

Education.

CHAPTER 41.

BISMARCK AND OTHER CITIES.

AN ACT Providing a Board of Education for the City of Bismarck and for other Purposes.

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

§ 1. WHEN MAY ESTABLISH BOARD OF EDUCATION.] That any city, town or village that now is or may hereafter be incorporated whenever it has resident within its corporate limits children of lawful school age to the number of not less than one hundred and seventy-five, to be ascertained by a census thereof, taken by direction of the council or board of trustees and verified by the oath of the enumerator, may by resolution of its council or board of trustees, provide and establish a board of education for such city, town or village, with all the powers, duties and obligations prescribed by this act.

§ 2. ELECTION OF BOARD.] Such board of education shall consist of two members from each ward of such city, town or village, who shall together constitute the board of education therefor. The members of such board shall be elected by the mayor and council, or president and board of trustees of such city, town or village, at a meeting thereof specially called for the purpose at which the mayor or president shall preside. The election shall be *viva voce* upon a call of the roll, and the members of the council and the mayor and the trustees and president shall be each entitled to one vote equally, and a majority of all such persons and officers so entitled to vote in each city, town or village shall be required to elect each member of such board of education. The members thereof shall be so elected singly and a full record of the proceedings and of the several roll calls and ballots, and of the result in each case, shall be made by the proper clerk in the regular record book of proceedings. One-half of the members of each board of education, except as hereinafter specially provided, shall be chosen to serve until one year after the first

Tuesday of May following such election, and one-half for two years after such date, and one of those from each ward shall be elected for the shorter term and one for the longer term, as aforesaid; and thereafter the terms of office for the members of such boards shall be two years, and one member thereof for each ward shall be elected by the mayor and council, or the president and board of trustees, as hereinbefore provided, at a meeting to be held on the first Tuesday in May in each year after the first. The body electing the first members shall prescribe the time for their qualification and for their first meeting and organization.

§ 3. CITY OF BISMARCK.] This act shall take effect and be in force in the city of Bismarck from and after its passage and approval, without any act of its mayor and council or other officers, and without respect to any enumeration or the number of children of school age therein, and a board of education is hereby established therefor. The board of education for said city of Bismarck shall consist of six persons, two from each ward of said city; and the following persons, to-wit: George P. Flannery and George W. Sweet for the first ward; James A. Emmons and John A. Stoyell for the second ward; and John P. Dunn and Alexander McKinsie for the third ward thereof, are hereby appointed members of said board of education for the said city of Bismarck, and they shall on or before the third Monday in March, 1881, qualify by oath of office, and the said George W. Sweet for the first ward, James A. Emmons of the second ward and Alexander McKinsie for the third ward, shall hold their offices until the first Tuesday in May, 1882, and the said George P. Flannery for the first ward, John A. Stoyell for the second ward and John P. Dunn for the third ward, shall hold their offices until the first Tuesday in May, 1883, and all until their successors are duly elected and qualified; and members of said board shall at and after the dates hereinbefore named, be elected, as in section two of this act provided.

§ 4. FRACTIONAL DISTRICTS CAUSED BY THE ESTABLISHMENT OF BOARD.] When by the establishment of any board of education for any city, town or village, parts of any school district or districts shall be cut off and left without the corporate limits, and the jurisdiction of such board, the children of

lawful school age residing within such parts so cut off shall be entitled to attend as pupils the schools of such city, town or village, by the payment of a reasonable tuition, which shall be fixed by the board and which must be paid for each term in advance. All pupils who so attend such schools for not less than sixty days in each year shall be included within the school census of such city, town or village and so treated in the apportionment of the county general school fund by the county superintendent of public schools, and in consideration of this, the board of education shall fix a lower rate for the tuition of such pupils than for those admitted from territory not so previously included. This provision shall apply to all boards that have been heretofore or now are or shall be established under this or other acts, but it shall not prevent the organization of such adjacent and cut off territory into school districts or otherwise, as provided by this or the general school law. The secretary of such board of education shall annually, at the time provided by law for taking the school census, certify in writing to the officer under such board and the officer of each proper school corporation from which they come, the names and number of the pupils so attending, and they shall be excluded from the census of the district from which they so came and included in the census of such city, town or village.

§ 5. OATH OF MEMBER OF BOARD.] Each member of every such board shall take and subscribe an oath that he will support the constitution of the United States and the laws thereof governing the Territory of Dakota, and that he will honestly and faithfully discharge all the duties of his office as a member of such board of education, which oath shall be filed in the office of the clerk of the city, town or village.

§ 6. FILLING VACANCIES.] The mayor and council or president and board of trustees of any such city, town or village may at any time elect members of such boards in the manner in section two provided, to fill any vacancies which may occur from any cause other than the expiration of the term of office of those elected, and the persons so elected shall serve out the unexpired term.

§ 7. REMOVAL.] Any member of a board of education may be removed from office for official misconduct by the mayor

and council or president and board of trustees of the city, town or village for which he serves, by a vote of two-thirds of all the members thereof; but a written copy of the charges preferred against such member shall be served upon him and he shall be allowed an opportunity for refuting such charges of misconduct before removal.

§ 8. BOARD A BODY CORPORATE.] Every board of education for a city, town or village heretofore established and herein established and provided for, shall be a body corporate in relation to and in execution of all the powers and duties conferred upon it by this act, or which may hereafter be conferred upon it for school purposes by the name and style of "The Board of Education of the City (town or village) of" (here insert the corporate name and style of the city, town or village respectively wherein and for which each board is or shall be established) and by such name shall be capable and have power to contract and be contracted with, to sue and be sued, and shall possess all the powers usual and incident to bodies corporate, and all such as shall be herein given, and shall procure and keep a common seal. A majority of every such board shall constitute a quorum. At the annual meeting of each board, held on the third Tuesday of May in each year, they shall elect one of their number president of the board, and whenever he shall be absent a president *pro tempore* shall be appointed.

§ 9. COMPENSATION.] The members of the board shall receive no compensation and shall not be interested directly or indirectly in any contract for building or for making any improvement or repairs provided for by this act. They shall have the care and custody of all the public property in their city, town or village pertaining to school purposes and the general management and control of all school matters therein.

