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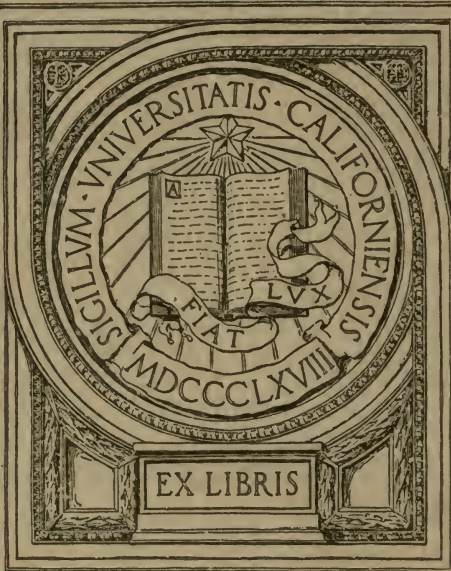
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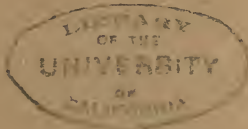
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DIGEST OF LAWS RELATING TO
FREE SCHOOLS
IN THE STATE OF ARKANSAS



Issued by the
Department of Public
∴ ∴ Instruction ∴ ∴

1914



DIGEST OF LAWS RELATING TO FREE SCHOOLS IN THE STATE OF ARKANSAS

Issued by the DEPARTMENT of
PUBLIC INSTRUCTION
1914



This book is the property of the State of Arkansas. The law states that it may be furnished only to school officers. When a director retires from office this book and all school records and reports should be delivered to his successor in office.

GEO. B. COOK, *Superintendent.*

1914
THE SENTINEL RECORD
Hot Springs, Ark.

1914
THE SENTINEL RECORD
Hot Springs, Ark.

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TO VIND
ABROGARE

Digest of School Laws

FREE SCHOOLS.

SECTION 7484. Intelligence and virtue being the safeguards of liberty, and the bulwark of a free and good government, the state shall ever maintain a general, suitable and efficient system of free schools, whereby all persons in the state, between the ages of six and twenty-one years, may receive gratuitous instruction.

STATE BOARD OF EDUCATION.

(Acts 1911, Act 431. *Approved June 1, 1911.*)

Note:—Act 431, Acts 1911, approved June 1, 1911, creating State Board of Education and delegating powers to same, placed here in conformity to sectional digest of existing authorities, is properly amendatory to Sec. 7505, Kirby's Digest, g. v., and amends Art. 328, Acts 1911, approved May 30, 1911, hereinafter set forth as Secs. 7699 a. et seq. q. v.

7484-a.—*Of Whom Composed, Etc.*

SECTION 1. A State Board of Education, to be composed of the State Superintendent of Public Instruction and one member from each congressional district, is hereby created. The State Superintendent of Public Instruction shall be ex-officio chairman of said board. The

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members of said board, other than the State Superintendent of Public Instruction, shall be appointed and commissioned by the Governor, subject to confirmation by the Senate.

7484-b.—*Members to Subscribe to Oath.*

SEC. 2. The members of said board, other than the State Superintendent of Public Instruction, shall take and subscribe to the oath of office as provided in section 5763, Kirby's Digest.

7484-c.—*Term of Office of Appointed Members.*

SEC. 3. The term of office of the appointed members shall be seven years, and until their successors are appointed and qualified; *provided*, that in the appointment of the first State Board of Education, one member shall be appointed for one year, one for two years, one for three years, one for four years, one for five years, one for six years, and one for seven years. If a vacancy shall occur on said board, the vacancy shall be filled by appointment, as provided in section 1, and said member so appointed shall serve out the unexpired term of the member in whose place he is appointed.

7484-d.—*When to Convene Annually or Oftener.*

SEC. 4. The State Board of Education shall meet annually on the first Monday of September of each year, in the office of the State Superintendent of Public Instruction; *provided*, the State Superintendent of Public Instruction, as chairman of the State Board of Education, may convene said board at any time upon five days written notice to the members thereof; *provided further*, that the chairman of the board shall call a meeting thereof at any time upon the written petition of four members of said board.

7484-e.—*Members to Perfect Organization of Board.*

SEC. 5. As soon as practicable, after the appointment and qualification, the members of said board shall meet in the office of the State Superintendent of Public Instruction and elect one of their number secretary, perfect the organization of said board and adopt such rules and regulations as they may deem advisable for the performance of the duties of said board as hereinafter set forth.

