

# EDUCATION.

## CHAPTER XL.

### TO ESTABLISH A PUBLIC SCHOOL LAW.

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. That 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. 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.

Election of superintendent of public instruction.

SEC. 2. The superintendent of public instruction shall, before entering upon the discharge of the duties of his office, take and subscribe to 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 visit schools, confer with county superintendents, and hold institutes in company with them, and furnish them blank forms for collecting statistics of the various schools in the territory. He shall prepare and present to the governor before the fifteenth day of December in each year, a report of his official acts for the preceding year with a full statement of the condition of the common schools in the territory, and the expendi-

Various duties of superintendent.

ture of the public school money, and shall make such suggestions for the improvement and support of common schools as he shall deem proper.

Powers of superintendent

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 shall appoint a deputy whose term of office shall continue during the pleasure of the superintendent, and who shall be a resident of that portion of Dakota territory north of the 46th parallel of latitude, whose duties shall be the same as those prescribed for the superintendent, and shall be confined to the above described territory. The deputy superintendent shall confer with the superintendent from time to time and make a complete report of his official acts to the superintendent at such times as the superintendent may require.

Shall appoint a deputy.

Compensation of superintendent.

SEC. 5. The compensation of the superintendent of public instruction for his services shall be the sum of five dollars per day for each and every day employed by him in the performance of the duties of his office and the expense of procuring blanks, forms, postage, stationery, and such books as are necessary for the use of his office, and publication of his annual report. That the deputy superintendent of public instruction shall receive the same pay for such service as the superintendent is by law entitled to receive: *Provided, however.* That the superintendent of public instruction shall not be paid for more than one hundred and twenty days in any one year: *And provided further,* That the deputy superintendent of public instruction provided for in this act shall not be paid for more than forty days in any one year: *And provided further,* That all of which allowance shall be paid by the territorial treasurer on the certificate of the territorial auditor, and said auditor shall grant such certificate on the accounts of said officers sworn to by said officers.

Compensation of deputy superintendent.

Duties of superintendent with reference to school books

SEC. 6. 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 the 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. 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. He shall prepare for the use of common school officers suitable forms for making reports and conducting 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. He 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 district officer and to such other of the county and territorial officers as may be by him deemed proper, not to exceed fifteen hundred copies in one year. The text books to be used in the public schools shall be as follows: McGuffey's Readers and Spellers, Quackenbos' Arithmetics, Cornell's Geographies, Harvey's Grammar, Quackenbos' United States History; and it shall not be lawful to use other text books in these studies except by permission of the territorial superintendent upon request of the county superintendent, showing sufficient reasons therefor.

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.

Superintendent shall hold territorial institute.

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 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

County superintendent to be elected.

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 a justice of the peace in the county in which he resides; woich 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 fund the same as other county officers, upon the order of the county commissioners, who may allow reasonable expenses of the superintendent: *Provided, however,* That no order shall be drawn to any superintendent until he shall have filed with the county clerk, 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. 9.** 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.

**SEC. 10.** That it shall be the duty of the county superintendent of schools in addition to other duties required of him, to divide his county into school districts, and subdivide the same when petitioned by a majority of the citizens thereof wishing to be set off in a new district, 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 district from parts of two 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 assisting, shall file a description of said joint district in the register of deeds office in his county.

When district is to be formed from parts of two districts.

SEC. 11. It shall be the duty of the county treasurer, on the first Monday in March and October 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 district treasurers.

County treasurer to furnish statement of school moneys.

SEC. 12. It shall be the duty of the county superintendent of public schools on the second Monday of March and October in each year, or as soon thereafter as he shall receive the statement of the county treasurer provided for in section 11, 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 twenty-one years of age, as the same shall appear from the last annual reports of the clerks of the respective districts, and shall immediately notify, by mail or otherwise, the district treasurer of each district, 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 for each district: *Provided*, No district shall be entitled to receive any portion of the common school fund 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 (40) forty days of the time fixed by law for holding annual school meetings in this territory, and which shall not have had three months school during the previous year, (except new districts which shall receive one years' apportionment with-

County superintendent to apportion school moneys.