§ 10. MEETINGS.] The annual meeting of each board shall be held on the third Tuesday of May in each year. Each board shall also meet for the transaction of business as often as once in each calendar month and may adjourn for any shorter term. Special meetings may be called by the president, or in case of his absence or inability to act, by any member of the board, as often as necessary by giving a per-

sonal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence at least forty-eight hours before the hour for such special meeting.

§ 11. SECRETARY—DUTIES OF.] Each board shall appoint a secretary, who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. Said secretary shall keep a record of the proceedings of the board and perform such other duties as the board may prescribe. The said record or a transcript thereof, certified by the secretary and attested by the seal of the board shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all the books, accounts, vouchers and papers of every such board shall be at all times subject to the inspection of the city council or the board of trustees, or other governing body of the city, town or village, for which the board is established, or any committee of such council or board, or any taxpayer of such city, town or village. For the purpose of economy, the board of the city of Bismarck may appoint one of their own members secretary, in which event said secretary shall serve without compensation.

§ 12. TAXES—FOR WHAT PURPOSE.] Every board of education of a city, town or village shall have power and it shall be their duty to levy and raise from time to time by tax such sums as may be determined by the board to be necessary and proper for any or all the following purposes:

1. To purchase, exchange, lease or improve sites for school houses.
2. To build, purchase, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances.
3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to purchase and sell or rent the necessary text or class books, and sell the necessary stationery for the pupils in the schools under its management and control; but the powers herein granted shall not be deemed to authorize the furnishing with class or text books any pupil whose parent or guardian shall be able to furnish the same.

4. To procure fuel and defray the contingent expenses of the board, including the compensation of the secretary.

5. To pay teachers' wages after the application of public moneys which may by law be appropriated and provided for that purpose.

§ 13. COLLECTION OF TAXES.] The tax so to be levied as aforesaid and collected by virtue of this act shall be collected in the same manner as other city, town or village taxes, and for that purpose every said board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the rate for each purpose to be certified by the secretary to the clerk of the city, town or village in time to be added to and put upon the annual tax list of such city, town or village. And it shall be the duty of every such clerk to calculate and extend upon the annual assessment roll and tax list of the city, town or village such tax so levied by said board, and such taxes shall be collected as other city, town or village taxes are collected. And in case the city council or board or trustees of any such city, town or village shall fail to levy any tax for city, town or village purposes, or shall fail to cause an assessment roll or tax list to be made such as now is or may hereafter be provided by ordinance, by-law or statute, the said board may cause an assessment roll and tax list to be made out by its secretary and put into the hands of the city, town or village treasurer with a warrant for the collection of the same, under the hand of the president and seal of the board and attested by the secretary, and may cause the same to be collected in the same manner as other city, town or village taxes are collected or as may by a resolution of such board be provided.

§ 14. VARIOUS FUNDS—THEIR USES,] The amount raised for teachers' wages and contingent expenses shall be only such as together with the public money coming to such city, town or village from the territorial and county fund and other sources shall be sufficient to maintain efficient and proper schools for the children in such city, town or village; nor shall the tax for the purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses exceed in any one year two cents on the dollar of valuation of the taxable property of such

city, town or village, and each of said boards of education is authorized and directed, when necessary, to borrow in anticipation the amount of the taxes so to be raised and collected as aforesaid.

§ 15. **MAY ISSUE BONDS WHEN TAX IS INSUFFICIENT.]** The board of education of each of said cities, towns and villages are authorized and empowered and it shall be their duty whenever the said board shall deem it necessary, in order to an efficient organization and establishment of schools in such city, town or village, and when the taxes authorized by this act shall not be sufficient or shall be deemed by the board burdensome upon the taxpayers of such city, town or village, from time to time to issue the bonds of such city, town or village in denominations of not less than one hundred dollars, payable not more than ten years after date and bearing interest at a rate of not more than eight per centum per annum, payable semi-annually on the first days of January and July, and showing upon their face that they are issued for school purposes, and cause the same to be negotiated and sold at not less than par, and the money realized therefrom deposited with the treasurer of such city, town or village to the credit of the board of education thereof. And when any bonds shall be so negotiated and sold it shall be the duty of the said board of education of such city, town or village to provide by tax for the regular and prompt payment of the interest and principal of said bonds: *Provided, however,* That at no time shall the aggregate amount of such bonds, issued under the provisions of this act, and any preceding special and general acts for school purposes, exceed twelve thousand dollars for the city of Bismarck, nor exceed five thousand dollars each for any other city, town or village that now is or may hereafter be incorporated, unless special authority of law be given for an additional amount.

§ 16. **PAYMENT OF COUNTY SCHOOL FUNDS.]** All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated or apportioned to or provided for every such city, town or village shall be paid over to the treasurer thereof; and the county treasurer of the county in which such city, town or village is situated shall from time to time as he shall receive the county school

funds, and at least once every six months, pay over to said city, town or village treasurer the proportion thereof belonging to such city, town or village the same as though such city, town or village constituted one school district in said county; and for that purpose every board shall have power to cause all needful steps to be taken, including census reports, or other acts or things, to enable such board to receive the school moneys due and belonging or accruing to such city, town or village as fully and completely as though said city, town or village formed one of the school districts of the county in which it is situated.

§ 17. BOND OF TREASURER.] The treasurer of every such city, town or village shall give such bonds to the board of education thereof, in such sums and with such conditions and sureties as they shall from time to time require in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds; and the said treasurer and his sureties upon such bond shall be accountable to the board for the school moneys that come into his hands, and in case of a failure of such treasurer to give such bonds when required thereto by such board within ten days thereafter, such treasurer's office shall become vacant and the mayor and council of such city, or the president and board of trustees or other governing body of such town or village shall appoint another person in his place who shall give such additional bonds.

§ 18. FUNDS—HOW KEPT.] All moneys required to be raised by virtue of this act shall be paid in cash or in the warrants hereinafter provided, drawn on the school funds only, and such moneys and all moneys received by every such city, town or village for the use of the common schools therein, shall be deposited for the safe keeping thereof with the treasurer of said city, town or village to the credit of the board of education thereof, and shall be by him safely kept separate and apart from any other funds of said city, town or village until drawn from said treasury as herein provided. The treasurer shall pay out the moneys authorized by this act, to be received by him upon warrants drawn by the president, countersigned by the secretary and attested by the seal of said board of education.