7484-f.—*Expenses Allowed Only to Members Appointed.*

SEC. 6. The appointed member of said board shall serve without remuneration, other than their actual traveling and hotel expenses when attending the meetings of said board, such expenses to be paid upon the certificate of the chairman and secretary of said board to the Auditor of State, who shall issue his warrant upon the State treasury in payment of same.

7484-g.—*Board to Have Management of School Funds.*

SEC. 7. The State Board of Education shall have the management and investment of the common school fund belonging to the State, and shall, from time to time, as the same may accumulate, securely invest the said funds in bonds of the United States or the State of Arkansas.

7484-h.—*May Direct Action to be Brought for Recovery of School Funds.*

SEC. 8. All moneys required by law to be paid into the treasury to the credit of the common school fund may, if the same be not paid within thirty days after they shall have become due and payable, be recovered, with interest due thereon, by action in any court having

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jurisdiction; and such action shall be prosecuted by the Attorney General of the State or by the prosecuting attorney of any judicial district within this State, when so directed by said board.

7484-i.—*Auditor to Report to Board Annually Condition of School Fund.*

SEC. 9. The State Auditor shall annually, on the first Monday in September, transmit to the State Board of Education a report of the condition of the school fund on the first day of September, with an abstract of the accounts thereof in his office.

7484-j.—*Board May Direct Auditor to Draw Warrants on School Funds to be Invested in Bonds.*

SEC. 10. The State Auditor shall, under the direction of the State Board of Education, draw warrants on the State Treasurer for the payment of all or any portion of the common school fund belonging to the State, for the purchase of bonds or other securities in which the same is by law invested.

7484-k.—*Duty of Treasurer.*

SEC. 11. The State Treasurer shall, by virtue of such warrant, pay from the uninvested common school fund the purchase money for said securities, and shall receive and deposit the same in the State treasury for safe-keeping, and receipt to the State Superintendent of Public Instruction, as chairman of said board, for the kind and amount of such securities.

7484-l.—*Board to Settle Annually With Treasurer.*

SEC. 12. Said board shall, at their annual meeting, settle with the State Treasurer all accounts of the common school fund not before settled; and shall ratify

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the apportionment of the common school funds by the State Superintendent of Public Instruction, as provided by section 7521 of Kirby's Digest.

7484-m.—*Power to Grant Charters to Institutions of Learning.*

SEC. 13. The powers and duties now imposed upon the Governor, Secretary of State and the State Superintendent of Public Instruction, as a board for the chartering of educational institutions, as provided in section 924 of Kirby's Digest, shall hereafter devolve upon the State Board of Education. Said board shall have the sole power to grant charters to academies, colleges, universities, and all other higher institutions of learning, determine what institutions may confer degrees and under what conditions, inspect all chartered institutions, and to revoke their charters, for failure to maintain such standards as may be required. All charters heretofore granted shall be examined by the board and it shall have authority to issue new or revised charters, if necessary, to bring all into conformity to the rules of said board. In dealing with charters, the Attorney General shall be consulted and no rule shall be adopted or order issued without his approval.

7484-n.—*County License Made State Wide; How.*

SEC. 14. Any teacher holding a first grade county license in any county in this State, desiring to have said license made state-wide, may apply to the State Superintendent of Public Instruction for an examination. It shall be the duty of the State Superintendent of Public Instruction under the supervision of the State Board of Education, to examine said applicant and to determine whether or not his license shall be made state-wide. Said examination shall be made by said Super-

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intendent of Public Instruction by an examination of the papers, the questions propounded by the county examiner or county superintendent, and the answers of the applicant thereto, at any regular quarterly examination before said county examiner or county superintendent, at the time said first grade certificate was granted and issued to said applicant, and such further evidence as the State Superintendent of Public Instruction may desire. It shall be the duty of the county examiner or county superintendent, at the request of any teacher, holding a first grade certificate and desiring to take the examination, as herein stated, to transmit to the State Superintendent of Public Instruction the questions propounded by him, and the answers of the applicant thereto, at the regular quarterly examination at which said first grade certificate was granted to said applicant, the cost of transmission to be paid by said applicant. If the State Superintendent of Public Instruction shall be satisfied from an examination of the applicant, as aforesaid, that he is of good moral character and qualified to teach and to hold a first grade certificate, he shall issue to said applicant a certificate of the same grade as that held by said applicant, and said certificate shall authorize said applicant to teach in any county of this State, without further examination, for the period of time specified in the certificate originally issued to him by the county examiner or county superintendent. A fee of one dollar shall be charged and collected from said applicant for said examination, the same to be paid into the State treasury and credited to the institute and library fund, as now provided in case of fees for State and professional licenses. The expense of grading said papers shall be paid out of the said institute and library fund upon the requisition of the State Superintendent of Public Instruction to the State Auditor, who shall issue his