Certain districts not entitled to school moneys.

out complying with this provision) and complied with the requirements of the law relating to text books.

Superintendent 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 it 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 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 public 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 first day of the annual session in January in each year, and the same shall be filed in the office of the register of deeds.

May give advice to teacher.

Account for official services

Respecting reports of district clerks. Appeals.

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

County superintendent to hold public examination of teachers.

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 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 shall 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.

Shall issue certificates.

Fee for granting certificates

County superintendent to prepare notice of district meeting when new district is formed.

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 formed 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 the action of the county superintendent, shall have the right of appeal from his decision to the territorial superintendent, if an appeal be taken within sixty days.

When joint district is formed.

Right of majority to appeal.

SEC. 17. The county superintendent of public schools shall perform all other duties of said office that now are or may hereafter 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.

County superintendent's duties.

Shall deliver records to his successor.

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 clerks' 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 give a like bond to that required by this act to be given by the county superintendent of schools.

When county commissioners to appoint superintendent.

Oath and bond.

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-one 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; the amounts raised in each county and district by taxation or otherwise for educational interests, and any other

Character of report of superintendent of county to territorial superintendent.

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.

District clerk  
to make report

#### SCHOOL DISTRICT MEETINGS.

Power of  
qualified vot-  
ers at district  
meetings.

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

Appoint a  
chairman.

1st. To appoint a chairman to preside at said meeting in the absence of the director;

To adjourn.

2d. To adjourn from time to time;

To choose of-  
ficers---powers  
thereof.

3d. 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;

School house  
site.

4th. To designate by vote a site for a district school house:

To vote taxes

5th. To vote a tax annually not exceeding one per cent. on the 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 the same in repair;

Same.

6th. To vote a district tax annually, not exceeding one per cent. on the taxable property of the district for pay of teachers' wages in the district, and necessary fuel and other school expenses;

To sell school  
property.

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

To vote tax---  
proviso.

8th. To vote such a tax as may be necessary to furnish the school house with blackboards, outline maps, stoves, furniture 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. in any year, and may be applied to any other purpose by a vote of the district at any regularly called meeting.

Concerning  
suits.

9th. 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;

To repeal  
proceedings.

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

11th. To vote a tax not exceeding twenty-five dollars (25.00) in any one year, to procure a district library, consisting of such books as they may direct any person to procure.

District library tax.

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.

What persons may vote.

SEC. 22. If any person offering to vote at a school district meeting 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:

Proceedings and oath where person offering vote is challenged.

“ 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. 23. Every school district shall be deemed duly organized when the officers constituting the district board shall be elected and 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.

When district deemed organized.

Penalty for refusing to serve as school officer.

SEC. 24. The officers of each school district shall be director, clerk and treasurer, one of whom shall be elected at each annual school meeting, to serve for three years, and until his successor is elected and qualified: *Provided*, That at the next annual school meeting after the passage of this act, and at meetings called, to organize new districts, the director shall be elected to serve for one year, the clerk for two years, and the treasurer for three years.

What officers to be elected, and terms of office. *Proviso*

SEC. 25. Every school district organized in pursuance of this act shall be a body corporate, and shall possess the usual powers of corporation for public purposes, by the name

School district to be body corporate

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 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.

Time for annual school meeting.

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 district, 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 such meeting, who shall post three notices of the time and place of holding such meeting. But if the district clerk shall neglect or refuse to notify the 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.

Notices to be posted.

When special meeting called.

When not legal.

Proceedings when no annual meeting is held as provided.

SEC. 27. Whenever the time for holding the 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 twenty 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 said meeting shall not be notified within thirty 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.

Powers of qualified voters at district meeting.

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 ensuing year, 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.

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

Duties of the director.

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.

Duties of the clerk.

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.

When clerk may be appointed pro-tem.

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 adjourned for a longer period than one month. Every notice for a special district meeting shall specify the object for which such meeting is called.

Clerk to post notices calling meetings.