§ 19. POWERS OF BOARD OF EDUCATION.] Every such board shall have power and it shall be their duty:

1. To organize and establish such and so many schools in their city, town or village as they shall deem requisite and expedient, and to change and discontinue the same.

2. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence and improve them as they may deem proper.

3. Upon such lots and upon such sites as now are owned by such city, town or village, or which are situated within the corporate limits thereof and owned by any school district lying wholly or partly within such corporate limits, to build, enlarge, alter, improve and repair school houses, outhouses and appurtenances as they may deem advisable.

4. To purchase, sell, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools; and if they deem it advisable, to purchase class and text books and stationary and other necessary articles required by pupils in their school work, and sell or rent them to the pupils in the schools under their management and control.

5. To have the custody and safe keeping of the school houses, out houses, books, furniture, appurtenances and other school property, and to see that the ordinances and by-laws of the mayor and city council, the president and board of trustees, or the board of trustees or other governing body of such city, town or village in relation thereto are observed.

6. To contract with, license and employ all teachers in said schools, and at their pleasure to remove them.

7. To pay the wages of such teachers out of the moneys appropriated, apportioned and provided by law for the support of common or public schools in such city, town or village, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the common or public schools in such city, town or village, and from time to time to adopt, alter,

modify and repeal, as they may deem expedient, rules and regulations for their organization, grading, government and instruction or the reception of pupils and their transfer from one school to another, and generally for their good order, prosperity and utility.

10. To prepare and report to the mayor and council, the president and board of trustees, or the board of trustees or other governing body of such city, town or village, such ordinances, by-laws and regulations as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots and sites and appurtenances, and all the property belonging to the city, town or village connected with or appertaining to the schools, and to suggest proper penalties for the violations of such ordinances, by-laws and regulations; and annually on or before the 30th day of June of each year, to determine and certify to the clerk of such city, town or village the rate of taxation in their opinion necessary and proper to be levied under the provisions of this act, for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

§ 20. VISITING SCHOOLS.] Each member of such board shall visit all the public schools in the city, town or village at least twice in each year of his official term, and every board shall provide that each of such schools shall be visited by a committee of three or more of their number at least once during each term.

§ 21. NON-RESIDENT PUPILS.] Every board of education shall have power to allow the children of persons not resident in the city, town or village to attend the schools thereof under their care and control, upon such terms as said board may prescribe, fixing the tuition which shall be paid therefor.

§ 22. CONCERNING EXPENDITURES.] It shall be the duty of each board in all their expenditures and contracts to have reference to the amount of moneys which shall be subject to their order during the current year for the particular expenditures in question, and not to exceed that amount.

§ 23. TITLE OF PROPERTY—WHERE VESTED.] The title of and to the school houses, sites, lots, furniture, books, apparatus

and appurtenances, and all other property belonging to the school district or districts comprised by and included partly or wholly within every such city, town or village for which a board of education is hereby established or continued, and all such property lying and being within such city, town or village, and all such property in this act mentioned shall be vested in the particular city, town or village wherein it lies or to which it so pertains for the use of schools, and the same while used or appropriated for school purposes shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment lien, nor be subject to taxation for any purpose whatever; and every such city, town or village shall in its corporate capacity be able and capable to take, hold and dispose of and transfer any real or personal estate and property transferred to it by gift, grant, bequest or devise for the use of the public common schools of said city, town or village, whether the same be transferred in terms to such city, town or village by its proper name and style, or by designations, or to any person or persons or body for the use of said schools.

§ 24. SAME.] Whenever any real property is purchased by any such board of education the transfer or grant and conveyance therefor shall be taken to the "city, town or village of for the use of schools," (inserting the proper corporate name of the particular city, town or village) and whenever any sale is made by any such board it shall be so resolved, which resolution shall be spread upon the records of the board, and the conveyance therefor shall be made and executed in the corporate name of the particular city, town or village by the president of the board of education thereof, attested by the secretary of said board, and under the seal thereof, and acknowledged by said president and secretary. And the president and secretary of every such board shall have full power and authority to execute conveyances upon such sale or exchange, with or without covenants of warranty on behalf of the city, town or village for which their board is established.

§ 25. REPORTS.] It shall be the duty of every such board of education, at least fifteen days before the annual election for members of said board, to prepare and report to the

mayor and city council of its city, or to the president and board of trustees of its town or village, true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, which accounts shall be stated under appropriate heads:

1. The moneys raised by the board under section 13 of this act.
2. The school moneys received by the treasurer of the city, town or village from the county treasurer.
3. The moneys received by the treasurer of the city, town or village under section 16 of this act.
4. All other moneys received by such treasurer, subject to the order of the board, specifying the sources from which they shall have been derived; and to these ends the treasurer shall make report to said board when required and as required, of all school moneys received and disbursed by him.
5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditure; and the city council of such city, or the board of trustees of such town or village shall, at least one week before such election, cause the same to be published in all the newspapers of such city, town or village which will publish the same gratuitously.

§ 26. POWER OF CITY AUTHORITIES.] The mayor and city council of every such city, and the president and board of trustees of every such town or village shall have power and it shall be their duty to pass such ordinances, regulations or by-laws, as the board of education thereof may report as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites, appurtenances and appendages, libraries, books and all necessary property belonging to or connected with the schools of such city, town or village and to impose proper penalties for the violation thereof; and all such penalties shall be collected in the same manner that the penalties for the violation of the ordinances or by-laws of such city, town or village are by law collected, and when collected shall be paid to the treasurer of the city, town or village to the credit of the board of education thereof, and shall be subject to their order as herein provided.

§ 27. FINES AND FORFEITURES.] All fines, penalties and forfeitures for the violation of any ordinance or by-law of any such city, town or village shall when collected be paid by the officers receiving the same into the treasury of the city, town or village to the credit of the board of education thereof, and subject to their order as other moneys raised pursuant to the provisions of this act.