warrant upon the State treasury in payment of said expense. In no case, however, shall the cost of any examination exceed the fees paid by the applicant for same.

7484-o.—*May Issue State or Professional Licenses; When.*

SEC. 15. The State Superintendent of Public Instruction, under the supervision of the State Board of Education, may issue state or professional licenses based upon state teachers' certificates granted in other states, or based upon normal school diplomas, or degrees from educational institutions, if it be shown to the satisfaction of said superintendent and board that the examination required of said applicant, or course of study pursued by him, was of the standard required for the issuance of state or professional licenses. All applicants for such licenses shall pay the same fee and in the same manner as is now prescribed by law for professional and state licenses. In the issuance of all certificates said superintendent and board shall require satisfactory evidence of the good moral character and successful teaching experience of the applicant. Said superintendent, under the supervision of said board, shall have the power and authority to revoke, for good cause shown, any certificate or license granted under authority conferred by this Act to teach in the public schools.

Provided, any county examiner or county superintendent may issue county license based upon state teachers' certificate granted in other states, or based upon normal school diplomas or degrees from educational institutions, for which he shall receive the fee now provided for county license; *provided*, license from the State, or diploma from the normal school, or degree from the educational institution issuing the State license, diploma or degree upon which the county license is based, has been recognized and accredited by the State Board of Ed-

ucation, but if license from State issuing said certificate, or school issuing said diploma or degree has not been passed upon by the State Board of Education, it shall do so at the request of any county examiner or superintendent, at its next regular meeting; *provided*, the diploma, degree or state license, with other proper data, be filed with the State Board of Education, when it shall place the same, or refuse to place the same upon the accredited list.

7484-p.—*Board to Have Supervision of the Public Schools of the State.*

SEC. 16. The State Board of Education shall have general supervision of the public schools of the State; may prepare and distribute plans and specifications for the construction and equipment of school buildings, when called upon to do so; provide courses of study for rural, elementary, graded and high schools; prescribe plans for the organization and conduct of teachers' institutes; prescribe rules and regulations for the sanitary inspection of all school buildings, and for the examination of pupils in order to detect contagious and infectious diseases and physical defects, and shall take such other action as may by said board be deemed necessary and expedient to promote the physical welfare of the school children; shall classify and standardize the public schools, prescribe the requirements for accrediting graded and high schools; provide for new forms of educational efforts; and shall in general, take such action as may be necessary to promote the organization and increase the efficiency of the educational system of the State.

Provided, that nothing in this Act shall be so construed as to give to the State Board of Education, herein provided for, or to the State Superintendent of Public

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Instruction any power or authority to recommend or prescribe any text book to be adopted or used in any public school or schools of the State and that this Act does not repeal any statutes regarding the adoption and use of text books and shall not be construed to curtail or limit the powers of the directors of any school district in the State.

7484-q.—*Board to Keep Record of Proceedings.*

SEC. 17. Said State Board of Education shall keep a complete record of all its proceedings and the same shall be filed with the permanent records of the State Superintendent of Public Instruction; shall prepare a report which shall be incorporated with the report of the State Superintendent of Public Instruction each biennial term.

7484-r.—*Board to Adopt Seal of Superintendent of Public Instruction.*

SEC. 18. The seal of the State Superintendent of Public Instruction shall be adopted and used by the State Board of Education.

REPEALING CLAUSE.

All laws and parts of laws in conflict herewith are hereby repealed, and this law shall go into effect and be in force from and after its passage.

