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Idaho Bulletin of Education

Vol. V.

1919

No. 7

Compilation of Laws

PERTAINING TO THE

STATE BOARD OF EDUCATION

AND THE

EDUCATIONAL INSTITUTIONS

OF THE

STATE OF IDAHO

STATE BOARD OF EDUCATION
UNIVERSITY OF IDAHO
LEWISTON STATE NORMAL SCHOOL
ALBION STATE NORMAL SCHOOL
IDAHO TECHNICAL INSTITUTE
IDAHO INDUSTRIAL TRAINING SCHOOL
IDAHO SCHOOL FOR THE DEAF AND THE BLIND

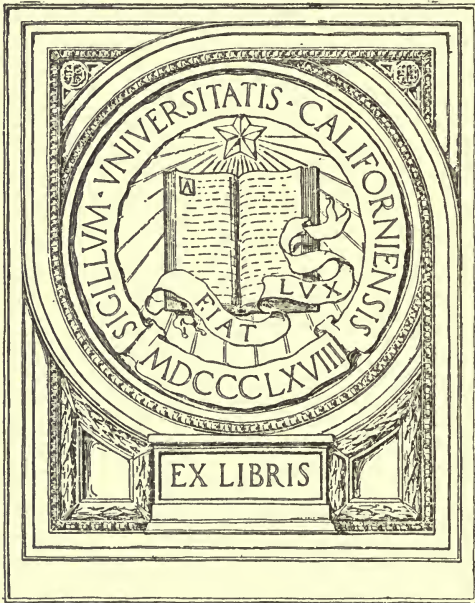
EFFECTIVE 1 APRIL, 1919

Published Quarterly
By the State Board of Education
Boise, Idaho

Entered as Second-class Matter February 3, 1915, at the Post Office at
Boise, Idaho

Compiled, Annotated and Indexed by
J. WARD ARNEY
Former Assistant Attorney General

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TO THE
CALIFORNIA

STATE OF CALIFORNIA

OFFICE OF THE STATE

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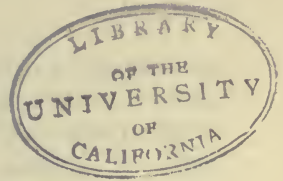
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RESOLUTIONS TO BE PRINTED AND PUBLISHED

IN THE CITY OF SACRAMENTO
THIS 15TH DAY OF MARCH 1955



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FOREWORD

It is the purpose of this pamphlet to present a compilation of the provisions of the Constitution of the State of Idaho and of the Federal and State statutes and decisions pertaining to the State educational institutions, namely, the University of Idaho, the Lewiston State Normal School, the Albion State Normal School, the Idaho Technical Institute, the Idaho Industrial Training School, and the State School for the Deaf and the Blind.

The institutions named have been, by State Constitution and statutes, placed under the control and direction of the State Board of Education.

The State Board has recognized the necessity of bringing together under one cover all laws applicable to the institutions supervised by the Board, not alone for the guidance of the Board but for that of the local administrative officials at the several institutions.

Heretofore the law and interpretation thereof affecting the said institutions have been scattered throughout the Federal and State statutes, the Constitution, the Idaho and Federal decisions, and the records of the proceedings of the Constitutional Convention.

The Revised Codes (1908) and the Compiled Laws (1918) are codifications containing only that part of the law and in the form which the Code Commissioners have deemed to be existing, and neither code purports to contain the enactments in full or the texts of the laws repealed or superseded, but only cite the same. The full edition of all the session laws and convention proceedings are not possessed by all libraries, and the early enactments are therefore not universally accessible.

This compilation endeavors to preserve the original and the existing law. This is of present value since the State Board has succeeded to all the rights and duties previously vested in the local officials of the several institutions, and the Board therefore assumes those obliga-

tions and rights imposed and vested by the original acts, not expressly repealed, even though the same do not appear in either the Revised Codes or the Compiled Laws.

The full context of the original statutes whether obsolete or repealed, when placed adjacent to the existing provisions is of present value to administrative officials and to the legal profession in determining the legislative tendency and intention.

There is preserved in addition the law relating to the personnel and terms of the early institutional officials and relating to the sites and locations of said institutions.

In short, this compilation endeavors to expose the entire view of the law affecting the educational institutions of the State as distinct from the grade, high, and denominational schools.

ARTICLE I.

STATE BOARD OF EDUCATION.

A. Constitutional.

Sec. 1. **Creation—General Empowerment.** The general supervision of the State educational institutions and public school system of the State of Idaho shall be vested in a State Board of Education, the membership, powers and duties of which shall be prescribed by law. The State Superintendent of Public Instruction shall be ex-officio member of said board.

(Const. Idaho, Art. IX, Sec. 2.)

(Amendment No. 21 effective Nov. 25, 1912.)

(1911 L. 791; 1913 L. 677.)

Note: (1) **Original:** "The general supervision of the public schools of the State shall be vested in a Board of Education, whose powers and duties shall be prescribed by law; the Superintendent of Public Instruction, the Secretary of State, and Attorney General, shall constitute the Board, of which the Superintendent of Public Instruction shall be president."

(Pike vs. S. B. of L. C. 19 I, 26; 113 P. 447, to the effect that original Section 2 of Article IX applied only to public schools as distinguished from higher educational institutions.)

(2) **Control of Public Schools.**

(a) Original Draft, as proposed in Constitutional Convention placed control of public schools in a Board of Education.

(1 Con. Conv. Pro. 638.)

(b) Objection made to proposed section on ground that the said control was taken out of the hands of the Superintendent of Public Instruction and placed in a Board of Education.

(1 Con. Conv. Pro. 638.)

(c) Adopted as proposed.

(1 Con. Conv. Pro. 827.)

(2 Con. Conv. Pro. 1437.)

(3) **Reference:** See Note (4) to Art. X-VII, post.

B. Statutory.

Sec. 1. **Creation—General Powers.** That for the general supervision, government and control of all State educational institutions of this State, to-wit: The University of Idaho, Lewiston State Normal School, Albion State Normal School, the Academy of Idaho, the Industrial Training School, and the School for the Deaf and Blind, and for the general supervision, government and control of any other such State educational institutions as may now or hereafter be founded, and, further, for the general supervision, government and control of the public schools of the State, a State Board of Education, which shall also constitute the Board of Regents of the University of Idaho, is hereby created and established, to be known as the State Board of Education and Board of Regents of the University of Idaho.

(1913 L. 328; C. L. 38:1.)

Cited: Bank vs. Regents, 26 I. 15, 140 P. 771.)

Sec. 2. **Membership—Tenure—Qualifications.** Said State Board of Education and Board of Regents of the Uni-

versity of Idaho shall consist of five (5) appointive members and, in addition thereto the State Superintendent shall be ex-officio member of such board.

The Governor of Idaho is hereby empowered, and it is hereby made his duty, not later than the first Monday of April, 1913, to appoint, as members of said State Board of Education and Board of Regents of the University of Idaho, five members, one to hold office for one year, one for two years, one for three years, one for four years, and one for five years.

Annually thereafter, commencing on the first Monday of April, 1914, he shall appoint one member of said board to serve for a period of five years.

The Governor shall fill, by appointment, all vacancies which may occur on the board, such appointment to be made within thirty days after such vacancy occurs, and to be for the unexpired term of the retiring member.

Provided, That all such members of said board shall be appointed solely upon consideration of their ability to efficiently serve the interests of the people and of education in this State, without reference to locality, to occupation, to party affiliation or to religion.

Provided further, That any member so appointed shall not heretofore have been connected with any of the State educational institutions of this State, either as regent, member of board, instructor or student, and shall have been a qualified elector and taxpayer in this State for at least three years prior to the date of his appointment.

Said members of said board, appointed as above provided, shall qualify for office and assume their duties in accordance with existing laws governing similar appointments to and qualifications for office on other State boards of this State.

(1913 L. 328; C. L. 38:2.)

Note: C. L. 38:2 does not include above in full; full report made here since tenure of present members rests on terms of original appointees.

Sec. 3. Transfer of Control of Institutions—Headquarters. Said State Board of Education and Board of Regents of the University of Idaho shall, upon its being established as provided in this Act, assume all powers and perform all duties now held by the Board of Regents of the University of Idaho and by the Boards of Trustees of the other State educational institutions enumerated in Section 1 of this act.

The existing Board of Regents and Boards of Trustees of said educational institutions shall, upon the passage and approval of this act, surrender and transfer to the State Board of Education and Board of Regents of the University of Idaho, all duties, rights, powers and immunities granted

them under existing laws of this State, together with all property, deeds, records, reports and appurtenances of any and all kinds now held by said Board of Regents under existing laws; and, thereupon, shall cease to exist as provided by existing laws; and said State Board of Education and Board of Regents of the University of Idaho shall accept and assume all such rights, duties, powers, immunities, property, deeds, records, reports and appurtenances aforesaid and hold the same until the provisions of this act shall have been amended or repealed.

Said board shall have and maintain its office at the State Capitol.

(1913 L. 329; C. L. 38:3.)

Note: (1) **Control of University Grant.**

(a) When the Constitution of Idaho was framed the only existing grant to the State for university purposes was contained in the Act of 2 February, 1881 (21 S. 326) under the terms of which the Federal Government retained full control of the sale of land and of the custody and the investment of the proceeds thereof, the State acquiring only the income therefrom.

(b) The Constitutional Convention in drafting Sections 10 and 11 of Article IX recognized the complete control of the Federal Government in relation to the university grant of 72 sections (re-affirmed by Idaho Admission Bill, Sec. 8 of 26 S. 215) and therefore excepted university land grants from Section 11 of Article IX and in section 10 of Article IX granted the Regents control of the university lands "under such regulations as may be prescribed by law," evidently referring thereby to Federal law.

(Sec. 10, Art. IX: 1 Con. Conv. Pro. 766 and 849; 2 Con. Conv. Pro. 1450.)

(Sec. 11, Art. IX: 1 Con. Conv. Pro. 773 and 861; 2 Con. Conv. Pro. 1287, 1331 and 1451.)

(2) **Successor to Board of Regents of University.**

(a) First National Bank vs. Regents, 26 I. 18, 140 P. 771.

(See Art. X-I-15, supra.)

(3) **Corporate Existence.**

(a) University of Idaho: (See Art. X-I, supra.)

(b) Albion Normal: (See Art. X-IV, supra.)

Sec. 4. Headquarters. The office of the Superintendent of Public Instruction shall be the office of the State Board of Education.

(1911 L. 489, Sec. 16.)

Sec. 5. Place of Meeting. The regular place of meeting of the State Board of Education shall be in the State Capitol, but the board may meet elsewhere when it is deemed necessary to do so.

(1911 L. 489, Sec. 17.)

Sec. 6. Removal of Members. The Governor of Idaho is hereby empowered to remove from membership on said Board of Education and Board of Regents of the University of Idaho, any member who shall have proven himself to be guilty of gross immorality, malfeasance in office, or incompetency; but no removal for personal or political reasons shall be valid without the concurrence of at least two-thirds of the members of the Senate of this State.

(1913 L. Ch. 77, p. 329, Sec. 4; C. L. 38:4.)

Sec. 7. Meetings—Regular and Special. Said Board of Education and Board of Regents of the University of Idaho shall hold two regular meetings annually at such time and place as may be directed by said board, but special meetings may be called at any time and at a place designated in such call by the president.

(1913 L. Ch. 77, p. 330, Sec. 5; C. L. 38:5.)

Sec. 8. Honorarium and Expenses. The members of said board shall be paid all necessary personal and traveling expenses in carrying out the provisions of this act, and shall also be entitled to receive an honorarium of one hundred dollars (\$100.00) per year. Said remuneration shall be allowed and paid in accordance with law and from any funds appropriated by the Legislature for the maintenance of said board.

(1913 L. Ch. 77, p. 330, Sec. 5; C. L. 38:6.)

Sec. 9. Powers and Duties of Board. In addition to the powers and duties provided in Section 3 of this act, the State Board of Education and Board of Regents of the University of Idaho shall have the following special duties, powers and responsibilities, to-wit:

(1913 L. Ch. 77, p. 330, Sec. 6; C. L. 38:7.)

Sec. 10. Commissioner — Qualifications, Tenure, Removal. It shall have power and it shall be its duty to appoint, for such term and at such salary as it may designate, a Commissioner of Education, and, upon recommendation of said Commissioner of Education may appoint such other specialists, assistants, clerks or other executive officers or employees as in its judgment the execution of the work of the board may demand, and fix the salaries of the same.

Said Commissioner of Education shall be chosen upon merit and because of his special fitness to propose and execute beneficial educational policies for the general supervision, government and control of the State educational institutions and public schools of this State.

The State Board of Education and Board of Regents of the University of Idaho shall have power, upon a two-thirds vote of its membership, to dismiss the Commissioner of Education for cause as defined in Section 4 of this act.

(1913 L. Ch. 77, p. 330, Sec. 6 (1); C. L. 38:8.)

Sec. 11. Rules and Regulations. Make rules and regulations for its own government and for the government of its executive officers. It shall assign them their functions and duties, direct them as to their work and be free to change such assignments and directions to meet the necessities of the work under their direction.

(1913 L. Ch. 77, p. 330, Sec. 6 (2); C. L. 38:9.)

Note: See Art. I-C, post; Sec. 28, post.

Sec. 12. Supervision of Superintendents. To have general supervision of the work of the county and city superintendents and of the public schools of the State.

(1911 L. 488, Sec. 8; C. L. 38:25.)

Sec. 13. Supervisory Powers. Determine the policy, direct the work to be undertaken and appropriate from its funds the money necessary to carry out such work.

(1913 L. Ch. 77, p. 330, Sec. 6 (3); C. L. 38:10.)

Sec. 14. Appellate Powers. Constitute a final court of appeal in all educational controversies.

Sec. 15. Legislative Powers. Perform legislative functions not inconsistent with law.

Sec. 16. Delegation of Executive Powers. Delegate to its executive officers the execution of all policies decided upon.

(1913 L., Ch. 77, p. 330, Sec. 6 (3); C. L. 38:11.)

Sec. 17. Budget. It shall prepare a budget of necessary expenditures for the proper maintenance of the department and the carrying on of the necessary investigations and present the same to the Legislature for its approval and shall have control of all moneys so appropriated.

(1913 L. Ch. 77, p. 331, Sec. 6 (3); C. L. 38:12.)

Note: See Secs. 27 and 61, post.

Sec. 18. Delegation of Power to Experts. In all matters which involve a new policy and new methods for procedure, the experts shall report back to the board for instructions; but, once having given these instructions, the execution of them shall be left to the experts whom the board employs.

(1913 L. Ch. 77, p. 331, Sec. 6 (4); C. L. 38:13.)

Sec. 19. Executive Officers—Powers and Duties. Acting through its own executive officers, the State Board of Education and the Board of Regents of the University of Idaho shall:

(1913 L. Ch. 77, p. 331, Sec. 7; C. L. 38:14.)

Sec. 20. General. Perform all duties prescribed by the State school laws of this State, not inconsistent with the provisions of this act;

(1913 L. Ch. 77, p. 331, Sec. 7 (1); C. L. 38:15.)

Sec. 21. Supervision of Schools. Exercise supervision and inspection over all departments of public education supported in whole or in part by State funds of this State, enforce the school laws of the State;

(1913 L. Ch. 77, p. 331, Sec. 7 (1); C. L. 38:16.)

(See Note (2) to Article I-A, supra.)

Sec. 22. General Supervision. To have general supervision of the educational work in institutions wholly or

partly supported by the State, which are not under the supervision of the public school authorities;

(1911 L. 487, Sec. 5.)

Sec. 23. Study Educational Needs. Study the educational conditions and needs of the State; and

(1913 L. 331, Sec. 7.)

Sec. 24. School Code Changes. Approve all proposed changes or additions to existing school laws, and

(1913 L. 331, Sec. 7.)

Sec. 25. Recommendations to Legislature. Recommend to the Legislature all such needed changes in existing laws or additional legislation.

(1913 L. Ch. 77, p. 331, Sec. 7 (1); C. L. 38:17.)

Sec. 26. Same. To report and to recommend to the Governor and to the Legislature legislation needed to make the public schools of this State more efficient and useful.

(1911 L. 487, Sec. 4.)

Sec. 27. Budget for Legislature. It shall, prior to each meeting of the State Legislature and in ample time for due consideration by said Legislature, prepare a financial budget setting forth the financial needs of all State educational institutions under its supervision and control for the period for which appropriations are to be made.

(1913 L., Ch. 77, p. 331, Sec. 7 (2); C. L. 38:18.)
(See Sec. 17, supra; see Sec. 61, post.)

Sec. 28. Officers of Board. The State Board of Education shall have such officers as it shall deem necessary, define their duties and elect them annually. It shall fix the times of its regular meetings, which shall be held at least semi-annually, and the manner of calling special meetings; it shall make its own by-laws and all regulations deemed necessary to carry on the proper work and affairs of the board.

(1911 L. 489, Sec. 15.)
(See Sec. 11, supra; see Art. I-C, post.)

Sec. 29. Employees of Board. The State Board of Education shall have the power to employ such assistance and to incur such other expense as it finds necessary for the performance of its duties within the limits of its funds and of the appropriation made for its use.

(1911 L. 489, Sec. 18.)

Sec. 30. Supervise Expenditures. It shall supervise, direct and control all expenditures of funds appropriated for the maintenance and improvement of State educational institutions as designated in Section 1 of this act.

(1913 L. Ch. 77, p. 331, Sec. 7 (2); C. L. 38:19.)

Sec. 31. Supervision of Buildings and Construction. It shall supervise, direct and control all plans and specifications for such improvements, including construction or alteration of buildings, equipment, fixtures, apparatus and supplies, and through its proper executive officers superintend the construction work connected with such improvements.

(1913 L. Ch. 77, p. 331, Sec. 7 (2); C. L. 38:20.)

Sec. 32. Course of Study. To prepare or cause to be prepared a course of study for the public schools of the State and to prescribe the use that shall be made of the same. The State Board of Education shall draw up and issue a course of study in accordance with the above provisions not later than September 1, 1917.

(1917 L. Ch. 129, p. 436; 1913 L., Ch. 115, p. 435, Sec. 9; C. L. 38:21, and 1911 L. 488, Sec. 9.)

Ann. Note: Cited *O. S. L. Railway vs. Minidoka, etc.*, 28 I. 214, 153 P. 424, as to maximum levy and not applicable to section above.

Cross Reference: Preparation of eighth grade examinations, School Laws, Sec. 187.

Sec. 33. Elementary Course. The State course of study for the elementary schools shall be so drawn that the fundamentals of said course may be covered in the minimum school term of seven (7) months.

(1917 L. Ch. 129, p. 436; C. L. 38:21.)

Sec. 34. Advanced Courses. That additional advanced and supplementary matter shall be provided for schools having longer terms.

(1917 L. Ch. 129, p. 436; C. L. 38:21.)

Sec. 35. Credit for Practical Work. That in place of such additional matter pupils who take the shorter term may receive an equivalent amount for work done in the home, on the farm, and other phases of practical and economic life.

(1917 L. Ch. 129, p. 436; C. L. 38:21.)

Sec. 36. Advisory Commission. The State board shall appoint an advisory commission to work under its direction and aid in revising the State course of study, which commission shall include representatives of the teaching profession and also an equal or greater number of members chosen from other occupations and walks of life and representing the various sections of the State. The said commission shall also consider other questions concerning the work of the public schools of the State.

(1917 L. Ch. 129, pp. 436-7.)

Sec. 37. Same—Report of Advisory Commission. A comprehensive report of the work of the commission and of the actions of the State Board of Education in connection

therewith shall be made to the Governor and the Legislature not later than January 1, 1919.

(1917 L. Ch. 129, p. 437.)

Sec. 38. Expenses of Advisory Commission. The actual expenses incurred by the said commission in the prosecution of its work shall be paid from any portion of the teachers' certification fund which has accrued and unexpended on February 1, 1917. Said payments to be made on claims certified by the State Board of Education and approved by the State Board of Examiners.

(1917 L. Ch. 129, p. 437.)

Sec. 39. Vocational Education. To encourage and promote agricultural education, manual training, domestic science, and such other vocational and practical education as the needs of this State may from time to time require.

(1911 L. 487, Sec. 6; C. L. 38:22.)

Sec. 40. Supervise Courses in Institutions. Classify, standardize and define the limits of all instruction in the State educational institutions of the State and promote the efficiency, harmonize the educational interests and, so far as practicable, prevent wasteful duplication of effort in such institutions.

(1913 L. Ch. 77, p. 331, Sec. 7 (3); C. L. 38:23.)

Sec. 41. Prescribe Courses of Study. Prescribe the minimum course of study for the public schools of the State.

(1913 L. Ch. 77, p. 331, Sec. 7 (3).)

Sec. 42. Supervision of Text Books. Determine how and under what regulations text books shall be adopted for the use of such schools; determine whether or not text books shall be free and prescribe the regulations under which such text books may be provided.

(1913 L. Ch. 77, p. 331, Sec. 7 (3); C. L. 38:24.)

Sec. 43. Supervise Summer Normal Schools. Supervise, govern and direct the work of the State summer normal schools and teachers' institutes; decide as to the number and location of such schools and teachers' institutes; establish or approve professional schools in accordance with law and determine the credit which may be granted for all work done in such schools.

(1913 L. Ch. 77, p. 332, Sec. 7 (4); C. L. 38:26.)

Sec. 44. Certification. Shall have entire supervision and control of the certification of teachers in accordance with law and shall have authority to modify or simplify at its discretion the procedure in carrying out the provisions of law.

(1913 L. Ch. 77, p. 332, Sec. 7 (5); C. L. 38:28.)

Sec. 45. **State Library Commission.** Supervise, govern and direct the State Library Commission and adopt such regulations for its administration as may contribute to its efficiency in the service of the people and in promoting the educational welfare of the State.

(1913 L. Ch. 77, p. 332, Sec. 7 (6); C. L. 38:33.)

Sec. 46. **Conserve Health.** In co-operation with other departments of the State government, the board shall see to it that the rules relating to schools, health, compulsory education, child labor and child conservation are enforced, and, in addition, shall plan an active campaign for the public conservation of childhood.

(1913 L. Ch. 77, p. 332, Sec. 7 (7); C. L. 38:34.)

Sec. 47. **Health Supervision.** In co-operation with the State Board of Health, shall standardize sanitary appliances, school furniture, school equipment and supplies and school buildings; shall provide for an efficient system of health supervision, medical inspection and physical development work in all public schools, and prepare and adopt such rules and regulations as will provide for the effective administration of such system. It shall, if deemed advisable, set aside such school funds as may be found necessary to properly administer such system.

(1913 L. Ch. 77, p. 332, Sec. 7 (8); C. L. 38:35.)

Sec. 48. **Sanitary Regulations.** To prescribe rules and regulations for the sanitary equipment and inspection of school buildings, and to take such other action as it may deem necessary and expedient to promote the physical and moral welfare of the children of the public schools of this State.

(1911 L. 488, Sec. 7.)

Sec. 49. **Reports of Schools.** Standardize, approve or compile and adopt for use in all State institutions and public schools of the State, a system of reports covering all essential phases of administration of such educational work and shall enforce the use of such adopted forms for reports.

(1913 L. Ch. 77, p. 332, Sec. 7 (9); C. L. 38:36.)

Sec. 50. **Teachers' Examinations.** Prepare or cause to be prepared examination questions for all classes of teachers' certificates requiring written examinations.

(1911 L. Ch. 159, p. 488, Sec. 10; C. L. 38:29.)

Sec. 51. **Examining Board.** Appoint a sufficient number of competent examiners to read and grade the papers of all applicants for all classes of certificates.

(1911 L. Ch. 159, p. 488, Sec. 11; C. L. 38:30.)

Sec. 52. **Examining Board Expenses.** Pay such examiners for such services a sum not to exceed five (\$5.00)

dollars per diem together with actual mileage and expense for all time spent upon examining papers and for all time necessarily consumed en route to and from the place where the grading is done. Said payments to be made out of the funds of the State Board of Education.

(1911 L. Ch. 159, p. 488, Sec. 11; C. L. 38:30.)

Cross Reference: 1915 L. 331.

Sec. 53. Record of Examinations. Keep a record of the grades made by all persons taking examinations, to preserve all examination papers for ninety (90) days.

Sec. 54. Record of Certificates. Keep a record of all certificates granted or revoked, showing to whom issued, age of grantee, date of issue, grade and duration of each certificate, and, if revoked, the date and reason therefor.

(1911 L. Ch. 159, p. 488, Sec. 12; C. L. 38:31.)

Cross Reference: School Laws, Secs. 98a and 98b.

Sec. 55. Report on Examination Results—County Certificates. Report to the county superintendents all the grades of each and every applicant for county certificates from the respective counties throughout the State, such reports to constitute the authority for the issuance of such county teachers' certificates as are provided by law.

(1911 L. Ch. 159, p. 488, Sec. 13; C. L. 38:32.)

Sec. 56. Institutes—County and Joint. Prescribe rules and regulations for the holding of teachers' county and joint county institutes, such institutes being convened as provided by this act at such times and places as shall be determined by the county superintendents of the respective counties.

(1911 L. Ch. 159, p. 489, Sec. 14; C. L. 38:27.)

Sec. 57. Publication of Reports. At such times as may be deemed advisable, and consistent with its financial ability so to do, it shall prepare and order published such reports, including statistical tables, as may constitute a contribution to the general educational welfare of the State, and shall provide for the distribution of the same.

(1913 L. Ch. 77, p. 332, Sec. 7 (10).)

Sec. 58. Course of Study for Penitentiary Inmates. The State Board of Education shall have prepared courses of study for all grades and make provision for the giving of university extension courses to all prisoners held under the jurisdiction of the warden of the Idaho State Penitentiary and the State Board of Prison Commissioners shall make necessary arrangements for putting into effect all provisions for the education of such persons as are prisoners of the State and held under the jurisdiction of said warden.

(1917 L. Ch. 106, p. 385, Sec. 2 (4a); C. L. 38:39.)

Sec. 59. Annual Report of State Board of Education—Recommendations. The president and secretary of said State Board of Education and Board of Regents of the University of Idaho shall, on the first day of January of each year, transmit to the Governor of the State, and to the Legislature at its regular session, a report of the doings of said board, setting forth a full report of the expenditures of the same for the previous year, giving each item in full, and the date thereof, and such recommendations as they deem proper for the good of the State educational institutions and public schools of the State.

(1913 L. Ch. 77, p. 332, Sec. 8; C. L. 38:38.)

Sec. 60. Scope and Purpose of Act. This act constitutes a law providing for the establishment and government of a State Board of Education in compliance with Section 2 of Article 9 of the Constitution of the State of Idaho, and all acts or parts of acts which modify or tend to modify this act or any part thereof shall be disregarded by the courts in the construction of the school laws of Idaho.

(1913 L. 333, Sec. 10.)

Sec. 61. Budget and Financial Statement.

a. The State Board of Education and Board of Regents of the University of Idaho and the Boards of Trustees of * * * other State institutions shall on or before the fifteenth day of December, 1914, and biennially thereafter, file with the State Board of Examiners an itemized account of all expenditures for the previous two years and * * * at the same time file with such * * * examiners an itemized estimate of the necessary funds which the incoming Legislature will be asked to appropriate for such State institutions.

(1913 L. 487; C. L. Sec. 281c.)

b. The heads of each department of the State, Governor and all officers maintained by the State of Idaho * * * shall on or before the 15th day of December, 1914, and biennially thereafter [see Sec. 61a, supra].

(1913 L. 487; C. L. Sec. 281d.)

c. Any officer, member of the State Board of Education, or Board of Trustees, or the head of any department * * * neglecting to comply with the provision of this act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500.00.

(1913 L. 488; C. L. Sec. 281f.)

Sec. 62. Agricultural Extension Work—Smith-Lever Funds.

a. The State Board of Education and Board of Regents

of the University of Idaho * * * are authorized and empowered to receive the grants * * * appropriated under such act and to organize and conduct agricultural extension work, which shall be carried on in connection with the terms and conditions expounded in the act of Congress * * * .

(1915 L. 397.)

b. The treasurer of the State Board of Education and Board of Regents of the University of Idaho is hereby designated as the officer to whom all moneys granted to the State of Idaho under this Act shall be paid.

(1915 L. 397.)

Sec. 63. **High Altitude Experimental Farm.**

a. The Director of Experiment Stations and the State Board of Education are * * * authorized to select a tract of State land for the purpose of establishing experiment farm * * * located at an elevation of 6000 feet or more * * * for experimentation and demonstration work for high altitude areas * * * and * * * for the purpose of developing the high altitude areas of the State for agricultural purposes.

(1917 L. 458.)

b. The control and conduct of said experiment farm shall be the same as have heretofore been provided for to the experiment farms of the State.

(1917 L. 458.)

(See Art. IV-C, post; see Art. IV-E-3, post.)

Sec. 64. **Secondary Agricultural Schools.**

(1909 L. 339.)

Reference: See Art. IV-E-1, post.

Sec. 65. **Caldwell Experiment Farm.**

(1911 L. 792.)

Reference: See Art IV-E-2, post.

Sec. 66. **County Agents.**

(1917 L. 483.)

Reference: See Art. IV-E-4, post.

Sec. 67. **Coeur d'Alene Farm.**

(35 S. at L. 626.)

Reference: See Art. IV-F-1, post.

Sec. 68. **Carnegie Foundation—Eligibility.**

(1909 L. 445.)

Reference: See Art. IV-E-5, post.

C. Rules and Regulations.

- I. Board Procedure.
- II. General Control.
- III. Central Office.
- IV. Institutions.
 1. General.
 2. Special.
 - a. University of Idaho.
 - b. Lewiston State Normal School.
 - c. Albion State Normal School.
 - d. Idaho Technical Institute.
 - e. Industrial Training School.
 - f. Deaf and Blind School.
 3. Summer Schools.
- V. Public Schools.
- VI. Certification.
- VII. Publications.
- VIII. Miscellaneous.

I. Board Procedure.

1. OFFICERS :

The officers of this board shall be
 President,
 Vice-President,
 Secretary.

These officers shall be elected annually at the first regular meeting in each calendar year and shall hold office for one year from the first Monday in April of said year.

2. MEETINGS :

Regular meetings of the board, except as otherwise determined by special vote, shall be held quarterly on the third Tuesday of January, April, July and October.

The president shall call special meetings as provided by law, or upon receipt of a request in writing signed by three members of the board or as instructed by a majority vote of the board at any meeting.

3. ORDER OF BUSINESS :

In general the business to come before the board shall be considered in order as follows :

- a. Reading and approval of minutes.
- b. Report of commissioner.
- c. Report of business agent.
- d. Reports of standing committees.
- e. Reports of heads of institutions.
- f. Reports of special committees.
- g. Unfinished business.
- h. New business.

4. PLACE OF MEETING :

All regular meetings of the board shall be held at its office in the Capitol at Boise, Idaho.

5. QUORUM :

A majority of the board shall constitute a quorum for the transaction of business, provided that any action affecting the tenure or salary of the head of any institution shall require the approval of a majority of the entire board. A number less than a quorum may adjourn from time to time.