§ 28. CLERK TO NOTIFY PERSON ELECTED.] It shall be the duty of the clerk of such city, town or village immediately after the election of any person as a member of the board of education thereof, personally or in writing to notify him of his election, and if any such person shall not within ten days after receiving such notice of his election, take and subscribe the oath as herein provided, and file the same with said clerk, the city council or the board of trustees of the village or town may consider it as a refusal to serve, and proceed to fill the vacancy occasioned by such refusal. And if any person herein appointed as member of any particular board shall neglect so to qualify by the date specially prescribed for such board, the clerk shall notify the council or trustees of such neglect, and a vacancy shall exist for each person so failing to qualify, and the mayor and council or the president and trustees of such city, town or village shall proceed to fill such vacancy or vacancies by the election of suitable and proper persons who shall hold their offices as herein provided for such persons herein appointed.

§ 29. REPORT TO SUPERINTENDENT OF PUBLIC INSTRUCTION.] Every board of education shall on or before the first day of September in each year report by its secretary to the superintendent of public instruction all the facts, financial statements, statistics and other matters relating to the schools, school funds or property under the control of the board which now are or may hereafter be by law required to be reported by county superintendents in their annual reports, and such further facts as may be required by the superintendent of public instruction for his annual report; and the board is not required to so report to the county superintendent except the annual census of children of school age, which must be reported the same as if such city, town or village was one of the school districts in the county where situated.

§ 30. DUTY OF SCHOOL DISTRICT OFFICERS UPON ORGANIZATION OF BOARD.] When any board herein appointed or so elected shall be organized it shall at once assume the management and control of the public schools in such city, town or village and the officers of the school district or districts within the same, shall turn over to them all moneys and other property belonging to said district or districts as are in such city, town or village for the use of schools under the provisions of this act: *Provided, however,* That the taxes heretofore raised and voted therein and not collected, so far as the same shall have been assessed upon the property of and within such city, town or village shall be collected by the proper officers and paid over to the treasurer of such city, town or village for the use of such board of education, and a proportionate amount of the debts and liabilities of such district or districts shall be assumed and paid by such city, town or village through its said board of education the same as though they had been incurred and contracted by such board; and to that end it shall be the duty of the officers of every such school district to make full, true and accurate statements of the property, finances and condition of said districts to the board immediately upon its organization. The county superintendent of schools is authorized and required to reorganize that part of the district or districts outside of the corporate limits, and call school meetings for that purpose, or he may attach such territory to other districts without petition as to him shall seem best for their school interests: *Provided, nevertheless,* That the school district officers of all districts wholly or partly within such city, town or village shall continue to act as such, and the said districts shall continue their existence in law until the complete organization of the board of education as herein provided for such city, town or village: *And provided further,* That the cities of Deadwood, Yankton, Fargo and Vermillion, and the village of Sioux Falls and the public schools therein be and the same are hereby specially excepted from the provisions of this act.

§ 31. SPECIAL ELECTION.] Nothing in this act shall be so construed as to authorize the issue of bonds until after it shall have been submitted to a vote of the people of the city of Bismarck at a regular annual or special election called for

that purpose, and a majority of all the legal voters voting thereat shall have voted in favor thereof.

§ 32. This act shall take effect and be in force from and after its passage and approval.

Approved, March 4, 1881.

CHAPTER 42.

DEADWOOD.

AN ACT providing a Board of Education for the City of Deadwood, Dakota Territory, and Regulating the Management of the Public Schools therein.

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

§ 1. BOARD OF EDUCATION ESTABLISHED.] That there be and there is hereby established a board of education for the city of Deadwood, Dakota Territory.

§ 2. NUMBER OF BOARD. BOUNDARIES OF DISTRICTS.] Said board shall consist of eight persons, two for each district of said city, as herein described: All that portion of said city heretofore known as Elizabethtown and Fountain City and vicinity, the same being all that portion of said city lying north of a line drawn from post number one to post number nine of the McIntyre survey of the town of Deadwood, made for townsite entry purposes, and with such line extended in the same direction southeasterly to the city limits as they now are shall constitute the first district; all that portion of said city lying south of said last mentioned line, and north of the center line of Lee street and Preble street, with the center line of Lee street extended in the same direction it takes at its intersection with Sherman street easterly to the city limits, and with the center line of Preble street extended in its same direction westerly to the city limits shall constitute the second district; all that portion of said city lying south of the center line of Pine street, with such line extended in the same di-

rection it takes at its intersection with Sherman street easterly to the city limits, including all of Ingleside, Cleveland, Whitewood gulch, south of said center line of Pine street to the center of the divide between Whitewood and Deadwood gulches, but not including any portion of Deadwood or City Creek gulches shall constitute the fourth district; and all the rest of the said city of Deadwood not included in the foregoing descriptions shall constitute the third district: *Provided, however,* That said board shall have the power at any regular meeting held within two months immediately prior to any annual election for members of the board to change and alter such districts, and to re-district from time to time said city for such purposes.

§ 3. ELECTION OF MEMBERS OF BOARD.] There shall be elected annually in said city by the city council thereof at a meeting of said council, to be held for that purpose on the first Tuesday of May in each year commencing on the first Tuesday of May A. D. 1882, two members of said board, one for each alternate district, commencing with the first and third districts, then the next year from the second and fourth districts, and so alternating each year thereafter.

§ 4. TERMS OF MEMBERS OF FIRST BOARD TO BE DETERMINED BY LOT.] For the purpose of determining the commencement and expiration of their term of office, and to enable the said city council to carry out the provisions of said section 3, the persons hereinafter mentioned, members of said board, shall at the time of their organization determine by lot who of them respectively shall hold for the long term and who for the short term.

§ 5. PERSONS APPOINTED TO HOLD CERTAIN TIME.] The persons hereinafter appointed shall hold their office according to such determination by lot and the provisions of section 3, for the terms of one, two, three and four years respectively from the first Tuesday of May A. D. 1881, and until their successors are duly elected and qualified, and the persons hereafter elected shall hold their office for four years and until their successors are elected and qualified. They shall each take and subscribe an oath to support the constitution of the United States and the laws of congress relating to this Ter-

ritory, and to honestly and faithfully discharge the duties of their office, and file the same with the city clerk.