SEC. 7485. *Powers of General Assembly.*—The general assembly shall provide, by general laws, for the support of common schools by taxes, which shall never exceed in any one year three mills on the dollar on the taxable property of the state; and by an annual *per capita* tax of one dollar, to be assessed on every male inhabitant of this state over the age of twenty-one years. *Provided*, the general assembly may, by general law, authorize school districts to levy, by a vote of the qualified electors

of such districts, a tax not to exceed seven mills on the dollar in any one year for school purposes. *Provided further*, that no such tax shall be appropriated to any other purpose, nor to any other district, than that for which it was levied. *Art XIV., Secs. 1 and 3, Const. As amended by Const. Amendment No. 8.*

APPROPRIATION OF SCHOOL TAX.—The provision in Art. 14, Section 3, of Const. 1874, that a tax levied for school purposes shall not be appropriated "for any other purpose" does not mean that a tax voted for school building purposes shall not be appropriated for any other school purpose, but only that it shall be used for school purposes.—*School District of Hartford v. West Hartford Special School District.*—102 Ark., 261.

Const. 1874, Art. 14, Sec. 2, providing that no school tax shall be appropriated "to any other district than that for which it was levied," does not prohibit the Legislature from providing for an apportionment of school tax collected by a district where a portion of its territory has been annexed to another district.—*Ibid.*

(*Acts 1909, Act 234. Approved May 12, 1909.*)

Note:—Secs. 7485-a to 7485-z inclusive embrace the provisions of three separate compulsory attendance laws; Secs. 7485-a to 7485-i inclusive embracing the provisions of Act 234, approved May 12, 1909; Secs. 7485-j to 7485-p inclusive embracing the provisions of Act 231, approved April 28, 1911, and Secs. 7485-q to 7485-z, embracing the provisions of Special Act 347, approved May 31, 1909.

7485-a.—*Required to Attend School One-half Time.* ..

SEC. 1. Every parent, guardian or other person in the State of Arkansas, having charge or control of any child between the ages of (8) and (16) years, shall cause such child to attend regularly some day school, public, private, parochial or parish, not less than one-half of the entire time the public school said child attends is in session, during any one year, or shall provide such child at home with such regular daily instruction during the usual hours as shall be, in the judgment of court or school board having competent jurisdiction, substantially equivalent to at least the instructions given the child-

ren of like age and advancement at the day public school in the locality in which said child resides.

Provided, that every parent, guardian or other person in the state of Arkansas, having charge and control of any child between the ages of sixteen and twenty years, who is not actively, regularly and lawfully engaged in some useful employment or service, shall cause said child to attend school as hereinbefore provided for children from 8 to 16 years.

7485-b.—*Child Excused From Attendance; When.*

SEC. 2. Any child between the ages aforesaid may be excused temporarily from complying with the provisions of this act, in whole or in part, if it be shown to a court of competent jurisdiction or school board of such district, that said parent or guardian, or person having charge or control of said child, is not able through extreme destitution to provide proper clothing for said child, or that said child is mentally or physically incapacitated to attend school for the whole period required or any part thereof, or that there is no public school taught within two and one-half miles of the residence of said child by the nearest traveled road, or that the labor of said child is absolutely necessary for the support of the family, or that said child has completed a common school course, including seven (7) grades, and has certificate of same from the school said child attended. If any child, or children, are unable to attend school as hereinbefore required by not being able to procure books, on satisfactory proof of same, the respective school board shall purchase said books out of the general school fund of said district.

7485-c.—*Board to Appoint Officer to Enforce Act.*

SEC. 3. The board having charge of a public school in a city or district shall appoint for a period of one year,

one or more attendance officers to enforce the provisions of this act. The fees of said attendance officers shall be the same as that of peace officers for similar service, and said fees shall be paid from the public school funds of the city or district. The attendance officers shall serve written or printed notices upon the parents or guardians, or persons who have charge and control of any child or children as aforesaid who violate the provisions of this act, and shall, when reasonable doubt exists as to the age of any child, require a properly attested birth certificate or an affidavit stating such child's age, the date of birth and physical characteristics; and shall have the right to visit and enter any office or factory or business house employing children as aforesaid; and the right to require a properly attested certificate of attendance of any child or children at such day school; and power to arrest without warrant all truants and non-attendants as aforesaid and place them in some public school, unless the parents, guardians or persons in charge and control of said children, respectively, shall at once place them in some other day school as aforesaid. Such attendance officer shall serve the legal notices and subpoenas of the court, without further fee or compensation than that paid by the board as aforesaid, and he shall carry into effect such other regulations as may lawfully be required by the board appointing him.