A majority of the members of any committee shall constitute a quorum thereof; but all actions of committees shall require the approval of a majority of the board members who are included in the committee concerned; provided that any member of a committee may require that an action taken by the committee be referred to the whole board for approval before being put into effect.

6. ACTIONS BY CORRESPONDENCE :

The board as a whole and any committee may take action by correspondence, provided that such action shall in all cases be unanimous.

7. COMMITTEES :

At the regular April meeting in each year the president shall appoint the following committees to serve one year :

a. An executive committee for each of the State educational institutions. Each executive committee shall include the head of the institution, who shall be the secretary of the committee, the Commissioner of Education, and a member of the board, who shall be chairman of the committee; in the case of the university two additional board members, one of whom shall be the president of the board.

b. A committee on public schools, consisting of the Commissioner of Education and three members of the board, one of whom shall be the State Superintendent.

c. A certification committee, consisting of the Commissioner and the State Superintendent.

d. A business administrative Committee, consisting of two members of the board, the commissioner, and the business agent, who shall be secretary.

8. COMMITTEE MINUTES :

All committees shall make minutes of each meeting as held and of all actions taken by correspondence, transmitting copies immediately to the commissioner, the business agent, and the several members of the board.

All actions as expressed in such minutes shall be subject to approval at the regular meetings of the board, and when approved shall become a part of the minutes of the board.

9. RULES OF ORDER :

In all matters of procedure not especially covered by the

regulations of the board, the provisions of Roberts' Rules of Order shall be followed.

II. General Control.

1. THE BOARD WILL:

a. Authorize annual budgets or estimates providing for the expenditure of its own funds and the funds of the institutions. Any modifications of these budgets must be approved by the board.

b. Make all appointments to its own staff and the staffs of the various institutions; provided that it may delegate the filling of minor positions.

c. Decide all questions of policy, and all new or important questions arising in its affairs; except in cases of emergency as hereinafter provided.

2. INSTITUTION COMMITTEES:

The executive committees of the several institutions have the following duties:

a. To discuss and formulate all matters concerning the institutions which are to be presented to the board for action, including particularly:

Annual budgets of expenditures, and

Appointments to the staff; provided that nominations for such appointments be made by the head of the institution.

b. To act upon emergencies between meetings of the board in matters that would ordinarily be acted upon by the board.

c. To approve quarterly budgets which shall be within the annual budgets approved by the board.

2A. GENERAL COMMITTEES: BUSINESS ADMINISTRATION.

a. The business administration committee shall consider all matters of financial and business procedure and administration, and make recommendations to the board concerning them.

b. This committee shall be a standing committee on rules and regulations.

c. This committee may at any time make recommendations relating to the business administration of any institution to the executive committee of that institution.

2B. GENERAL COMMITTEES: PUBLIC SCHOOLS.

a. The public schools committee shall consider all matters relating to the public schools of the State and make recommendations to the board concerning them.

b. This committee shall have power to approve plans

for the consolidation of school districts under Section 47c of Article V of the School Law.

Note: Section 47c referred to is found at C. L. 38:68; 1913 L. ch. 119, § 1, p. 463; see *Carlson v. Mullen*, 29 I. 795; 162 P. 332.

2C. GENERAL COMMITTEES: CERTIFICATION.

a. The certification committee shall pass upon all cases of certification arising under the statute and the certification rules of the State Board of Education.

b. This committee shall formulate and recommend to the board regulation concerning certification in accordance with Section 90c of the School Law.

Note: Section referred to found at C. L. 38:147; 1915 L. ch. 153, § 3, p. 327.

3. THE COMMISSIONER OF EDUCATION is the general executive officer of the board, and has the duties and powers prescribed by statute, and by the following provisions:

a. He shall exercise general supervision over the whole educational system of the State, and over all matters controlled by the board.

b. He shall bring to the attention of the board any and all matters which in his judgment need consideration.

c. He shall act as a member of the executive committee of each institution, and especially to assist in keeping the procedure and actions of each institution in accord with the general policies of the board.

d. He shall confer with the head of each institution on all matters of moment, and, at his discretion, call meetings of the heads, or groups of them, for discussion of matters of common concern.

4. THE HEAD OF EACH INSTITUTION shall have the following duties and powers:

a. He shall originate plans or policies, nominate candidates for all vacancies in the staff, organize the budget expenditures, and in other ways take the initiative in the organization and administration of the institution, and present all these matters to the executive committee, and through the committee to the board. Provided that the head of the institution shall appear personally before the board, when necessary, and in all cases at least once a year.

b. All official communications between a member of the staff of any institution and the board or the executive committee shall be made through the head of the institution; provided that any such member has the right of formal written appeal first to the executive committee and thence to the board, a copy of which appeal shall be filed with the head of the institution.

5. THE BUSINESS AGENT has the following duties:

a. To plan and organize, under the direction of the commissioner and the board, and in conference with the heads and business officers of the institutions, the financial and statistical work of the board.

b. He is to check up and approve vouchers from the institutions; for this purpose the several institutions shall supply payrolls which have been properly approved and give notice of any changes as they may occur from time to time.

c. He shall also be supplied with annual and quarterly budgets for all institutions which are to be approved respectively by the board and the executive committees.

All vouchers must be in accord with the payrolls filed and approved or within the budgets approved. The business agent shall pass no claim which appears to be unauthorized until a full investigation has been made and satisfactory evidence of authorization secured.

d. He shall cooperate with the institutions in securing the best possible prices and qualities for all purchases. Plans are to be made for pooling purchases for all or several institutions where economy and efficiency can be increased thereby.

6. BUDGETS, REQUISITIONS AND VOUCHERS:

All expenditures of institution funds shall be authorized as follows:

a. The executive committee of each institution shall present to the board an annual budget for each year's expenditures; this budget when approved by the board shall govern all expenditures. Such budgets shall become part of the minutes of the board. They may be modified only by an action of the board.

b. The executive committee shall approve quarterly budgets within the limits of the approved annual budgets. These budgets shall be entered in full in the minutes of the executive committee, and may be modified by the said committee.

c. The head of the institution shall approve on proper requisition forms all specific expenditures within the limits of the quarterly budgets.

III. Central Office.

1. STAFF.

(1) The commissioner, state superintendent, business agent, chief clerk, certification clerk, stenographer and such other office assistants as may be appointed by the board shall constitute the staff.

(2) All members of the staff with exception of the state superintendent shall be appointed and shall hold office and be paid subject to the provisions of the laws of the State and within the limits of funds legally available for such purposes.

(3) The Commissioner of Education is responsible for the organization and administration of the central office and shall have full power and authority in all matters arising in the office. He shall direct and supervise the work of all members of the staff in accordance with these rules and regulations and other actions of the State Board of Education.

(4) The business agent and other heads of the departments shall be appointed by the board upon the recommendation of the commissioner as provided in the statute.

(5) Clerks, stenographers and other assistants shall be appointed and their duties assigned by the commissioner with the advice of the head of the department concerned.

(6) All employees of the State Board of Education hold office by virtue of service satisfactorily rendered. Heads of departments may be removed at any time by the board upon recommendation of the commissioner; other employees by the commissioner.

2. PRINTING, PUBLISHING AND MAILING:

(1) All printing jobs estimated to run over \$100 shall be submitted for bids to not less than three shops.

(2) No printed matter shall bear the imprint of the shop doing the work.

(3) *a.* The Idaho Bulletin of Education shall be published not less than four times a year. The January issue in even years shall be the annual report of the board, and in odd years the biennial report.

b. The commissioner shall be editor of the Bulletin, and determine the content and form of all issues, subject to the actions of the board.

(4) Mailing list for printed and circular matter shall be approved by the commissioner.

(5) The business agent shall provide for recording the distribution of printed and circular matter, showing number of copies made, and to whom sent.

(6) All official bulletins, handbooks, etc., which relate to the work of the public schools, or to the field of education in general, will be published under the authority of the State Board of Education, and issued from the state department.

(7) The central office and the several institutions shall give as much of their small jobs of printing to the printing department of the Industrial Training School as is necessary to give the pupils in that department constant practice, the charge of the Industrial Training School for all such work to include only cost of materials.

ARTICLE II.

EDUCATIONAL AND ENDOWMENT GRANTS.

A. Common (Elementary and High) Schools.

I. GRANT OF SECTIONS 16 AND 36.

1. Sections 16 and 36 in each township in the territory which, when surveyed, be "reserved for the purpose of being applied to schools in said territory and in the states and territories hereafter to be erected out of the same."

(Act of 3 March, 1863; 12 S. at L. 808.)

(Organic Act of the Territory of Idaho.)

2. Sections 16 and 36 in the territories of * * * Idaho * * * shall be reserved for * * * being applied to schools in the * * * territories * * * and in the states * * * to be erected out of the same.

(Act of 3 March, 1863; 12 S. at L. 814.)

(Sec. 1946 Rev. Stat. of U. S.)

3. Sections 16 and 36 * * * granted to State for support of common schools.

(Sec. 4 of Act of 3 July, 1890; 26 S. at L. 215.)

(Idaho Admission Bill.)

II. GRANT OF PERCENTAGE OF PROCEEDS OF SALE.

1. Five per cent of the proceeds of sale of public lands * * * within * * * State * * * subsequent to * * * admission of said State * * * after deducting * * * expenses * * * are to be paid to * * * State * * * as a permanent fund * * * the interest * * * only (to be) expended for the support of the common schools within the State.

(See: 32 S. L. 388; Act 17 June, 1902; Art. III-A-II-2a, post.)

B. University Grants.

I. GENERAL GRANT TO TERRITORIES.

1. Seventy-two entire sections granted to Idaho et al. for use and support of a university "when * * * admitted as states"; lands to be sold under the direction of the Secretary of the Interior; proceeds to be invested in United States bonds, the same to constitute a university fund; no part of income therefrom to be expended for buildings or salaries of teachers or professors until fund reaches \$50,000, and then only interest to be used for

either of the foregoing purposes until the said fund shall amount to \$100,000, when any excess and the interest thereof may be used for the proper establishment and support, respectively, of said universities.

Act of 18 February, 1881; 21 S. at L. 326.)
(See 1 Con. Conv. Pro. 1292.)

II. SPECIFIC GRANTS TO IDAHO.

1. For "university purposes."

"That the lands granted to the Territory of Idaho by the act of February 18, 1881, * * * are hereby vested in the State of Idaho to the extent of the full quantity of seventy-two sections to said State * * *, the proceeds shall constitute a permanent fund to be safely invested and held by said State and the income thereof to be used exclusively for university purposes. * * * ."

(Sec. 8 of Act of 3 July, 1890; 26 S at L. 215.)
(Admission Bill.)

2. For support and maintenance of university.

"That in lieu of the grant of land for * * * internal improvement (Sec. 8, Act 4 Sept. 1881; 5 S. at L. 455) * * * repealed as to the State of Idaho, and in lieu of * * * claim by the * * * State under the act of September 28, 1850 (9 S. at L. 519) and Section 2479 * * * Revised Statutes * * * which grant is hereby declared, is not extended to the State of Idaho and in lieu of of any grant of saling lands (see 18 S. at L. 476) the following grants of land are hereby made, to-wit: To the State of Idaho: * * * for the support and maintenance of the State University, located at Moscow, 50,000 (Sec. 11, Act 3 July, 1890; 26 S. at L. 215).

(Idaho Admission Bill.)

III. BENEFICIARY OF GRANT.

1. Constitution of Idaho:

a. " * * * All the rights, immunities, franchises, and endowments heretofore granted thereto by the Territory of Idaho are hereby perpetuated unto the said university * * * ."

b. "The regents shall have * * * the control and direction of all the funds of * * * the university, under such regulations as may be prescribed by law."

Const. Art. IX, Sec. 10.

c. "The permanent educational funds *other than funds arising from the disposition of university lands* belonging to the State, shall be loaned * * * ."

(Const. Art. IX, Sec. 11. Amendment No. 7.)

2. Statutes of Idaho:

a. The University of Idaho established at Moscow.
(15 Ter. Laws 21; 1889 L. 21.)

b. Appropriation to university of all accruals of grants of 18 Feb., 1881 (21 S. at L. 326, supra) and of 3 July, 1890 (Sec. 11, 26 S. at L. 215, supra) said proceeds to be placed in "University Fund" for the support and maintenance of the university.

(1905 L. 417; C. L. 40:6 to 40:9, inc.)

c. Funds to be deposited under State depository law.
(1915 L. 385; C. L. 31:19.)

3. Decisions: Evans vs. Van Deusen (31 I. 614, 174 P. 122).

(See X-III, post.)

C. Agricultural College Grant.

I. Ninety thousand acres * * * granted to State for the use and support of an Agricultural College in said State "as provided in the acts of Congress making donations of land for such purposes."

NOTE—"By the Idaho admission act, Congress granted to the State 90,000 acres of land as an endowment for an agricultural college or colleges *in accordance with the act of July 2, 1862 (12 S. at L. 503, C. 130).* (Emphasis ours.)

(Evans vs. Van Deusen, 31 I. 614, 174 P. 122.)

Reference: Art. IV-C-I-3, post.

II. BENEFICIARY.

1. Statutes of Idaho:

a. Appropriates accruals of grant of Sec. 10, act of 3 July, 1890 (26 S. at L. 315) to support and maintenance of college or department of art at the University of Idaho for the years 1905 and 1906, being the avails of the agricultural college fund.

(1905 L. 419; C. L. 40:10.)

b. Continues and perpetuates appropriation made to college or department of arts of the agricultural college fund made by 1905 Laws 419, supra.

(1907 L. 27.)

c. Approves and confirms action of board of university in establishing and maintaining a college of agriculture in connection with the University at Moscow, and in accordance with acts of Congress of 2 July, 1862, and 30 August, 1890; (12 S. at L. 503; 26 S. at L. 417).

(1909 L. 38.)

d. Re-creates "Agricultural College Fund" to include moneys in existing fund and proceeds of 90,000-acre agricultural grant and perpetually appropriates the

avails therefrom to the maintenance of the agricultural college in the University of Idaho.

(1911 L. 62.)

2. Decisions:

Evans vs. Van Deusen, 31 I. 614, 174 P. 122.

(See Art. X-III, post.)

D. Scientific School Grant.

I. TO ESTABLISHMENT AND MAINTENANCE OF SCIENTIFIC SCHOOL.

1. One hundred thousand acres granted to the State of Idaho for the establishment and maintenance of a scientific school.

2. In lieu of grant of acts named supra in B-II-2a.

(Sec. 11 Act of 3 July, 1890; 26 S. at L. 215.)

II. BENEFICIARY.

1. Statutes:

a. Creates "Scientific School Fund" or moneys in said fund and proceeds of grant of 100,000 acres.

(Sec. 11, 26 S. at L. 215.)

b. Appropriates accruals of "Scientific School Fund" for the years 1905 and 1906 to "supporting and maintaining the college or department of arts at the University of Idaho."

(1905 L. 418.)

c. Continues and perpetuates appropriation made by 1905 Laws 418 supra, of scientific school fund to supporting and maintaining college or department of arts at the university.

(1907 L. 26; C. L. 40:9.)

Reference: 1901 L. 158.

2. Decisions:

Evans vs. Van Deusen, 31 I. 614, 174 P. 122.

E. State Normal School Grants.

I. FOR STATE NORMAL SCHOOLS.

1. To the State of Idaho: For State Normal Schools, 100,000 acres.

2. In lieu of grants of acts named supra in B-II-2a.

(Sec. 11 Act of 3 July, 1890; 26 S. at L. 215.)

II. BENEFICIARIES.

1. *Normal School Fund.*

a. Creates "Normal School Fund," crediting to the same the present moneys therein, and future accruals from normal school grant of Sec. 11, 22 S. at L. 215.

Limits expenditure to support and maintenance of the

Albion State Normal School and the Lewiston State Normal School.

Not more than one-half of accruals to said fund shall ever be appropriated for the support and maintenance of either of such schools.

b. Appropriates one-half of normal school fund to support and maintenance of Lewiston State Normal School for 1905 and 1906 and perpetually thereafter.

c. Appropriates one-half of normal school fund to support and maintenance of Albion State Normal School for 1905 and 1906 and perpetually thereafter.

(1905 L. 393; C. L. 43:2 and 43:3.)

2. *Lewiston State Normal School.*

a. One-half of normal school grant (Sec. 11, 26 S. at L. 215) permanently ceded to Lewiston State Normal School.

Use of entire avails from grant appropriated to Lewiston State Normal School until another normal school established.

(1893 L. 6; C. L. Sec. 504.)

b. One-half of normal school fund appropriated to Lewiston State Normal School.

(1899 L. 164.)

c. See Art. II-E-II-1-b, supra.

(1905 L. 393.)

3. *Albion State Normal School.*

a. Grant of pro rata share of proceeds of normal school grant (Sec. 11, 26 S. at L. 215) set aside to the Albion State Normal School.

(1893 L. 179; C. L. Sec. 521.)

b. See Art. II-E-II-1-b, supra.

(1905 L. 393.)

4. Decisions:

Evans vs. Van Deusen, 31 I. 614, 174 P. 122.

F. Institutional Grant.

I. One hundred fifty thousand acres to the State of Idaho for other State, charitable, educational, penal, and reformatory institutions.

In lieu of grants: See Art. II-B-II-2, supra.
(Sec. 11 of 26 S. at L. 215.)

II. BENEFICIARY.

1. Grant of Land.

a. State Reform School at Mountainhome, 50,000 acres.

(1893 L. 165; reverted, 1899 L. 391.)

b. Soldiers' Home, 25,000 acres.

(1899 L. 191.)

c. Academy of Idaho, 40,000 acres.

(1901 L. 17.)

d. Idaho Industrial Reform School, 60,000 acres.

(1903 L. 12.)

(See 1903 L. 291.)

e. Idaho Industrial Reform School, 40,000 acres.

(1903 L. 291.)

f. North Idaho Insane Asylum, 40,000 acres.

(1905 L. 196.)

2. Grant of Proceeds. *

a. Soldiers' Home fund created including five-thirtieths of proceeds of charitable, educational, penal, and reformatory institutions grant (perpetual).

(1905 L. 405.)

b. Academy of Idaho fund created, including four-fifteenths of proceeds of charitable, educational, penal, and reformatory institutions grant (perpetual).

(1905 L. 409.)

c. Idaho Industrial Reform School fund created, including four-fifteenths of proceeds of charitable, educational, penal, and reformatory institutions grant (perpetual).

(1905 L. 415.)

d. Charitable institutions fund created, including nine-thirtieths of proceeds of charitable, educational, penal, and reformatory institutions grant.

Temporary appropriation to education of deaf, dumb, and blind.

(1905 L. 421.)

NOTE—1. Total apportionment in acreage, 145,000.

2. Total perpetual apportionment of proceeds, seven-tenths.

3. Decisions:

Evans vs. Van Deusen, 31 I. 614, 174 P. 122.

G. Temporary Deposit of Funds.

I. STATE DEPOSITORY LAW.

1. "All moneys temporarily in the hands of the State Treasurer belonging to the permanent charitable, educational, public school, or university land endowment funds or other funds under the control of the State Board of Land Commissioners shall be deposited by him subject to the provisions of this act pending the investment thereof by the said board, who shall have control of the disposition or investment thereof as is now or may hereafter be provided by law * * * ."

(1915 L. 385; C. L. 13:19.)

Reference: See Const. Art. IX, Sec. 10, and 1 Con. Conv. Pro. 1292 to 1296, and 2 Con. Conv. Pro. 1452.

ARTICLE III.

FEDERAL AID APPROPRIATIONS.

A. Agricultural College Grants and Aids.

I. MORRILL ACT (FIRST).

1. Original Act.

a. Grant of 30,000 acres to each State for each Senator and representative in Congress according to the apportionment for the year 1860.

b. Purpose: To the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agricultural and the mechanic arts, in such manner as the Legislatures of the State may respectively prescribe in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

(Act 2 July, 1862; 12 S. 503.)

c. Note: The State of Idaho received the actual benefit of the First Morrill Act through the grant of 90,000 acres made in Section 10 of the Admission Bill (26 S. 215) "for the use and support of an agricultural college * * * as provided in the acts of Congress making donations of land for such purposes."

Evans vs. Van Deusen, 31 I. 614, 174 P. 122.

Reference: See Art. IV-C-I-3, post; see Art. X-II-1 and 2.

2. Amendments.

a. Time extended for acceptance of Act 2 July, 1862.

(Act 23 July, 1866; 14 S. 208.)

b. Provisions of Section 4 (Act 2 July, 1862) changed in relation to the investment of proceeds of grant.

(Act 3 March, 1883; 22 S. 484.)

c. Provision made for detail of army and navy officers to colleges receiving benefits of Acts 2 July, 1862, and 30 August, 1890.

(Act 22 Sept., 1888, 25 S. 491, and Act 13 January, 1891, 26 S. 17.)

d. Constitutes land grant colleges as depositories for public documents.

(Act 1 March, 1907; 34 S. 1014.)

e. Authorizes sale of military supplies and stores to colleges to which officers have been detailed under Acts of 26 Sept., 1888, and 13 January, 1891, supra.

(17 July, 1914; 38 S. 512.)

f. Establishes Officers' Reserve Training Corps at colleges benefited by Act of 2 July, 1862, and Acts supplemental thereof.

(Act 3 June, 1916; 39 S. 191.)

3. Idaho Decisions.

Melgard vs. Eagleson, 31 I. 411, 172 P. 655.

Evans vs. Van Deusen, 31 I. 614, 174 P. 122.

(See Art. X-II-1 and 2, post.)

4. Cited.

McNee vs. Donahue (U. S.) 35 L. Ed. 1122.

Mass. Ag. Col. vs. Marden (Mass.) 30 N. E. 555.

Wyoming ex rel vs. Irvine (Wyo.) 84 P. 90.

Wyoming ex rel vs. Irvine (U. S.) 51 L. Ed. 1063.

State vs. Bryan (Fla.) 39 So. 929.

- Marks vs. Trustees (Ind.) 37 Ind. 155.
 Cornell vs. Fiske (N. Y.) 19 N. E. 233.
 Cornell vs. Fiske (U. S.) 34 L. Ed. 427.
 State vs. Vicksburg (Miss.) 51 Miss. 361.
 People vs. Davenport (N. Y.) 30 Hun. 177.
 People vs. Davenport (N. Y.) 23 N. E. 664.
 Brown Univ. vs. Rhode Island College (C. C.) 56 F. 55.
 Yale vs. Sanger (C. C.) 62 F. 177.
 State Board vs. Fuller (Mich.) 147 N. W. 529.
 State vs. Clausen (Wash.) 99 P. 743.
 State vs. Brain (Neb.) 120 N. W. 916.
 In re Agricultural Funds (R. I.) 21 Atl. 916.

II. MORRILL ACT (SECOND).

1. Original Act.

a. **Appropriates** (present) \$25,000 per annum out of moneys in the Federal treasury arising from the sales of public lands.

b. **Purpose:** For the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts now or hereafter established in accordance with the Act of 2 July, 1862, to be applied only to instruction in agriculture and the mechanic arts, the English language and the various branches of mathematical, physical, natural, and economic sciences with special reference to the applications to the industries of life and to the facilities for such instruction.

(Act 30 August, 1890; 26 S. 417.)

Note: This Act interprets the field of expenditure for grants and funds made and appropriated by both the first and second Morrill Acts.

2. Amendments.

a. **Appropriates:** When the receipts of the sales of public lands in several States (Idaho included) are insufficient to meet the appropriations made for the agricultural colleges by the Act of 30 August, 1890, supra, the general funds of the Federal treasury are to be drawn on to supply the deficit.

Re-affirms grant of 5% of proceeds of sale of such lands to certain States for common school support.

(See Act 3 July, 1890, Idaho Admission Bill.)

(Act of 17 June, 1902; 32 S. 388.)

(Proviso to Act creating reclamation fund.)

b. Nelson Amendment.

Appropriates: Increases appropriation of Act of 30 July, 1890, to \$50,000 (present) per annum to each State.

Purpose: For the more complete endowment and maintenance of agricultural colleges now or hereafter established in accordance with the Act of 2 July, 1862, supra, and Act of 30 August, 1890, supra; PROVIDED, that said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of agriculture and mechanic arts.

(Act 4 March, 1907; 34 S. 1281.)

(Portion of Agricultural Appropriation Bill for 1908.)

3. Idaho Decisions.

Melgard vs. Eagleson, 31 I. 411, 174 P. 655.

(See Art. X-II-1 and 2, post.)

4. Cited.

- a. McNee vs. Donahue (U. S.) 35 L. Ed. 1122.
 Mass. Ag. Col. vs. Marden (Mass.) 30 N. E. 555.

- Wyoming ex rel vs. Irvine (Wyo.) 84 P. 90.
 Wyoming ex rel vs. Irvine (U. S.) 51 L. Ed. 1063.
 State vs. Bryan (Fla.) 39 So. 929.
 Marks vs. Trustees (Ind.) 37 Ind. 155.
 Cornell vs. Fiske (N. Y.) 19 N. E. 233.
 Cornell vs. Fiske (U. S.) 34 L. Ed. 427.
 State vs. Vicksburg (Miss.) 51 Miss. 361.
 People vs. Davenport (N. Y.) 30 Hun. 177.
 People vs. Davenport (N. Y.) 23 N. E. 664.
 Brown Univ. vs. Rhode Island College (C. C.) 56 F. 55.
 Yale vs. Sanger (C. C.) 62 F. 177.
 State Board vs. Fuller (Mich.) 147 N. W. 529.
 State vs. Clausen (Wash.) 99 P. 743.
 State vs. Brain (Neb.) 120 N. W. 916.
 In re Agricultural Funds (R. I.) 21 Atl. 916.

B. Agricultural Colleges—Extension Aid.

I. SMITH-LEVER ACT.

1. Original Act.

a. Appropriation: Increases from year to year and apportionment thereof based on rural population as shown by preceding Federal census and apportionment thereof in each State.

b. Purpose: To aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture and home economics and to encourage the application of the same, agricultural extension work to be carried on by the colleges established in accordance with the Acts of 2 July, 1862, and 30 August, 1890, in cooperation with the United States Department of Agriculture, said co-operative extension work to consist of the giving and instruction and practical demonstrations in agriculture and home economics to persons not attending or a resident in said colleges in the several communities, and imparting to such persons information on said subjects to field demonstrations, publications, and otherwise; and this work should be carried on in such manner as may be mutually agreed upon by the Secretary of Agriculture and the State Agricultural College or colleges receiving the benefits of this Act.

(Act of 8 May, 1914; 38 S. 372.)

2. Amendment.

a. Provides for the publication of reports of operations under Acts of 8 May, 1914 (38 S. 372) and 2 March, 1887 (24 S. 440).

(Act of 4 March, 1915; 38 S. 1110.)

C. Agricultural Experimental Stations Aid.

I. HATCH ACT.

1. Original Act.

a. Appropriates \$15,000 per annum to each State, not exceeding one-fifth of the first annual appropriation of which may be expended in the erection, enlargement, or repair of a building or buildings necessary for carrying on the work of such station and thereafter an amount not exceeding 5% of such annual appropriation may be so expended.

b. Purpose: To establish at the colleges benefited by the Act of 2 July, 1862, a department to be known and designated as an Agricultural Experiment Station to aid in acquiring and diffusing among the people useful and practical information on subjects connected with agriculture and to promote scien-

tific information, investigation, and experiment respecting the purpose and applications of agricultural science.

"That it shall be the object and duty of said experiment stations to conduct original researches or verify experiments on the physiology of plants and animals; the diseases to which they are severally subject, with the remedies of the same; the chemical composition of useful plants at their different stages of growth; the comparative advantages of rotative cropping as pursued under the varying series of crops; the capacity of new plants or trees for acclimation; the analysis of soils and water; the chemical composition of manures, natural or artificial, with experiments designed to test the comparative effects on crops of different kinds; the adaptation and value of grasses and forage plants; the composition and digestibility of the different kinds of food for domestic animals; the scientific and economic questions involved in the production of butter and cheese; and such other researches or experiments bearing directly on the agricultural industry of the United States as may in each case be deemed advisable, having due regard to the varying conditions and needs of the respective States or Territories."

(Act of 2 March, 1887; 24 S. 440.)

2. Amendments.

a. Provides for assent by Government in lieu of Legislature.

(Act of 7 June, 1888; 25 S. 176.)

b. Department of Agriculture designated as "Executive Department."

(Act of 9 July, 1889; 25 S. —.)

c. Examination of soils added to the scope of operation under the terms of Hatch Act.

(Act of 2 March, 1889; 25 S. 840.)

d. Secretary of Agriculture made Commissioner of Agriculture.

(Act of 14 July, 1890; 26 S. 288.)

e. Payments under Hatch Act to be made quarterly.

Report to be made by Secretary of Agriculture to Congress of expenditures under Hatch Act.

(Act of 2 March, 1901; 31 S. 935.)

f. ADAMS ACT.

Appropriates (present) \$30,000 per annum to each State.

Purpose: To be applied only to paying the necessary expense of conducting necessary researches or experiments bearing directly on the agricultural industry of the United States, having due regard to the varying conditions and needs of the respective States or Territories and for the more complete endowment and maintenance of agricultural experiment stations now or hereafter established in accordance with the Act of March 2, 1887.

(Act of 16 March, 1906; 34 S. 63.)

g. Construes Act of 16 March, 1906 (34 S. 63) and connects said Act with Act of 2 March, 1887 (24 S. 440).

(Act of 30 June, 1906; 34 S. 696.)

h. Provides for publication of reports of operations under Hatch and Smith-Lever Acts.

(Act of 4 March, 1915; 38 S. 1110.)

i. Forms of reports to be prescribed by Secretary of Agriculture.

(Act of 11 August, 1916; 39 S. 440.)

D. Vocational Training.

I. SMITH-HUGHES ACT.

1. Original Act.

a. **Purpose:** To cooperate with the States in paying the salaries of teachers, supervisors, and directors of agricultural

subjects and teachers of trade, home economics, and industrial subjects and in the preparation of teachers of agriculture, trade, industrial, and home economics subjects and to support the Federal Board for Vocational Education; Provided, That not more than 25% of the moneys appropriated under this Act for the payment of salaries of teachers of trade, home economics, and industrial subjects for any year shall be expended for the salaries of teachers in home economics subjects.

b. Appropriation increases from year to year.

c. Cooperation of State with Federal Government is necessary.

(Act of 23 Feb., 1917; 39 S. 929.)

E. Vocational Rehabilitation.

I. NATIONAL.

1. Original Act.

a. Purpose: To educate and train disabled men discharged from military and naval forces in a course of vocational rehabilitation.

b. Appropriation made therefor in addition to Smith-Hughes Act.

c. Board created by Smith-Hughes Act charged with carrying out provisions of this Act.

(Act of 27 June, 1918; 40 St.)

F. Idaho Statutes in Relation to Federal Aid Grants.

Note: For full texts and notes to Idaho Statutes in relation (1), (2), (3), (4), (5) herein, see Article IV-C, post.