SEC. 33. The clerk of the district shall draw orders on the treasurer of the district for monies 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 ap-

Clerk to draw orders for money on county treasurer.

ply such money to the payment of teacher's wages, as shall have been employed by the board, and the 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.

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

SEC. 34. It shall be the duty of the district clerk on or before the first day of November in each year to notify the county clerk of the amount of tax, if any, voted at the last annual meeting, which notice shall be substantially in the following form:

Form of notice.

District clerk's office, school district No. \_\_\_\_\_ of \_\_\_\_\_ county, Dakota Territory.

(date) \_\_\_\_\_ 187—

To the county clerk of \_\_\_\_\_ county, Dakota Territory:

I hereby notify you that at a district meeting of district No. \_\_\_\_\_, held on the \_\_\_\_\_ day of \_\_\_\_\_ 187—, at \_\_\_\_\_ the district voted the following tax:

For school-house fund, .....	_____	mills.
“ teachers “ .....	_____	“
“ contingent “ .....	_____	“
	_____	
Total, .....	_____	“

on the dollar of valuation of real and personal property for school purposes for the coming year, and you are hereby ordered to enter such tax on the county tax list for collection on the property in this district.

Report of district clerk to county superintendent.

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,

Number and age of school children.

1st. The number of children, male and female, designating each 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 twenty-one years.

Number and sex attending school.

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

Time school has been taught.

3rd. 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, and the wages paid.

4th. The amount of money raised by the district, and the purpose for which it was levied, also the amount received from the apportionment of county fund, and the manner in which the same has been applied. Money raised and how applied.

5th. The amount of taxes levied, and now in the hands of the county treasurer for collection; also the amount of outstanding or unpaid orders on each fund, if any. Amount tax levied, collected, etc.

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

7th. The names of school district officers and the time their term of office expires. Names of officers.

SEC. 36. It shall be his duty to keep a correct copy of all reports made, and turn them over to his successor; also of all orders drawn on the treasurer, and record the treasurer's reports in his records of proceedings. Clerk to keep copy of reports and record them.

DISTRICT TREASURER.

SEC. 37. 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, in any one year, with sufficient securities, to be approved by the director and clerk, (who may at any time require new or additional bond, and shall require new bonds whenever the amount of money to come into his hands shall be equal to the amount of bond, or upon the failure, death, or removal from the county of any bondsman, or other sufficient reason) conditioned upon 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 and the necessary expenses thereof in any case arising under this section, unless otherwise ordered by the court, shall be paid out of the contingent fund. Bond of treasurer. With whom filed. Proceedings where treasurer fails to give bond.

SEC. 38. If the treasurer shall fail to give bonds as required in this act, or from sickness or from any other cause shall be unable to attend to the duties of said office, the clerk shall Proceedings in case of breach of bond.

call a special district meeting for the purpose of electing a new treasurer for the unexpired term of the treasurer's office. And if the clerk fails to call a district meeting within thirty days after the office is vacant any legal voter of the district may call a meeting.

County treasurer to pay over school fund—when.

SEC. 39. The treasurer of each district shall apply for, and the county treasurer shall pay over to the district treasurers all of the school monies collected for his district upon the order of the director and clerk of the district, on hand the first Monday in October, January, April and July of each year; and of the county school fund upon the order of the county superintendent; and the district treasurer shall pay over, on the order of the clerk, signed by the director of such district, out of the moneys in his hands belonging to the funds drawn upon.

When district treasurer refuses to pay over moneys.

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.

In case of loss of school money.

SEC. 41. If by neglect of any treasurer, any school money shall be lost to any school district which has been received from the county treasurer, said treasurer shall forfeit to such district the full amount of money so lost.

Statement of district treasurer, what to contain.

SEC. 42. The treasurer shall present to the district at each annual meeting, a report in writing containing a statement of all moneys received by him from the county treasurer during the year, from assessments in the district and apportionment, and the disbursements made, and exhibit the vouchers therefor, which report shall be recorded by the clerk; and if it shall appear at the expiration of his term of office 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.