7485-d.—*Provision For Juvenile Disorderly Person.*

SEC. 4. The board, having charge of the public schools of any city or district having 10,000 or more population by the last census, may establish and maintain from the public schools in such city or district, or any school board may, at its discretion, purchase land and maintain such school, either within or without their own

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school district for children who are between the ages of eight and sixteen years, and who are either habitual truants from any day school in which they are enrolled as pupils, or who, while in attendance at any school, are incorrigible, vicious or immoral, or who habitually wander or loiter about the woods or public places without lawful employment, and such children shall be deemed juvenile disorderly persons, and may be by said school board, through its officers, assigned to, and required and compelled to attend such truant or parental school, or any department of the graded schools, as such school board or court may direct.

7485-e.—*Penalty For Violating Act.*

SEC. 5. Any person or guardian, or person having charge and control of any child between the ages of eight and sixteen years, violating any of the provisions of this act, shall be warned as aforesaid, as soon as possible after the beginning of the public school term of the city, town or district in which such child resides, and also at any time thereafter by the attendance officer herein provided for, or by the clerk of district where no attendance officer is provided for, to place and keep said child in regular attendance at some day school, within ten days from the service of the said written or printed notice of warning, and upon failure to comply with this act, after the lapse of ten days from the date of the service of said notice of warning, said parent, guardian or person having charge or control of said child shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than ten (\$10.00) dollars and not more than twenty-five (\$25.00) dollars.

Provided, that such fine may be suspended and finally remitted by the court trying the case, with or without payment of cost, at discretion of the court, if the said

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child be immediately placed in regular attendance in some day school as aforesaid, and if such fact of regular attendance is proven subsequently to the satisfaction of said court by attested certificate of attendance by the superintendent or teacher of said day school.

7485-f.—*Board to Publish Synopsis of This Act Ten Days Before Opening of School.*

SEC. 6. Every board having charge of the public schools of any city, town or district in the State of Arkansas, shall each year publish a synopsis of this act ten days prior to the opening of school, in a newspaper published in the town, or city, or district, in which the members thereof reside, or shall post copies thereof in five or more conspicuous places in said district city or town.

7485.g.—*No Child to Be Employed in Factory While School is in Session.*

SEC. 7. No child between eight and sixteen years of age shall be employed in any mine, factory, workshop, mercantile establishment, or in any manner, during the usual school hours while such school is in session, unless the person employing such child shall first produce a certificate from the superintendent or the teacher of the school he or she attended, stating that such child attended school for the period required by law, or has been excused from attendance by Sec. 2 of this Act, (Sec. 7485-b, *supra*) and it shall be the duty of such superintendent or teacher to furnish such certificate upon application of a parent, guardian or person having control of such child entitled to same.

7485-h.—*Owner of Workshop Employing Child Guilty of Misdemeanor.*

SEC. 8. Every owner, superintendent or officer of any mine, factory, workshop or mercantile estab-

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lishment, and any other person who shall employ any child between eight and sixteen years of age, contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined for each offense in a sum not less than ten (\$10.00) dollars, nor more than thirty (\$30.00) dollars.

SEC. 7485-i.—*Prosecutions to be in the Name of the State; Counties Exempted from Act.* 9. Prosecution under this act shall be brought in the name of the State of Arkansas before any court having competent jurisdiction, and the fines collected shall be paid over to the county treasurer and be credited to the general school fund of the respective city, town or district, no bond for cost shall be required by any court or officer in prosecution under this act.

Provided, the following counties shall be exempted from the provisions of this Act:

Arkansas, Ashley, Baxter, Boone, Bradley, Calhoun, Clark, Chicot, Cleburne, Columbia, Conway, Crittenden, Cross, Dallas, Desha, Drew, Hempstead, Hot Spring, Howard, Izard, Jefferson, Lafayette, Lee, Lincoln, Little River, Logan, Lonoke, Marion, Miller, Mississippi, Monroe, Montgomery, Ouachita, Perry, Phillips, Pike, Poinsett, Polk, Pope, Pulaski, Saline, Searcy, Woodruff and Yell. *Act 234, Approved May 12, 1909.*

Note.—STUDENTS EXEMPTED FROM WORKING ROADS. All students in actual attendance in any of the schools in this State, and all persons who are unable to perform labor by reason of physical inability, shall be exempted from working on any of the roads.—Act 287, Approved March 29, 1913.