(1) First Morrill Act (7-2-62; 12 S. L. 503).

(1891 L. 16; 2-23-91; C. L. 40:1.)

(1899 L. 9; 2-2-99; C. L. 40:1.)

(1909 L. 38; 3-6-09; C. L. 496a.)

(1915 L. 397; 3-2-15; C. L. 40:4.)

(2) Second Morrill Act (8-30-90; 26 S. L. 417).

(1891 L. 16; C. L. 40:1.)

(1899 L. 9; C. L. 40:1.)

(1909 L. 38; 3-6-09; C. L. 496a.)

(1915 L. 397; 3-2-15; C. L. 40:4.)

(3) Hatch Act (3-2-87; 24 S. L. 440).

(1891 L. 16; 2-23-91; C. L. 40:2.)

(1899 L. 9; 2-2-99; C. L. 40:2.)

(1909 L. 340; 3-13-09.)

(4) Adams Act (3-16-06; 34 S. L. 63.)

(1907 L. 22; 2-15-07; C. L. 40:3.)

(5) Smith-Lever Act (5-8-14; 38 S. L. 372.)

(1915 L. 397; 3-2-15; Resolution; C. L. 40:5.)

(1917 L. 483; 3-4-17; C. L. 40:5.)

(6) a. Smith-Hughes Act (2:23-17; 39 S. L. 929).

(1919 Session; H. B. 26.)

(6) b. Text of Assent to Smith-Hughes Act.

That the State of Idaho hereby accepts the benefits and provisions of an Act of Congress approved February 23, 1917, entitled "An Act to provide for the promotion of vocational education, to provide for the cooperation with the States and the promotion of such education in agriculture and the trades and industries; to provide for the cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," commonly known as the Smith-Hughes Act.

The State Board of Education is hereby designated as the State Board for Vocational Education for the purpose of carrying into effect the provisions of the Federal Act, known as the Smith-Hughes Act, and is hereby authorized to cooperate with the Federal Board for Vocational Education in the ad-

ministration and enforcement of the provisions of said Act, and to exercise such powers and perform such acts as are necessary to entitle the State to receive the benefits of the said Act, and to execute the laws of the State of Idaho relative to vocational education; to administer the funds provided by the Federal Government and the State of Idaho under the provisions of this Act for the promotion of education in agricultural subjects, trade and industrial subjects, and home economics subjects. It shall have full power to formulate plans for the promotion of vocational education in such subjects as are an essential and integral part of the public school system of the State of Idaho, and to provide for the preparation of teachers of such subjects. It shall have full power to fix the compensation of such officials and assistants as may be necessary to administer the Federal Act herein referred to, and to pay such compensation and other necessary expenses of administration from funds appropriated in this Act and from money received under the provisions of the Federal Act. It shall have authority to make studies and investigations relating to vocational education in such subjects, to promote and aid in the establishment by local communities of schools, departments or classes, giving training in such subjects; to cooperate with the local communities in the maintenance of such schools, departments or classes; to prescribe qualifications for teachers, directors and supervisors for such subjects, and to have full authority to provide for the certification of such teachers, directors and supervisors subject to the laws and rules governing the State Board of Education; to cooperate in the maintenance of classes supported and controlled by the public for the preparation of teachers, directors and supervisors of such subjects, or to maintain such classes under its own direction and control; to establish and determine by general regulation the qualifications to be possessed by persons engaged in the training of vocational teachers. The State Board of Education, when acting as the State Board for Vocational Education, shall hold two regular meetings annually at such time and place as may be directed by said board, but special meetings may be called at any time and at a place designated in said call by the president.

The Commissioner of Education shall serve as executive officer of the State Board for Vocational Education and shall designate, by and with the advice and consent of the State Board for Vocational Education, such officers and assistants as may be necessary to properly carry out the provisions of the Federal Act and this Act for the State of Idaho.

The Commissioner of Education shall also carry into effect such rules and regulations as the State Board for Vocational Education may adopt and shall prepare such reports concerning the condition of vocational education in the State as the State Board for Vocational Education may require.

The State Treasurer is hereby designated and appointed custodian of all moneys received by the State from the appropriation made by said Act of Congress, and he is authorized to receive and to provide for the proper custody of the same and to make disbursement thereof in the manner provided in the said Act, and for the purposes therein specified. He shall also pay out any moneys appropriated by the State of Idaho for the promotion of vocational education in accordance with the provisions of this Act and upon the order of the State Board for Vocational Education.

There is hereby appropriated for each biennial period from moneys in the general fund of the State Treasury not otherwise appropriated as an offset to the Federal appropriation, a sum not less than the sum to which the State of Idaho is entitled from the benefits of the said Federal Act, for the biennial periods covered by this appropriation.

There is hereby appropriated from any moneys in the general fund of the State Treasury not otherwise appropriated, for the biennial period beginning January 1, 1919, the sum

of thirty-eight thousand four hundred nineteen dollars and seventy-seven cents (\$38,419.77) to be expended by the State Board for Vocational Education for the promotion of vocational education as provided for in the Federal Act and in this Act for the State of Idaho.

The State Board for Vocational Education shall make to the Governor annually and to the Governor and Legislature biennially a report of all moneys expended for vocational education both from State and Federal funds, and shall include such biennial report in the biennial report of the State Board of Education.

(1919 Laws, 160, ch. 53.)

ARTICLE IV.

UNIVERSITY OF IDAHO.

A. Creation and Establishment.

I. CREATED AND LOCATED.

1. Code. There is hereby established in this State, at the town of Moscow, in the county of Latah, an institution of learning, by the name and style of the University of Idaho.

(C. L. Sec. 485.)

2. Original. 1889 Laws 21 same except "territory" for "state."

3. Constitutional Convention. Confirms the act of the territorial legislature in locating and establishing the university at Moscow.

(1 C. C. P. 766-772; 849.)

(2 C. C. P. 1450.)

4. Constitution. "The location of the University of Idaho, as established by existing laws, is hereby confirmed. All the rights, immunities, franchises, and endowments heretofore granted thereto by the Territory of Idaho are hereby perpetuated unto the said university."

(Const. Art. IX, Sec. 10.)

5. Admission Bill. "To the State of Idaho: * * * for the support and maintenance of the State University, located at Moscow, 50,000 acres."

(Sec. 11, 26 St. 215.)

II. REGENTS—CONTROL.

1. Code. The general supervision, government and control of the University of Idaho is vested in a State Board of Education, which also constitutes the Board of Regents of the university and is known as the State Board of Education and Board of Regents of the University of Idaho.

(C. L. Sec. 486.)

Note: Based on C. L. 38:1 and 38:3 substituting the State Board of Education and Board of Regents of the University of Idaho for former Board of Regents.

2. Original. The government of the University shall vest in a Board of Regents, to consist of nine members, chosen from the Territory at large, which board the Governor shall nominate, and by and with the advice and consent of the Legislative Council appoint. The term of office of the said Regents shall be two years from the first Monday in February in the year in which appointed.

1889 L. 21, Sec. 2.)

3. Amendment.

a. The government of the University shall vest in a Board of Regents to consist of nine members chosen from the State at

large, which Board the Governor shall nominate and with advice and consent of the Senate, appoint. The term of office of said regents shall be six years from the first Monday in February in the year in which appointed. PROVIDED, That the Regents appointed in the year 1899 shall hold their offices during the following period: Three shall be appointed for a term of two years, three shall be appointed for a term of four years, and three shall be appointed for a term of six years. The Governor shall have power to fill vacancies in the Board by appointment, which appointment shall be valid until the last day of the regular session of the Legislature following such appointment.

(1899 L. 392.)

b. The government of the university shall vest in a Board of Regents, to consist of five members chosen from the State at large, which board the Governor shall nominate, and, with the advice and consent of the Senate, appoint.

The said board shall be non-partisan, no more than three of whom shall be of the same political party.

The terms of office of said Regents shall be six years from the first Monday in February in the year in which appointed: PROVIDED, That the Regents appointed in the year 1901 shall hold their office during the following periods: One shall be appointed for a term of two years, two shall be appointed for a term of four years, and two shall be appointed for a term of six years.

The Governor shall have power to fill vacancies in the board by appointment, which appointment shall be valid until the last day of the regular session of the Legislature following such appointment.

(1901 L. 15.)

4. **Constitution.** "The Regents shall have the general supervision of the University * * *."

(Const. Art. IX, Sec. 10.)

5. **Decision.** The State Board of Education and Board of Regents of the University of Idaho created by 1913 Laws 328 (C. L. 38:1) is the legal successor to the Board of Regents of the University of Idaho and may defend a suit instituted against the former Board of Regents.

(First N. B. vs. Regents, 26 I. 15; 140 P. 771.)

III. SAME—BODY CORPORATE—GENERAL POWERS.

1. **Code.** The members of the State Board of Education in the performance of their functions as the Board of Regents of the university and their successors in office, shall constitute a body corporate, by the name of the Regents of the University of Idaho, and shall possess all the powers necessary or convenient to accomplish the objects and perform the duties prescribed by law, and shall have the custody of the books, records, buildings and other property of said university.

(C. L. 254, Sec. 488.)

Note: On authority of C. L. 38:1 and 38:3 and of First National Bank vs. Regents, 26 I. 15; 140 P. 771, the State Board of Education is substituted in the code provisions for the Board of Regents named in the original act.

2. **Original.** The Board of Regents and their successors in office shall constitute a body corporate, by the name of "The Regents of the University of Idaho," and shall possess all the powers necessary or convenient to accomplish the objects and perform the duties prescribed by law, and shall have the custody of the books, records, buildings and other property of said University.

(1889 L. 21, Sec. 3.)

3. **Decisions.**

a. State Board of Education: The provisions of 1913 L. 328

(C. L. 38:1 et seq.) make the State Board of Education the successor to the former Board of Regents.

(First N. B. vs. Regents, supra.)

b. Body Corporate.

(1) The Board of Regents of the University, under the provisions of Sec. 3 of 1889 L. 21 C. L. Sec. 488, and Sec. 10 of Art. IX of the Constitution, is a body corporate and may sue and be sued.

(Moscow Hardware Co. vs. Regents, 19 I. 420; 113 P. 731.)

(Phoenix Lumber Co. vs. Regents, 197 Fed. 425.)

(Affirmed: Interstate Construction Co. vs. Regents, 199 Fed. 509.)

2. The university being a public institution and its Board of Regents being vested with corporate existence and plenary powers among which are those to contract and to incur liability, the legislative intent is clearly inferrable that as respects claims against the Board of Regents of the University of Idaho, the immunity of the State from suit should be waived and that the Board of Regents may sue and be sued.

(Phoenix Lumber Co. vs. Regents, 197 F. 425.)

(Cites: American Bonding Co. vs. Regents, 11 I. 163; 81 P. 604.)

(Cites: Sec. 10, Art. IX Constitution.)

(Cites: 1889 L. 21; C. L. 488.)

(Affirmed: Interstate Construction Co. vs. Regents, 199 Fed. 509.)

c. Jurisdiction of Suits Against.

(1) When the Board of Regents enter into a contract, said Board is liable to the process of the district court for the enforcement thereof.

(Moscow Hardware Co. vs. Regents, 19 I. 420; 113 P. 731.)

(First N. B. vs. Regents, 19 I. 440; 113 P. 735.)

(First N. B. vs. Regents, 26 I. 18; 140 P. 771.)

(Affirmed: Phoenix Lumber Co. vs. Regents, 197 Fed. 425.)

(Interstate Construction Co. vs. Regents, 199 Fed. 509.)

(2) The Board of Regents of the University of Idaho may sue and be sued and in the district courts; the supreme court not having original or exclusive jurisdiction of such suits.

(Interstate Construction Co. vs. Regents, 199 Fed. 509.)

(Follows: Phoenix Lumber Co. vs. Regents, 197 Fed. 425.)

(Follows: Moscow Hardware Co. vs. Regents, 19 I. 420; 113 P. 731.)

(Cites: American Bonding Co. vs. Regents, 11 I. 163; 81 P. 604.)

(Cites: Thomas vs. State, 16 I. 81; 100 P. 761.)

(3) The Board of Regents is a body corporate, and may sue and be sued and when it enters into a contract it is liable to the process of the district court as are other corporations organized under the laws of the State. The term "district court" includes the State and Federal district courts.

(Interstate Construction Co. vs. Regents, 199 F. 509.)

(4) The district court has jurisdiction to try cases brought against the Board of Regents of the University of Idaho.

(First N. B. vs. Regents, 26 I. 18; 140 P. 771.)

(Reaffirms: Moscow Hardware Co. vs. Regents, 19 I. 420, supra.)

(Affirms: First N. B. vs. Regents, 19 I. 440, supra.)

d. Judgments Against.

(1) Any judgment obtained against the Board of Regents in the district courts is enforceable against any funds in the hands of the Board or its treasurer that are available for the payment of such a claim or from any fund which said board has subject to appropriation and expenditure for that purpose.

(Moscow Hardware Co. vs. Regents, 19 I. 420; 113 P. 731.)

(2) Any judgment obtained in the district court against the Board of Regents for the payment of which the Board has no funds available, must be brought to the supreme court to be converted into a recommendatory judgment for the Legislature.

(Moscow Hardware Co. vs. Regents, 19 I. 420; 113 P. 731.)
 (First N. B. vs. Regents, 19 I. 440; 113 P. 735.)

IV. SAME—OFFICERS—DUTIES.

1. Code. The board shall elect a president, secretary and treasurer, who shall perform such duties as shall be prescribed by the by-laws of the board. The secretary shall keep a faithful record of all the transactions of the board and of the executive committee thereof. The treasurer shall perform all the duties of such office, subject to such regulations as the board may adopt, and for the faithful discharge of all his duties shall execute a bond in such sum as the board may direct.

(C. L. 254, Sec. 488.)

2. Original. 1889 Laws 21, Sec. 2, identical.

3. Decisions: Treasurer—Custody of Federal Funds. The treasurer of the Board of Regents of the University of Idaho and not the State Treasurer or State Auditor, has control of the custody of the funds granted by the First and Second Morrill Acts and the Nelson amendment thereto.

(Melgard vs. Eagleson, 31 I. 411; 172 P. 655.)

V. SAME—BY-LAWS—REGULATIONS.

1. Code. The time of the election of the president, secretary and treasurer of said board, and the duration of their respective terms of office and the time for holding such meetings as may be required, and the manner of notifying the same, shall be determined by the by-laws of the board. A majority of the board shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

(C. L. 255, Sec. 489.)

2. Original. 1889 Laws 21, Sec. 4, same.

3. Note:

a. Meeting: Cf. C. L. 38:5 relating to regular and special meetings of said board.

Cf. 1911 Laws 489, Sec. 17.

Cf. Art. I-B, section 5 and 7, supra.

b. Regulations:

Cf. C. L. 38:9 and 1911 L. 489, Sec. 15.

See Art. I-B, sections 11 and 28.

4. Reference: Cf. Article I-C of this compilation.

Reference: Cf. Article IV-XX of this compilation.

VI. SAME—GOVERN UNIVERSITY—ELECT PRESIDENT, ETC.

1. Code. The Board of Regents shall enact laws for the government of the university in all its branches, elect a president and requisite number of professors, instructors, officers, and employees and fix the salaries and term of office of each.

(C. L. 490.)

2. Original. 1889 Laws 21, Sec. 5, same.

VII. SAME — ADMISSION OF STUDENTS — NON-SECTARIAN AND NON-PARTISAN INSTITUTION.

1. Code. The Board of Regents shall determine the moral and educational qualifications of applicants for

admission to the various courses of instruction; but no instruction either sectarian in religion or partisan in politics shall ever be allowed in any department of the University, and no sectarian or partisan text shall ever be allowed or exercised in the appointment of regents or in the election of professors, teachers, or other officers of the university or in the admission of students thereto or for any purpose whatever.

(490 C. L.)

2. **Original.** 1889 Laws 21, Sec. 5, same.

3. **Reference:** Art. IX, Sec. 6, of the Constitution of Idaho.

VIII. SAME—PRESIDENT AND INSTRUCTORS, ETC.—REMOVAL.

1. **Code.** The Board of Regents shall have power to remove the president or any professors, instructors, or officers of the university when in their judgment the interests of the university require it.

(C. L. 490.)

2. **Original.** 1889 Laws 21, Sec. 5, same.

3. **Decision.** The power of the Board of Regents to remove and discharge the president, any professor, instructor or other officer of the university when in the judgment of the board the interests of the university require it, is absolute and plenary under Sec. 490 R. C. (C. L. 490); and said section is a part of all contracts with such employees of the university.

(Hyslop vs. Board of Regents, 23 I. 341; 129 P. 1073.)

(Shinn vs. Board of Regents, 23 I. 344; 129 P. 1074.)

IX. SAME — LIBRARIES, LABORATORIES, PROPERTY — CONTROL OF.

1. **Code.** The board may prescribe rules and regulations for the management of the libraries, cabinet, museum, laboratories and all other property of the university and of its several departments, and for the care and preservation thereof, with penalties and forfeitures, by way of damages for their violation, which may be sued for and collected in the name of the board before any court having jurisdiction of such action.

(C. L. Sec. 490.)

2. **Original.** 1889 Laws 21, Sec. 5, same.

3. **Reference:** Code. The members of the State Board of Education * * * shall have the custody of the books, records, buildings and other property of said university.

(C. L. 488; Art. IV-A-III, supra.)

X. SAME—BUILDINGS—EQUIPMENT—ERECTION AND PURCHASE.

1. **Code.** The Board of Regents are authorized to expend such portion of the income of the university fund as they may deem expedient for the erection of suitable buildings and the purchase of apparatus, a library, cabinets and additions thereto.

(C. L. 255, Sec. 491.)

2. Original. 1889 Laws 21, Sec. 6, same, except "University fund hereinafter created.

3. Note:

a. "University fund" refers to "University Building fund" created by section 18 of 1889 Laws 21, through levy of territorial tax.

(1889 Laws 21, Sec. 18.)

(Amended: 1891 Laws 42.)

b. Hist. R. C. 491, to which Code Comr. MacLane attached following note:

"Act 15th Ter. Sec. (Laws '88-89) 21, Sec. 6. Omitting 'hereinafter created' after 'University fund.' The act created no permanent fund, but merely appropriated \$15,000 for the purchase and improvement of site. Section 11 of the Idaho admission bill granted 50,000 acres of land to the State for university purposes, and this grant is regulated by Const. IX, 10-11. Special appropriations and bond issues have been made and provided for from time to time for the support and improvement of the university, and the 'university fund' is created by laws 1905, 417, which is not included in these codes, but is preserved by the table of special laws, Sec. 17."

(Note to C. L. Sec. 491.)

4. Decisions.

a. Limitation on Contracts.

(1) The Board of Regents has no authority whatever to incur any indebtedness against the State, directly or indirectly, in the erection of university buildings for which said board has no funds available to pay.

(Moscow Hardware Co. vs. Regents, 19 I. 420; 113 P. 731.)

(Cited: Interstate Construction Co. vs. Regents, 199 Fed. 509.)

(2) The Board of Regents under Sec. 491 R. C. (C. L. 491) is authorized to expend such portion of the income of the university fund as it may deem expedient for the erection of suitable buildings, etc., but is not authorized to expend for such purpose any portion thereof that has been raised or appropriated for other purposes.

(Syllabus No. 2 by the Court.)

(Moscow Hardware Co. v. Regents, 19 I. 420; 113 P. 731.)

b. Liability on Contracts.

(1) The university being a public institution and its Board of Regents being vested with corporate existence and plenary powers among which are those to contract and to incur liability, the legislative intent is clearly inferrable that as respects claims against the Board of Regents of the University of Idaho, the immunity of the State from suit should be waived and that the Board of Regents may sue and be sued.

(Phoenix Lumber Co. vs. Regents, 197 F. 425.)

(Cites: American Bonding Co. vs. Regents, 11 I. 163; 81 P. 604.)

(Cites: Sec. 10, Art. IX, Constitution.)

(Cites: 1889 L. 21; C. L. 491.)

(Affirmed: Interstate Construction Co. vs. Regents, 199 Fed. 509.)

(2) When the Board of Regents enter into a contract, said Board is liable to the process of the district court for the enforcement thereof.

(Moscow Hardware Co. vs. Regents, 19 I. 420; 113 P. 731.)

(First N. B. vs. Regents, 19 I. 440; 113 P. 735.)

(First N. B. vs. Regents, 26 I. 18; 140 P. 771.)

(Affirmed: Phoenix Lumber Co. vs. Regents, 197 Fed. 425.)

(Interstate Construction Co. vs. Regents, 199 Fed. 509.)

5. Reference: C. L. 38:20; Art. I-B, Sec. 31, supra.

XI. SAME—REPORT—ANNUAL.

1. Original. At the close of each fiscal year, the regents, through their president, shall make a report in detail to the Governor, exhibiting the progress, conditions

and wants of the university, the course of study, the number of professors and students, the amount of receipts and disbursements, together with the nature, costs and results of all important investigations and experiments, and such other information as they may deem important.

(1889 L. 21, Sec. 7.)

2. Reference.

a. Budget. C. L. 38:12 and 38:18; Art. I-B, Secs. 17 and 27, supra.

b. Recommendations. C. L. 38:17; Art. I-B, Sec. 25, supra.

c. Conditions. C. L. 38:36; Art. I-B, Sec. 49, supra.

d. Annual report. C. L. 38:38; Art. I-B, Sec. 59, supra.

XII. PRESIDENT—FACULTY—POWERS—GENERAL.

1. Code. The president of the university shall be president of the faculty, or of the several faculties as they may be hereafter established, and the executive head of the instructional force in all its departments. As such, he shall have authority, subject to the Board of Regents, to give general direction to the instruction and scientific investigation of the university, and so long as the interests of the institution require it, he shall be charged with the duties of one of the professorships. The immediate government of the university shall be intrusted to the faculty.

(C. L. 256, Sec. 495.)

2. Original. 1889 Laws 21, Sec. 8, same.

3. Reference:

a. Power of board. C. L. 38:10, Art. I-B, Sec. 13.

b. Powers of executives. C. L. 38:8; Art. I-B, Sec. 10.

c. Courses of study. C. L. 38:23; Art. I-B, Sec. 40.

XIII. COURSES—TEXTS—STUDENTS—DEGREES—EXPULSION.

1. Code. The regents shall have the power to regulate the courses of instruction and prescribe the books or works to be used in the several courses and also to confer such degrees and grant such diplomas as are usually in universities or as they shall deem appropriate and to confer upon the faculty by by-laws the power to suspend or expel students for misconduct or other cause prescribed by such by-laws.

(C. L. Sec. 495.)

2. Original. 1889 Laws 21, Sec. 8, same except the word "but" precedes "the regents."

XIV. PURPOSES—OBJECTS—DEPARTMENTS OR COLLEGES.

1. Code. The object of the University of Idaho shall be to provide the means of acquiring a thorough knowledge of the various branches of learning connected with scientific, industrial and professional pursuits, and to this end it shall consist of the following colleges or departments, to-wit:

1. The college or department of arts.
2. The college or department of letters.
3. The professional or other colleges or departments as may from time to time be added thereto or connected therewith.

(C. L. Sec. 496.)

2. **Original.** 1889 Laws 21, Sec. 9, same.

3. **Board Order.** Existing colleges or departments.

a. By order of the Board of Regents of the University there was established and confirmed:

1. College of Letters and Sciences.
2. College of Agriculture.
3. College of Engineering.
4. College of Law.

b. The following schools or departments have been established:

1. School of Mines.
2. School of Forestry.

4. **Reference.** See confirmation of the act of Board of Regents in establishing the College of Agriculture at the University of Idaho: Art. IV-A-XV, post.

5. **Note:**

a. The college of agriculture, for which foundation was laid by Sec. 9 of 1889 Laws 21, and which is established by order of Board of Regents and confirmed by 1909 Laws 38 (C. L. 496a) is distinct from the other colleges and departments of the university for administrative purposes. Said college of agriculture must, however, share the benefits of a Federal aid appropriation (Art. III of this compilation) with other departments or colleges of the university (example: College of engineering, military tactics, etc.). To this end see first and second Morrill Acts, etc., and the purposes for which the funds appropriated thereby may be expended as said purposes expressed therein.

b. The Constitution (Art. IX, Sec. 10) in perpetuating "unto the university," "all the rights, immunities, franchises and endowments granted thereto by the Territory of Idaho" confirmed the provision of 1889 Laws 21, Section 9, establishing agricultural, engineering, mining, etc., courses, colleges, or departments, in connection with the university.

XV. COLLEGE OF AGRICULTURE—CONFIRMATION OF.

1. **Code.** The action of the regents of the University of Idaho, in establishing and maintaining a college of agriculture in connection with the university at Moscow, and in accordance with an act of Congress, approved July 2, 1862, and known as the land grant act, as supplemented by an act of Congress for the more complete endowment and support of colleges of agriculture and mechanic arts, approved August 30, 1890, is a proper exercise of the lawful powers of the regents as set forth in the act creating the university, and the clauses of the State Constitution confirming the same. And the said action of the regents in establishing and maintaining the said college of agriculture in accordance with said laws, is hereby expressly approved and confirmed.

(C. L. Sec. 496a.)

2. **Original.** 1909 Laws 38, same.

3. **Note:** The acts of 2 July, 1862, and 30 August, 1890, are found in 12 S. at L. 503 and 26 S. at L. 417, respectively. (See Art. III-A-I and II, supra.)

XVI. COLLEGE OF ARTS.

1. Code. The college or department of arts shall embrace courses of instruction in mathematical, physical and natural sciences, with their application to the industrial arts, such as agriculture, mechanics, engineering, mining and metallurgy, manufactures, architecture and commerce, and such branches included in the college of letters as shall be necessary to a proper fitness of the pupils in the scientific and practical courses for their chosen pursuits; and as soon as the income of the university will allow, in such order as the wants of the public shall seem to require, the said courses in the sciences and their application to the practical arts shall be expanded into distinct colleges of the university, each with its own faculty and appropriate title.

(C. L. Sec. 497.)

2. Original. 1889 Laws 21, Sec. 10, same.

3. Reference: See Art. IV-A-XIV-3, supra.
See Art. I-B, Sec. 40, supra.

XVII. COLLEGE OF LETTERS.

1. Code. The college of letters shall be coexistent with the college of arts and shall embrace a liberal course of instruction in language, literature and philosophy, together with such courses or parts of courses in the college of arts as the regents of the university shall prescribe.

(C. L. 256, Sec. 497.)

2. Original. 1889 Laws 21, Sec. 10, same.

3. Reference. See reference XVI, just supra.

XVIII. CO-EDUCATIONAL.

1. Code. The university shall be open to female as well as male students, under such regulations and restrictions as the board of regents may deem proper.

(C. L. 257, Sec. 498.)

2. Original. 1889 Laws 21, Sec. 11, same.

XIX. TUITION—WHEN REQUIRED—PROFESSIONS—
NON-RESIDENTS.

1. Code. No student who shall have been a resident of the State for one year next preceding his admission shall be required to pay any fees for tuition in the university excepting in a professional department and for extra studies. The regents may prescribe rates of tuition for any pupil in a professional department, or who shall not have been a resident as aforesaid, and for teaching extra studies.

(C. L. 257, Sec. 499.)

2. Original. 1889 Laws 21, Sec. 12, same.

XX. BOARD—ORIGINAL APPOINTMENT—OFFICERS.

1. Original. The Board of Regents herein provided for shall be appointed immediately after this act becomes a law; and within ninety days after the appointment of said regents the board shall meet at Boise City, and elect a president, secretary and treasurer thereof, and shall at said meeting adopt by-laws for the government of said board and the officers chosen by virtue of this act.

(1889 L. 21, Sec. 13.)

XXI. SITE—BUILDINGS—APPROPRIATION FOR.

1. Original. The sum of fifteen thousand dollars is hereby appropriated out of any money in the territorial treasury of Idaho, not otherwise appropriated, and the territorial comptroller is hereby authorized to draw his warrant on the territorial treasurer for said amount, and the territorial treasurer is hereby directed and commanded to pay the same, as hereinafter provided, which money shall be expended for the following purposes, to-wit:

First—The purchase of a site or grounds for said university, said location to consist of not less than ten nor more than twenty acres of ground, and for the improvement of the same, and for keeping the same in repair.

Second—To advertise for and obtain plans and specifications for a university building under such rules and regulations as the board may impose.

Third—For the payment of the necessary expenses of said board, as hereinafter provided.

(1889 L. 21, Sec. 14.)

XXII. BOARD—EXECUTIVE COMMITTEE.

1. Code. The president and secretary ex-officio, and one member of the board to be appointed by the president thereof, shall constitute an executive committee of said board, whose duties shall be prescribed by the by-laws of the board.

(C. L. 254, Sec. 487.)

2. Original. 1889 Laws 21, Sec. 15, same.

3. Board Regulations. At the regular April meeting in each year the president shall appoint the following committees to serve one year.

a. An executive committee for each of the State educational institutions. Each executive committee shall include the head of the institution, who shall be the secretary of the committee, the commissioner, and a member of the board who shall be chairman of the committee; in the case of the university, two additional board members, one of whom shall be the president of the board.

(Rules and Regulations, State Board of Education.)

(Art. I-C-I-7, supra.)

XXIII. ORIGINAL APPROPRIATION—CUSTODY.

1. Original. Upon executing and filing with the territorial treasurer a good and sufficient bond, in whatever

sum the Board of Regents shall direct, provided said bond shall have been first approved by the territorial attorney-general, the territorial treasurer shall pay over to the treasurer of said board the sum of fifteen thousand dollars, or so much thereof as may be available; and in the event said sum is not paid in full upon the execution and delivery of said bond as aforesaid, then the remainder of said sum shall be transferred to the treasurer of said board as speedily as the fund shall accumulate therefor.

(1889 L. 21, Sec. 16.)

XXIV. FUNDS—DISBURSEMENT—TREASURER—DUTIES

1. Original. The treasurer of said board shall, out of any moneys in his hands belonging to said board, pay all orders drawn upon him by the president and secretary thereof, when accompanied by vouchers fully explaining the character of the expenditure, and the books and accounts of the treasurer shall at all times be opened to the inspection of the board. The treasurer shall make an annual report to the president of the board of all transactions connected with the duties of his office.

(1889 L. 21, Sec. 17.)

2. Reference. (See Art. IV-A-IV supra.)

XXV. UNIVERSITY BUILDING FUND—TEMPORARY.

1. Original. There shall be levied and collected annually a territorial tax of one-half mill for each dollar of the assessed valuation of the taxable property of the territory, which amount, when so levied and collected, shall be appropriated to a university building fund, to remain in the treasury subject to the order of the Board of Regents; but in no event shall said board appropriate the fund thus collected, or any portion thereof, to any purpose other than that for which said fund was provided; and PROVIDED FURTHER, that said tax shall not be levied and collected for a longer period than four years.

(1889 L. 21, Sec. 18.)