§ 6. COUNCIL OF CITY MAY FILL VACANCIES.] The city council of said city may at any time elect members of said board to fill the vacancies which may occur from any other cause than the expiration of the term of office of those elected, and the persons thus elected shall serve out the unexpired term, and the board shall have the right to recommend persons to fill such vacancies.

§ 7. COUNCIL MAY REMOVE.] Any member of said board of education of said city may be removed from office for official misconduct by the city council of said city by a vote of two thirds of the members thereof, but a written copy of the charges preferred against said member shall be served upon him and he shall be allowed an opportunity of refuting any such charges of misconduct before removal.

§ 8. TITLE OF BOARD—BODY CORPORATE.] The board of education shall be a corporate body in relation to all the powers and duties conferred upon them by this act to be styled "The Board of Education of the City of Deadwood," and as such shall have the power to sue and be sued, to contract and be contracted with, and shall possess all the powers usual and incident to bodies corporate and as shall be herein given, and shall procure and keep a common seal. A majority of said board shall constitute a quorum. At each annual meeting of the board on the third Tuesday of May they shall elect one of their number president of the board, and whenever he shall be absent a *pro tempore* shall be appointed by them.

§ 9. POWERS OF BOARD.] The members shall receive no compensation nor shall they be interested directly or indirectly in any contract for building or for making any improvement or repairs provided for by this act. They shall have the care and custody of all the public property in said city, pertaining to school purposes and the general management and control of all school matters.

§ 10. ANNUAL AND SPECIAL MEETINGS.] The annual meeting of said board shall be held on the third Tuesday of May in each year. The board shall also meet for the transaction of business as often as once in each month and may adjourn for

any shorter term. Special meetings may be called by the president, or in case of his absence or inability to act, by any member of the board, as often as necessary, by giving a personal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence at least forty-eight hours before the hour for such special meeting.

§ 11. DUTIES OF SECRETARY OF BOARD.] The said board shall appoint a secretary, who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. The said secretary shall keep a record of the proceedings of the board and perform such other duties as the board may prescribe. The said record or a transcript thereof, certified by the secretary and attested by the seal of the board shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all the books, accounts, vouchers and papers of such board shall at all times be subject to the inspection of the city council or any committee thereof or any taxpayer of said city. For the purpose of economy, the said board, if they deem it advisable, may at any time until their annual meeting in the year 1882, appoint one of their own members secretary, in which event said secretary shall serve without compensation.

§ 12. FURTHER POWERS OF BOARD TO LEVY TAXES, ETC.] The said board of education of said city, shall have power and it shall be their duty to levy and raise from time to time by tax such sums as may be determined by the board of education to be necessary and proper for any or all the following purposes:

1. To purchase, exchange, lease or improve sites for school houses.
2. To build, purchase, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances.
3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages; but the powers herein granted shall not be deemed to authorize the furnishing with class or text books any scholar whose parents or guardians shall be able to furnish the same.
4. To procure fuel and defray the contingent expenses of the board, including the compensation of the secretary.

5. To pay teachers' wages after the application of public moneys which may by law be appropriated and provided for that purpose.

§ 13. COLLECTION OF TAXES.] The tax so to be levied as aforesaid and collected by virtue of this act shall be collected in the same manner as other city taxes, except the first tax, to enable the said board to operate until the taxes of 1881-2 can be made available, which shall be levied and collected as hereinafter provided; and for that purpose said board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the rate for such purpose to be certified by the secretary to the city clerk in time to be added to and put upon the annual tax list of the city; and it shall be the duty of the city clerk to calculate and extend upon the annual assessment roll and tax list such tax so levied by said board, and such tax shall be collected as other city taxes are collected. And in case the city council shall fail to levy any tax for city purposes, or shall fail to cause an assessment roll or tax list to be made as may hereafter be provided by ordinance, the said board may cause an assessment roll and tax list to be made out by its secretary and put into the hands of the city treasurer with a warrant for the collection of the same, under the hand of the president and seal of the board and attested by the secretary, and may cause the same to be collected in the same manner as other city taxes are collected or as may by resolution of such board be provided.

§ 14. AMOUNT OF MONEYS RAISED TO BE LIMITED.] The amount raised for teachers' wages and contingent expenses shall be only such as together with the public moneys coming to said city from the territorial and county funds and other sources, shall be sufficient to maintain efficient and proper schools for the children in said city, nor shall the tax for the purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses exceed in any one year two cents on the dollar of valuation of the taxable property of said city, and the said board of education are authorized and directed, when necessary, to borrow in anticipation the amount of the taxes so to be raised, levied and collected as aforesaid.

§ 15. MAY ISSUE BONDS. ELECTION.] The board of education of said city are authorized and empowered and it shall be their duty whenever the said board shall deem it necessary, in order to an efficient organization and establishment of schools in said city, and when the taxes authorized by this act shall not be sufficient or shall be deemed by said board burdensome upon the taxpayers of said city, from time to time to issue the bonds of said city in denominations of not less than one hundred dollars, payable ten years after date, bearing interest not exceeding the rate of eight per cent. per annum, payable semi-annually on the first days of January and July, and upon their face, to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than ninety cents on the dollar, and the money realized therefrom deposited with the city treasurer to the credit of the said board of education. And when any bonds shall be negotiated it shall be the duty of the said board of education of said city to provide by tax for the payment of the principal and interest of said bonds: *Provided, however,* That at no time shall the aggregate amount for bonds, issued under the provisions of this act, exceed twenty thousand dollars: *Provided, however,* That no bonds shall be issued in pursuance of the provisions of this act, until the proposition to issue the same shall have first been submitted to a vote of the electors of said district, at a general, annual or special election called for that purpose, and no bonds shall be issued unless a majority of all the votes cast at such election be in favor of issuing such bonds.

§ 16. CITY TREASURER TO BE CUSTODIAN OF SCHOOL FUNDS.] All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated to or provided for said city shall be paid over to the city treasurer of said city, and the county treasurer of Lawrence county shall from time to time as he shall receive the county school funds, and at least once in each month on the first Monday thereof pay over to said city treasurer the proportion thereof belonging to the said city, the same as though said city constituted one school district; and for that purpose said board shall have power to cause all needful steps to be taken, including census reports, or other acts or things, to enable said board to receive the school moneys belonging to said city as

fully and completely as though said city formed one of the school districts of said Lawrence county, the proportion of money coming to said district to be apportioned according to the last census of said district.