District board to buy or sell school house, and perform other duties.

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.

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 as librarian and to take charge of the school apparatus belonging to the district.

District board to have care of school property and appoint a librarian.

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; or they shall have power to send scholars from their district to any other school within a reasonable distance, and pay a tuition fee therefor, or they may send only advanced scholars to a graded or high school outside of the district, paying tuition fee therefor; and in the collection of taxes and distribution of school money, have the same effect and be the same as though there was a school and teacher kept in the district for as many months as scholars attend other schools, and the tuition shall be paid out of the teachers fund.

Admittance of scholars from other districts; fees, how paid.

SEC. 46. The district board 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.

District board 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 the bills for the same shall be presented and allowed (if reasonable,) at any regular district meeting.

Shall provide all necessary appendages of school house.

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

Schools to be equally free to all children.

SEC. 49. In every school district there shall be taught orthography, reading, writing, English grammar, geography

Branches to be taught.

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.

Special school meeting to elect in case of vacancy.

SEC. 50. If a vacancy should occur in the district board in any district, the remaining member or members of the board shall call a special district meeting to elect a new member of the board for the unexpired term to fill vacancy.

#### REVENUE.

Duty of county clerk to levy poll and other tax.

SEC. 51. It shall be the duty of the county clerk of each county, at the time of making the annual assessment, to levy a tax of one dollar on each elector in the county for the support of district schools, and a further tax of two mills on the dollar upon the taxable property of the county, to be applied to the same purpose, to be collected at the same time and in the same manner as prescribed by law for the collection of taxes, which taxes, 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 of the county.

How collected.

How distributed.

Certain duties of county clerk in relation to taxes for district schools.

SEC. 52. It shall be the duty of the county clerk, and it is hereby made his duty to make out and charge up to each description of real estate and on all personal property in his county the district school taxes as he is notified has been voted by the district in which it is situated, in the same manner as the county and territorial tax list is prepared, and deliver it to the county treasurer at the same time.

County treasurer to collect school taxes.

SEC. 53. And it shall be the duty of the county treasurer, and it is hereby made his duty to collect the taxes for school purposes at the same time and in the same manner as the county and territorial tax is collected, and full power is hereby given him to sell the property, or any property for school taxes, the same as is now by law provided for other taxes; and he shall execute a tax deed on tax sales made for school district taxes, the same as is provided in the case of other taxes, and receive the same fees as is provided in the case of other taxes.

May distrain and sell.

Certain moneys to be collected by county treasurer.

SEC. 54. 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 treasurers as prescribed by this act. He shall collect all delinquent school taxes, as by law provided for other taxes, and he shall pay the same over to the treasurer of the district entitled thereto, less his fees and cost of collecting; and if any county treasurer shall refuse to deliver over to the order of the superintendent any money in his possession, or shall use, or permit to be used, for any other purposes than are 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 for using school moneys unlawfully.

SEC. 55. Whenever an 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.

Money improperly collected to be refunded.

SEC. 56. 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.

School of cities etc., regulated by special law.

MISCELLANEOUS.

SEC. 57. 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. And teachers 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.

Teachers to make report at end of term.

What report to contain.

SEC. 58. 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 where clerk signs false report.

SEC. 59. Every school district clerk or treasurer who shall neglect or refuse to deliver to their successors in office all rec-

Penalty where officers refuse to deliver books etc. to successor.

ords and books belonging severally to their offices shall be subject to a fine not exceeding five dollars.

Taxes to be levied to pay judgment.

SEC. 60. 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 against any school district.

Jurisdiction of justices of the peace in school matters.

SEC. 61. 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 two hundred dollars, and the parties shall have the right to appeals as in other cases.

Concerning compensation of school district officers.

SEC. 62. 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.

Penalty for refusing to serve as school officer.

SEC. 63. 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 his district by whom such action was prosecuted.

Courts to collect certain fines.

SEC. 64. 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 schools.