2. Amendment. There shall be levied and collected annually a State tax of three-quarters of a mill for each dollar of the assessed valuation of taxable property of the State of Idaho, which amount, when so levied and collected, shall be appropriated to a university building fund, to remain in the treasury subject to the order of the Board of Regents; but in no event shall said board appropriate the fund thus collected, or any portion thereof, to any purpose other than that for which said fund was provided; and, PROVIDED FURTHER, that said tax shall not be levied and collected for a longer period than four years from the date hereof.

(1891 L. 42.)

XXVI. BOARD—EXPENSES—PAYMENT OF.

1. Original. The regents shall receive the actual amount of their expenses in traveling to and from and in attendance upon all meetings of the board or incurred

in the performance of any duty in pursuance of any direction of the board; accounts of such expenses shall be duly authenticated and audited by the board, and be paid on their order by the treasurer out of any fund belonging to the university not otherwise appropriated; no regent shall receive any pay, mileage or per diem, except as above prescribed.

(1889 L. 21, Sec. 19.)

2. Reference. Expense and honorarium of board. See C. L. 36:6 and Art. I-B, Sec. 8, supra.

B. Endowment.

I. UNIVERSITY GRANTS.

1. General.

a. **Territorial Resolution.** Your memorialists, the council of a legislative assembly of the Territory of Idaho most respectfully represent:

That it has been the custom of the general government to grant liberally of the public lands to the territories for the establishment of universities, and

Whilst Oregon (when a territory) and Utah and Washington and other territories have severally received by donation from general government (2) two townships—41,080 acres—for university purposes, the Territory of Idaho has not been so favored.

We therefore, your memorialists, earnestly pray that two townships of the public domain be donated to this territory, as university land; to be selected in legal subdivisions under the direction of the territorial legislature.

(Council Memorial No. 6, 10th Territorial Session.)

(1879 L. 75.)

Note. "41,080 acres" apparently means 46,080 acres.

b. **Federal Grant.** Seventy-two entire sections granted to Idaho et al., for use and support of a university "when * * * admitted as State;" lands to be sold under the direction of the Secretary of the Interior; proceeds to be invested in United States bonds, the same to constitute a university fund; no part of income therefrom to be expended for buildings or salaries of teachers or professors until fund reaches \$50,000, and then only interest to be used for either of the foregoing purposes until the said fund shall amount to \$100,000, when any excess and the interest thereof may be used for the proper establishment and support, respectively, of said universities.

(Act of 18 February, 1881; 21 S. at L. 326.)

(See 1 Con. Conv. Proc. 1292.)

Reference. See Art. II-B-I-1.)

c. Constitutional Convention.

(1 C. C. P. 773 and 881.)

(2 C. C. P. 1287; 1331; 1451.)

d. **Admission Bill.** That the lands granted to the Territory of Idaho by the Act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes," are hereby vested in the State of Idaho to the extent of the full quantity of 72 sections to said State, and any portion of said lands that may not have been selected by said Territory of Idaho may be selected by the said State; but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said State, and the income thereof be used exclusively for university purposes. The schools, colleges and universities provided for in this act, shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any

lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university.

(Sec. 8, 26 S. 215.)

e. Constitution. The regents shall have the general supervision of the university and control and direction of all the funds of, and appropriations to the university under such regulations as may be prescribed by law. No university lands shall be sold for less than \$10.00 per acre and in subdivisions not to exceed 160 acres to any one person, company, or corporation.

(Constitution of Idaho, Art. IX, Sec. 10.)

f. Note. The Act of 18 February, 1881 (21 St. 326), retained in the Federal Government full control of the sale and custody and investment of proceeds.

Section 8 of the Admission Bill delegated these powers to the State (26 S. 215; act of 3 July, 1890).

In the interim, however, between the acts of 1881 and 1890, supra, the constitutional convention met and in contemplation of the existing law (21 S. 326) excepted the university land grants from the provisions governing other endowment and educational grants. (Sec. 11, Art. IX of the Constitution.)

(1 C. C. P. 773 and 861.)

(2 C. C. P. 1287; 1331; 1451.)

2. *Specific.*

a. Admission Bill. To the State of Idaho: for the support and maintenance of the State university, located at Moscow, 50,000 (acres).

(Sec. 11, 26 S. 215.)

3. *University Fund.*

a. Created.

(1) **Code.** A fund which shall be known as the university fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the State Auditor and the State Treasurer as the university fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the lands granted to the State of Idaho by the United States government under the provisions of the act of Congress of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," as amended by the act of July 3, 1890, entitled "An act to provide for the admission of the State of Idaho into the Union," amounting to 72 entire sections, and also all moneys which may accrue from the investment of the proceeds of the sale of any of the 50,000 acres of lands granted to the State of Idaho under the provisions of the act of July 3, 1890, entitled "An act to provide for the admission of the State of Idaho into the Union," for the support and maintenance of a State university or from the investment of the proceeds of the sale of timber growing upon any of the said lands and also any and all moneys which may be received on account of rentals charged for the use of any such lands and all moneys which may be received by the State Treasurer on account of interest charged upon deferred payments on such of the said lands as may have been sold by the State shall be credited to, placed in and constitute the university fund.

(C. L. 40:6.)

(2) **Original.** 1905 Laws 417, same.

b. **Limitation on Expenditure.**

(1) **Code.** No moneys shall ever be appropriated out of the university fund for any purpose other than the support and maintenance of the university, nor shall any moneys properly belonging to the said fund ever be diverted therefrom or used for any other purpose whatsoever.

(C. L. 40:6.)

(2) **Original.** 1905 Laws 417, same.

c. Perpetual Appropriation.

(1) **Code.** All moneys which may accrue or be credited and which properly belong to the university fund are perpetually appropriated and set apart for the support and maintenance of the university, the same to be available for such purpose immediately upon their being credited to the said fund.

(C. L. 40:7.)

(2) **Original.** 1905 Laws 417, same.

d. Note. Grants referred to just above are those appearing in Art. IV-B-I-1 and 2.

II. AGRICULTURAL COLLEGE GRANT.

1. *General.*

a. First Morrill Act: Grants 30,000 acres to each State for each Senator and Representative in Congress according to the apportionment for the year 1860.

(Act of 3 July, 1862; 12 S. 503.)

(Art. III-A-I, supra.)

2. *Specific.*

a. Admission Bill. That 90,000 acres of land, to be selected and located as provided in Section 4 of this act, are hereby granted to said State for the use and support of an agricultural college in said State, as provided in the acts of Congress making donations of lands for such purposes.

(Sec. 10, 26 S. 215.)

b. Decision.

Note. "By the Idaho admission act, Congress granted to the State 90,000 acres of land as an endowment for an agricultural college or colleges in accordance with the act of July 2, 1862, (12 S. at L. 503, C. 130). (Emphasis ours.)

(Evans vs. Van Deusen, 31 I. 614; 174 P. 122.)

(Reference: Art. IV-C-I-3 post.)

(Reference: Art. II-C-I, note.)

3. *Agricultural College Fund.*

a. Code.

(1) **Creation.** A fund which shall be known as the agricultural college fund is hereby created and established. All moneys now in or credited to that certain fund designated on the books in the offices of the State Auditor and the State Treasurer as the agricultural college fund, and all moneys which may accrue from the investment of the proceeds of the sale of any of the 90,000 acres of lands granted to the State of Idaho by the United States government, under the provisions of the act of Congress of July 3, 1890, entitled, "An act to provide for the admission of the State of Idaho into the Union," for the use and support of an agricultural college in said State as provided in the acts of Congress making donations of lands for such purposes, or of any of the timber growing thereon and also any and all moneys which may be received on account of rentals charged for the use of any of such lands and all moneys which may be received by the State Treasurer on account of any interest charged upon deferred payments on such of the said lands as may have been sold by the State, shall be credited to, placed in and constitute the agricultural college fund.

(C. L. 40:10.)

(2) **Limitation on Expenditure.** No money shall ever (be) appropriated out of the said agricultural college fund for any purpose whatsoever other than the support and maintenance of the agricultural college in the University of Idaho.

(Note: "be" inserted.)

(C. L. 40:10.)

(3) **Perpetual Appropriation.** All moneys which may accrue or be credited and which properly belong to the agricultural college fund are perpetually appropriated and set apart for the support and maintenance of the agricultural college in the

University of Idaho, the same to be available for such purpose immediately upon their being credited to the said fund.

(C. L. 40:11.)

b. Original.

(1) **Creation.** 1905 Laws 419, Sec. 1, same.

(2) **Limitation on Expenditure.** 1905 L. 419, Sec. 1, same.

(3) **Perpetual Appropriation.** That perpetually from and after the first day of January, 1911, all moneys which may accrue or be credited and which properly belong to the agricultural college fund shall be, and the same are, hereby appropriated and set apart for the support and maintenance of the agricultural college, and that the same shall be, and they are, hereby made available for such purpose immediately upon their being credited to the said fund.

(1911 L. 63, Sec. 4.)

e. Amendments.

(1) 1907 Laws 27, amends Sec. 2 of 1905 Laws 419, to appropriate for the years 1907 and 1908.

(2) 1911 Laws 63 re-enacts Sec. 1 of 1905 Laws 419 and enacts C. L. 40:11.

d. Confirmation. Same as Art. IV-A-XV, supra. See C. L. 496a.

c. Note. See note to Art. IV-C-I-3, post.

III. SCIENTIFIC SCHOOL GRANT.

1. *Grant.* To the State of Idaho for the establishment and maintenance of scientific school, 100,000 acres.

(Sec. 11, 26 S. 215.)

2. *Scientific School Fund.*

a. Creation.

(1) **Code.** A fund which shall be known as the scientific school fund is hereby created and established. All moneys now in, or credited to, that certain fund designated upon the books in the offices of the State Auditor and the State Treasurer as the university school of science fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the 100,000 acres of lands granted to the State of Idaho by the United States government, under the provisions of the act of Congress of July 3, 1890, entitled, "An act to provide for the admission of the State of Idaho into the Union," for the establishment and maintenance of a scientific school or of any of the timber growing thereon and also any and all moneys which may be received on account of rentals charged for the use of any of such lands and all moneys which may be received by the State Treasurer on account of interest charged upon deferred payments on such of the said lands as may have been sold by the State shall be credited to, placed in and constitute the scientific school fund.

(C. L. 40:8.)

(2) **Original.** 1905 Laws 418 is the same except that original statute contained a temporary appropriation for the years 1905 and 1906.

b. Perpetual Appropriation.

(1) **Code.** All moneys which may accrue or be credited and which properly belong to the scientific school fund, are perpetually appropriated for the payment of a portion of the cost of supporting and maintaining the college or department of arts of the University of Idaho, and the same to be available for such purpose immediately upon their being credited to the said fund.

(C. L. 40:9.)

(2) **Original.** 1907 Laws 26, same except included the phrase "that perpetually from and after the first Monday in January, 1907."

IV. DECISIONS.

1. The funds arising from the grants made by Sections 8, 10 and 11 of the admission bill are trust funds and are not strictly speaking the subject of legislative appropriation.

Evans vs. Van Deusen, 31 I. 614; 174 P. 122.

2. The Legislature is required to provide the method by which said grants are to be made available to the purposes for which granted and the only concern of the courts therein is to prevent the diversion of the grants from the objects or purposes for which granted.

(Evans vs. Van Deusen, 31 I. 614; 174 P. 122.)

Note. Legislature has made such provision in creating fund, and making perpetual the appropriation in Art. X-III-1 supra. (Reference: Art. X-III-3.)

C. Federal Aid Appropriations.

I. FIRST MORRILL ACT. (12 S. 503.)

1. Assent.

a. Code. The assent of the Legislature of the State of Idaho is hereby given to all the provisions of any act of Congress approved July 2, 1862, entitled, "An act donating public lands to the several States which may provide colleges for the benefit of agriculture and the mechanic arts," and the acts amendatory thereof and supplementary thereto.

(C. L. 40:1.)

b. Original. 1891 Laws 16, same.

c. Amendment. Re-enacted 1899 Laws 9.

2. Confirmation.

a. 1909 Laws 38; C. L. 496a.

Reference: See Art. IV-A-XV, supra.

3. Note—The benefit of the grant made by the first Morrill Act is only received by the State of Idaho to Section 10 of the Admission Bill (26 S. 215) whereby the an agricultural college in said State as provided in the acts of Congress making donations of land for such purposes." Grant of the Admission Bill in this respect effectuates the first Morrill Act as applied to Idaho.

By the provisions of 1905 Laws 417, 1907 Laws 27, 1909 Laws 38, and 1911 Laws 63, C. L. 40:10 (See Art. IV-B-II-3, supra), the proceeds and accruals of said grant are credited to the agricultural college fund.

(Evans vs. Van Deusen, 31 I. 614; 174 P. 122.)

Reference: See note to Art. II-C-I, supra.

4. Decision. The exclusive control of the moneys granted by the first and second Morrill Acts and the Nelson amendment thereto is vested in the Board of Regents of the university and the qualified treasurer thereof.

(Melgard vs. Eagleson, 31 I. 411; 172 P. 655.)

II. SECOND MORRILL ACT (26 S. 417)

1. *Assent.*

- a. *Code.* (See First Morrill Act, supra.)
- b. *Original.* (See First Morrill Act, supra.)
- c. *Amendment.* (See First Morrill Act, supra.)
- d. *Note.* The funds appropriated by the Second Morrill Act are not properly a part of the agricultural college fund. (Melgard vs. Eagleson, supra.)

III. HATCH ACT (24 S. 440)

1. *Assent.*

a. *Code.* The assent of the Legislature of the State of Idaho is hereby given to all the provisions of an act of Congress, approved March 2, 1887, entitled, "An act to establish agricultural experimental stations in connection with the colleges established in the several states under the provisions of an act approved July 2, 1862, and the acts supplemental thereto," and the acts amendatory thereof and supplementary thereto.

(C. L. 40:2.)

b. *Original.* 1891 Laws 16, same.

c. *Amendment.* 1889 Laws 9 re-enact 1891 L. 16, supra.

d. *Reference.* See First Morrill Act, supra, since the Hatch Act is available only to colleges benefited by the First Morrill Act.

e. *Note.* See note to Second Morrill Act, supra.

IV. ADAMS ACT (34 S. 63)

1. *Assent.*

a. *Code.* The assent of the Legislature of the State of Idaho shall be, and the same is hereby given to all the provisions of an act of Congress, approved March 16, 1906, entitled, "An act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditures thereof." And the Legislature of the State of Idaho hereby approves of, and assents to, the purposes of the grants and appropriations provided for and made by said act of Congress, and hereby agrees to abide by the terms, conditions, requirements and limitations thereof.

(C. L. 40:3.)

b. *Original.* 1907 Laws 22 is the same except that the original act erred in the date of approval of the Adams Act, stating the same as June 16, 1906.

c. *Reference.* Since the Adams Act is hinged to the Hatch Act and thereby to the First Morrill Act, see Art. IV-C-I supra.

d. *Note.* See note to Second Morrill Act, supra.

V. SMITH-LEVER ACT (38 S. 372)

1. *Assent.*

a. *Code.* The assent of the Legislature of the State of Idaho is given to the provisions and requirements of an act of Congress approved May 8, 1914, entitled, "An act to provide for the cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act of Congress approved July 2, 1863, and of acts supplementary thereto, and the United States department of agriculture." The State Board of Education and Board of Regents of the University of Idaho are authorized and empowered to receive the grants of money appropriated under such act, and to organize and conduct agricultural extension work which shall be carried on in connection with the terms and conditions expressed in the act of Congress aforesaid; and the treasurer of the State Board of Education and Board of Regents of the University of Idaho is hereby designated as the officer to whom all moneys granted to the State of Idaho under said act shall be paid.

(C. L. 40:4.)

b. *Original.* Whereas, the Congress of the United States has passed an Act approved by the President May 8th, 1914, entitled

"An act to provide for the cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act of Congress approved July 2, 1863, and of acts supplementary thereto, and the United States Department of Agriculture," and

Whereas, it is provided in Section 3 of the act aforesaid that the grants of money authorized by this act shall be paid annually "to each State which shall by action of the Legislature assent to the provisions of this act," therefore be it

RESOLVED by the House of Representatives and the Senate that the assent of the Legislature of the State of Idaho be and it hereby is given to the provisions and requirements of said act, and that the State Board of Education and Board of Regents of the University of Idaho be and they hereby are authorized and empowered to receive the grants of money appropriated under such act, and to organize and conduct agricultural extension work which shall be carried on in connection with the terms and conditions expressed in the act of Congress aforesaid; and that the treasurer of the State Board of Education and Board of Regents of the University of Idaho is hereby designated as the officer to whom all moneys granted to the State of Idaho under this act shall be paid.

(1915 L. 397.)

c. Amendment. See Art. IV-E-4 post.

d. Reference. Since the benefits of the Smith-Lever Act apply only to colleges established in accordance with the First and Second Morrill Acts, see Art. IV-C-I, supra.

e. Note. See note to Second Morrill Act, supra.

D. Bonds and Taxes Issued and Levied For.

1. Levy of one-half mill tax, which amount when collected shall be appropriated to the university building fund; said tax to be levied for a period of not longer than four years.

(Sec. 18, 1889 L. 21.)

2. Amends Section 18, 1889 Laws 21, raising tax to three-fourths of a mill, and providing that tax shall not be levied for longer period than four years.

(1891 L. 42.)

3. Amends 1891 Laws 42, supra, so as to permit the issuance of deficiency warrants to expedite construction of building.

(1893 L. 48.)

4. Forty-nine thousand dollar bond issue "for the purpose of providing money for the finishing and furnishing of a State University of Idaho (\$14,000), (penitentiary et al. provided for) secured on the faith and credit of the State."

(1889 L. 459.)

5. Fifty thousand dollar bond issue "for the purpose of providing money for the erection of a school of science hall and for the erection of girls' dormitory and the furnishing thereof at the University of the State of Idaho," secured on the faith and credit of the State and the proceeds of the sales of the school of science lands and the timber thereon and on the interest on the accruals from the agricultural college and State university grants.

(1901 L. 158, refunded 1905 L. 280 and 1909 L. 305.)

6. Forty-three thousand dollar bond issue "for the pur-

pose of providing money for the erection and equipment of an armory and gymnasium, for the equipment of a department of electrical engineering, the equipment of a department of domestic science, and for the provision of a water supply at the university," secured on the faith and credit of the State, and the interest on the agricultural college and State university grants.

(1903 L. 434, refunded 1905 L. 280 and 1909 L. 305.)

7. Forty-seven thousand dollar bond issue "for the purpose of erecting and equipping a metallurgical laboratory (at the University of Idaho)," secured on the faith and credit of the State.

(1905 L. 194, refunded 1905 L. 280 and 1909 L. 305.)

8. Twelve thousand dollar bond issue "for the purpose of providing money for a domestic science building in connection with the university," secured on the faith and credit of the State and interest on the university grant.

(1905 L. 222.)

(Roach vs. Gooding, 11 I. 244; 81 P. 642.)

9. Twenty-one thousand dollar bond issue "for the purpose of providing moneys for the purchase of a library (\$3000) for, and the completion and furnishing of a gymnasium (\$2500) belonging to, the improvement of the campus or grounds (\$500) surrounding, and the repair of the building (\$1500) of the State university * * * "(other institutions benefited), secured on the faith and credit of the State.

(1905 L. 400.)

10. One hundred twenty thousand dollar bond issue "for the purpose of rebuilding and equipping a portion of the main or administration building of the University of Idaho and for making certain improvements and providing certain equipment herein specified for said university * * * " secured on the faith and credit of the State; the items of expenditure are enumerated.

(1907 L. 144.)

11. Fifty thousand dollar bond issue "for the purpose of supplying a portion of the funds necessary for erecting or rebuilding the main building of the University of Idaho * * * " secured on the faith and credit of the State.

(1907 L. 154, refunded 1907 L. 260.)

12. Fifty-two thousand dollar bond issue "for the purpose of supplying the funds necessary for erecting a portion of the administration building (\$40,000) and a central heating plant (\$12,000) for the University of Idaho," secured on the faith and credit of the State.

(1909 L. 382, refunded 1909 L. 315.)

13. Seventy-three thousand dollar bond issue "for the purpose of completing the main or administration building (\$60,000), the central heating plant (\$4000), for the pur-

chase of lands, on the Coeur d'Alene Reservation (\$3000), and for making certain improvements, at Caldwell (\$2000), and providing certain equipment (\$4000) herein specified for the said university * * * " secured on the faith and credit of the State.

(1909 L. 407.)

14. Seventy-five thousand dollar bond issue "for the purpose of supplying the funds necessary for erecting and furnishing the north wing of the administration building of the University of Idaho (\$73,815.92) and for repaying to the regents of the university certain money advanced by them with interest thereon (residue of issue) * * * " secured on the faith and credit of the State.

(1911 L. 316.)

(See 1911 L. 683, and 1913 L. 486.)

15. Six thousand dollar bond issue "for the purpose of erecting a suitable building for the potato and sugar beet seed experimental station in Lincoln County, Idaho, secured on the faith and credit of the State and expended under the direction of the Board of Regents of the university."

(1913 L. 148.)

E. Idaho Statutes—Miscellaneous Provisions.

1. *Secondary Agricultural Schools.* To carry out the intent and purpose of this act the State shall be divided into districts as follows:

Agricultural Secondary School District No. 1, composed of the counties of Kootenai, Latah, Nez Perce, Shoshone, Idaho, Washington, Lemhi, Custer and Bonner.

Agricultural Secondary School District No. 2, composed of the counties of Canyon, Owyhee, Ada, Boise, Elmore, Twin Falls, Cassia, Lincoln, Blaine, Fremont, Bingham, Bannock, Oneida and Bear Lake.

In each of the districts numbered 1 and 2, as defined in Section 1 of this act, there shall be established by the regents of the University of Idaho an institution devoted to secondary education in agriculture, and if the said regents shall deem it for the best interests of the State, also a branch agricultural experiment station; both located at the same point in said district; PROVIDED, that said agricultural secondary school or branch experiment station shall be established under such regulations, terms and conditions and under such provisions for a governing board, as to the said regents may seem most advantageous to the State.

The regents of the University of Idaho shall immediately upon the passage of the act of Congress granting federal aid for such schools, and subject to the provisions herein contained, establish in each of the two districts described

in Section 2 of this act, an agricultural school of secondary grade. The said regents of the University of Idaho shall provide for each agricultural school a secondary course of study, which shall have for its major function vocational education in agricultural and in farm home making, not neglecting subjects of broadly educational value, and shall articulate such studies with agricultural and home economic courses of the State college of agriculture above, and the consolidated rural schools below; PROVIDED, that the regents of the University of Idaho may, at its discretion, require that students in any given district may attend the agricultural secondary school of that district only.

The regents of the University of Idaho may also establish (provided in the judgment of the regents it shall be for the best interests of the State), at each agricultural secondary school a branch agricultural experiment station, which shall be under the direction and control of the State agricultural experiment station established by act of Congress, approved March 2, 1887, and the work of the branch agricultural experiment stations shall be especially directed to the solution and demonstration of the agricultural problems of the respective districts in which the stations are severally located.

That any sums which shall be received by the State of Idaho by virtue of the act of Congress for the aid and promotion of secondary schools of agriculture are hereby accepted, and shall be appropriated to the use of said schools for the purposes for which said sum is appropriated.

(1909 L. 339.)

Reference: Art. I-B-64, supra.

2. *Caldwell Experiment Farm.* Whereas, the people of the State of Idaho have procured by public subscription, and have caused to be selected the northeast quarter of section nine, and the northwest quarter of section ten in township three, north of range three west from the Boise meridian, in Canyon County, State of Idaho, for an experimental farm; and

Whereas, the Board of Regents of the State University of Idaho selected the said land as a site for such experimental farm for the State of Idaho; and

Whereas, the State Board of Land Commissioners has selected the said land under the grant for State agricultural college land for the said purposes; and

Whereas, the said land has been improved, and it is proposed to further improve the same, in furtherance of said purposes;

NOW, THEREFORE, and for the purpose of further

encouraging the fulfillment and perfecting of the said purposes,

BE IT RESOLVED, that the said northeast quarter of section nine and the northwest quarter of section ten in township three north of range three west from the Boise meridian, in Canyon County, State of Idaho, be, and the same is, hereby withdrawn from sale and permanently set apart for and dedicated to the exclusive use and purpose of an experimental farm for the State of Idaho, to be hereafter exclusively used and controlled by the Board of Regents of the State university of the State of Idaho for said purposes, so long as the same shall be used for said purposes.

(1911 L. 792.)

Reference: Art. I-B-65, supra.

3. *High Altitude Experimental Farm.* The director of experiment stations and the State Board of Education are hereby authorized to select a tract of State land for the purpose of establishing an experiment farm. Said tract shall be located at an elevation of six thousand (6000) feet or more and shall be selected for experimentation and demonstration work for high altitude areas not represented by other experiment farms of the State and shall be for the purpose of developing the highland areas of the State for agricultural purposes.

The control and conduct of said experiment farm shall be the same as have heretofore been provided for other experiment farms of the State and the maintenance of the same shall be provided for hereafter, as are such other experiment farms.

The sum of three thousand five hundred dollars (\$3500.00) is hereby appropriated for the expense of locating said experiment farm, for the necessary equipment and for general establishment and operation expenses for the biennium; PROVIDED, said sum shall not be used for this purpose unless a like amount is donated or appropriated from the locality where said experimental farm shall be located. And if no such donation or appropriation is made, then the amount appropriated by this act shall revert to the general fund of the State.

A suitable tract of State land consisting of one hundred sixty (160) acres or such part thereof as may be selected for the purposes designated in this act is hereby set apart for the use of an experimental farm.

(1917 L. 458.)

Reference. Art. I-B-63, supra.

4. *County Agents.* That the Boards of County Commissioners of the several counties within the State of Idaho are hereby authorized to appropriate funds for demonstration

work in agriculture and home economics within said counties for the employment of a county agent or county agents in co-operation with the University of Idaho and the United States Department of Agriculture, in accordance with the terms and conditions of the law of Congress, No. 7951, commonly known as the Smith-Lever Act, the provisions of which have been accepted by the State of Idaho.

(1917 L. 483.)

Reference. Art. I-B-66, *supra*; Art. IV-C-V-1c.

5. *Carnegie Foundation*. That the application of the Regents of the University of Idaho to have the said university placed upon the accepted list of institutions eligible to receive the benefits of the Carnegie Foundation for the advancement of teaching be and the same is hereby approved, and that a copy of this resolution, certified by the Secretary of State, be filed by said regents with the trustees of said Carnegie Foundation.

(1909 L. 445, Resol. No. 5.)

Reference. Art. I-B-68, *supra*.

F. Federal Statutes—Miscellaneous Provisions.

1. An act authorizing sales of land within the Coeur d'Alene Indian Reservation to the Northern Idaho Insane Asylum and to the University of Idaho.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Secretary of the Interior is hereby authorized, in his discretion, to sell to the regents of the University of the State of Idaho, for the use of said university, land not to exceed six hundred and forty acres in area, to be selected by the said regents of the said university within the limits of the Coeur d'Alene Indian Reservation, upon the approval of the Secretary of the Interior, said regents to pay therefor, upon receiving a grant thereof, such price as shall be fixed by the Secretary of the Interior but which shall not be less than two dollars and fifty cents per acre. The moneys derived from said sale shall be deposited in the treasury of the United States for the benefit of the Indians of said reservation.

(Act 17 February, 1909; 35 S. 626.)

Reference: Art. I-B-67, *supra*.

ARTICLE V.

LEWISTON STATE NORMAL SCHOOL.

A. Creation and Establishment.

I. NORMAL SCHOOL.

1. *Creation and Location.*

a. Code. A normal school for the State of Idaho is hereby established in the city of Lewiston in the county of Nez Perce, to be called "The Lewiston State Normal School."

(C. L. Sec. 500.)

b. Original. 1893 Laws 6, Sec. 1, identical.

c. Amendment. 1899 Laws 164, Sec. 1, re-enacts 1893 Laws 6, Sec. 1, supra.

2. *Purpose.*

a. Code. The purpose shall be training and educating teachers in the art of instruction and governing in the public schools of this State and teaching the various branches that pertain to a good common school education.

(C. L. Sec. 500.)

b. Original. 1893 Laws 6, Sec. 1, same.

c. Amendment. 1899 Laws 164, Sec. 1, re-enacts 1893 Laws 6, Sec. 1.

3. *Site.*

a. Original. Provided, that the mayor and city council of the said city of Lewiston shall, prior to the first day of May, 1893, donate to the board of trustees hereinafter named as a site for the use of the said Lewiston State Normal School, ten acres of land within the limits of the said city of Lewiston, known and described as a part of the city park of Lewiston, and shall convey the same by a good and perfect title in fee simple to said board of trustees, who are hereby authorized and empowered to receive and hold the same and the title thereto in trust and for the use of the said Lewiston State Normal School, and the mayor and city council of the said city of Lewiston are hereby authorized and empowered to convey said site of ten acres to the board of trustees as aforesaid.

(1893 Laws 6, Sec. 1.)

b. Amendment. 1899 Laws 164, Sec. 1, re-enacts 1893 Laws 6, Sec. 1.

4. *Trustees.*

a. Code. The general supervision, government and control of the Lewiston State Normal School is vested in the State Board of Education, which shall

act as the board of trustees of the Lewiston State Normal School.

(C. L. 501.)

Note. Code provision based on C. L. 38:1 and 38:3, whereby the State Board of Education is substituted for and succeeds the Board of Trustees of the Lewiston State Normal School.

b. Original. The said Lewiston State Normal School shall be under the direction of a board of trustees to be known as the "Board of Trustees of the Lewiston State Normal School," the said Board of Trustees shall consist of six members, to-wit: J. M. Howe, B. F. Morris, C. W. Shaff, Ben Wilson, Norman B. Willey, and J. W. Reid, who shall at their first meeting, determine by lot their respective terms of office, which shall be for two, four, and six years, and their successors shall be appointed for the term of six years by the Governor of the State of Idaho by and with the advice and consent of the Senate.

(1893 Laws 7, Sec. 2.)

c. Amendment.

(1) 1899 Laws 164, Sec. 1, re-enacts 1893 Laws 7, Sec. 2, supra.

(2) The said Lewiston State Normal School shall be under the direction of a Board of Trustees to be known as "the Board of Trustees of the Lewiston State Normal School." The said Board of Trustees shall consist of six members, to-wit: P. F. Morris and C. W. Shaff, who shall hold their terms of office until January 27, A. D. 1901; John P. Vollmer and Geo. E. Erb, who shall hold their terms of office until January 27, A. D. 1903, and James W. Reid and James W. Poe, who shall hold their terms of office until January 27, A. D. 1905, and their successors shall be appointed for the term of six years by the Governor of the State of Idaho by and with the advice and consent of the Senate.

(1899 Laws 369, Sec. 2.)

(3) "The State Superintendent of Public Instruction shall be and is hereby made a member of the Board of Trustees of the Lewiston State Normal School * * * with the same powers and duties as the other trustees."

(1903 L. 222.)