§ 17. BOND OF CITY TREASURER.] The treasurer of said city shall give such bonds to such board of education, in such sums and with such conditions and sureties as they shall from time to time require in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds; and the said treasurer and his sureties on such bond shall be accountable to the board for the school moneys that come into his hands, and in case of a failure of such treasurer to give such bonds when required thereto by such board within ten days thereafter, such treasurer's office shall become vacant and the mayor and council of said city shall appoint another person to fill his place.

§ 18. ALL SCHOOL FUNDS TO BE CASH. DEPOSIT.] All moneys required to be raised by virtue of this act shall be paid in cash or in the warrants hereinafter provided, drawn on the school funds only, and such moneys and all moneys received by said city for the use of the public schools therein, shall be deposited for safe keeping thereof with the treasurer of said city to the credit of the board of education, and shall be by him safely kept separate and apart from any other funds of said city until drawn from said treasury as herein provided. The treasurer shall pay out the moneys authorized by this act, to be received by him upon warrants drawn by the president, countersigned by the secretary and attested by the seal of said board of education.

§ 19. FURTHER POWERS OF BOARD.] The said board shall have power to and it shall be their duty:

1. To organize and establish such and so many schools in said city as they shall deem requisite and expedient, and to change and discontinue the same.
2. To purchase, sell, exchange and hire school houses and rooms, lots and sites for school houses, and to fence and improve them as they may deem proper.
3. Upon such lots and upon such sites as now are owned by such school districts numbers two and five, to build, en-

large, alter, improve and repair school houses, outhouses and appurtenances as they may deem advisable.

4. To purchase, sell, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for schools.

5. To have the custody and safe keeping of the school houses, outhouses, books, furniture and appurtenances and to see that the ordinances of the mayor and city council in relation thereto are observed.

6. To contract with, license and employ all teachers in said schools, and at their pleasure to remove them.

7. To pay the wages of such teachers out of the moneys appropriated and provided by law for the support of common schools of said city so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the public schools of said city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, grading, government and instruction or the reception of pupils and their transfer from one school to another, and generally for their good order, prosperity and utility.

10. To prepare and report to the mayor and city council such ordinances and regulations as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots and sites, appurtenances, and all the property belonging to the city, connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and annually on or before the first Monday in July to determine and certify to the city clerk of said city the rate of taxation in their opinion necessary and proper to be levied under the provisions of this act, for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

§ 20. VISITING SCHOOLS.] Each member of said board shall visit all the public schools in said city at least twice in each year of his official term, and the said board shall provide that each of said schools shall be visited by a committee of three or more of their number at least once during each term.

§ 21. NON-RESIDENT PUPILS.] Said board of education shall have power to allow the children of persons non-resident in said city to attend the schools of said city under the control and care of said board upon such terms as said board shall prescribe, fixing the tuition which shall be paid therefor.

§ 22. EXPENDITURES NOT TO EXCEED REVENUES.] It shall be the duty of the board in all their expenditures and contracts to have reference to the amount of moneys which shall be subject to their order during the current year for the particular expenditures in question, and not to exceed that amount.

§ 23. TITLE TO SCHOOL PROPERTY.] The title of the school houses, sites, lots, furniture, books, apparatus and appurtenances, and all other property belonging to the school districts in said city of Deadwood and all such property in this act mentioned shall be vested in the city of Deadwood for the use of schools, and the same while used or appropriated for school purposes shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment lien, nor be subject to taxation for any purpose whatever; and the said city in its corporate capacity shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise for the use of public schools of said city, whether the same be transferred in terms to said city, by its proper style, or by designations, or to any person or persons or body for the use of said schools.

§ 24. SAME.] Whenever any real property is purchased by said board the transfer or grant and conveyance therefor shall be taken to the city of Deadwood for the use of schools, and whenever any sale is made by said board it shall be so resolved, which resolution shall be spread upon the records of said board, and the conveyance therefor shall be executed in the name of the city of Deadwood, by the president of said board and attested by the secretary of said board, and under the seal thereof, and acknowledged by said presi-

dent and secretary. And said president and secretary shall have full power and authority to execute conveyances upon such sale or exchange, with or without covenants of warranty on behalf of said city.

§ 25. BOARD TO MAKE REPORT TO CITY COUNCIL. WHAT TO CONTAIN.] It shall be the duty of said board, at least fifteen days before the annual election for members of said board, in each year, to prepare and report to the mayor and city council true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, which accounts shall be stated under appropriate heads:

1. The moneys raised by the board under section twelve of this act.

2. The school moneys received by the treasurer of the city from the county treasurer.

3. The moneys received by the treasurer of the city, under section fifteen of this act.

4. All other moneys received by the city treasurer, subject to the order of the board, specifying the sources from which the same shall have been derived; and to these ends the city treasurer shall make report to said board when required and as required, of all school moneys received and disbursed by him.

5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditure; and the city council shall at least one week before such election, cause the same to be published in the newspapers of said city, which will publish the same gratuitously.

§ 26. CITY COUNCIL TO PASS CERTAIN ORDINANCES.] The mayor and city council of said city, shall have the power and it shall be their duty to pass such ordinances and regulations as the said board of education may report as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites, appurtenances and appendages, libraries, and all necessary property belonging to or connected with the schools of said city and to impose proper penalties for the violation thereof; and all penalties shall be collected in the same manner that the penalties for the violation of city ordinances are by law collected, and when collected shall be paid

to the treasurer of the city, to the credit of said board of education and shall be subject to their order as herein provided.

§ 27. FINES TO GO TO SCHOOL FUND.] All fines, penalties and forfeitures for the violation of any city ordinance of said city, and all fines, penalties and forfeitures for any criminal offense committed within said city shall when collected be paid by the officers receiving the same into the city treasury to the credit of said board of education and subject to their order as other moneys raised pursuant to the provisions of this act.

§ 28. CITY CLERK TO GIVE NOTICE TO PERSON ELECTED MEMBER OF BOARD.] It shall be the duty of the clerk of said city, immediately after the election of any person as a member of said board of education, personally or in writing to notify him of his election, and if any such person shall not within ten days after receiving such notice of his election, take and subscribe the oath as herein provided, and file the same with said clerk, the city council may consider it as a refusal to serve, and proceed to fill the vacancy occasioned by such refusal.