SEC. 65. Whenever any sum of money shall be paid into the county *treasurer* [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 source, and for what purpose the same is applied, whether to the payment of teachers wages, the building or leasing of school houses, 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 treasurer by order of the county superintendent of schools

and applied by the district board of the proper district to the object specified in the certificate of donation. And the county superintendent of public schools shall make a statement of the expenditure of said fund in his annual report.

County superintendent to make statement.

SEC. 66. The territorial superintendent of public instruction in connection with the county superintendent of each county shall 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 the 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 sessions of the teachers institutes.

Teachers' institutes.

Appropriation.

Certain parties required to attend institute.

FORMS.

SEC. 67. The form of notice of the first district school meeting may be substantially as follows:

Form of notice of first district meeting.

.....  
To ..... a house holder in school district number .....

The county superintendent has 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 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 ..... 18.. at ..... o'clock....

.....  
County Superintendent of Public Instruction.

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

SEC. 68. The form of notice for annual district meeting may be as follows:

Form of notice of 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.

Form of order on the district treasurer.

SEC. 69. The form of order on the district treasurer may be as follows:

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

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

..... District Clerk.

..... Director.

Dated at ..... D. T., this ..... day of ..... 18..

Form of bond of district treasurer.

SEC. 70. 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 ..... 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, dated this ..... day of ..... 18..

The conditions 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.]  
..... [SEAL.]

Form of vouchers.

SEC. 71. 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. 72. 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.

SEC. 73. The form of annual report of district treasurer may be substantially as follows:

Form of annual report of district treasurer.

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 on hand last report. . . . .	\$ _____
Amount received from county treasurer. . . . .	_____
Total amount received. . . . .	\$ _____

Which has been placed to the credit of the following funds:

School house. . . . .	\$ _____
Teachers . . . . .	_____
Contingent. . . . .	_____

Paid out on orders of the district clerk and director on the following funds:

School house. . . . .	\$ _____
Teachers . . . . .	_____
Contingent. . . . .	_____
Total paid out. . . . .	_____
Balance on hand. . . . .	_____

Divided among the funds as follows:

School house. . . . .	\$ _____
Teachers . . . . .	_____
Contingent. . . . .	_____

This . . . . . day of . . . . . , A. D. 18. . . . .  
 . . . . . , Treasurer.

SEC. 74. The form of report of district clerk to the county superintendent of public instruction may read as follows:

Form of report of district clerk to county superintendent

Form of report  
of district  
clerk to county  
superintendent

To ....., Dakota, ....., 18....  
....., county superintendent of  
schools for ..... county, Dakota:

SIR:—The following is a correct report of the condition and  
statistics of school district number ....., of .....  
county, for the year ending August 31st, 187..:

Number of children residing in district ....., } Males,.. —  
between the ages of 5 and 21..... } Females —  
Total..... —

Number of pupils attending school during } Males.... —  
the year .... (of these .... resided in other } Females.. —  
districts)..... }  
Total..... —

Number of months school has been taught during the year —  
Teacher's Names.            Wages.            No. of Months Taught.  
.....            \$.....            .....  
.....            \$.....            .....  
.....            \$.....            .....

Amount of money received from county fund during  
year..... \$——

Amount of money raised on district tax..... —  
“ “ “ on hand from last year..... —

Total..... \$——

Amount paid for buildings and repairs..... \$——

“ “ “ furniture, library and apparatus... —

“ “ “ fuel and other expenses..... —

“ “ “ teachers' wages..... —

Total..... \$——

Balance in hand of treasurer..... \$——

Value of all school district property..... —

TEXT BOOKS USED IN SCHOOL:

..... Readers.            ..... Spellors.  
..... Arithmetics.            ..... Geographies.  
..... Grammars.            ..... Histories.  
.....  
.....

The last school meeting was held . . . . . 18...  
at .....

Names of School Board.	Address.	Terms Expire.
....., Director.	.....	..... 18..
....., Clerk.	.....	..... 18..
....., Treasurer.	.....	..... 18..

Remarks, .....

Form of report of district clerk to county superintendent

District Clerk, School District No. ...., } of ..... County. }

To which should be added a copy of teachers' reports, giving the names, ages 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 border of the district.