5. *Same—Qualifications of.*

a. Original. Before entering upon the duties of his office, each of said trustees shall take and subscribe an oath or affirmation before some person duly authorized to administer the same, that he will support the constitution of the United States and of the State of Idaho, and will faithfully and impartially discharge the duties of the office of trustee of the Lewiston State Normal School, which oath or affirmation shall be filed in the office of the Secretary of State.

(1893 L. 7, Sec. 2.)

b. Amendment. 1899 Laws 165, Sec. 2, and 369, Sec. 2, re-enact 1893 Laws 7, Sec. 2, supra.

6. *Same—Proceedings—General Powers—Officers.*

a. Code. The said board of trustees may conduct its proceedings in such manner as will best conduce to the proper dispatch of business. A majority of the board of trustees shall constitute a quorum

for the transaction of business, but a less number may adjourn from time to time. No member of said board of trustees shall participate in any proceeding in which he has any pecuniary interest. Every vote and official act of the said board of trustees shall be entered of record. Said board of trustees shall have an official seal, which shall be judicially noticed. Said board of trustees may sue and be sued. No vacancy in the board of trustees shall impair the right of the remaining trustees to exercise all the powers of the said board of trustees. At their first meeting, and annually thereafter, the said board of trustees shall elect from their number a president and a secretary. The State Treasurer shall be ex-officio treasurer of said board of trustees. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and an itemized account of all expenditures authorized by said board.

(C. L. Sec. 502.)

b. **Original.** 1893 Laws 7, Sec. 3, same.

c. **Amendment.** 1899 Laws 165, Sec. 3, re-enacts 1893 Laws 7, Sec. 3, supra.

7. *Buildings—Control and Construction.*

a. **Code.** The said board of trustees are hereby authorized, and it is made their duty, to take and at all times to have general supervision and control of all buildings and property appertaining to said normal school; and to have general charge and control of the construction of all buildings to be built. They shall have power to let contracts for buildings and completion of any such buildings, and the entire supervision of their construction.

(C. L. Sec. 503.)

b. **Original.** 1893 Laws 7, Sec. 4, same.

c. **Amendment.** 1899 Laws 164, Sec. 4, re-enacts 1893 Laws 7, Sec. 4, supra.

8. *Funds—Control.*

a. **Code.** One-half of all funds appropriated for the use and benefit of normal schools in the State of Idaho, from every source, including sales of land donated by the government of the United States to the State of Idaho, for the establishment and maintenance of State normal schools, shall be under the direction and control of the said board of trustees subject to the provisions herein contained.

(C. L. Sec. 504.)

b. **Original.** 1893 Laws 8, Sec. 5, same.

c. **Amendment.** 1899 Laws 164, Sec. 5, re-enacts 1893 Laws 8, Sec. 5, supra.

9. *Same—Disbursement.*

a. Code. The treasurer of the board shall pay out of such funds all orders or drafts for money to be expended under the provisions of this chapter. Such orders or drafts shall be drawn by the State Auditor on certificates of the secretary, countersigned by the president, of the said board of trustees. No such certificates shall be given except upon accounts audited and allowed by the said board.

(C. L. Sec. 504.)

b. Original. 1893 Laws 8, Sec. 5, same.

c. Amendment. 1899 Laws 164, Sec. 5, re-enacts 1893 Laws 8, Sec. 5, *supra*.

10. *Normal School Grant—Temporary Use of All.*

a. Original. The board of trustees of said Lewiston State Normal School may use all of the funds in the State treasury arising from the sale of any part of said lands until such time as another State normal school shall be established.

(1893 Laws 8, Sec. 5.)

b. Amendment. 1899 Laws 164, Sec. 5, re-enacts 1893 Laws 8, Sec. 5, *supra*.

11. *Same—Limitation.*

a. Code. Provided, not more than 50,000 acres of said lands shall ever be sold for said purpose of establishing and maintaining the Lewiston State Normal School, and said board of trustees shall never use more of said funds than necessary for the purpose of carrying out the provisions of this chapter.

(C. L. Sec. 504.)

b. Original. 1893 Laws 8, Sec. 5, same.

c. Amendment. 1899 Laws 164, Sec. 5, re-enacts 1893 Laws 8, Sec. 5, *supra*.

12. *Trustees—Meeting.*

a. Original. The board of trustees shall hold two regular meetings annually at the said city of Lewiston, but special meetings may be called by the president of the board by sending written notice at least ten days before such meeting to each member.

(1893 Laws 8, Sec. 6.)

b. Amendment. 1899 Laws 164, Sec. 6, re-enacts 1893 Laws 8, Sec. 6, *supra*.

13. *Principal—Teachers—Election and Removal.*

a. Code. The board of trustees shall have power to elect a principal and all other teachers that may be deemed necessary, to fix salaries of the same and to prescribe their duties. They shall have power to remove either the principal, assistant or teachers, and appoint others in their stead.

(C. L. Sec. 506.)

b. Original. 1893 Laws 8, Sec. 7, same.

c. **Amendment.** 1899 Laws 166, Sec. 7, re-enacts 1893 Laws 8, Sec. 7, *supra*.

14. *Courses—Graduation—Certificates—Diplomas*

a. **Code.** It shall be the duty of the board of trustees to prescribe the course of study and the time and standard of graduation, and to issue such certificates and diplomas as may from time to time be deemed suitable. These certificates and diplomas shall entitle the holder to teach in the public schools of any county in this State for the time and in the grade specified in the certificate or diploma.

(C. L. Sec. 507.)

b. **Original.** 1893 Laws 8, Sec. 8, same.

c. **Amendment.** 1899 Laws 166, Sec. 8, re-enacts 1893 Laws 8, Sec. 8, *supra*.

d. **Board Order.**

THIRD GRADE NORMAL SCHOOL CERTIFICATE

A third grade certificate, good for one year and not renewable, may be issued by the normal school to a graduate of an accredited high school who shall have satisfactorily passed the examination required for a third grade certificate and shall have obtained satisfactory standings in nine weeks' work in either one of the State normal schools.

SECOND GRADE NORMAL SCHOOL CERTIFICATE

The holder of a third grade certificate, who has taught successfully upon it at least 18 weeks, may obtain a second grade certificate after having obtained satisfactory standings on nine weeks' work in either of the State normal schools. This certificate is good for one year and is renewable once only.

FIRST GRADE NORMAL SCHOOL CERTIFICATE

A first grade normal school certificate, good for three years and not renewable, may be issued to the holder of a second grade normal school certificate who shall have obtained satisfactory standings on 18 weeks' additional work in either of the State normal schools, or to the graduates of accredited high schools who shall have satisfactorily completed a one-year professional course for teachers.

NORMAL SCHOOL LIFE DIPLOMA

Upon completion of the prescribed two-year course beyond high school graduation, a diploma, which is a life certificate in the State of Idaho, shall be issued by the respective State normal schools. The holder of a first grade normal school certificate, who shall have satisfactorily completed a prescribed course of 36 weeks additional in the State Normal School, shall be entitled to graduation with a normal school life diploma.

To be valid, all the above certificates and diplomas must be signed by the President of the State Board of Education, the President of the normal school issuing it, and be countersigned by the Commissioner of Education."

15. *Textbooks—Equipment.*

a. **Code.** The board of trustees shall prescribe the textbooks, apparatus and furniture, and provide the same, together with all necessary stationery for the use of pupils.

(C. L. Sec. 508.)

b. **Original.** 1893 Laws 9, Sec. 9, same.

c. **Amendment.** 1899 Laws 166, Sec. 9, re-enacts 1893 Laws 9, Sec. 9, supra.

16. *Training and Model School.*

a. **Code.** The board of trustees shall, when deemed expedient, establish and maintain a training or model school or schools, in which the pupils of the normal school shall be required to instruct classes under the supervision and direction of experienced teachers.

(C. L. Sec. 509.)

b. **Original.** 1893 Laws 9, Sec. 10, same.

c. **Amendment.** 1899 Laws 166, Sec. 10, re-enacts 1893 Laws 9, Sec. 10, supra.

17. *Pupils—Admission—Qualifications—Residents.*

a. **Code.** The board of trustees shall ordain such rules and regulations for the admission of pupils to said normal school as they shall deem necessary and proper. All classes may be admitted into the said normal school who are admitted without restriction into the public schools of the state; PROVIDED, the applicant, if a male, must be not less than 16 years of age, or if a female, not less than 15 years of age. Applicants must also present letters of recommendation from the county superintendent of public instruction of the county in which they reside, certifying to their good moral character and their fitness to enter the normal school. Before entering all applicants must sign the following declaration: "We hereby declare that our purpose in entering the Lewiston State Normal School is to fit ourselves for the profession of teaching, and that it is our intention to engage in teaching in the public schools of this State."

(C. L. Sec. 510.)

b. **Original.** 1893 Laws 9, Sec. 11, same.

c. **Amendment.** 1899 Laws 166, Sec. 11, re-enacts 1893 Laws 9, Sec. 11, supra.

18. *Same—Non-residents—Tuition.*

a. **Code.** Pupils from other states and territories may be admitted to all the privileges of the said normal school on presenting letters of recommendation from the executive or state school superintendent thereof, and the payment of \$100. Pupils from other states shall not be required to sign the declaration named in the foregoing section.

(C. L. Sec. 511.)

b. **Original.** 1893 Laws 9, Sec. 12, same.

c. **Amendment.** 1899 Laws 167, Sec. 12, re-enacts 1893 Laws 9, Sec. 12, supra.

Note: See oath required of nonresident pupils attending Albion State Normal School.

(C. L. Sec. 528.)

Note. Tuition paid by nonresidents to be placed in library fund.

(1903 Laws 426; see Art. V-D-I post.

19. *Lecture Courses.*

a. Code. Lectures in chemistry, comparative anatomy, agricultural chemistry, and any other science or any other branch of literature that the board of trustees may direct, may be delivered to those attending such school, in such manner and on such conditions as the board of trustees may prescribe.

(C. L. 512.)

b. Original. 1893 Laws 9, Sec. 13, same.

c. Amendment. 1899 Laws 167, Sec. 13, re-enacts 1893 Laws 9, Sec. 13, supra.

20. *Trustees—Expenses.*

a. Original. The actual and necessary personal expenses incurred by the members of said board of trustees in carrying out the provisions of this act shall be paid on proper certificate out of any funds belonging to said normal school in the hands of the treasurer.

(1893 Laws 10, Sec. 14.)

b. Amendment. 1899 Laws 167, Sec. 10, re-enacts 1893 Laws 10, Sec. 14, supra.

21. *Same—Vacancies.*

a. Original. It shall be the duty of the Governor of the State to fill by appointment all vacancies that may from any cause occur in the said board of trustees.

(1893 L. 10, Sec. 15.)

b. Amendment. 1899 Laws 167, Sec. 15, re-enacts 1893 Laws 10, Sec. 15, supra.

22. *Report—Recommendations.*

a. Original. The president and secretary of the board of trustees shall on the first day of January of each year transmit to the Governor of the State a full report of the doings of the said board of trustees, the progress and condition of said normal school, together with a full report of the expenditures of the same for the previous year, setting forth each item in full and the date thereof, and such recommendations as they deem proper for the good of said normal school.

(1893 L. 10, Sec. 16.)

b. Amendment. 1899 Laws 167, Sec. 10, re-enacts 1893 Laws 10, Sec. 16, supra.

23. *Supervision of Morals—Non-sectarian Institution.*

a. Code. The board of trustees, in their regulations, and the principal and assistants in their supervision and government of the said school, shall exer-

cise a watchful guardianship over the morals of the pupils at all times during their attendance upon the same, but no religious or sectarian tests shall be applied in the selection of teachers, and none shall be adopted in said school.

(C. L. Sec. 514.)

b. **Original.** 1893 Laws 10, Sec. 17, same.

c. **Amendment.** 1899 Laws 167, Sec. 17, re-enacts 1893 Laws 10, Sec. 17, *supra*.

II. PREPARATORY DEPARTMENT.

1. "That for the purpose of establishing an eighth grade training school inter alia * * * by * * * additions to the * * * Lewiston State Normal School * * * a loan of \$30,000 is hereby authorized."

2. "Creates Lewiston State Normal School building and improvement fund.

3. "Money therefrom to be drawn as in Art. V-A-I-9 (See 1893 L. 6, and 1899 L. 164).

(1905 L. 203.)

B. Endowment.

I. NORMAL SCHOOL GRANT.

1. *Admission Bill.* "To the State of Idaho: For State normal schools, 100,000 (acres)."

(Sec. 11, 26 S. 215.)

2. In lieu of grants (See Art. II-B-II-2, *supra*).

(Sec. 11, 26 S. 215.)

II. APPORTIONMENT.

1. **Original.** One-half of all funds appropriated for the use and benefit of normal schools of the State of Idaho from every source, including sales of land donated by the government of the United States to the State of Idaho for the establishment and maintenance of other normal schools, shall be under the direction and control of the said board of trustees subject to the provisions herein contained.

(C. L. Sec. 504.)

(1893 L. 8, Sec. 5.)

(1899 L. 165, Sec. 5.)

2. *Normal School Fund.*

a. **Created.** A fund which shall be known as the normal school fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the State Auditor and the State Treasurer as the normal school fund and all moneys which may accrue from the investment of the proceeds of the sales of any of the

lands granted to the State of Idaho by the United States government under the provisions of the act of Congress of July 3, 1890, entitled "An act to provide for the admission of the State of Idaho into the Union," for State normal schools or of any of the timber growing thereon and also any and all moneys which may be received on account of any rentals charged for the use of any of such lands and all moneys which may be received by the State Treasurer on account of interest upon deferred payments on such of said lands as may have been sold by the State, shall be credited to, placed in and constitute the said normal school fund.

(C. L. 43:1.)

(1) Original 1905 Laws 393, Sec. 1, same.

b. Limitation on Expenditure. No moneys shall ever be appropriated out of the said normal school fund for any purposes whatsoever other than the support and maintenance of the Albion State Normal School and the Lewiston State Normal School, and that not more than one-half of all the moneys accruing to the said fund shall ever be appropriated for the support and maintenance of either of such schools.

(C. L. 43:1.)

(2) Original 1905 Laws 393, Sec. 2, same.

c. Perpetual Appropriation.

1. *Code.* One-half of all moneys which may accrue to the said normal school fund are perpetually appropriated and set apart for the support and maintenance of the Lewiston State Normal School, the same to be available for such purpose immediately upon their being credited to the said fund.

(C. L. 43:2.)

(2) *Original.* 1905 Laws 394, Sec. 6, same as C. L. 43:2 except beginning with "that perpetually from and after the first day of January, 1907."

3. *Decisions.* (See *Evans vs. Huston*, 27 I. 559; 150 P. 14.)

C. Bond Issue and Tax Levies.

I. BONDS.

1. \$75,000.00 bond issue for the repair and furnishing of a Lewiston Normal School building now partially constructed and for the support and maintenance of said Lewiston Normal School * * * \$37,500.00 * * * not more than \$35,000 thereof shall be paid or expended for such construction, repair, or furnishing; said issue secured on the faith and credit of the State and on

the proceeds of the sale of normal school lands and timber thereof.

(1895 L. 64, refunded 1905 L. 280 and 1909 L. 305.)

2. \$7500.00 bond issue "for the purpose of providing money for chemicals and chemical and physical apparatus and for the erection of two dormitories at the Lewiston State Normal School" secured upon the faith and credit of the state and the proceeds of the sale of State Normal School lands and the timber thereon.

(1899 L. 373, refunded 1905 L. 280; 1909 L. 305.)

3. \$8000.00 bond issue "for the purpose of adding twenty rooms to each dormitory of the Lewiston State Normal School and furnishing the same; preparing and extending the heating apparatus of the building of said school; providing a room for the training department of said school, maps and charts therefor," said loan to be secured by the faith and credit of the state and by the proceeds of the sale of State Normal School lands and the timber thereon.

(1901 L. 133, refunded 1905 L. 280; 1909 L. 305.)

4. \$30,000.00 bond issue "for the purpose of establishing an eighth grade training school and furnishing accommodations for the department of science, manual training, and physical training, by the erection of additions to the present main building of the Lewiston State Normal School * * *" secured on the faith and credit of the State.

(1905 L. 203.)

5. \$21,000.00 bond issue "for the purpose of providing moneys for the purchase of a library for (\$3000.00), the completion and furnishing of a gymnasium belonging to (\$2500.00), for the improvement of the campus or grounds surrounding (\$500.00), the repair of the main building (\$1500.00), of the State University; the purchase of a library for, (\$1000.00) improvement of the buildings (\$500.00), the plumbing of (\$500.00), the improvements of the campus (\$500.00), or the grounds surrounding, and the purchase of furniture and equipment (\$5000.00) for the Lewiston State Normal School; for the repairs on the buildings (\$2500.00) of the Albion State Normal School; and for the completion of and purchase of furniture for and books to be placed in the Lewiston law library (\$3500.00) * * *" secured upon the faith and credit of the State.

(1905 L. 400.)

6. \$40,000.00 bond issue "for the purpose of erecting a dormitory for women at Lewiston State Normal School; furnishing the interior of the same in whole or in part,

installing an adequate heating and ventilating plant and plumbing system in same, furnishing and equipping the structure and making improvements on the site for dormitory for women at the Lewiston State Normal School and the Normal School grounds adjacent to the same * * * conditioned on grant to State by city of tract therein described by metes and bounds, said issue being secured on the faith and credit of the State.

(1907 L. 256, refunded 1907 L. 260.)

7. \$52,750.00 bond issue "for the purpose of erecting and equipping a gymnasium building for the Lewiston State Normal School, for the purchase of sufficient land for a site for the same, and for uses of playground for the training department and an athletic field for the school; providing for the purchase of a site for a future dormitory for young women, and * * * providing for the erection and equipment of a portion of a building for rural science, domestic science, domestic art, and manual training for said * * * school" secured on the faith and credit of the State.

(1909 L. 404, refunded 1909 L. 308.)

II. TAX LEVIES.

1. To liquidate bonds and coupons of the State an ad valorem tax of two mills is levied.

(1913 L. 486.)

(See 1911 L. 682.)

D. Special Funds.

I. LIBRARY FUND.

1. *Created.* That the sum of \$471.25 now in the hands of the secretary of the board of trustees of the Lewiston State Normal School as the proceeds of the sale of chairs not needed by said institution, and the proceeds of tuition fees received from pupils of said institution from other states and territories is hereby directed to be paid into the State treasury and the same shall constitute, with tuition fees of nonresidents which may hereafter be received, a fund to be used for the increasing maintenance of library of the said Lewiston State Normal school.

(1903 Laws 426, Sec. 1.)

2. *Custody.* All payments of tuition fees by pupils in said Lewiston State Normal School from other states and territories shall be paid to the State Treasurer and be placed in a special fund provided for in the preceding section, and the State Auditor shall draw warrants on the said fund on the certificate of the Secretary of the board

of trustees of said Lewiston Normal School countersigned by the president of said board.

(1903 L. 427, Sec. 2.)

II. IMPROVEMENT FUND.

1. *Created.* That the sum of six hundred and fifty dollars now in the hands of the secretary of the Board of Trustees of Lewiston State Normal School as the proceeds of the sale of a building known as Reid Hall, originally erected to be used as a dormitory for men, and condemned and sold in accordance with resolutions of the said Board of Trustees which appear on the minute book of the said board on pages 256 to 260, inclusive, and on page 266, is hereby directed to be paid into the State treasury, and the same shall constitute a fund to be hereafter known as the "Lewiston State Normal Improvement Fund."

All moneys which shall hereafter accrue from the sale of any such buildings or property as shall hereafter be condemned after regular action of the Board of Trustees of Lewiston State Normal School, shall be paid to the State Treasurer and be placed in the special fund provided for in the preceding section.

(1907 L. 233, Secs. 1 and 2.)

2. *Custody.* "And the State Auditor shall draw warrants on said fund on the certificate of the secretary of the Board of Trustees of said Lewiston State Normal School, countersigned by the president of the board.

(1907 L. 233, Sec. 2.)

ARTICLE VI.

ALBION STATE NORMAL SCHOOL

A. Establishment and Creation.

I. CREATION AND LOCATION.

"A normal school for the State of Idaho is hereby established at or near the town of Albion in the county of Cassia, to be called the Albion State Normal School."

(C. L. Sec. 513.)

Original. 1893 L. 179, Sec. 1.

Re-enacted. 1899 L. 228, Sec. 1.

II. PURPOSE AND SCOPE.

"The purpose will be training and educating teachers in the art of instruction and governing in the public schools of the State and teaching the various branches that pertain to a good common school education.

(C. L. Sec. 516.)

Original. 1893 L. 179, Sec. 1.

Re-enacted. 1899 L. 228, Sec. 1.

III. SITE.

"That J. E. Miller of the said town of Albion shall prior to the first day of May, eighteen hundred and ninety-three donate to the Board of Trustees hereinafter named as a site for the use of the said Albion State Normal School five acres of lot 3, section 6, T. 12 S., R. 25 E., together with a permanent water right therefor and shall convey the same by a good and perfect title in fee simple to said Board of Trustees, who are hereby authorized and empowered to receive and hold the same and the title thereto in trust and for the use of the said Albion State Normal School."

(1893 L. 180, Sec. 1.)

Re-enacted. 1899 L. 229, Sec. 1.

Reference. Art. VI-C, post.

IV. TRUSTEES.

1. *Code Provision.* The general supervision, government and control of the Albion State Normal School is vested in the State Board of Education, which shall act as the Board of Trustees of the Albion State Normal School.

(C. L. 517. Based on C. L. 38:3 constituting State Board of Education as the successor to the Board of Trustees of the Albion State Normal School.)

2. *Original Enactment.* a. The said Albion State Normal School shall be under the direction of a Board of Trustees to be known as "the Board of Trustees of Albion State Normal School." The said Board of Trustees shall consist of seven members, to-wit: Josiah E. Miller, Cassia County, David M. Johns, Cassia county, Lewis Sweetser, Cassia county, Will F. Montgomery, Elmore county, Frank Campbell, Oneida county, James Gwin, Owyhee county, and the State Superintendent of Public Instruction, who shall *ex-officio* be a member of said Board of Trustees, who shall, except the State Superintendent of Public Instruction at their first meeting determine by lot their respective terms of office, which shall be for two, four, and six years, and their successors shall be appointed for the term of six years by the Governor of the State of Idaho by and with the advice and consent of the Senate."

(1893 L. 180, Sec. 2.)

b. "That the present Board of Trustees of the Albion State Normal School is hereby abolished.

"That a nonpartisan board of trustees to be known as "the Board of Trustees of the Albion State Normal School" consisting of five members, no more than three of whom shall be of the same political party, is hereby created for the management and control of

the Albion State Normal School. Said trustees shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of two years and until their successors are appointed and qualified.

Section 2 of an act approved March 7, 1893, entitled "An act to establish a State Normal School at Albion * * *" and all acts * * * inconsistent with the provisions of this act are hereby repealed.

(1897 L. 43.)

Note. An act approved March 7, 1893, above referred to. 1893 L. 180, supra.

c. Re-enacts 1893 Laws 180, Sec. 2, supra, as amended by 1897 Laws 43, Sec. 2, supra.

(1899 L. 228, Sec. 2.)

d. The State Superintendent of Public Instruction shall be and is hereby made a member of the Board of Trustees of the * * * Albion State Normal School with the same powers and duties as the other trustees.

(1903 L. 222.)

e. "After March 5, 1905, or as soon thereafter as the board herein provided for shall qualify, the said Albion State Normal School shall be under the direction of a nonpartisan board consisting of six members, not more than four of whom shall be of the same political party, said board to be known as 'The Board of Trustees of the Albion State Normal School,' and said board to succeed the Board of Trustees appointed under the original Section 2 of 'An act to establish a State Normal School at Albion * * *' approved on the 14th day of February, 1899, whose terms of service expire March 5, 1905, or as soon thereafter as their successors qualify."

PROVIDED, That nothing in this act shall be so construed as to interfere in any way with the powers, rights and duties of the Board of Trustees whose terms expire on March 5, 1905, or as soon thereafter as their successors have qualified.

PROVIDED, That nothing in this act shall be construed to repeal an act entitled "An act making the State Superintendent of Public Instruction a member of the Board of Trustees of * * * the Albion State Normal School," approved on the 10th day of March, 1903.

The Board of Trustees which shall be appointed to begin its duties on March 5, 1905, or as soon thereafter as its members shall qualify, shall be appointed by the Governor of the State of Idaho by and with the consent of the Senate for their respective terms of office which shall be, two trustees for two years, two trustees for four years, and two trustees for six years, and their successors shall be appointed for the term of six years by the Governor of the State of Idaho by and with the advice and consent of the Senate.

(1905 L. 130.)

Note. Act of 14 February, 1899.

Above. 1899 L. 228, supra.

Act of 10 March, 1903; 1903 L. 222, supra.

V. QUALIFICATION OF BOARD.

1. Before entering upon the duties of their office each of said trustees except the State Superintendent of Public Instruction shall take and subscribe an oath and affirmation before some person duly authorized to administer the same, that he will support the constitution of the United States and the State of Idaho and will faithfully and impartially discharge the duties of the office of trustee of the Albion State Normal School, which oath or affirmation shall be filed in the office of the Secretary of State.

(1893 L. 180, Sec. 2.)

2. Before entering upon the duties of their office, each of said trustees shall take and subscribe an oath or affirmation that he will support the Constitution of the United States and the Constitution and laws of the State of Idaho, and will faithfully and impartially discharge the duties of said office, which oath or affirmation shall be signed in the office of the Secretary of State.

(1897 L. 43, Sec. 2.)

3. Readoption of 1897 Laws 43 :2, supra.

(Readoption of 1897 L. 43, supra.)

(1899 L. 228, Sec. 2.)

4. Readoption in substance of 1897 Laws 43, and 1899 Laws 228, Sec. 2, supra.

(1905 L. 130, Sec. 2.)

VI. VESTMENT OF TITLE AND POWERS.

1. All the rights, powers, duties and title to real estate or personal property belonging to or vested in the said Albion State Normal School are hereby vested in the trustees of said school herein provided for.

(C. L. Sec. 518.)

2. All rights, powers and duties, and titles to real estate or personal property belonging to or vested in the present Board of Trustees of the Albion State Normal School are hereby transferred to and vested in the Board of Trustees of the Albion State Normal School hereby created.

(1897 L. 43, Sec. 3.)

3. Identical to C. L. Sec. 518, supra.

(1899 L. 229, Sec. 3.)

VII. PROCEEDINGS AND OFFICERS OF BOARD.

1. The said Board of Trustees may conduct its proceedings in such manner as will best conduce to the proper dispatch of business. A majority of the Board of Trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. No member of said Board of Trustees shall participate in any proceeding in which he has any pecuniary interest. Every vote and official act of said Board of Trustees shall be entered of record. Said Board of Trustees shall have an official seal, which shall be judicially noticed. Said Board of Trustees may sue and be sued. No vacancy in the Board of Trustees shall impair the right of the remaining trustees to exercise all the powers of the said Board of Trustees. At their first meeting, and annually thereafter, the said Board of Trustees shall elect from their number a president and secretary. The State Treasurer shall be ex-officio treasurer of said Board

of Trustees. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and an itemized account of all expenditures authorized by the board.

(C. L. Sec. 519.)

Original. 1893 L. 181, Sec. 3.

Re-enacted. 1899 L. 229, Sec. 4.

Note. Original and re-enactment are identical with C. L. Sec. 519 in all material features.

Decision. The Board of Trustees may sue and be sued but only in the supreme court (Sec. 10, Art. V, Constitution) in an original proceeding whenever the action involves a claim against the State.

(Thomas vs. State, 16 I. 81; 100 P. 761.)

VIII. CONTROL AND CONSTRUCTION OF BUILDINGS.

1. The said Board of Trustees are hereby authorized, and it is made their duty, to take and at all times to have general supervision and control of all buildings and property appertaining to said normal school, and to have general charge and control of the construction of all buildings to be built. They shall have power to let contracts for building and completion of any such buildings, and the entire supervision of their construction.

(C. L. Sec. 520.)

Original. 1893 L. 181, Sec. 4.

Re-enacted. 1899 L. 229, Sec. 5.

IX. CONTROL OF FUNDS.

1. All funds appropriated for the use and benefit of said normal school, from every source, including the pro rata share of the available proceeds of sales of lands granted by the government of the United States to the State of Idaho for the establishment and maintenance of State normal schools due to said normal school, shall be under the direction and control of the said Board of Trustees subject to the provision herein contained.

(C. L. Sec. 521.)

Original. 1893 L. 181, Sec. 5.

Re-enacted. 1899 L. 229, Sec. 6.

X. DISBURSEMENT OF FUNDS.

1. The treasurer of the Board of Trustees shall pay out of such funds all orders or drafts for money to be expended under the provisions of this chapter. Such orders or drafts shall be drawn by the State Auditor on certificates of the secretary, countersigned by the president of the said Board of Trustees, and approved by the State Board of Examiners. No such certificates shall be given except on accounts audited and allowed by said Board of Trustees.

(C. L. Sec. 521.)

Original: 1893 L. 181, Sec. 5.

Re-enacted: 1899 L. 230, Sec. 6.

XI. MEETINGS OF BOARD.

1. The Board of Trustees shall hold two regular meetings annually at the said town of Albion, but special meetings may be called by the president of the board by sending written notice of at least ten days to each member.

(1893 L. 182, Sec. 6.)

Re-adopted: 1899 L. 230, Sec. 7.

XII. ELECTION AND REMOVAL OF PRINCIPAL AND TEACHERS.

1. The Board of Trustees shall have power to elect a principal and all other teachers that may be deemed necessary, to fix the salaries of the same and to prescribe their duties. They shall have power to remove either the principal, assistant, or teachers, and appoint others in their stead.

(C. L. Sec. 523.)

Original: 1893 L. 182, Sec. 7.

Re-enactment: 1899 L. 230, Sec. 8.

XIII. COURSES—GRADUATION—CERTIFICATES—DIPLOMAS.

1. It shall be the duty of the Board of Trustees to prescribe the course of study, and the time, and standard, of graduation, and to issue such certificates and diplomas as may from time to time be deemed suitable. These certificates and diplomas shall entitle the holders to teach in the public schools in any county in this State for the time and in the grade specified in the certificate or diploma.

(C. L. Sec. 524.)

Original: 1893 L. 182, Sec. 8.

Re-enacted: 1899 L. 230, Sec. 9.

2. *Board Order.*

THIRD GRADE NORMAL SCHOOL CERTIFICATE.

A third grade certificate, good for one year and not renewable, may be issued by the normal school to a graduate of an accredited high school who shall have satisfactorily passed the examination required for a third grade certificate and shall have obtained satisfactory standings in nine weeks' work in either one of the State normal schools.

SECOND GRADE NORMAL SCHOOL CERTIFICATES.

The holder of a third grade certificate, who has taught successfully upon it at least 18 weeks, may obtain a second grade certificate after having obtained satisfactory standings on nine weeks' work in either of the State normal schools. This certificate is good for one year and is renewable once only.

FIRST GRADE NORMAL SCHOOL CERTIFICATE.