§ 29. PERSONS APPOINTED.] That E. G. Dudley and John M. Gilman, for the first district; R. C. Lake and Alvin Fox, for the second district; L. R. Graves and William Carey, for the third district; and Dolph Edwards and Louis Reubens, for the fourth district of said city, are hereby appointed members of said board of education, and they shall on or before the first Monday of April, A. D. 1881, qualify by taking the oath herein prescribed, and if any shall neglect so to qualify by that time the clerk shall notify the city council of such neglect, and a vacancy shall exist for each person so failing to qualify, and the mayor and council shall proceed to fill such vacancy or vacancies by the election of suitable and proper persons as herein provided, who shall hold their office as herein provided, for such persons herein appointed.

§ 30. FIRST MEETING AND DUTIES OF BOARD.] The board so appointed or elected shall meet on the fourth Tuesday of April, A. D. 1881, and shall organize and determine their length of term as provided in this act, and upon such organization shall at once assume the management and control of the public schools in said city, and the present school officers

of the district or districts within said city shall turn over to them all moneys and other property belonging to such district, and from thence so much of such districts as are in the city of Deadwood shall cease to exist, and all property belonging thereto shall vest in the city of Deadwood, for the use of the schools, under the provisions of this act: *Provided, however,* That the tax heretofore raised and voted therein and not collected, so far as the same shall have been assessed upon the property of said city shall be collected by the proper officers as though this act had not passed, and paid over to the city treasurer for the use of such board of education, and a proportionate amount of the debts and liabilities of said district shall be assumed and paid by said city through said board of education the same as though they had been incurred and contracted by said board; and to that end it shall be the duty of the officers of said school district to make full, true and accurate statements of the property, finances and condition of said districts to said board immediately upon its organization; and the county superintendent of schools shall have power to reorganize that part of the districts outside of the city, and call one or more school meetings of the electors therein for that purpose.

§ 31. BOARD TO LEVY TAX TO MEET EXPENSES.] As soon after their organization as practicable, the board herein appointed and provided for shall make a careful calculation and estimate of the amount of moneys necessary to be raised to place the schools as soon as may be in an efficient condition to be used, until the taxes of 1881-2 can be made available. And it shall be their duty to levy and collect such amount upon the property in the city as appears upon the then last assessment rolls of the county of Lawrence, and such additions as they may cause to be made to raise such amount and to provide for the collection of the same before the first day of September, A. D. 1881; and for that purpose the board shall cause a tax list to be made out by the secretary of the board, based upon the then last assessment roll of the said county of Lawrence, of property and persons liable to taxation, or situated in said city, and adding thereto such other property in said city as is or may be liable to taxation; and shall place the same in the hands of the city treasurer, with a warrant for

the collection of said tax, under the hand of the president of the board, and the seal thereof, and attested by the secretary; and thereupon the city treasurer shall proceed to levy and collect the said tax by distress and sale of personal property, and shall collect the same by the first day of July, 1881, so far as the same can be collected out of personal property. And if any tax upon real property shall not be collected by the first day of July, 1881, he shall advertise the said real property, the tax upon which shall remain so delinquent, for sale for the payment of said tax, for three successive weeks, in one of the newspapers published in said city, and shall proceed to sell the same on the third Monday of August, 1881, at the county clerk's office in said city, and shall adjourn the sale from day to day until all is sold, or until the first day of September, A. D. 1881; and if the same is not sold by that day that part of the tax remaining uncollected shall be carried forward by him upon the next assessment roll and tax list, and added to such tax list and collected as other taxes are collected; and the owner of such real property shall have the same length of time for the redemption of such real property from such sale as in case of other city taxes, and the title to the same shall be made in the same manner as in the case of sales for other city taxes; and for the collection of the taxes and the performance of any duty under the provisions of this act, the city treasurer and city clerk shall have and receive such reasonable compensation as the said board shall from time to time fix, to be paid out of the funds under the control of said board.

§ 32. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 33. DISTRICT OFFICERS TO CONTINUE UNTIL BOARD IS ORGANIZED.] This act shall take effect and be in force from and after its passage and approval: *Provided, nevertheless,* That the school district officers of school districts number two and five shall continue to act as such, and the said districts shall continue their existence in law until the organization of said board of education as herein provided.

Approved, March 5, 1881.

CHAPTER 43.

FARGO.

AN ACT to amend "An Act providing a Board of Education for the City of Fargo, Dakota Territory, and Regulating the Management of the Public Schools therein," approved, February 20, 1879.

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

§ 1. AMENDING SECTION 15.] That section fifteen of said act be and the same is hereby amended by striking out the word "twenty" where it occurs in the last line of said section and inserting in lieu thereof the words "thirty-five."

§ 2. APPORTIONMENT OF COUNTY FUNDS.] That section sixteen of said act be and the same is hereby amended to read as follows: "All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall by law be appropriated to or provided for said city shall be paid over to the city treasurer of said city, and the secretary of the board of education shall report to the county superintendent the number of persons in said city between the age of five and twenty-one years as required by the general school law, and the county superintendent of public schools for Cass county shall apportion the general school and school poll fund to the city of Fargo, the same as though said city formed one of the school districts of Cass county."

§ 3. That all acts or parts of acts in conflict with this act are hereby repealed.

§ 4. That this act shall take effect and be in force from and after its passage and approval.

Approved, February 17, 1881.

CHAPTER 44.

FARGO.

AN ACT amending the "Act providing a Board of Education for the City of Fargo, Dakota Territory, and Regulating the Management of Public Schools therein," approved February 20, 1879.

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

§ 1. BOARD OF EDUCATION—HOW COMPOSED.] That the board of education of the said city of Fargo shall consist of two members from each district, and in case at any time said districts are increased in number the city council at its next regular session thereafter shall elect two persons from each new district formed or added, as members of said school board from each new district or districts, who shall hold their office until the next regular election of school directors, at which time there shall be elected by said city council two persons from each new district as members of said board of education. Said directors so elected to represent a new district shall at the first regular meeting of said board of education after their election, determine by lot who shall hold office for the long time and who for the short time. At each regular election of school directors thereafter there shall be elected one person from each district as a member of said board of education, except in case of new districts being formed or added, in which case there shall be elected two directors from each new district in accordance with the foregoing provisions of this section.

