recorded by the clerk of the district.

To give notice of  
meetings by  
posting bills

Sec. 33. 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 a 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.

To draw orders  
on treasurers

Sec. 34. 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 apportioned 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 district 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.

To make out tax  
list

Sec. 35. It shall be the duty of the clerk to make out the tax lists 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 said treasurer to collect the sums therein named.

To make report  
to county  
superintendent

Sec. 36. 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 any part of his district may lie; showing,

What report to  
contain

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 of children attending school during the year, their sex, 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 treasury 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. 37. 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.

In case of district that shall lie partly in two or more counties

Sec. 38. The treasurer shall execute to the district a bond in double the amount of money, as near as can be ascertained, to come into his hands as treasurer of the district during the year, with sufficient securities to be approved by the director and clerk, conditioned to the faithful discharge of the duties of said office. Such bonds 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.

Treasurer to give bonds

Sec. 39. 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.

In case of failure to give bond

His duties

**Sec. 40.** The treasurer of each district shall apply for and receive from the county treasurers all school moneys apportioned 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 directors of such district, all money so received or collected by the said treasurer.

Forfeiture of bond

**Sec. 41.** 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.

Money lost to be refunded

**Sec. 42.** 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 annual report

**Sec. 43.** 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 districts, 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

Duties of district board

**Sec. 44.** The district board shall purchase or lease such a 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.

**Sec. 45.** The district board shall have the care and keep-

ing 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. Their powers

Sec. 46. 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. SAB.

Sec. 47. 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. To hire teachers

Sec. 48. The district board shall provide the necessary appendages for the school house, during the time school is taught therein, and shall keep an accurate account of all expenses thus incurred, and present the same for allowance at any regular district meeting. To provide necessary appendages &c

Sec. 49. 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. District school under this act to whom free

Sec. 50. 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. Branches to be taught

Sec. 51. If a vacancy should occur in the district board, in any district, the county superintendent shall appoint some suitable person to fill such vacancy. Vacancy in district board how filled

#### DISTRICT TAXES.

Sec. 52. The amount of district taxes shall not exceed two per cent. per annum. It shall be the duty of the county or town assessor of each Amount of tax to be raised

Manner of  
raising tax &c

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. When there shall have been districts laid out, and not organized, it shall be the duty of the county superintendent to ascertain the number of children between the ages of five and twenty one years, and apportion to and deposit with the county treasurer such amounts as said unorganized districts would have been entitled to if duly organized, which may be drawn on the order of the district board, when said district shall have been duly organized, and a public school maintained three months, if within two years from the time said money is deposited with the county treasurer, and if not organized as above, the county superintendent may apportion the money so deposited among the organized districts of said county in his next annual report;

*Provided*, If any scholars of any organized or unorganized district shall attend the district school of any other district, there being no school in the district to which they belong, the superintendent shall apportion them *pro rata* to the district to which they attend school.

On what kind of  
property tax to  
be raised

Sec. 53. 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.

What tax list to  
contain

Sec. 54. 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.

When district  
board to appear  
for taxes

Sec. 55. 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 district board of such district shall estimate the value of the same, and apportion the taxes thereon.

Sec. 56. 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 owners 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 thirty 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.

Collection of  
taxes

Sec. 57. 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 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 the 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

Force of war-  
rants for collec-  
tion of taxes



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 as other delinquent taxes are collected, 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.

Correction of tax  
list

Sec. 58. 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.

Payment of tax  
by tenant

Sec. 59. 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.

Register of  
deeds to give  
description of  
taxable prop-  
erty to each dis-  
trict

Sec. 60. It shall be the duty of the register of deeds of each county, as soon as the annual assessment roll shall be completed 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 to the clerk of each school district in the county.

#### GRADED SCHOOLS.

Establishment  
of graded  
schools

Sec. 61. Whenever the inhabitants of two or more school districts may wish to unite for the purpose of establishing 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 meetings, 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 that meeting or at an adjourned meeting, elect a board of directors consisting of a director, clerk and treasurer.

Powers of board  
of directors

Sec. 62. 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.

Sec. 63. The union district thus formed, shall be entitled to an equitable share of the school funds, to be drawn from the treasurer of each district so uniting, in proportion to the number of children attending the said graded school for each district.

Funds of union district

Sec. 64. 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 tax for the purpose of paying expenses

Sec. 65. 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 school 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 to the treasurers of the uniting districts

Sec. 66. The clerk of the union district shall make a report to the county superintendent of schools and discharge all the duties of clerk, in like manner as the clerk of the district.

To make report to county superintendent

Sec. 67. The treasurer of the union district shall perform all duties of treasurer, and give the bond as prescribed in this act, in like manner as the district treasurer.

Treasurer of union district his duty

Sec. 68. 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:

What schools to receive public funds

*Provided,* The clerk of the board of education in such city, town or village, shall make due report within the time and manner prescribed in this act, to the superintendent of schools.

Sec. 69. 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.

Single district may establish graded schools

Sec. 70. 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

What moneys to be collected by the county treasurer for school purposes

in this act. He shall also collect the delinquent taxes on real estate in any district, in the same manner as county taxes are collected, whenever such delinquent tax list shall have been lawfully reported and returned to him, and he shall pay the same over to the treasurer of said district to which delinquent taxes are due, 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 purpose 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.