A first grade normal school certificate, good for three years and not renewable, may be issued to the holder of a second grade normal school certificate who shall have obtained satisfactory standings on eighteen weeks' additional work in either of the State normal schools, or to the graduates of accredited high schools who shall have satisfactorily completed a one-year professional course for teachers.

NORMAL SCHOOL LIFE DIPLOMA.

Upon completion of the prescribed two-year course beyond high school graduation, a diploma, which is a life certificate in the State

of Idaho, shall be issued by the respective State normal schools. The holder of a first grade normal school certificate, who shall have satisfactorily completed a prescribed course of 36 weeks additional in the State normal school, shall be entitled to graduation with a normal school life diploma.

To be valid, all the above certificates and diplomas must be signed by the president of the State Board of Education, the president of the normal school issuing it, and be countersigned by the Commissioner of Education.

XIV. TEXTBOOKS AND EQUIPMENT.

1. The Board of Trustees shall prescribe the textbooks, apparatus and furniture, and provide the same, together with all necessary stationery for the use of pupils.

(C. L. Sec. 525.)

Original: 1893 L. 182, Sec. 9.

Re-enacted: 1899 L. 230, Sec. 10.

XV. TRAINING AND MODEL SCHOOLS.

1. The Board of Trustees shall, when deemed expedient, establish and maintain a training or model school or schools in which the pupils of the normal school shall be required to instruct classes, under the supervision and direction of experienced teachers.

(C. L. Sec. 526.)

Original: 1893 L. 180, Sec. 10.

Re-enacted: 1899 L. 230, Sec. 11.

XVI. ADMISSION AND QUALIFICATION OF RESIDENT PUPILS.

1. The Board of Trustees shall ordain such rules and regulations for the admission of pupils to said normal school as they shall deem necessary and proper. All classes may be admitted into the said normal school who are admitted without restriction into the public schools of the State: PROVIDED, The applicant, if a male, must be not less than 16 years of age, or if a female, not less than 15 years of age. Applicants must also present letters of recommendation from the County Superintendent of Public Instruction of the county in which they reside, certifying to their good moral character and their fitness to enter the normal school. Before entering, all applicants must sign the following declaration: "We hereby declare that our purpose in entering the Albion State Normal School is to fit ourselves for the profession of teaching, and that it is our intention to engage in teaching in the public schools of this State."

(C. L. Sec. 527.)

Original: 1893 L. 182, Sec. 11.

Re-enacted: 1899 L. 230, Sec. 12.

XVII. SAME—NONRESIDENT PUPILS.

1. Pupils from other States and Territories may be admitted to all the privileges of said normal school on presenting letters of recommendation from the executive or

State School Superintendent thereof, and paying such tuition fee as the Board of Trustees may prescribe. Each of such pupils must sign the following declaration: "I hereby declare that my purpose in entering the Albion State Normal School is to fit myself for the profession of teaching."

(C. L. Sec. 528.)

2. Original: Pupils from other states and territories may be admitted to all the privileges of the said normal school on presenting letters of recommendation from the executive or state school superintendent thereof, and the payment of \$100. Pupils from other states shall not be required to sign the declaration made in the foregoing section.

(1893 L. 183, Sec. 12.)

3. Amendment: Amends original section (1893 L. 183) resulting in present C. L. Sec. 528, supra.

1895 L. 19.)

Re-enacted: 1899 L. 230, Sec. 13.

XVIII. LECTURE COURSES.

1. Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry, and any other science, or any other branch of literature that the Board of Trustees may direct, may be delivered to those attending such school, in such manner and on such conditions as the Board of Trustees may prescribe.

(C. L. Sec. 529.)

Original: 1893 L. 183, Sec. 13.

Re-enacted: 1899 L. 231, Sec. 14.

XIX. EXPENSES OF BOARD.

1. "The actual and necessary personal expenses incurred by the members of said Board of Trustees in carrying out the provisions of this act shall be paid on the proper certificate out of any funds belonging to said normal school in the hands of the treasurer.

(1893 L. 183, Sec. 14.)

Re-adopted: 1899 L. 231, Sec. 15.

XX. VACANCY IN BOARD.

1. It shall be the duty of the Governor of the State to fill by appointment all vacancies that may from any cause occur in the said Board of Trustees.

(1893 L. 183, Sec. 15.)

Re-adopted: 1899 L. 231, Sec. 16.

XXI. REPORT EXPENDITURES—SUBMIT RECOMMENDATIONS.

1. The president and secretary of the said Board of Trustees shall on the first days of January and July of each year, transmit to the Governor of the State a full report of the doings of the said Board of Trustees, the progress and condition of the said normal school together with a full report of the expenditures of the same for the previous six months, setting forth each item in full and

the date thereof and such recommendations as they deem proper for the good of said normal school.

(1893 L. 183, Sec. 16.)

Re-adopted: 1899 L. 231, Sec. 17.

XXII. SUPERVISION OF PUPILS—NONSECTARIAN INSTITUTION.

1. The Board of Trustees in their regulations, and the principal and assistant in their supervision and government of the said school, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance upon the same, but no religious or sectarian test shall be applied in the selection of teachers, and none shall be adopted by the said school.

(C. L. Sec. 532.)

Original: 1893 L. 183, Sec. 17.

Re-adopted: 1899 L. 231, Sec. 18.

Note: "By" inserted for "in" in the last phrase of C. L. Sec. 532.

B. Endowment

I. NORMAL SCHOOL GRANT.

1. To the State of Idaho: for state normal schools, 100,000 (acres).

(Sec. 11, 26 S. 215; Admission Bill.)

2. In lieu of grants (see Art. II-B-II-2, supra.)

(Sec. 11, 26 S. 215.)

II. APPORTIONMENT.

1. *Original.*

All funds * * * including the pro rata share of the available proceeds of sales of lands granted by the Government of the United States to the State of Idaho for the establishment and maintenance of State normal schools due to said normal school shall be under the direction and control of the said Board of Trustees subject to the provisions herein contained.

* * *"

(1893 L. 181, Sec. 5.)

Re-enacted: 1899 L. 230, Sec. 6.

(C. L. Sec. 521.)

2. *Normal School Fund.*

a. Created. A fund which shall be known as the normal school fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the State Auditor and the State Treasurer as the normal school fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the

lands granted to the State of Idaho by the United States Government under the provisions of the act of Congress of July 3, 1890, entitled "An act to provide for the admission of the State of Idaho into the Union," for State normal schools or of any of the timber growing thereon and also any and all moneys which may be received on account of any rentals charged for the use of any of such lands and all moneys which may be received by the State Treasurer on account of interest upon deferred payments on such of said lands as may have been sold by the State, shall be credited to, placed in and constitute the said normal school fund.

(C. L. 43:1.)

Original: 1905 L. 393, Sec. 1.

b. Limitation on Expenditure. No moneys shall ever be appropriated out of the said normal school fund for any purpose whatsoever other than the support and maintenance of the Albion State Normal School and the Lewiston State Normal School, and that not more than one-half of all the moneys accruing to the said fund shall ever be appropriated for the support and maintenance of either of such schools.

(C. L. 43:1.)

(1905 L. 393, Sec. 2.)

c. Apportionment to Albion.

(1) **Original.** "That perpetually from and after the first day of January, 1907, one-half of all moneys which may accrue to the said normal school fund shall be and the same are hereby appropriated and set apart for the support and maintenance of the said Albion State Normal School and that the same shall be and they are hereby made available for such purpose immediately upon their being credited to the said fund.

(1905 L. 393, Sec. 4.)

(2) **Code.** One-half of all moneys which may accrue to the said normal school fund are perpetually appropriated and set apart for the support and maintenance of the Albion State Normal School, the same to be available for such purpose immediately upon their being credited to the said fund.

(C. L. 43:3; 1905 L. 393.)

3. Decisions.

a. The appropriation made by Section 4, 1905 L. 393 and readopted by Revised Code Sec. 17, subdi-

vision 66, is continuing and perpetual until amended or repealed by the Legislature.

Evans vs. Huston, 27 I. 559, 150 P. 14.

b. The balance remaining in the normal school fund at the close of a biennium is available for the expenses of the beneficiary during the ensuing biennium.

Evans vs. Huston, supra.

C. Title to Original Campus Site.

I. "Five acres of lot 3, Sec. 6, T. 12 S., R. 25 E., together with a permanent water right therefor * * * by a good and perfect title in fee simple * * * in trust and for the use of said * * * school."

(1893 L. 179.)

Re-adopted: 1899 L. 229.

II. "That before the bonds provided for in this act shall be sold or the funds * * * therefrom can be used * * * title to the property upon which said Albion State Normal School is located * * *: 5 acres of lot 3, Sec. 6, T. 12 S., R. 25 E., Cassia county, Idaho, together with a permanent water right therefor and heretofore granted by J. E. Miller to the trustees of the * * * school, shall be * * * vested in the board * * * in trust and for the use of said school by good and sufficient title in fee simple.

(1901 L. 78.)

D. Bonds.

1. \$75,000.00 bond issue "for the purpose of providing money for the support and maintenance of normal school of the State of Idaho located at Albion * * * and Lewiston * * * and for the construction and repair of buildings for the use of said schools * * *". (\$37,500.00 to Albion) secured on the faith and credit of the State and normal school grant and timber thereon.

(1895 L. 64.)

Refunded: 1905 L. 280.)

2. \$13,000 bond issue "for the purpose of completing the present building and for the erection of two dormitories for the Albion State Normal School" secured on the proceeds of the normal school lands and timber thereon.

(1901 L. 74.)

Refunded: 1905 L. 280.)

3. \$12,000 bond issue "for the purpose of completing the buildings, increasing the water supply, increasing the equipment, and making certain improvements for the Albion State Normal School" secured on the faith and credit of the

State and on the lands granted said school by 1893 L. 179.

(1903 L. 208.)

Refunded: 1905 L. 280.)

4. \$30,000 bond issue "for the purpose of erecting a dormitory and furnishing the same for the Albion State Normal School" secured upon the faith and credit of the State.

(1905 L. 214.)

Refunded: 1905 L. 280.)

5. \$21,000 bond issue "for the purpose of providing monies (inter alia) for repairs on the buildings of the Albion State Normal School (\$2500) secured upon ad valorem tax.

(1905 L. 400.)

6. \$20,000 bond issue "for the purpose of completing the girls' dormitory and for erecting a building to be used as a model school building and gymnasium for the Albion State Normal School secured upon the faith and credit of the State and ad valorem tax.

(1907 L. 228.)

Refunded: 1907 L. 260.

7. \$36,000 bond issue "for the purpose of building and equipping a gymnasium for the Albion State Normal School secured on the faith and credit of the State and on ad valorem tax.

(1909 L. 426.)

Refunded: 1909 L. 305.

E. Special Fund.

I. MAINTENANCE FUND.

1. To be augmented by transfer thereto of residue of "bond deficiency fund 1901."

(1903 L. 427.)

ARTICLE VII.

THE IDAHO TECHNICAL INSTITUTE

A. Creation and Establishment.

I. CREATION AND LOCATION.

1. Code. A school which shall be called the Idaho Technical Institute is hereby established in the city of Pocatello, Idaho.

(C. L. Sec. 545.)

2. Original. "That a school which shall be called the Academy of Idaho is hereby established at the city of Pocatello, Idaho."

(1901 L. 17, Sec. 1.)

3. Amendment.

a. That the educational institution located at Pocatello, Idaho, and now known as the Academy of Idaho shall after the passage and approval of this act be known and designated as "The Idaho Technical Institute."

That the holdings, rights, privileges, and immunities and obligations of the Academy of Idaho be and the same are hereby

transferred to and continued in the Idaho Technical Institute.

(1915 L. 84, Secs. 1 and 2.)

b. A school which shall be called the Idaho Technical Institute is hereby established in the city of Pocatello, Idaho.

(1915 L. 84, Sec. 3.)

II. PURPOSE.

1. Code. The purpose shall be the giving of instruction in such vocational, scientific, literary and technical subjects as will meet the educational needs of the students enrolled.

Provided, That the course shall include two years and not more than two years of college grade, and such work below college grade as the conditions of the educational system of the State render desirable.

Provided further, That no course offered shall exceed in scope the first two years of college work as prescribed for the University of Idaho.

(C. L. Sec. 545.)

(1915 L. 84, Sec. 3.)

2. Original. The purpose shall be the teaching of all the branches commonly taught in academies, including also the various studies pertaining to a good common school education and such special courses as are usually taught in business colleges.

(1901 L. 17, Sec. 1.)

III. SITE.

1. Original. *Provided*, That prior to May 1, 1901, the citizens of Pocatello shall cause to be donated to the Board of Trustees hereinafter created as a site for the use of said academy, two blocks of land adjacent to each other, within the townsite of said city of Pocatello, and shall cause the same to be conveyed by a good and sufficient deed in fee simple to said Board of Trustees who are hereby authorized and empowered to receive and hold the same in trust for the use and benefit of said academy.

Provided further, That before this action shall become a law or become operative, the citizens of Pocatello shall convey in fee simple the two blocks of ground as provided for in this section of this act to the Board of Trustees of the Academy of Idaho. The conveyance herein provided for to be subject to the approval of the Attorney General, whose approval is a compliance with this provision.

(1901 L. 17, Sec. 1.)

2. Supplement. Appropriation of \$30,000 for the purchase of additional lands for site for technical institute.

(1919 L. 410, ch. 124.)

IV. TRUSTEES.

1. Code. The general supervision, government and control of the Idaho Technical Institute is vested in the

State Board of Education, which shall act as the Board of Trustees of the Idaho Technical Institute.

(C. L. Sec. 546.)

Note: Based on C. L. 38:1 and 38:3, substituting "State Board of Education" for "Board of Trustees of Idaho Technical Institute."

2. Original.

a. That a non-partisan board of trustees to be known as "The Board of Trustees of the Academy of Idaho," consisting of six (6) members, no more than three (3) of whom shall be of the same political party, is hereby created for the management and control of the said academy. Said trustees shall be appointed by the Governor by and with the advice and consent of the Senate for terms of six years, and until their successors are appointed and qualified; PROVIDED, That of the first board appointed, two members shall be appointed for two years, two members for four years, and two members for six years.

(1901 L. 18, Sec. 2.)

b. That for the purpose of prescribing a course of study, but for that purpose only, the president of the State university and the State Superintendent of Public Instruction shall be ex-officio members of the Board of Trustees.

(1901 L. 20, Sec. 9.)

V. SAME—QUALIFICATION OF.

1. Original. "Before entering upon the duties of their office, each of said trustees shall take and subscribe an oath or affirmation that he will support the Constitution of the United States and the Constitution and laws of the State of Idaho and will faithfully and impartially discharge the duties of said office, which oath or affirmation shall be filed in the office of the Secretary of State.

(1901 L. 18, Sec. 2.)

VI. VESTMENT OF TITLE AND POWERS.

1. Code. All rights in and title to real estate or personal property belonging to or vested in said institute are hereby vested in said Board of Trustees.

(C. L. Sec. 547.)

2. Original. Same except "academy" instead of "institute."

(1901 L. 18, Sec. 3.)

3. Transitory. That the holdings, rights, privileges, and immunities and obligations of the Academy of Idaho be and the same are hereby transferred to and continued in the Idaho Technical Institute.

(1915 L. 84, Sec. 2.)

VII. PROCEEDINGS AND OFFICERS OF BOARD.

1. Code. The said Board of Trustees may conduct its proceedings in such manner as will best conduce to the proper dispatch of business. A majority of the Board of Trustees shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. No member of said Board of Trustees shall participate in any proceedings in which he has any pecuniary interest. Every vote and official act of said Board of Trustees shall be entered of record. Said Board of Trus-

tees shall have an official seal which shall be judicially noticed. Said Board of Trustees may sue and be sued. No vacancy in the Board of Trustees shall impair the right of the remaining trustees to exercise all the powers of said Board of Trustees. At their first meeting and annually thereafter, the said board shall elect from their number a president and a secretary. The State Treasurer shall be ex officio treasurer of said Board of Trustees. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and an itemized account of all the expenditures authorized by said board.

(C. L. Sec. 548.)

2. **Original.** 1901 L. 18, Sec. 4, identical.

VIII. CONTROL OF BUILDINGS AND CONSTRUCTION.

1. **Code.** The said Board of Trustees are hereby authorized, and it is made their duty, to take and at all times to have general supervision and control of all buildings and property appertaining to said institute, and to have general charge and control of the construction of all buildings to be built. They shall have power to let contracts for building any such buildings, and also the entire supervision of their construction.

(C. L. Sec. 549.)

2. **Original.** 1901 L. 19, Sec. 5, identical.

IX. FUNDS—CONTROL OF.

1. **Code.** All funds appropriated for the use and benefit of said institute, from every source, including the available proceeds from the sales of said land, and the sale of bonds provided for said institute, shall be under the control and direction of said Board of Trustees, subject to the provisions herein contained.

(C. L. Sec. 551.)

2. **Original.** 1901 L. 19, Sec. 7, identical.

Note: "Including the available proceeds from the sales of said land" in Section 551, C. L. supra, relates to the apportionment of 40,000 acres of the "other State, charitable, educational, penal, and reformatory institutions" grant to the benefit of the Academy of Idaho.

(1901 L. 19, Sec. 6.)

(C. L. 45:1.)

X. FUNDS—DISBURSEMENT OF.

1. **Code.** The treasurer of the Board of Trustees shall pay out of such funds all orders or drafts for money to be expended under the provisions of this chapter. Such orders or drafts shall be drawn by the State Auditor upon certificates of the secretary, countersigned by the president of said Board of Trustees, and approved by the State Board of Examiners. No such certificates shall be given

except on accounts audited and allowed by said Board of Trustees.

(C. L. Sec. 551.)

2. **Original.** 1901 L. 19, Sec. 7, identical.

XI. TRUSTEES—MEETING OF.

1. **Original.** The Board of Trustees shall hold two regular meetings annually at the city of Pocatello, but special meetings may be called by the president of the board by sending written notice of at least ten days to each member.

(1901 L. 20, Sec. 8.)

XII. PRINCIPAL AND TEACHERS—ELECTION AND ROMOVAL.

1. **Code.** The Board of Trustees shall have power to elect a principal and all other teachers that may be deemed necessary, to fix the salaries of the same, and to prescribe their duties. They shall have power to remove the principal or teachers and appoint others in their stead.

(C. L. Sec. 553.)

2. **Original.** 1901 L. 20, Sec. 9, identical.

XIII. COURSES—GRADUATION—CERTIFICATES—DIPLOMAS.

1. **Code.** It shall be the duty of the Board of Trustees to prescribe the course of study and the time and standard of graduation, and to issue such certificates of graduation, and diplomas as may from time to time be deemed suitable.

(C. L. Sec. 553.)

2. **Original.** 1901 L. 20, Sec. 9, identical.

XIV. TEXTBOOKS AND EQUIPMENT.

1. **Code.** The Board of Trustees shall prescribe the textbooks, and shall provide such suitable apparatus and furniture from time to time as they may deem necessary.

(C. L. Sec. 553.)

2. **Original.** 1901 L. 20, Sec. 9, identical.

XV. COURSES—EX-OFFICIO MEMBERS OF BOARD.

1. **Original.** "Provided, That for the purpose of prescribing a course of study but for that purpose only, the president of the State University and the State Superintendent of Public Instruction shall be ex-officio members of the Board of Trustees.

(1901 L. 20, Sec. 9.)

XVI. PUPILS—ADMISSION—TUITION.

1. **Code.** The Board of Trustees shall ordain such rules and regulations for the admission of pupils to said institute as they shall deem necessary and proper. Pupils from other States and Territories may be admitted to

all the privileges of such institute upon paying such reasonable tuition fee as the trustees may prescribe.

(C. L. Sec. 554.)

2. **Original.** 1901 L. 20, Sec. 10, identical.

XVII. TRUSTEES—EXPENSES OF.

1. **Original.** The actual necessary personal expenses incurred by the members of said Board of Trustees in carrying out the provisions of this act shall be paid on the proper certificate out of any funds belonging to said academy in the hands of the treasurer.

(1901 L. 20, Sec. 11.)

XVIII. TRUSTEES—VACANCIES.

1. **Original.** It shall be the duty of the Governor of the State to fill by appointment all vacancies that may from any cause occur in the Board of Trustees.

(1901 L. 20, Sec. 12.)

XIX. TRUSTEES—REPORT AND RECOMMENDATION BY.

1. **Original.** The president and secretary of said Board of Trustees shall on the first day of January and July of each year transmit to the Governor of the State a full report of the doings of the said Board of Trustees, the progress and condition of said academy, together with a full report of the expenditures of the same for the previous six months, setting forth each item in full and the date thereof and such recommendations as they deem proper for the good of said academy.

(1901 L. 20, Sec. 13.)

XX. SUPERVISION OF MORALS—NONSECTARIAN INSTITUTION.

1. **Code.** The Board of Trustees in their regulations, and the principal and assistants in their supervision and government of said school, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance upon the same, but no religious or sectarian test shall be applied in the selection of teachers, and none shall be adopted in said school.

2. **Original.** 1901 L. 21, Sec. 14, identical.

B. Endowment.

I. LAND GRANT

1. 40,000 acres of the lands granted to the State of Idaho by an act of Congress entitled "An act to provide for the admission of the State of Idaho into the Union," approved July 3, 1890 (26 S. at L. 215) "for other State, charitable, educational, penal and reformatory institutions" are hereby appropriated and set apart for the exclusive use and benefit of said insti-

tute, said lands to be held, disposed of, and the proceeds thereof used and applied for the benefit of said institute subject to the provisions of said admission bill and of the Constitution of the State of Idaho and so far as may be practicable in conformity with the established procedure of holding, disposing of, and applying the proceeds of the sales of lands granted for the establishment and maintenance of State normal schools in Idaho.

(C. L. 45:1; 1901 L. 17.)

II. IDAHO TECHNICAL INSTITUTE FUND.

1. *Creation*

a. Code. A fund which shall be known as the Idaho Technical Institute fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the State Auditor and the State Treasurer as the Academy of Idaho fund and all sums which may accrue from the investment of moneys belonging to that certain fund known and designated upon the books in the offices of the State Auditor and the State Treasurer as the Academy of Idaho endowment fund and also four-fifteenths of any and all moneys which may be received on account of rentals charged for the use of any of those certain lands granted to the State of Idaho for "other State charitable, educational, penal and reformatory institutions" by the act of Congress approved July 3, 1890, entitled "An act to provide for the admission of the State of Idaho into the Union" and four-fifteenths of all moneys received by the State Treasurer on account of interest upon deferred payments on such of the said lands as may have been sold by the State, shall be credited to, placed in and constitute the said Idaho Technical Institute fund.

(C. L. 45:2.)

b. Original. 1905 L. 409, Sec. 1, identical except change of name from "Academy of Idaho" to "Idaho Technical Institute." (See 1915 L. 84.)

Note: Idaho Technical Institute endowment fund named supra evidently refers to accruals from grant of 40,000 acres made by 1901 Laws 19, Sec. 6; C. L. 45:1; Art. VII-B-I, supra.

2. *Limitation on Expenditure.*

a. Code. No moneys shall ever be appropriated out of the said Idaho Technical Institute fund for any purpose other than the support and maintenance of the Idaho Technical Institute, nor shall any moneys properly belonging to the said

fund ever be diverted therefrom or used for any other purpose whatsoever.

b. **Original.** 1905 L. 409, Sec. 2, identical save for change of name.

3. *Perpetual Appropriation.*

a. Code. All moneys which may accrue to the Idaho Technical Institute fund are perpetually appropriated and set apart for the support and maintenance of the Idaho Technical Institute, the same to be available for such purpose immediately upon their being credited to the said fund.

(C. L. 45:3.)

b. Original. That perpetually from and after the first day of January, 1907, all moneys which may accrue to the Academy of Idaho fund shall be and the same are hereby appropriated and set apart for the support and maintenance of the Academy of Idaho, and that the same shall be and they are hereby made available for such purpose immediately upon their being credited to the said fund.

(1905 L. 410, Sec. 4.)

C. Bonds.

1. \$25,000 bond issue "for the purpose of erecting and equipping suitable buildings for the Academy of Idaho secured on the proceeds of the 40,000 acre grant, supra.

(1901 L. 17; refunded 1905 L. 280.)

2. \$30,000 bond issue "for the purpose of erecting and equipping suitable buildings and making certain improvements for the Academy of Idaho secured on the faith and credit of the State and on proceeds of grant of 1901 L. 17.

(1903 L. 51; refunded 1905 L. 280.)

3. \$45,500 bond issue "for the purpose of erecting and equipping suitable buildings and making certain improvements (expenditures itemized) for the Academy of Idaho," secured on the faith and credit of the State and an ad valorem tax.

(1905 L. 166; refunded 1905 L. 280.)

4. \$21,000 bond issue "for the purpose of erecting and equipping suitable buildings and making certain improvements (expenditures itemized) for the Academy of Idaho" secured on the faith and credit of the State and an ad valorem tax.

(1907 L. 136; refunded 1907 L. 260.)

5. \$36,000 bond issue "for the purpose of erecting and equipping suitable buildings and making certain improvements (expenditures itemized) for the Academy of Idaho" secured on the faith and credit of the State and an ad valorem tax.

(1909 L. 385; refunded 1909 L. 305.)

ARTICLE VIII.

THE IDAHO INDUSTRIAL TRAINING SCHOOL.

A. Creation and Establishment.

I. STATE REFORM SCHOOL.

1. *Original act.*

a. Creation and Location. "That a State reform school for the State of Idaho is hereby established in the town of Mountain Home, county of Elmore, State of Idaho, to be called the State Reform School."

(1893 L. 165, Sec. 1.)

b. Purpose. The purpose shall be the care and reformation of incorrigible youth and the detention of juvenile offenders against the law whom the court before which the offenders are convicted may deem susceptible of reformation.

(1893 L. 165, Sec. 1.)

c. Endowment. All funds * * * including the available proceeds of the sale of 50,000 acres out of the 150,000 acres of land granted to the state by the general government for "other State, charitable, penal and reformatory institutions," shall be under the direction and control of the Board of Trustees.

(1893 L. 166, Sec. 5.)

Note: For constitution of Board of Trustees and powers and duties thereof see original act, the same being omitted here since act repealed by 1899 L. 391. (See Art. VIII-A-I-3, post.)

2. *Re-enactment.* 1893 Laws 165, supra, re-enacted.

(1899 L. 226.)

3. *Repealed.*

a. School Abolished. "That an act of the 3rd session of the Legislature of the State of Idaho entitled "An act to establish a reform school at Mountain Home, in the county of Elmore and to create a Board of Trustees for the management thereof" is hereby repealed.

(1899 L. 391, Sec. 1.)

Note: "Third session" used above refers to second session (1893 L. 165, supra).

b. Reversion of Title. That all rights accruing to, all donations made for, and all property vested by virtue of said act shall revert back to the original owners thereof as fully and completely as if the same had never passed, and the board of trustees of said reform school are hereby authorized and directed to execute deeds of conveyance of all real estate to the respective donors or grantors who have heretofore donated or granted lands or real estate to said board of trustees for the use and benefit of said reform school.

(1899 L. 391, Sec. 2.)

Note: Express repeal not made of 1899 L. 226, supra.

II. IDAHO INDUSTRIAL TRAINING SCHOOL.

1. *Creation and Location.*

a. Code. A State Industrial Training School is hereby established at the town of St. Anthony

in Fremont county, State of Idaho, to be called the Idaho Industrial Training School.

(C. L. 47:1.)

b. Original. That a State Industrial Reform School is hereby established in Fremont County, State of Idaho, to be called "The Idaho Industrial Reform School" and to be located in such place and in such manner as hereinafter provided.

(1903 L. 13, Sec. 1.)

Reference: Location made by commission.

(1903 L. 25, Sec. 40; see post Art. VIII-A-II-24.)

c. Amendments.

(1) That the name of the Idaho Industrial Reform School be and the same is hereby changed to "The Idaho Industrial Training School," and as such henceforth said institution shall be known.

(1905 L. 227, Sec. 1.)

(2) Nothing herein contained shall affect any contract or contracts heretofore entered into on behalf of said Idaho Industrial Reform School nor any act or thing authorized to be done by any act of the Legislature of this State; but said acts or things may be done with the same force and effect, the words and name, the "Idaho Industrial Training School" being substituted for the words and name "The Idaho Industrial Reform School" wherever the latter shall appear in any such act.

(1905 L. 227, Sec. 1.)

(3) "A State Industrial Training School is hereby established at the town of St. Anthony in Fremont County, State of Idaho, to be called the "Idaho Industrial Training School."

(1911 L. 563.)

2. *Purpose.*

a. Code. The purpose of said school shall be the care, protection, training, and education of delinquent children and to provide for the care and control and discharge of juvenile offenders.

(C. L. 47:1.)

b. Original. The purpose of such school shall be for the care, protection, training and education of delinquent, dependent, and neglected children, and to provide for the care, control and discharge of juvenile offenders.

(1903 L. 13, Sec. 1.)

c. Amendment. Changes 1903 L. 13, to form of C. L. 47:1.

(1911 L. 563.)

3. *Trustees—Membership.*

a. Code. The general supervision, government and control of the Idaho Industrial Training School is vested in the State Board of Education, which shall act as the Board of Trustees of the Idaho Industrial Training School.

(C. L. 47:2.)

Note: Based on C. L. 38:1 and 38:3 substituting "State Board of Education" for "Board of Trustees of said school."

b. Original. That Board of Trustees to be known as the Board of Trustees of the Idaho Industrial Reform School consisting of four members, all of whom shall be appointed, two of whom shall be men, and two of whom shall be women, no more than two of whom shall belong to one political party, and no more than one of any one county, two of whom shall be interested in humanitarian work.

Said Board of Trustees shall be appointed by the Governor and confirmed by the Senate for the term of four years, and until their successors are appointed and qualified; provided that of the first board appointed two shall hold office for two years, and two for four years, the Governor and State Superintendent of Public Instruction to be ex-officio members of the Board of Trustees.

(1903 L. 13, Sec. 2.)

4. *Same—Qualifications of.*

a. Original. Before entering upon the discharge of the duties of their respective offices, each member shall take and subscribe an oath or affirmation that he or she will support the Constitution of the United States, the Constitution of the State of Idaho, and will faithfully discharge the duties of said office, which oath or affirmation shall be filed with the Secretary of State.

(1903 L. 13, Sec. 2.)

5. *Same—Proceedings of.*

a. Code. The said Board of Trustees shall conduct its proceedings in such a manner as will best conduce to the proper dispatch of business. Three members of the Board of Trustees shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. No member of said Board of Trustees shall participate in any proceedings in which he has a personal or pecuniary interest. Every vote and official act of said Board of Trustees shall be entered on record.

Said Board of Trustees shall have an official seal, which shall be judicially noticed. Said Board of Trustees may sue and be sued, and may take, in the name of the State, and hold in trust for the school, any and all money, real estate or personal property that may be bequeathed to said school.

(C. L. 47:3.)

b. Original. 1903 Laws 13, Sec. 3, identical with C. L. 47:3, supra, except that original act required a majority of the board to constitute a quorum.

c. Amendments. 1909 Laws 65, amended 1903 Laws 13, Sec. 3, with reference to quorum and placed Section 3 in form as it appears in C. L. 47:3.