§ 2. DIRECTORS MUST BE RESIDENT OF DISTRICT THEY REPRESENT.] All directors must be residents of the district which they are elected to represent. All acts or parts of acts inconsistent herewith are hereby repealed.

[§ 3.] This act to take effect as soon as passed and approved.

Approved, February 26, 1881.

CHAPTER 45.

SIOUX FALLS.

AN ACT to amend An Act entitled "An Act providing a Board of Education for the Village of Sioux Falls, Dakota Territory," approved, February 20, 1879.

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

§ 1. BOARD OF EDUCATION—HOW COMPOSED.] That section two (2) of an act, entitled "An act providing a board of education for the village of Sioux Falls, Dakota Territory," be amended so as to read as follows: "§ 2. Said board shall consist of eight members who shall hold their respective offices for the term of two years and until their successors are elected and qualified. Four of said members shall be elected each year by the electors of said village, at the annual election for village officers. Said election shall be by ballot, and at the same time and conducted in the same manner as the election for trustees of said village."

§ 2. Be it further enacted, that section three (3) of said act be amended by striking out the word "19th" where it appears in said section, and inserting in lieu thereof the word "10th."

§ 3. This act shall take [effect] and be in force from and after its passage and approval.

Approved, February 14, 1881.

CHAPTER 46.

YANKTON.

AN ACT amending An Act entitled "An Act Providing a Board of Education for the City of Yankton, Dakota Territory, and Regulating the Management of the Public Schools therein.

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

§ 1. FINES, &C., TO BE PAID INTO SCHOOL FUND.] That section twenty-seven of an act entitled "An act providing a Board

of Education for the city of Yankton, Dakota Territory, and regulating the management of the public schools therein," approved January 6th, 1875, be and the same is hereby amended to read as follows: "§ 27. All fines, penalties and forfeitures for the violation of any city ordinance of said city shall, when collected, be paid by the officers receiving the same into the city treasury to the credit of said Board of Education and subject to their order as other moneys raised pursuant to the provisions of this act.

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

Approved, February 25, 1881.

CHAPTER 47.

YANKTON.

AN ACT amending An Act, entitled "An Act providing a Board of Education for the City of Yankton, Dakota Territory, and Regulating the Management of the Public Schools therein."

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

§ 1. BOARD AUTHORIZED TO ISSUE BONDS.] That section fifteen of an act, entitled "An act providing a board of Education for the city of Yankton, Dakota Territory, and regulating the management of the public schools therein," approved, January 6, 1875, be and the same is hereby amended so as to read as follows: "§ 15. The board of Education of said city are authorized and empowered and it shall be their duty whenever the said board shall deem it necessary in order to an efficient organization and establishment of schools in said city, and when the taxes authorized by this act shall not be sufficient or shall be deemed by said board burdensome upon the taxpayers of said city, from time to time to issue the bonds of said city, in denominations of not less than one hundred dollars, payable not less than five nor more than twenty years after date, and bearing interest at a rate not ex-

ceeding eight per centum per annum, payable semi-annually on the first days of January and July, and upon their face to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than ninety-five cents on the dollar, and the money realized therefrom to be deposited with the city treasurer to the credit of said board of education; and when said bonds are so negotiated it shall be the duty of said board of education to provide by tax for the payment of the principal and interest of said bonds; and for that purpose said board of education are authorized and empowered to cause to be levied in each year a tax not to exceed five mills on the dollar of valuation of the taxable property of said city to be known as the sinking fund tax. And whenever the amount in the hands of the city treasurer of such tax collected shall equal or exceed three hundred dollars, or whenever there shall remain in the hands of the city treasurer for the use of schools, from whatever fund received, an amount exceeding three hundred dollars, which in the judgment of said board of education is not and will not be needed by the fund in which it belongs, before the collection of the next annual tax, the said board of education is authorized and empowered to apply such sums in payment of the bonds so issued then due and unpaid; and if there be none of said bonds then due and unpaid, the said board of education is authorized and empowered to purchase said outstanding bonds at their market value, with and to the extent of such sums so remaining in the city treasury for the use of schools. And the said board of education is further authorized and empowered whenever the bonded debt of the city for the use of schools can be funded at a lower rate of interest, and the indebtedness then existing be thereby lessened and decreased, to issue new bonds of the city, bearing such lower rate of interest, payable as hereinbefore provided, and to exchange the same for those already issued, or to negotiate such new bonds and with the proceeds thereof to purchase such outstanding bonds; and all bonds paid, purchased or received in exchange, as provided for in this section, shall be cancelled and destroyed by the board of education: *Provided, however,* That [at] no time shall the aggregate amount of outstanding bonds issued under the provisions of this act exceed twenty thousand dollars.

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

Approved, February 21, 1881.

Fish.

CHAPTER 48.

FISH IN GOOSE RIVER.

AN ACT to Protect the Passage of Fish in the Goose River.

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

§ 1. PERSON BUILDING DAM TO MAKE PASSAGEWAY FOR FISH.]
There shall be erected and maintained by the owner of any dam across the Goose river, in this Territory, a sufficient passageway or chute for the passage of fish over such dam, which chute shall be kept open and free for the passage of fish by such owner or occupant.

§ 2. WHEN COMMISSIONERS OF COUNTY MAY BUILD PASSAGEWAY.]
Whenever the owner or occupant of any such dam neglects or refuses to construct such passageway or chute over the same, the commissioners of the county in which such dam is situated shall proceed on notice to them in writing, made by at least five freeholders of the county, to let the work of erecting such passageway or chute, and providing materials therefor to the lowest responsible bidder, and all expense attendant upon the erection or maintenance of the same shall be paid by the owner or occupant of the dam, which shall be recovered in the name of the person so building such passageway or chute, upon the acceptance of the same by the county commissioners.

§ 3. OBSTRUCTIONS TO PASSAGE OF FISH IN ANY STREAM MAY BE REMOVED.] Any person may take up, remove or clear away