## MISCELLANEOUS.

When teacher to  
make report to  
district board

Sec. 71. 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 the 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 each 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.

Penalty for  
clerk signing  
false report

Sec. 72. 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  
district officer  
neglecting to  
deliver up books  
&c to successor

Sec. 73. 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.

In case of  
judgment  
against school  
district

Sec. 74. When 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.

In what cases  
justices of  
peace shall have  
jurisdiction

Sec. 75. 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 appeal as in other cases.

Sec. 76. 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 school meeting, may by vote, allow the district board such compensation as they shall deem proper;

Compensation  
of school  
officers

*Provided*, The amount so allowed does not exceed two per cent. of the money collected by said board for school purposes.

Sec. 77. 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 the county where such district is located; and shall be appropriated to the support of schools in the district by whom such action was prosecuted.

Penalty for  
district officers  
refusing to  
qualify

Sec. 78. All fines and penalties not otherwise provided for in this act, shall be collected by an action in any court of competent jurisdiction.

Fines and  
Penalties how  
collected

Sec. 79. 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 to be 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.

In case of school  
money being  
donated for  
school purposes

#### FORMS

Sec. 80. The form of notice of the first school district meeting may be substantially as follows:

First school  
district meeting

*TO*—— a house holder, 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 the first meeting thereof, which is appointed to be held at the house of——, in said district, on the——day of——186—, at——o'clock,——. This——day——186—.

\_\_\_\_\_  
*County Sup't Pub. Instruction.*

Notice of annual  
district meeting

Sec. 81. The form of notice for annual district meeting may be as follows:

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 the——day of——186—, at——o'clock.

This——day of——, 186—.

\_\_\_\_\_  
*District Clerk.*

Form of order  
on district  
treasurer

Sec. 82. The form of order on district treasurer may be as follows:

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———, 186—.

\_\_\_\_\_  
*District Clerk.*

\_\_\_\_\_  
*Director.*

Form of bond  
on district  
treasurer

Sec. 83. The form of bond of district treasurer may read as follows:

Know all men by these presents, that we,———treasurer of school district number———, county of———and———his surety, are held and firmly bound unto the said school district, 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., 186—.

The condition of the above obligation is such, that 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.]

Sec. 84. The form of warrant for the collection of district tax may be as follows:

Form of warrant  
for collection of  
district tax

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., 186—.

\_\_\_\_\_,  
*District Clerk.*

Sec. 85. Vouchers may be in the following form:

Vouchers

Received——, 186—, of——, treasurer of school district number——, county of——,—— dollars for services rendered as teacher in the said district, for the term of—— months.

\_\_\_\_\_,  
*Teacher.*

Sec. 86. The form of contract between district and teacher may read as follows:

Form of con-  
tract between  
district and  
teacher

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 \_\_\_\_\_ 186—; 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 \_\_\_\_\_, 186—.

\_\_\_\_\_,  
*District Clerk.*

This \_\_\_\_\_ day of \_\_\_\_\_, 186—

\_\_\_\_\_,  
*Teacher.*

Form of annual  
report of dis-  
trict treasurer

Sec. 87. 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. 186—.

\_\_\_\_\_,  
*Treasurer.*

Form of report  
of district clerk  
to county  
superintendent

Sec. 88. The form of report of district clerk to the county superintendent of public instruction may read as follows:

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 from ———, \$——  
 ——— county treasurer, \$——  
 Amount raised by district tax for teachers' wages, \$——  
 Amount raised by district tax for building school  
 house, \$——  
 Amount raised by district tax for furnishing school  
 house, \$——  
 Amount paid for teachers' wages, \$——  
 Amount expended for building school house, \$——  
 Amount expended for furnishing school house, \$——  
 This ——— day of ———, 186—.

—————,  
*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.

Sec. 89. A school teachers' certificate may be in the following form: Teachers  
certificate

DAKOTA TERRITORY, }  
 county. }

—————, A. D. 186—.

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.*

Sec. 90. Form of deed of school property may be as follows: Deed of school  
property

This indenture, made the ——— day of ———, one thousand eight hundred and sixty—, 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 hereof, 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, and their successors and assigns forever.

Sealed and delivered in presence of

-----,  
-----,

-----, [SEAL]  
-----, [SEAL]

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 deeds 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., 186--.

Certain acts  
repealed

Sec. 91. Chapter 10, of the session laws of 1866-7, and all acts and parts of acts heretofore passed in relation to common schools are hereby repealed.

Proviso

*Provided, however,* That such repeal shall not affect 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.

Sec. 92. This act shall take effect from and after its passage and approval. When to take effect

Approved, January 3, 1838.

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## SUFFRAGE.

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### CHAPTER XXXIII.

#### AN ACT TO STRIKE THE WORD "WHITE" OUT OF THE ELECTION LAWS OF DAKOTA TERRITORY.

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

Section 1. That the word "white" wherever it occurs in the election laws of this Territory, relating to the qualification of voters, be, Election law amended and the same is hereby stricken out of said election laws;

*Provided,* No person shall have the right to vote by the reason of Proviso the passage of this act, except such persons as are declared to be citizens of the United States by act of Congress of April 9, 1866.

Sec. 2. This act shall take effect and be in force from and after its passage and approval. When to take effect

Approved December 39, 1867.