6. *Same—Officers—Duties of.*

a. Code. Biennially the said Board of Trustees shall elect a president and Secretary. The State Treasurer shall be ex-officio treasurer of said Board of Trustees. It shall be the duty of the secretary of said board to keep an exact and detailed account of the doings of said board and

an itemized account of all expenditures authorized by said board.

(C. L. 47:4.)

b. **Original.** 1903 Laws 14, Sec. 4, differs from C. L. 47:4 only in beginning section with "at their first meeting, and."

7. *Buildings—Control and Construction of.*

a. **Code.** The said Board of Trustees are hereby authorized, and it is made their duty, to take and at all times to have general supervision and control of all buildings and property appertaining to said school, and to have general charge and control of all buildings to be constructed. They shall have power to let contracts for the erection of all buildings, and also the entire supervision of their construction. All buildings for housing the pupils shall be on "cottage plan." For the better grading of inmates, each cottage shall accommodate not more than 25 persons.

(C. L. 47:5.)

b. **Original.** 1903 Laws 14, Sec. 5 same.)

8. *Trustees—Meetings.*

a. **Original.** Said Board of Trustees shall hold two meetings at said school annually but special meetings may be called by the president of the board, sending written notices of at least ten days to each member.

(1903 L. 14, Sec. 6.)

9. *Same—Expenses.*

a. **Original.** The actual and necessary personal expenses for mileage and board incurred by the members of said Board of Trustees in carrying out the provisions of this act shall be paid on proper certificates out of any funds belonging to said school in the hands of the treasurer.

(1903 L. 14, Sec. 6.)

10. *Funds—Control of.*

a. **Code.** All funds appropriated for the use and benefit of said school from every source, including the available interest arising from investment of the proceeds of the sale of lands set apart as hereinafter provided for, shall be under the control and direction of said Board of Trustees, subject to the provisions herein contained.

(C. L. 47:7.)

b. **Original.** 1903 Laws 14, Sec. 7, same.)

11. *Same—Disbursement of.*

a. **Code.** The treasurer of the Board of Trustees shall pay out of such funds all orders or

drafts for money to be expended under provisions of this chapter. Such orders or drafts shall be drawn by the State Auditor upon certificates of the Secretary, countersigned by the president of the Board of Trustees, and shall be approved by the State Board of Examiners. No such certificates shall be given except on accounts audited and allowed by said Board of Trustees.

(C. L. 47:7.)

b. *Original.* 1903 Laws 14, Sec. 7, same.)

12. *Superintendent — Election — Removal — Qualifications.*

a. Code. The Board of Trustees shall appoint a superintendent, who shall be especially fitted for the position, and shall be a person experienced in such work as is intended to be carried on in this school. He shall be retained as long as his work is bringing good results, irrespective of political affiliations. The superintendent shall, before entering upon the duties of his office, give a good and sufficient bond, to be approved by the Board of Trustees, conditioned for the faithful discharge of his duties. The superintendent may be removed by the Board of Trustees for neglect of duty, improper conduct, malfeasance in office, incompetency, or whenever the interests of the school shall be best subserved thereby. The Board of Trustees shall, on recommendation of the superintendent, appoint an assistant superintendent, who may be removed by the superintendent.

(C. L. 47:8.)

b. *Original.* 1903 Laws 15, Secs. 8 and 9, same.

13. *Teachers and Employees—Appointment and Removal.*

a. Code. All officers, teachers and employees shall be appointed by the superintendent, by and with the advice and consent of the Board of Trustees; and such officers, teachers and employees may be removed by the superintendent whenever the interests of the school will be best subserved thereby.

(C. L. 47:9.)

b. *Original.* 1903 Laws 15, Sec. 9, same.)

14. *Teachers—Qualifications.*

a. Code. All teachers, except specialists, shall hold first-class certificates from the State Superintendent of Public Instruction. Specialists shall

hold diplomas from some accredited school in their specialty.

(C. L. 47:9.)

b. **Original.** 1903 Laws 15, Sec. 10, same.

15. *Same—Salaries—Rules.*

a. **Code.** The superintendent shall conduct the said school under rules and regulations prescribed by the Board of Trustees, and said Board of Trustees shall fix the salaries of all officers and teachers, and the wages of all employees.

(C. L. 47:10.)

b. **Original.** 1903 Laws 15, Sec. 11, same.

16. *Superintendent—Report on Attendance and Expenditures.*

a. **Code.** The superintendent shall, at the close of each month, present to the Board of Trustees a written report, showing the general condition of the school, the number of inmates in attendance, the number of tickets of leave granted and such other information, together with such suggestions and recommendations, as may be to the best interests of the school. He shall have charge of all property belonging to the school, and shall keep an account of all monthly expenditures, and the receipts shall be certified to the president of the board with the social condition of each inmate at the time of committal.

(C. L. 47:11.)

b. **Original.** 1903 Laws 15, Sec. 12, same.

17. *Religious Services.*

a. **Code.** The superintendent shall provide for the holding of religious services on the Sabbath day for the inmates of said school, but no sectarian views shall control the services.

(C. L. 47:12.)

b. **Original.** 1903 Laws 16, Sec. 13, same.

18. *Course of Study.*

a. **Original.** The State Superintendent of Public Instruction shall prepare courses of study for all grades in the school.

(1903 L. 16, Sec. 14.)

Note: See powers of Board of Education to prescribe courses of study in schools and institutions.

(C. L. 38:21 and 38:23.)

b. **Note:** Compare Article VIII-A-II-23, post.

19. *Independent School District.*

a. **Code.** The said school with all appurtenances thereto shall be, and it is hereby declared

to be, an independent school district, and it shall not be taxed for other school purposes.

(C. L. 47:13.)

b. Original. 1903 Laws 16, Sec. 15, same.

Note: For law governing independent school districts see Article 11, Chapter 38, Section 181 et seq., of the Compiled Laws, which exclusively governs independent school districts. Wood vs. School District 21 I. 734, 124 P. 780.

20. *Trustees—Vacancy—Appointment to.*

a. Original. It shall be the duty of the Governor to fill by appointment all vacancies that may from any cause occur in the Board of Trustees, provided that he shall appoint the new member from the same political party of the retiring member.

(1903 L. 16, Sec. 16.)

21. *Report of Conditions, Expenditures, and Recommendations.*

a. Original. The president and secretary of the Board of Trustees shall on the first day of January and July of each year transmit to the Governor of the State a full original report of the doings of the said Board of Trustees, the progress and condition of said school, together with a full report of the expenditures and receipts for the previous six months, setting forth each item in full, the date thereof, and such recommendations as they deem proper for the good of the school. They shall submit on the first day of December of each biennial year a printed report of all proceedings of the last biennial period; provided failure to file a printed report as required shall mean forfeiture of bond.

(1903 L. 16, Sec. 17.)

22. *Supervision of Morals—Nonsectarian Institution.*

a. Code. The Board of Trustees, in their regulations, and the superintendent and assistants, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance upon the same, but no religious or sectarian test shall be applied in the selection of teachers, and none shall be adopted in the school.

(C. L. 47:14.)

b. Original. 1903 Laws 16, Sec. 18, same.

Note: See Article VIII-A-II-17, supra.

23. *Course of Study—Scope.*

a. Code. All juveniles sent to the Idaho Industrial Training School shall be taught the common school branches, as taught in the common

schools of Idaho, together with such industrial and manual training in the boys' department, and domestic sciences in the girls' department, that the boys and girls shall be enabled to earn a living after being discharged therefrom.

(C. L. 47:15.)

b. **Original.** 1903 Laws 19, Sec. 27, same.

c. **Note:** For statutes requiring instruction in physiology and hygiene pertaining to alcoholic drinks, stimulants, and narcotics, see C. L. 38:306 and 38:309.

24. *Original Site—Commission For.*

a. **Original.** For the purpose of locating the Idaho industrial reform school at a particular place in Fremont county, State of Idaho, the power is hereby vested in the Governor of the State of Idaho to appoint a commission consisting of five members, all of whom shall be citizens of the State of Idaho, whose duty it shall be to carefully investigate any and all locations in said county offered or available and to secure such location as will in their judgment best subserve the interests of said school, which decision shall be final.

1903 L. 25, Sec. 40.)

B. Endowment.

I. LAND.

1. *Grant of Portion of Institutional Grant.*

a. **Code.** The State Board of Land Commissioners are hereby directed, and it is made their duty, to set aside 40,000 acres of land granted to the State of Idaho by the act of Congress entitled "An act to provide for the admission of the State of Idaho into the Union," approved July 3, 1890, for other State charitable, educational or penal and reformatory purposes, for the exclusive use and benefit of said school. Said lands shall be held and disposed of, and the proceeds thereof used and applied, for the benefit of said school, subject to the provisions of said admission act and the Constitution of the State of Idaho, and, so far as may be practicable, in conformity with the established procedure of holding, disposing of and applying the proceeds of lands granted to the common schools of the State of Idaho. The State Board of Land Commissioners are directed to set aside 40,000 acres of land, if selected, and if not selected, to use the utmost dispatch in selecting

and setting aside the same. The State Board of Land Commissioners are hereby directed to provide separate record books, in proper form, to be known as Idaho Industrial Training School records, in which shall be kept all records of matters relating to said lands.

(C. L. 47:17.)

b. Original. 1903 Laws 17, Sec. 19: Only material difference is grant of 60,000 acres instead of 40,000.

c. Amendment. Amends 1903 Laws 17, Sec. 19, placing the same in form as in C. L. 47:17.

(1903 Laws 291, Sec. 1.)

II. IDAHO INDUSTRIAL TRAINING SCHOOL FUND.

1. *Creation.*

a. Code. A fund which shall be known as the Idaho Industrial Training School fund is hereby created and established and all moneys now in, or accredited to, that certain fund designated upon the books in the offices of the State Auditor and the State Treasurer as the Idaho Industrial Training School fund and all sums which may accrue from the investment of moneys belonging to that certain fund known and described upon the books in the offices of the State Auditor and the State Treasurer, as the Idaho Industrial Training School endowment fund and also four-fifteenths of any and all moneys which may be received on account of rentals charged for the use of any of those certain lands granted to the State of Idaho "for other State charitable, educational, penal and reformatory institutions" by the act of Congress approved July 3, 1890, entitled "An act to provide for the admission of the State of Idaho into the Union," and four-fifteenths of all moneys received by the State Treasurer on account of interest upon deferred payments on such of the said lands as may have been sold by the State, shall be credited to, placed in and constitute the said Idaho Industrial Training School fund.

(C. L. 47:18.)

b. 1905 Laws 417, Sec. 1: Same in all material respects.

Note: Name of school and of fund changed in 1905 Laws 415 on basis of 1905 Laws 227 and 1911 Laws 563.

2. *Limitation on Expenditure.*

a. Code. No moneys shall ever be appropriated out of the said Idaho Industrial Training School fund for any purpose other than the support and maintenance of the Idaho Industrial Training

school, nor shall any moneys properly belonging to the said fund ever be diverted therefrom or used for any other purpose whatsoever.

(C. L. 47:18.)

b. **Original.** 1905 Laws 415, Sec. 2, same.

3. *Perpetual Appropriation.*

a. **Code.** All moneys which may accrue to the Idaho Industrial Training School fund are perpetually appropriated and set apart for the support and maintenance of the Idaho Industrial Training School, the same to be available for such purpose immediately upon their being credited to the said fund.

(C. L. 47:19.)

b. **Original.** That perpetually from and after the first day of January, 1907, all moneys which may accrue to the Idaho Industrial Reform School fund shall be and the same are hereby appropriated and set apart for the support and maintenance of the Idaho Industrial Reform School, and the same shall be and they are hereby made available for such purpose immediately upon their being credited to the said fund.

(1905 L. 416, Sec. 4.)

C. Bonds.

1. \$50,000 bond issue "for the purpose of purchasing a farm, erecting the necessary buildings, and equipping the same to be secured on the faith of the State and an ad valorem tax.

(1903 L. 12; 1903 L. 291.)

2. \$20,000 bond issue "for the purpose of providing money for the erection of a girls' cottage and a barn and carpenter shop at the Idaho Industrial Reform School and for other improvements at said institution," secured on the faith and credit of the State and an ad valorem tax.

(1905 L. 91; refunded 1905 L. 280.)

3. \$50,000 bond issue "for the purpose of providing money for the erection of a girls' cottage, boys' cottage, east wing for administration building, and procuring a water supply at the Idaho Industrial Training School (formerly the Idaho Industrial Reform School) secured on the faith and credit of the State and an ad valorem tax.

(1907 L. 141; refunded 1907 L. 260.)

4. \$55,000 bond issue "for the purpose of providing money for the erection of three dormitories or cottages, one central heating plant and water system, well, water mains, tower, and tank, hose carts, and hose, etc., 160 acres farm land, one greenhouse, 40 shares of water stock, 24 foot wagon scales, library supplies, books, mu-

sic, etc., for the Idaho Industrial Training School secured on the faith and credit of the State and an ad valorem tax.

(1909 L. 376; refunded 1909 L. 305.)

5. \$33,000 bond issue "for the purpose of improving the Idaho Industrial Training School at St. Anthony, secured and paid by ad valorem tax.

(1911 L. 251.)

D. Commitment to Training School.

I. COMMITMENT—GROUNDS—ORDERS—LIMITATIONS.

1. Code. When any boy or girl of sane mind, between the ages of 8 and 18 years, shall, in any court of record, or by any judge of the district court of this State, be found guilty of any felony except murder or manslaughter, the court or judge may, if in his opinion the accused is a proper subject therefore, instead of entering judgment, cause an order to be entered for such boy or girl to be sent to the Idaho Industrial Training School, in pursuance of the provisions of this chapter, and all acts amendatory thereof. A copy of such order, under the seal of the court, accompanied by a certificate of health, shall be sufficient warrant for carrying such boy or girl to such school, and for his or her commitment to the custody of the superintendent thereof.

(C. L. 47:20.)

2. Original. When any boy or girl of sane mind, between the ages of eight and eighteen years, shall in any court of record, or by any judge of the district court of this State, be found guilty of any crime except murder or manslaughter, or if for want of proper parental care, is growing up in mendicancy, vagrancy or incorrigibility, and complaint thereof is properly made and sustained by evidence, the court or judge may, if in his opinion the accused is a proper subject therefor, instead of entering judgment, cause an order to be entered for such boy or girl to be sent to the Idaho Industrial Reform School, in pursuance of the provisions of this act. A copy of such order under the seal of the court, accompanied by a certificate of health shall be sufficient warrant for carrying such boy or girl to said school, and for his or her commitment to the custody of the superintendent thereof.

(1903 L. 19, Sec. 28.)

3. Amendment. Amends 1903 Laws 19, Sec. 28, to conform to C. L. 47:20.

(1905 L. 432.)

II. SAME—ORDER TO SHOW CAUSE.

1. Original. When a boy or girl of sane mind between the ages of 8 and 18 years shall be brought before a justice of the peace, probate judge or police magistrate of any county or town of this State, charged with any crime, or misdemeanor, or with mendicancy, vagrancy or incorrigibility, it shall be the duty of such

probate judge, justice of the peace or police magistrate before whom he or she may be brought, to forthwith investigate such charge and take such evidence as he may deem necessary, and, if after such investigation such probate judge, justice of the peace or police magistrate is of the opinion that such boy or girl is a proper person to be committed to the Idaho Industrial Reform School, he shall forthwith consign such boy or girl, together with all papers filed in his office on the subject, and a copy of his proceedings thereon, under the control of some officer, to the district judge of his district, who shall then issue an order to the parent or guardian of such boy or girl, or such other person as may have him or her in charge, or with whom he or she has last resided, or anyone known to be related to him or her, or if he or she be running friendless, then to such person as the judge may appoint to act as guardian for the purposes of such case, requiring him or her to appear at the place and time stated in said order, to show cause why such boy or girl shall not be committed to said Idaho Industrial Reform School for training and reformation.

(1903 L. 20, Sec. 29.)

2. Amendment. Repeals 1903 Laws 20, Sec. 29.

(1905 L. 433, Sec. 2.)

III. SAME—SERVICE OF ORDER.

1. **Original.** Such order shall be served by the sheriff or other qualified officer by delivering a copy thereof personally to the party to whom it is addressed, or by leaving it with some person of full age, at the place of residence or business of the said party, and immediate return thereof shall be made to said judge of the time and manner of such service.

(1903 L. 20, Sec. 30.)

2. Amendment. Repeals 1903 Laws 20, Sec. 30.

(1905 L. 433, Sec. 3.)

IV. SAME—PHYSICAL EXAMINATIONS.

1. **Code.** No boy or girl shall be committed to said school who is not of sound intellect, free from cutaneous or other contagious disease, or who is subject to epileptic or other fits, and he or she must possess that degree of bodily health which would render him or her a fit subject for the discipline of such school. And it shall be the duty of the court or judge, committing such boy or girl to said school, to cause him or her to be examined by a reputable licensed physician who shall certify to the above facts, which certifi-

his next near relatives and their residences are as follows: -----

Now, therefore, in view of the premises aforesaid, and the judgment of conviction entered herein, it is hereby ordered that said.....be, and he is hereby committed to the Idaho Industrial Training School, located at St. Anthony, in the State of Idaho, until he attains the age of 21 years, or until he is legally discharged by the board of trustees of said school.

I therefore command you,, that you take such boy (or girl) and deliver him (or her) without delay to the superintendent of said school, or any other person in charge thereof.

Witness my hand this.....day of.....19.....

....., District Judge.

State of Idaho,County, ss.

I,, clerk of the district court of the.....judicial district of the State of Idaho, in and for.....county, do hereby certify that the Hon.....whose signature is appended to the foregoing order of commitment, was at the date thereof, and now is, the judge of the district court in and for said.....district.

In witness whereof I have hereunto set my hand and affixed the seal of said court this.....day of.....A. D. 19.....

....., Clerk, District Court.

(C. L. 47:21.)

2. Original. The commitment may be in the following form:

Order of Commitment.

State of Idaho, County of....., ss.

In the district court in and for the.....judicial district, in and for said county and State.

Be it remembered, that on the.....day of....., 19....., a minor of said county, was charged on complaint of.....and brought before me, the undersigned judge of said court, and upon due proof I do find that said.....is a suitable person to be committed to the instruction and discipline of the Idaho Industrial Reform School.

Now, therefore, it is hereby ordered that the said.....be and is hereby committed to said school until.....attains the age of twenty-one years or until.....is legally discharged by the board of trustees of said school.

And I find upon hearing of said matter, that the said.....was charged with....., that.....is a resident of said county, and of the age of.....years.

That.....father's name is....., he resides at.....in the State of....., by occupation a..... That.....mother's name is....., a resident of the State of....., by occupation a.....

The names of other near relatives and their residences are as follows.....

Witness my hand this.....day of....., A. D. 19.....

.....Judge.

State of Idaho, County of _____, ss.

I, clerk of the district court of the said district.....do hereby certify that the Hon....., whose signature is appended to the foregoing order of commitment, was at the date thereof, and now is, the judge of the district court in and for said.....district.

In witness whereof I have hereunto set my hand and affixed the seal of said court this.....day of....., A. D. 19.....

(Seal)

The certificate of health may be in the following form:

State of Idaho, County of....., ss.

....., being first duly sworn, deposes and says: That he is a practicing physician, duly licensed to practice medicine and surgery in the State of Idaho; that at the request of the Hon....., judge of the district court in and for said district, he made a careful medical examination of.....and as a result of said examination, he makes answer to the following questions correctly, to the best of his knowledge, judgment and belief:

Has.....a perfect vision?

Ans.....

Is.....of sound intellect?

Ans.....

Has.....sufficient bodily strength to receive instruction?

Ans.....

Has.....any tendency to scrofula or consumption?

Ans.....

Is.....perfectly free from cutaneous disorders?

Ans.....

Is.....subject to epileptic fits?

Ans.....

Has.....had the smallpox?

Ans.....

Has.....been vaccinated?

Ans.....

Is.....sufficiently sound of mind and bodily health to be a proper person to be committed to the Idaho Industrial Reform School?

Ans.....

Subscribed and sworn to before me this.....day of.....19.....

(Seal)

.....Clerk.

(1903 L. 21, Sec. 31.)

3. Amendment. Amends 1903 Laws 21, Sec. 31, to form as in C. L. 47:20.

(1905 L. 433, Sec. 4.)

VI. TEMPORARY CUSTODY—CONVEYANCE TO SCHOOL.

1. Code. The said court, or the judge thereof, shall appoint or designate the sheriff of said county, or some other person, to take such boy or girl, and deliver him or her without delay to the superintendent of said school, or other person in charge thereof at the place where the same is located, and the issuing of such certificates, for the purposes of this chapter, shall be conclusive evidence of his or her residence and age. The expenses of conveying said boy or girl to said institution shall be paid as in the case of convicts conveyed to the penitentiary of the State of Idaho.

(C. L. 47:22.)

2. Original. The judge shall certify in the warrant the place where the boy or girl resided at the time of his or her arrest; also his or her age, as nearly as can be ascertained, and command such officer to take such boy or girl and deliver him or her without delay

to the superintendent of said school, or other person in charge thereof, at the place where the same is located, and the showing of such certificate for the purposes of this act shall be conclusive evidence of his or her residence or age; accompanying this warrant the judge shall transmit by the officer executing it, a statement of the nature of the complaint to the superintendent, together with such other particulars concerning the boy or girl as the judge is able to ascertain: PROVIDED, That the expense of conveying said boy or girl shall be paid as in the case of other convicts to the penitentiary.

(1903 L. 23, Sec. 32.)

3. Amendment. Amends 1903 Laws 23, Sec. 32, to read as C. L. 47:22.

(1905 L. 434, Sec. 5.)

VII. JURISDICTION—ORIGINAL—APPELLATE.

1. Code. The judge of any district court in the State may, either in chambers or in term time, proceed under the provisions of this article: PROVIDED, That any proceedings had before the judge in chambers in any county at time when the district court is not in session, shall be entered and recorded in the minutes of said court on the first day of the next ensuing term. Any and all proceedings before the district court, or judge thereof, may be reviewed on appeal by the supreme court, in the manner provided by law for reviewing criminal cases in said supreme court.

(C. L. 47:23.)

2. Original. 1903 Laws 23, Sec. 33, same except "appeal" substituted for "writ of error" to conform to Idaho practice.

VIII. COMMITMENT—TERM—PAROLE—DISCHARGE.

1. Code. Each boy or girl committed to the Idaho Industrial Training School shall remain there until he or she arrives at the age of 21 years, unless paroled, or legally discharged: PROVIDED, That it shall be lawful for the Board of Trustees, upon the recommendation of the superintendent of said school, to discharge any boy or girl, an inmate thereof, who has arrived at the age of 18 years, if it be made to appear that while there as an inmate, he or she deported himself or herself in such manner as to make it reasonably probable that he or she has reformed, and is a proper person to be discharged.

(C. L. 47:24.)

2. Original. 1903 Laws 23, Sec. 34, identical.

IX. PENITENTIARY INMATE—TRANSFER TO SCHOOL—REVOCA- TION OF.

1. Code. Whenever any boy or girl, under the age of 18 years, has been sentenced by any court of competent jurisdiction to imprisonment in the State penitentiary, it shall be lawful for the State Board of Pardons, upon application of such boy or girl, his or her

parents or guardian, to commute such punishment by substituting therefor commitment of such boy or girl to the Idaho Industrial Training School, during the minority of such boy or girl, unless sooner discharged by the Board of Trustees, under regulations as herein provided. But should a boy or girl, after being sent to such school, persist in a depraved course, or escape therefrom, it shall be in the power of the Governor, by and with the approval of the Board of Pardons, to revoke such commutation, and remand him or her to the State penitentiary to serve out his or her unexpired term, and the time so spent by him or her at the said school, or while absent on an escape therefrom shall not be considered as a part of his or her original commitment.

(C. L. 47:25.)

2. **Original.** 1903 Laws 23, Sec. 35, same except "an escape" substituted for "a refugee."

X. PAROLE—REGULATIONS—RECALL—RELEASE TO CHILDREN'S HOME.

1. **Code.** The Board of Trustees may at any time discharge or release such boy or girl on trial or parole, but in all cases where a boy or girl is released on trial or parole, he or she must, at stated intervals, report his or her conduct to the superintendent, and present certificate of good behavior, whereupon his or her leave is extended. It shall be the duty of the superintendent to recall any boy or girl who may not be conducting himself or herself properly, or any boy or girl who may not have a suitable home; PROVIDED, That upon the request of the superintendent of the Children's Home Finding and Aid Society of the State of Idaho, if the Board of Trustees shall deem it wise to release, absolutely, any boy or girl, such board may do so, and if the Board of Trustees shall deem it to the best interest of any boy or girl so released to transfer such boy or girl to the home of the Children's Home Finding and Aid Society of Idaho, such board shall have the right to transfer such boy or girl from the Industrial Training School to said children's home. The expense of transportation of such children to the children's home and the maintenance of such children when received by such home shall be paid out of the general fund of the State, at the rate of \$100 per child: PROVIDED, That no more than \$4000 shall be appropriated for said purpose.

(C. L. 47:26.)

2. **Original.** The Board of Trustees may at any time, if a boy or girl has been in the Idaho Industrial Reform School for a period

of one year, discharge, or release such boy or girl, on trial or parole, but in all cases where a boy or girl is released on trial or parole, he or she must at stated intervals, report his or her conduct to the superintendent and present certificates of good behavior; whereupon his or her leave may be extended.

It shall be the duty of the superintendent to recall any boy or girl who might not be conducting himself or herself properly, or any boy or girl who may not have a suitable home.

(1903 L. 24, Sec. 36.)

3. Amendment. Amends 1903 Laws 24, Sec. 36, to conform to C. L. 47:26.

(1911 Laws 662.)

XI. FUGITIVES—ARREST.

1. Code. Any fugitive from said institution may be arrested and returned to said institution by any officer or citizen.

(C. L. 47:27.)

2. Original. 1903 Laws 24, Sec. 37, same.

XII. AID TO ESCAPE—FELONY.

1. Code. If any officer or employee of said school, or any other person, shall contrive, procure, and connive at, or otherwise voluntarily suffer, the escape of any inmate of said school, every such person, on conviction thereof, shall be punished by imprisonment in the State penitentiary for a period of not less than six months, nor more than two years, and be fined in a sum not exceeding \$1000.

(C. L. 47:28.)

2. Original. 1903 Laws 24, Sec. 37, same.

XIII. COMMITMENT PENDING TRIAL.

1. Code. In case any boy or girl is held to the district court upon a preliminary examination for a felony, by either a justice or probate court, such justice or probate court, before committing said boy or girl to the jail of said county, in case an undertaking for the appearance of said boy or girl to the district court shall not be given as provided by law, shall certify said facts to the judge of the district court of said district, who may make an order that said boy or girl be committed to the Idaho Industrial Training School to await trial for said offense, in lieu of committing said boy or girl to the jail of said county.

(C. L. 47:29.)

2. Original. 1905 Laws 434, Sec. 6, identical.

E. Correction of Delinquent Children.

Note: Excerpts from law governing "Proceedings for the correction of delinquent children" (C. L. Art. 18, Chap. 38, Secs. 266 to 279, inc.) as the same affect the Idaho Industrial Training School.

I. TEMPORARY COMMITMENT.

1. Code. In any case of a delinquent child coming under the provisions of this article the court may continue the hearing from time to time and may commit the child * * * to the Idaho Industrial Training School * * *. In no case shall a child proceeded against under the provisions of this article be committed beyond the age of 21. A child committed to any such institution shall be subject to the control of the board * * * and the said board shall have power to parole such child on such conditions as it may prescribe and the court shall on the recommendation of the board have power to discharge such child from custody whenever in the judgment of the court his or her reformation is complete; * * *"

(C. L. 38:271.)

2. Original. 1905 Laws 109, Sec. 6, same.

3. Amendment. Re-enactment of 1905 Laws 109. (1911 Laws 543.)

II. COMMITMENT—PERMANENT—PAROLE—PARDON.

1. Code. "When * * * the * * * probate court shall * * * determine that such child is a juvenile disorderly person within the meaning of this article he or she shall be committed * * * to the Idaho Industrial Training School or to some other training school * * *. No child committed to any reformatory shall be detained beyond his majority and may be discharged sooner or paroled by the trustees or board of control under rules and restrictions applicable to other inmates. Any order of commitment may be suspended by the judge of probate court during such time which the child may readily attend school and properly conduct itself. The expenses of the transportation of the child to the juvenile reformatory shall be paid by the county from which the child is committed."

(C. L. 38:276.)

2. Original. 1905 Laws 112, Sec. 11, same.

3. Amendment. Re-enacts 1905 Laws 112, supra. (1911 Laws 546.)

III. DEFINITION OF DELINQUENT CHILD.

1. Code. This article shall apply only to children under the age of 18 years not inmates of a State institution, or any institution incorporated under the laws of the State, for the care and correction of delinquent children. The record of the census made by the clerk of the school district where any child was last enumerated shall be prima facie evidence of the age

of such child for the purposes of this article. The words "delinquent child" shall include any child under the age of 18 years who violates any law of this State, or any city or village ordinance; or who is incorrigible or who knowingly associates with thieves, vicious or immoral persons; or who is growing up in idleness or crime, or who knowingly visits or enters a house of ill fame; or who knowingly patronizes or visits any policy shop or place where gambling device is, or shall be operated; or who patronizes or visits any pool room or bucket shop, or who wanders the streets in the night time without being on any lawful business or occupation; or who habitually wanders about any railroad yards or tracks, or who jumps or hooks on to any moving train, or enters any car or engine without lawful authority; or who habitually uses vile, obscene, vulgar, profane or indecent language, or is guilty of immoral conduct in public places or about any schoolhouse. Any child committing any of the acts herein mentioned shall be deemed a juvenile delinquent person, and shall be proceeded against as such in the manner hereinafter provided. A disposition of any child under this article, or any evidence given in such cause shall not, in any civil, criminal or other cause or proceeding whatever in any court, be lawful or proper evidence against such child for any purpose whatever, excepting in subsequent cases against the same child under this article. The word "child" or "children" may mean one or more children, or the word "parent" or "parents" may mean one or both parents when consistent with the intent of this chapter.

(C. L. 38:266.)

ARTICLE IX.