The form of the clerks' notice to the county clerk may read as follows:

....., Dakota, ....., 18..

To .....county clerk of .....county, Dakota:

SIR—At the last meeting of school dist. No .., in the county of ...held at ....on the ...day of ....., 18.., it was voted to collect the following rate of taxes, for the use of the district:

For the school house funds, .... mills on the dollar;

“ “ teachers’ “ “ “ “ “

“ “ contingent “ “ “ “ “

Which you will carry out on the tax list for this district.

....., District Clerk, ..... Director.

SEC. 75. A school teacher's certificate may be in the following form:

Form of school teachers certificate.

Dakota Territory, } ..... County. }

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

This is to certify that ..... has been examined by me and found competent to give instruction in reading, 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 Instruction, ..... County.

SEC. 76. Form of deed of school property may be as follows:

Form of deed of school property.

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 in hand 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, 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

.....  
 .....

Territory of Dakota, }  
 ..... County. }

Personally appeared before me, a ....., within and for the county above named ..... and ....., his wife, to *be* [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..

Certain act repealed.

SEC. 77. Chapter 35 of the session laws of 1870-1 and all acts and parts of acts heretofore passed in relation to common schools are hereby repealed: *Provided*, That such repeal shall not affect any rights or liabilities that have [accrued] *occurred* 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.

Proviso.

SEC. 78. This act shall take effect from and after its passage and approval: *Provided, however*, That nothing herein contained shall be construed so as to interfere in any manner with the provisions of an act passed at the present session of the legislative assembly establishing a board of education for the city of Yankton, regulating the management of the public schools therein.

When to take effect.

Proviso.

Approved, January 15, 1875.

## CHAPTER XLI.

### EDUCATION OF THE BLIND.

AN ACT to provide for the instruction and education of blind persons.

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

SECTION 1. That the governor of this territory is authorized and it is hereby made his duty to enter into a contract, for not more than five years at one time, with the proper authorities of the state of Iowa, Minnesota or Nebraska, to keep, maintain, instruct and educate any blind person, who now is, or may hereafter become, a resident of the territory of Dakota.

Governor to make contract for educating blind persons.

SEC. 2. That after such contract is made, the institution of the state with which such contract is made, shall be the institution for the blind of this territory, the same as though such institution was located within this territory.

Defining the institution for the blind of Dakota.

SEC. 3. That each county superintendent of public schools shall report to the county commissioners of his county, at any regular meeting of said commissioners, the name, age, name of parents or guardian, and post office address of every blind person, and all such persons as may be too blind to acquire an education in the common schools, between the age of five and twenty-five years, residing in his county.

County superintendent to report all blind persons.

SEC. 4. That it shall be the duty of the county commissioners, when they have been notified that there are any blind per-

County commissioners to report blind persons to governor.

sons in their county, who are entitled to the benefits of an institution for the support and education of the blind, to at once report the name, age and residence of such persons in their county to the governor of this territory.

Who entitled to receive education at public expense.

SEC. 5. That every blind person of this territory, and all such as may be too blind to acquire an education in the common schools, of suitable capacity, between the age of five and twenty-five years, shall be entitled to receive an education for three years, at the expense of the territory of Dakota, at the said institution for the support and education of blind persons.

Blind person to obtain certain certificate to be entitled benefits of this act.

SEC. 6. That in order to entitle any blind person to the benefits of this act, it shall be necessary for such persons to obtain a certificate of the superintendent of public schools of the county in which such person resides, that such person, giving name, age and residence, is blind, or too blind to acquire an education in the common schools, and is entitled to the benefits of such an institution, which certificate shall be approved by the governor, and upon presentation of such certificate and an order from the governor of the territory to the authorities of the institution, to admit such person, specifying the time for which he shall be admitted under the existing contract, such person shall be admitted into such institution and receive all the benefits of the same.

Authorities of blind asylum to give certain notice to governor.

SEC. 7. That the authorities of such institution when they receive any such person from this territory under the contract, shall at once notify the governor of this territory, giving name of the person so admitted, the date when admitted, and the time for which such persons are admitted.