STATE SCHOOL FOR THE DEAF AND THE BLIND

A. Early Enactments.

I. FOREIGN EDUCATION.

1. *Original.*

a. There is hereby appropriated annually the sum of \$3000.00 or so much thereof as may be necessary for the education of the deaf, dumb, and blind of the State under the direction of the State Board of Education, and the Treasurer shall pay the same on the warrant of the Auditor for that purpose.

b. The said Board of Education shall enter into contract with some one of the adjacent States or

Territories (having an institution for the education of the deaf and blind) for the education of the deaf, dumb and blind of the State of Idaho upon the most economical terms possible.

c. It shall be the duty of the Board of Education to ascertain the number of deaf, dumb and blind in the State, of school age, and sound mind and body, whose parents are not able to provide for their education, and as soon as practicable thereafter, take the necessary steps for their education as provided for in Section 2 of this act.

d. The State or Territory in which such institutions for the education of the deaf, dumb and blind is located, as designated by the State Board of Education, shall be paid from the appropriation made in Section 1 of this act at the rate of not to exceed \$300.00 a year for each scholar's instruction and board, including board during vacation, on the certificate of the State Board of Education to be furnished to the State Auditor.

e. The State Board of Education is authorized to provide for the careful examination of all applicants for examination to the institution designated, and to order and certify to the State Auditor all accounts for the expenses of designating said institution and conducting examinations and all contingent expenses attending the same, and the accounts thereof shall be paid from the appropriation for this purpose made in Section 1 of this act.

(1891 L. 226, Secs. 1 to 5, inc.)

2. *Amendment.*

a. Re-enacted 1899 Laws 162.

b. Repealed 1907 Laws 240.

3. *Supplement.*

a. It is hereby made the duty of the census marshal in each school district in the State of Idaho when he shall enumerate the children of school age in his district, to carefully ascertain what children in that district are deaf and blind as defined in Section 2 of this act, and he shall note the name, age and sex of such children, also the name of parents or guardians or other person having the legal or actual charge of such child or children and shall report the same to the county superintendent of public instruction, and said

county superintendent of public instruction shall include these items in his annual report to the State Superintendent of Public Instruction.

b. All children between the ages of 6 and 24 years who are too deaf or too blind to be educated in our public schools shall be deemed deaf and blind for the purposes of this act.

(1899 L. 462, Secs. 1 and 2.)

4. *Note.*

1907 Laws 241, Sec. 6, repeals:

a. 1891 Laws 226.

b. 1899 Laws 162.

c. 1899 Laws 462.

II. LOCAL EDUCATION.

1. *Original.*

a. The State Board of Education is hereby empowered and authorized to make the necessary arrangements for the education of the deaf, dumb and blind of this State, including the providing of a suitable building therefor and equipping the same so far as may be necessary, including also the arranging for the conveyance of the scholars to and from the school, at the expense of the State, and including the hiring of a superintendent, instructors and employes, and the fixing of their compensation and such other matter as may be necessary to carry into effect the provisions of this act: PROVIDED, HOWEVER, That the State Board of Education may, if it becomes necessary, enter into contract with one or more of the adjacent States or Territories (having an institution for the education of the deaf, dumb and blind) for the education of the deaf, dumb and blind of the State of Idaho, upon the most economical terms possible: PROVIDED, HOWEVER, That if it should become necessary to make any such contract, no more than three hundred dollars (\$300) per year shall be paid for each scholar's instruction and board, including board during vacation.

(1907 L. 240, Sec. 1.)

b. The State Board of Education is authorized to provide for the careful examination of all applicants for admission to the school to be provided by the said board and the expenses of the said examinations and all other expenses in con-

nection with the education of the deaf, dumb and blind, under the authority conferred by this act, shall be paid out of the State treasury, as provided by law.

(1907 L. 240, Sec. 2.)

c. All children between the ages of six (6) and twenty-one (21) years and who are too deaf or too blind to be educated in our public schools shall be deemed deaf and blind for the purposes of this act.

(1907 L. 241, Sec. 3.)

d. It shall be the duty of the Board of Education to ascertain the number of deaf, dumb and blind persons in the State, as defined by the preceding section, and, as soon as practicable thereafter, to take the necessary steps for their education, as provided for in this act.

(1907 L. 241, Sec. 4.)

e. It is hereby made the duty of the census marshal of each school district in the State of Idaho, when he shall enumerate the children of school age in his district, to carefully ascertain what children in that district are deaf or blind, as defined in Section 3 of this act, and he shall note the name, age and sex of such child or children, also the name of parents or guardian or other person having the legal or actual charge of such child or children, and shall report the same to the county superintendent of public instruction and said county superintendent of public instruction shall immediately report the same to the State Superintendent of Public Instruction.

(1907 L. 241, Sec. 5.)

2. *Amendment.*

a. 1909 Laws 379, Sec. 15, repeals 1907 Laws 240.

B. Establishment and Creation.

I. ORIGINAL ACT.

1. *Creation and Location.*

a. **Code.** A State school for the education of the deaf and the blind children of this State is hereby established near Gooding, in Gooding county, to be called State School for the Deaf and the Blind.

(C. L. 46:1.)

b. **Original.** A state school for the education of the deaf

and blind children of this state is hereby established, to be called "State School for the Deaf and the Blind."

(1909 L. 379, Sec. 1.)

c. Reference. That the State Board of Education is hereby authorized and directed to cause to be erected a building near Gooding, Idaho, for the use of the deaf and blind to be a part of the "Idaho State School for the Deaf and the Blind * * *."

(1911 L. 97, Sec. 1.)

2. *Site.*

a. Original. The Governor of the State of Idaho and the State Board of Education are hereby empowered and authorized to select a suitable site and to purchase for the State such lands as the Board may deem suitable as a site for said school.

(1909 L. 379, Sec. 2.)

3. *Buildings—Construction.*

a. Original. The State Board of Education shall have power to advertise and receive bids for the building of said building and to let contracts for all work to be done in the erection, constructing and equipping of said school.

(1909 L. 379, Sec. 2.)

4. *Same—Control.*

a. Code. The Board of Education shall have the direction, control, and management of said school.

(C. L. 46:2.)

b. Original. 1909 Laws 379, Sec. 2, similar.

5. *Transportation to School.*

a. Code. The board shall arrange for the conveyance of scholars to and from the school at the expense of the State.

(C. L. 46:2.)

b. Original. 1909 Laws 379, Sec. 2, same.

6. *Superintendent, Teachers, Etc.—Employment.*

a. Code. The Board of Education shall hire a superintendent, instructors, and employes, and fix their compensation.

(C. L. 46:2.)

b. Original. 1909 Laws 379, Sec. 2, same.

7. *Rules and Regulations.*

a. Code. The State Board of Education shall have power to make all needful rules and regulations to carry into effect the general powers of management and control hereby conferred.

(C. L. 46:2.)

b. Original. 1909 Laws 379, Sec. 2, same.

8. *Admission to School.*

a. Code. The State Board of Education is authorized to provide for the careful examination of all applicants for admission to the school to be provided by said board, and the expenses of said examination and all other expenses in connection with the education of the deaf and blind, under authority conferred by this chapter, shall be paid out of the State treasury, as provided by law.

(C. L. 46:3.)

b. Original. 1909 Laws 379, Sec. 3, substantially the same.

9. *Definition of Deaf and Blind.*

a. Code. All children between the ages of 6 and 21 years who are too deaf or too blind to be educated in our public schools, shall be deemed deaf and blind for the purposes of this chapter.

(C. L. 46:4.)

b. Original. 1909 Laws 379, Sec. 4, same.

10. *Census—Duty of Board.*

a. Code. It shall be the duty of the Board of Education to ascertain the number of deaf and blind persons in the State as defined by the preceding section.

(C. L. 46:5.)

b. Original. It shall be the duty of the Board of Education to ascertain the number of deaf and blind persons in the State as defined by the preceding section and as soon as practicable thereafter, to take the necessary steps for their education as provided for in this act.

(1909 Laws 379, Sec. 5.)

11. *Same—Duty of Census Marshal.*

a. Code. It is hereby made the duty of the census marshal of each school district in the State of Idaho, when he shall enumerate the children of school age in his district, to carefully ascertain what children in that district are deaf and blind, as defined in Section 4 of this chapter, and he shall note the name, age and sex of such child or children, also the name of parents or guardian or other person having the legal or actual charge of such child or children, and shall report the same to the county superintendent of public instruction, and said county superintendent of public instruction shall immediately report the same to the State Superintendent of Public Instruction.

(C. L. 46:6.)

b. Original. 1909 Laws 380, Sec. 6, substantially the same.

c. Note: The clerk of the school district acts as census marshal.

(C. L. 38:97.)

C. Endowment.

I. TEMPORARY.

1. *Note.*

1905 Laws 421 (C. L. 51:3) created the "State charitable institutions funds" and appropriated the accruals thereof for the years 1905 and 1906 to the support and education of the deaf and blind in accordance with the provisions of 1899 Laws 162. (See Art. IX-A-1-2, supra.)

2. *Decision.*

a. "With reference to the deaf and blind school, it does not appear that any fund has been created for this institution. In 1905 an appropriation was made from the State charitable institutions fund for the education of the deaf and blind in the State for the years 1905 and 1906, but no further appropriation appears to have been made from that fund. It would seem, therefore, that the appropriation in the 1917 Laws contains the entire appropriation for that institution for the biennium.

Evans vs. Van Deusen, 31 I. 614, 174 P. 122.

D. Bonds.

1. \$25,000 bond issue "for the purpose of purchasing lands, creating and equipping a suitable building for the State School for the Deaf and the Blind," secured on the faith and credit of the State and paid by the ad valorem tax.

(1909 L. 379.)

(Refunded 1909 L. 309.)

2. \$30,000 bond issue "for the purpose of supplying the funds necessary for erecting a building near Gooding, Idaho, for the use of the deaf and blind to be a part of the Idaho State School for the Deaf and the Blind, which building shall be suitable as a dormitory and contain classrooms and a hospital," secured on the faith and credit of the State and an ad valorem tax.

(1911 L. 97.)

(Refunded 1911 L. 683; 1913 L. 486.)

E. Miscellaneous.

I. INSURANCE FUND OF * * * DEAF, DUMB, AND BLIND ASYLUM INSURANCE FUND.

1. Moneys now in the possession of or which may hereafter come into the possession of State Auditor and State Treasurer as insurance moneys received by

reason of laws sustained by the State through damage by fire to the State Deaf, Dumb and Blind Asylum, is directed to be deposited in the Deaf, Dumb and Blind Asylum insurance fund.

2. Upon authorization of the State Board of Examiners the Auditor is empowered to draw warrants upon such funds.

(1909 L. 21.)

II. NATIONAL BLIND ACT.

(See act of Congress, 25 June, 1906; 34 S. at L. 460.)

ARTICLE X.

IDAHO DECISIONS

I. BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO LIABILITY TO SUIT—CORPORATE EXISTENCE—CONTRACTUAL POWERS—EXTENT AND LIMITS.

1. *Liability to Suit.*

That the Board of Regents of the University of Idaho could sue and be sued was presumed.

(American Bonding Co. vs. Regents, 11 I. 163, 81 P. 604.)

2. *Same.*

The university being a public institution and its Board of Regents being vested with corporate existence and plenary powers, among which are those to contract and to incur liability, the legislative intent is clearly inferrable that as respects claims against the Board of Regents of the University of Idaho, the immunity of the State from suit should be waived and that the Board of Regents may sue and be sued.

(Phoenix Lumber Co. vs. Regents, 197 Fed. 425.)

(Cites: American Bond. Co. vs. Regents, 11 I. 163, 81 P. 604.)

(Cites: Sec. 10, Art. IX, Constitution.)

(Cites: 1889 L. 21; C. D. 488.)

(Affirmed: Interstate Con. Co. vs. Regents, 199 Fed. 509.)

3. *Same*

The Board of Regents of the University, under the provisions of Sec. 3 of 1889 L. 21, C. L. Sec. 488, and Sec. 10 of Art. IX of the Constitution, is a body corporate and may sue and be sued.

(Moscow Hardware Co. vs. Regents, 19 I. 420, 113 P. 731.)

(Phoenix Lumber Co. vs. Regents, 197 Fed. 425.)

(Affirmed: Interstate Con. Co. vs. Regents, 199 Fed. 509.)

4. *Limitation on Contractual Powers.*

The Board of Regents has no authority whatever to incur any indebtedness against the State,

directly or indirectly, in the erection of university buildings for which said Board has no funds available to pay.

(Moscow Hardware Co. vs. Regents, 19 I. 420, 113 P. 731.)

(Cited: Interstate Construction Co. vs. Regents, 199 Fed. 509.)

5. *Same.*

The Board of Regents under Sec. 491 R. C. (C. L. 491) is authorized to expend such portion of the income of the university fund as it may deem expedient for the erection of suitable buildings, etc., but is not authorized to expend for such purpose any portion thereof that has been raised or appropriated for other purposes.

(Syllabus No. 2 by the Court.)

(Moscow Hardware Co. vs. Regents, 19 I. 420, 113 P. 731.)

6. *Liability on Contract.*

When the Board of Regents enter into a contract, said board is liable to the process of the district court for the enforcement thereof.

(Moscow Hardware Co. vs. Regents, 19 I. 420, 113 P. 731.)

(First National Bank vs. Regents, 19 I. 440, 113 P. 735.)

(First National Bank vs. Regents, 26 I. 18, 140 P. 771.)

(Affirmed: Phoenix Lumber Co. vs. Regents, 197 Fed. 425; Interstate Construction Co. vs. Regents, 199 Fed. 509.)

7. *Enforcement of Judgment Against.*

Any judgment obtained against the Board of Regents in the district courts is enforceable against any funds in the hands of the board or its treasurer that are available for the payment of such a claim or from any fund which said board has subject to appropriation and expenditure for that purpose.

(Moscow Hardware Co. vs. Regents, 19 I. 420, 113 P. 731.)

8. *Same.*

Any judgment obtained in the district court against the Board of Regents for the payment of which the Board has no funds available, must be brought to the Supreme Court to be converted into a recommendatory judgment for the Legislature.

(Moscow Hardware Co. vs. Regents, 19 I. 420, 113 P. 731.)

(First National Bank vs. Regents, 19 I. 440, 113 P. 735.)

9. *Liability on Contract.*

The holding of the court in Moscow Hardware Co. vs. Regents, 19 I. 420; 113 P. 731 (see 6 supra) with reference to the liability of the Board of Regents to pay claimants for material and furnishings is affirmed.

(First National Bank vs. Regents, 19 I. 440, 113 P. 735.)

10. *Same.*

The holding of the court in *Moscow Hardware Co. vs. Regents*, 19 I. 420; 113 P. 731 (supra 6 and 8) in reference to question of the original jurisdiction of the Supreme Court is affirmed.

(*First National Bank vs. Regents*, 19 I. 440, 113 P. 735.)

(*First National Bank vs. Regents*, 26 I. 18, 140 P. 771.)

11. *Liability to Suit.*

The Board of Regents of the University of Idaho may sue and be sued and in the district courts, the Supreme Court not having original or exclusive jurisdiction of such suits.

(*Interstate Construction Co. vs. Regents*, 199 Fed. 509.)

(Follows: *Phoenix Lumber Co. vs. Regents*, 197 Fed. 425.)

(Follows: *Moscow Hdw. Co. vs. Reg.* 19 I. 420, 113 P. 731.)

(Cites: *American Bond. Co. vs. Regents*, 11 I. 163, 81 P. 604.)

(Cites: *Thomas vs. State*, 16 I. 81, 100 P. 761.)

12. *Enforcement of Contract.*

The Board of Regents is a body corporate, and may sue and be sued and when it enters into a contract it is liable to the process of the district court as are other corporations organized under the laws of the State. The term "district court" includes the State and Federal district courts.

(*Interstate Construction Co. vs. Regents*, 199 Fed. 509.)

13. *Discharge of President, Professors, etc.*

The power of the Board of Regents to remove and discharge the president, any professor, instructor, or other officer of the university when in the judgment of the Board the interests of the university require it, is absolute and plenary under Sec. 490 R. C. (C. L. 490) and said section is a part of all contracts employing such employees of the university.

(*Hyslop vs. Board of Regents*, 23 I. 341, 129 P. 1073.)

(*Shinn vs. Board of Regents*, 23 I. 344, 129 P. 1074.)

14. *Jurisdiction of Suits Against.*

The district court has jurisdiction to try cases brought against the Board of Regents of the University of Idaho (See 6 and 10 supra).

(*First National Bank vs. Regents*, 26 I. 18, 140 P. 771.)

(Reaffirms: *Moscow Hdw. Co. vs. Reg.*, 19 I. 420, supra.)

(Affirms: *First National Bank vs. Regents*, 19 I. 440, supra.)

15. *Present Board Successor to Former Board.*

The State Board of Education and Board of Regents of the University of Idaho created by 1913 L. 328, is the successor to the Board of Regents of the University and can defend any action brought against the former Board.

(*First National Bank vs. Regents*, 26 I. 18, 140 P. 771.)

16. *Conclusion.*

The Board of Regents is a corporation with power to sue and liability to suit in any court of general jurisdiction upon its contracts entered into within the scope of its authority.

II. CONTROL OF FEDERAL AID APPROPRIATIONS—BOARD OF EDUCATION—TREASURER.

1. *Board Has Exclusive Control.*

The exclusive supervision and control of the moneys granted the State by acts of (1) 2 July, 1862 (12 S. 503); (2) 30 August, 1890 (26 S. 417); and (3) 4 March, 1907 (34 E. 1281) is vested under existing law in the Board of Regents of the University of Idaho and the designated and qualified treasurer thereof, and said funds cannot properly be placed in the general funds of the State.

(Melgard vs. Eagleson 31 I. 411, 172 P. 655.)

(Cites: 1909 L. 38; C. L. 496a.)

(State Board vs. Fuller (Mich.) 147 NW. 529.)

(Yale vs. Sanger (CC.) 62 Fed. 177.)

2. *Duty of State Treasurer.*

The duty of the State Treasurer in respect to the grants made by the First and Second Morrill Acts and the Nelson amendment thereto is a purely clerical and ministerial one, namely to immediately transmit said funds to the qualified treasurer of the Board of Regents of the University of Idaho.

Melgard vs. Eagleson, 31 I. 411, 172 P. 655.)

III. STATUS OF EDUCATIONAL AND ENDOWMENT GRANTS.

1. *Grants and Beneficiaries.*

There has been granted to the State by the Idaho Admission Bill and in relation thereto there has been created by the acts of the State Legislature, the following grants and funds.

Grant: 90,000 acres: Agricultural College (Sec. 10, 26 S. 215).

Fund: Agricultural College Fund: 1905 L. 419; 1907 L. 27; 1909 L. 38; 1911 L. 62.

Grant: 72 sections: University (Sec. 8, 26 S. 215).

Fund: University Fund (1905 L. 417).

Grant: 50,000 acres: University (Sec. 11, 26 S. 215).

Fund: University fund (1905 L. 417).

Grant: 100,000 acres: Scientific School (Sec. 11, 26 S. 215).

Fund: Scientific School Fund (1905 L. 418; 1907 L. 26).

Grant: 100,000 acres: Normal School (Sec. 11, 26 S. 215).

Fund: Normal School Fund (1905 L. 393).

Grant: 150,000 acres: Charitable, etc. (Sec. 11, 26 S. 215).

Fund: Academy of Idaho Fund (1905 L. 409); Idaho Industrial Training School Fund (1905 L. 415); State Charitable Institutions Fund (1905 L. 421, temporary).

(Evans vs. Van Deusen, 31 I. 614, 174 P. 123.)

2. *Power of Appropriation of.*

The funds referred to in 1 supra are created trust funds by the Constitution and are not strictly speaking subject to appropriation by the Legislature.

(Evans vs. Van Deusen 31 I. 614, 174 P. 122.)

3. *Duty of Legislature in re.*

The Legislature is required to provide the method by which said grants are to be made available to the purposes for which granted and the only concern of the courts therein is to prevent the diversion of the grants from the objects or purposes for which granted.

(Evans vs. Van Deusen 31 I. 614, 174 P. 122.)

Note: Legislature has made such provision in creating fund and making perpetual appropriation in 1 supra.

4. *Not Transferred.*

The provisions of the appropriation measure of the 14th session (1917 L. 215) do not authorize the transfer of the special funds (see 1 supra) to any other fund in the treasury.

(Evans vs. Van Deusen 31 I. 614, 174 P. 122.)

5. *Deaf and Blind School.*

The appropriation of 1905 L. 421 of 9/30s of charitable institutions fund to education of deaf, dumb and blind is temporary.

(Evans vs. Van Deusen 31 I. 614, 174 P. 122.)

6. *Albion State Normal School.*

The perpetual appropriation of the Albion Normal School fund is sufficient to justify drawing of warrants for properly allowed claims against.

(Evans vs. Huston 27 I. 559, 150 P. 14.)

(Cited in Evans vs. Van Deusen, 31 I. 614, 174 P. 122.)

7. *Morrill—Agricultural College—Grant.*

The phrase "as provided in the acts of Congress making donations of lands for such purpose" (as appearing in Sec. 10 of Idaho Admission Bill (26 S. 215) wherein 90,000 acres are granted to the State for an agricultural college) is interpreted to refer to the First Morrill Act (2 July, 1862; 12 S. 503.)

(Evans vs. Van Deusen 31 I. 614, 174 P. 122.)

8. *Reason Grants Not Accepted by Constitution.*

Our State Constitution was adopted some time before the Idaho Admission Bill was passed, and for that reason we find no direct acceptance therein of any land grants made to the State for

educational purposes, but, of course, in our Admission Bill as a State, the terms of such grants as therein provided had been accepted by the State, and the provisions of Section 4, Art. IX, of our Constitution are broad enough to include all grants for educational purposes.

(Roach vs. Gooding, 11 I. 253, 81 P. 642.)

IV. ALBION STATE NORMAL SCHOOL APPROPRIATIONS—BOARD OF TRUSTEES—ACTIONS AGAINST—JURISDICTION.

1. *Liability to Suit.*

The provision in the act creating the Albion State Normal School that the "Board of Trustees may sue and be sued" (Sec. 519 R. C.; Sec. 519 C. L.) is a waiver of the immunity of the State from suit.

(Thomas vs. State, 16 I. 81, 100 P. 761.)

2. *Supreme Court Jurisdiction Exclusive—When.*

While the State has consented that the Board of Trustees of the Albion State Normal School may sue and be sued, yet if the action be one in the nature of a claim against the State, said action must be brought in the Supreme Court under Sec. 10 of Article V of the Constitution.

(Thomas vs. State, 16 I. 81, 100 P. 761.)

3. *Jurisdiction of District Courts Denied—When.*

The Supreme Court has exclusive and the district court no jurisdiction of an action involving a claim against the State.

(Thomas vs. State, 16 I. 81, 100 P. 761.)

(See Art. X, I supra.)

4. *District Court Jurisdiction Admitted—When.*

Whenever the action does not involve a claim against the State, the courts of general and competent jurisdiction may take cognizance thereof.

(Thomas vs. State, 16 I. 81, 100 P. 761.)

5. *Claims Against State—Procedure For.*

Claims against the State for money recovery must be presented first to the State Board of Examiners and if disallowed action thereon must be brought in the Supreme Court for recommendatory judgment thereon.

(Thomas vs. State, 16 I. 81, 100 P. 761.)

6. *Normal Fund Appropriation Perpetual.*

1905 L. 393 creating normal school fund effectually appropriated the avails to the perpetual

benefit of the beneficiaries named therein until such time as the Legislature expressly repeals the same or does so through necessary implication. Such repeal is not found in the general appropriation bill of 1915 (1915 L. 337) nor prior appropriation.

(Evans vs. Huston, 27 I. 559, 150 P. 14.)

7. *Same—Effect of Legislative Appropriation On.*

The appropriation measure of the 12th session (1913 L. 637) does not interfere with the perpetual appropriation of one-half of the normal school fund (1905 L. 393) to the Albion State Normal School.

(Evans vs. Huston, 27 I. 559, 150 P. 14.)

8. *Same—Balance Remaining Available.*

The balance in the normal school fund at end of a biennium to the credit of a beneficiary of said fund may be expended for the purposes of the ensuing biennium.

(Evans vs. Huston, 27 I. 559, 150 P. 14.)

9. *Trustees Not Body Corporate.*

Power granted Board of Trustees to sue and liability of suit imposed thereon but said Board is not expressly created a body corporate.

(Phoenix Lumber Co. vs. Regents, 197 Fed. 428.)

10. *Conflicting Points Discussed.*

A conflict between Thomas vs. State (16 I. 81; 100 P. 761) (which holds that power to sue and be sued granted Board of Trustees of Albion Normal School means only in the Supreme Court under Sec. 10, Art. V, Constitution) and Moscow Hardware Co. vs. Regents (19 I. 420; 113 P. 731) (which holds that the suitor against the Board of Regents must bring action in the district court) is pointed out and the similarity between the latter case and Phoenix Lumber Co. vs. Regents (197 Fed. 425) is noted. Decision follows: Phoenix Lumber Co. vs. Regents, 197 Fed. 425.)

(Interstate Construction Co. vs. Regents 199 Fed. 511.)

V. LEWISTON STATE NORMAL SCHOOL—BOARD OF TRUSTEES—SUITS AGAINST.

1. *Enforcement of Judgment Against.*

A judgment against trustees of Lewiston State Normal School is enforceable against property of the school.

(Phoenix Lumber Co. vs. Regents, 197 Fed. 429.)

VI. UNIVERSITY GRANT—EXPENDITURE FROM—PURPOSES—LIMITS.

1. *Application of Section 5, Admission Bill, to Sec. 8 Thereof.*

Sec. 5 of the Admission Bill (26 S. 215) places all proceeds of grants of lands for educational purposes in a permanent school fund, permitting the expenditure only of the income therefrom for the support of the schools, and this section applies to the grant of 72 sections for university purposes. (Sec. 8, 26 S. 215.)

(Roach vs. Gooding 11 I. 244, 81 P. 642.)

(Cites: State vs. Maynard (Wash.) 71 P. 775.)

(Cites: State vs. McMillan (N. D.) 96 NW. 310.)

(Distinguishes: Stein vs. Morrison, 9 I. 426, 75 P. 246.)

(See Pike vs. St. B. of L. Com. 19 I. 268, 113 P. 447.)

2. *University Grant Available for Support But Not Building.*

Expression "for university purposes" (Sec. 8) and "in the support of said schools" (Sec. 5) of said act (26 S. 215) interpreted to mean "current expenses" and not "erection" or "construction" of buildings or "equipment" thereof.

(Roach vs. Gooding, 11 I. 244, 81 P. 642.)

(Cites: Sheldon vs. Purdy (Wash.) 49 P. 230.)

(Cites: Mitchell vs. Colgan (Cal.) 54 P. 905.)

(Cites: State vs. McMillan (N. D.) 96 NW. 310.)

3. *Same.*

A bond issue for erection and equipment of buildings which provides that either the income or principal of the proceeds of the university grant of 72 sections shall be used to retire the same, contravenes the Constitution of Idaho and the provisions of the Federal grants.

(Roach vs. Gooding, 11 I. 244, 81 P. 642.)

4. *University Buildings—Payment For.*

The buildings at the university must be built at the cost of the State and not out of moneys granted the State by the acts of 2 July, 1862 (12 S. 503) or of 18 February, 1881 (21 S. 326) or of 3 July, 1890 (26 S. 215).

(Roach vs. Gooding, 11 I. 244, 81 P. 642.)

VII. PUBLIC SCHOOLS DEFINED.

1. "*Public Schools*"—*Term Expansive.*

"The public schools of the State include the little log cabin in the remote district as well as the magnificent normal schools, academy, and the

State University. The university is as much a public school as is the district school."

(Roach vs. Gooding, 11 I. 244, 81 P. 642.)

(See Pike vs. St. B. of L. Com. 19 I. 268, 13 P. 447.)

2. *Same—Term Limited.*

The "public schools of the State" as expressed in Sec. 2 of Art. IX, Constitution of Idaho, denotes "public free common schools" or "district schools established for the training and instruction of youth in the primary and elementary branches of learning."

(Pike vs. S. B. of L. Com. 19 I. 268, 113 P. 447.)

(See Roach vs. Gooding, 11 I. 244, 81 P. 642.)

3. *Same—Application of Constitution.*

The first five sections of Art. IX of the Constitution of Idaho deal only with the public, free and common schools.

(Pike vs. S. B. of L. Com. 19 I. 268, 113 P. 447.)

(See Roach vs. Gooding, 11 I. 244, 81 P. 642.)

4. *Note.*

(1) As originally adopted, Section 2 of Article IX of the Constitution of Idaho reads, "The general supervision of the public schools of the State shall be vested in a board of education . . ."

(2) Pike vs. S. B. of L. Com supra, was decided while Section 2 of Article IX as above was extant.

(3) In 1912, Amendment No. 7 was adopted and became effective, reading, in part, "The general supervision of the State educational institutions and public school system of the State of Idaho shall be vested in a State Board of Education . . ."

VIII. UNIVERSITY GRANT—CONSTITUTIONAL LIMITATIONS.

1. *Grant Existing When Constitution Adopted.*

At the time the Constitution of Idaho was framed, the only grants in existence and contemplated thereby were those of Sec. 16 and Sec. 36 for common schools and 72 sections to the University.

(Pike vs. S. B. of L. Com. 19 I. 268, 113 P. 447.)

2. *Application of Sec. 8 of Art. IX of Constitution.*

The limitations in Sec. 8 of Art. IX of the Constitution against the sale of more than 25 sections of school lands in any one year, relates only to the grant for the support of the common schools (Sec. 16 and Sec. 36 and lieu selections) and does not apply to the grants for the university, normal schools or colleges, etc.

(Pike vs. S. B. of L. Com. 19 I. 268, 113 P. 447.)

3. *University Grant—No Limit on Amount of Sale.*

There is no limit prescribed by Sec. 10 of Art. IX of the Constitution in the number of acres

of university land which can be sold in any year.

(Pike vs. S. B. of L. Com. 19 I. 268, 113 P. 447.)

4. Note.

Carried to its necessary conclusion, Pike vs. S. B. of L. Com. holds that the limitations contained in Secs. 1 to 5, inclusive, and in the last proviso to Sec. 8 of Article IX of the Constitution do not apply to the lands granted by Sec. 8, Sec. 10 and Sec. 11 of the Admission Bill.

5. Note.

(a) The following are noted as points of conflict and of distinction between:

Roach vs. Gooding, 11 I. 244, 81 P. 642, and Pike vs. S. B. of L. Com. 19 I. 268, 113 P. 447.

(b) Roach vs. Gooding construed Section 5 of the **Idaho Admission Bill** as applicable to all educational grants made by said bill and hence limiting expenditure of income to the support ("current expense," etc.) of the beneficiaries of the grants and not authorizing expenditure thereof to building and equipping the beneficiaries.

(c) Pike vs. S. B. of L. Com. supra construes the limitation in Sec. 8 of Article IX of the Constitution regarding the maximum sale per annum of lands, as applying only to grant of Sec. 16 and Sec. 36 (and lieu selections).

(d) Roach vs. Gooding defines **school** as used in the **Admission Bill** (Sec. 5) to include all State schools and institutions benefited by the Admission Bill.

(e) Pike vs. S. B. of L. Com. defines "public school" and "school" as used in the **Constitution** to be distinct from university academy, college normal, etc.

(f) Roach vs. Gooding extends "public school fund" as defined in Sec. 4 of Article IX of the Constitution as including all grants to the State for educational purposes, while Pike vs. S. B. of L. Com. excludes Sec. 4 of Article IX from application to university, normal, college, etc., grants.

APPENDIX

I

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