Auditor to audit all acc'ts for instruction of blind.

SEC. 8. That it shall be the duty of the auditor of this territory, to audit all accounts presented by the authorities of the institution for the support and education of the blind persons of the state with which the governor has made a contract, as provided in section one of this act, under such regulations as such auditor may prescribe, and to draw his warrant or warrants on the territorial treasurer for the amount due such institution.

When to take effect.

SEC. 9. This act shall take effect and be in force from and after its passage and approval.

Approved, January 15, 1875.

## CHAPTER XLII.

## EDUCATION OF THE DEAF AND DUMB.

AN ACT to provide for the instruction and education of deaf and dumb persons.

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

SECTION 1. That the governor of this territory is authorized, and it is hereby made his duty to enter into a contract, for not more than five years at one time, with the proper authorities of the state of Iowa, Minnesota or Nebraska, to keep, maintain, instruct and educate any deaf and dumb persons who now is or may hereafter become a resident of the territory of Dakota.

Governor to make contract for educating deaf and dumb

SEC. 2. That after such contract is made, the institution of the state with which such contract is made shall be the institution for the deaf and dumb of this territory, the same as though such institution was located within this territory.

Defining the deaf and dumb institute for Dakota.

SEC. 3. That each county superintendent of public schools shall report to the county commissioners of his county, at any regular meeting of said commisssioners, the name, age, name of parent or guardian, and post office address, of every deaf and dumb person, and all such persons as may be too deaf to acquire an education in the common schools, between the age of five and twenty-one years, residing in his county.

County superintendent to report all deaf and dumb persons to commissioners.

SEC. 4. That it shall be the duty of the county commissioners, when they have been notified that there are any deaf and dumb persons in their county, who are entitled to the benefits of an institution for the support and education of the deaf and dumb, to at once report the name, age and residence of such persons in their county to the governor of this territory

Commissioners to report to governor.

SEC. 5. That every deaf and dumb person of this territory, and all such as may be too deaf to acquire an education in the common schools of suitable capacity, between the age of five and twenty-one years, shall be entitled to receive an education for three years, at the expense of the territory of Dakota, at the said institution for the support and education of the deaf and dumb.

Who entitled to receive education at public expense.

SEC. 6. That in order to entitle any deaf and dumb person to the benefits of this act, it shall be necessary for such per-

Deaf and dumb person to obtain certificate.

son to obtain a certificate of the superintendent of public schools of the county in which such person resides, that such person, giving name, age and residence, is deaf and dumb, or too deaf to acquire an education in the common schools, and is entitled to the benefits of such an institution, which certificate shall be approved by the governor, and upon presentation of such certificate and an order from the governor of this territory to the authorities of the institution, to admit such person, specifying the time for which he shall be admitted under the existing contract, such person shall be admitted into such institution and receive all the benefits of the same.

Authorities of deaf and dumb school to give certain notice to governor.

SEC. 7. That the authorities of such institution, when they receive any such person from this territory under the contract, shall at once notify the governor of this territory, giving name of the person so admitted, the date when admitted, and the time for which such persons are admitted.

Auditor required to audit accounts for instruction of deaf and dumb

SEC. 8. That it shall be the duty of the auditor of this territory to audit all accounts presented by the authorities of the institution for the support of the deaf and dumb persons of the state with which the governor has made a contract, as provided in section one of this act, under such regulations as such auditor may prescribe, and to draw his warrant or warrants on the territorial treasurer for the amount due such institution.

When to take effect.

SEC. 9. This act shall take effect and be in force from and after its passage and approval.

Approved, January 12, 1875.

## ELECTIONS.

### CHAPTER XLIII.

PROVIDING FOR THE TIME OF HOLDING GENERAL ELECTIONS.

AN ACT providing for the time of holding general elections in the Territory of Dakota, and for other purposes.

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

Time when general elections to be held.

SECTION 1. That all general elections in the Territory of Dakota shall be held in the several election precincts in the