SEC. 7485-j.—*Parent to Send Child to School One-half Time.* 1. Every parent, guardian or other person in the State of Arkansas, having charge and control of any child between the ages of (8) and (16) years, shall

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cause such child to attend regularly some day school, public, private, parochial or parish, not less than one-half of the entire time the public school said child attends is in session during any one year, or shall provide such child at home with such regularly daily instruction during the usual hours as shall be in the judgment of court or school board having competent jurisdiction, substantially equivalent to at least the instructions given the children of like age and advancement at the day public school in the locality in which said child resides; *provided*, that every parent, guardian or other person in the State of Arkansas, having charge and control of any child between the ages of sixteen and twenty years, who is not actively and regularly and lawfully engaged in some useful employment or service, shall cause said child to attend school as hereinbefore provided for children from eight to sixteen years. (*Act 231, Acts 1911. Approved April 28, 1911.*)

SEC. 7485-k.—*May be Excused; When.* 2. Any child between the ages aforesaid may be excused temporarily from complying with the provisions of this Act in whole or in part, if it be shown to the court of competent jurisdiction, or school board of said district, that said parent or guardian, or person having charge of or control of said child, is not able through extreme destitution, to provide proper clothing for said child, or that said child is mentally or physically incapacitated to attend school for the whole period required or any part thereof, or that there is no public school taught within two and one-half miles of the residence of said child by the nearest traveled road, or that the labor of said child is absolutely necessary for the support of the family; or that said child has completed a common school course including seven (7) grades, and

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has certificate of same from the school said child attended. If any child or children are unable to attend school as hereinbefore required by not being able to procure books, on satisfactory proof of same, the respective board shall purchase said books out of the general school fund of said district.

Up to and including the fourth grade, *provided*, that the school board of any one district shall not expend in any one year a sum exceeding in the aggregate fifteen dollars in making purchases of books for the pupils of any one school in the district, and such books when so bought shall become the property of the school district and at the close of the term they shall be turned over to some person to be named by the board who shall safely keep them until they shall be needed for some future term.—*Ib.*

SEC. 7485-1.—*Board to Appoint Attendance Officer.*

3. The board having charge of a public school in a city or district shall appoint for a period of one year, one or more attendance officers to enforce the provisions of this Act. The fees of said attendance officers shall be the same as that of peace officers for similar service, and said fees shall be paid from the public school funds of the city or district. The attendance officer shall serve written or printed notices upon the parents or guardians, or persons who have charge and control of any child or children as aforesaid who violates the provisions of this Act, and shall, when reasonable doubt exists as to the age of any child, require properly attested birth certificate or an affidavit stating such child's age, the date of birth, and physical characteristics; and shall have the right to visit and enter any office or factory or business house employing children as aforesaid; and the right to require a proper attendance certificate of any child or

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children at such day school; and power to arrest without warrant, all truants and non-attendants as aforesaid; and place them in some public school unless the parents, guardians, or persons in charge and control of said children, respectively, shall at once place them in some other day school as aforesaid. Such attendance officer shall serve the legal notices and subpoenas of the court, without further fee or compensation than that paid by the board as aforesaid, and he shall carry into effect such other regulations as may lawfully be required by the board appointing him.—*Ib.*

SEC. 7485-m.—*Provision for Juvenile Disorderly Persons.* 4. The board having charge of the public schools of any city or district having 10,000 or more population by the last census, may establish and maintain from the public schools in such city or district, or any school board may, at its discretion, purchase lands and maintain such school, either within or without their own school district, for children who are between the ages of 8 and 16 years, and who are either habitual truants from any day school in which they are enrolled as pupils, or who, while in attendance at any school, are incorrigible, vicious, or immoral, or loiter about public places without lawful employment and such children shall be deemed juvenile disorderly persons, and may be by said board through its officers, assigned to, and required and compelled to attend such truant or parental school or any department of the graded schools as such school board or court may direct.—*Ib.*

SEC. 7485-n.—*Penalty for Violating Act.* 5. Any person or guardian, or persons having charge and control of any child between the ages of 8 and 16 years, violating any of the provisions of this Act shall be warned as aforesaid, as soon as possible after the begin-

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ning of the public school term of the city, town or district in which said child resides, and also at any time thereafter by the attendance officer herein provided for, or by the clerk of district where no attendance officer is provided for, to place and keep said child in regular attendance at some day school, within ten days, from the service of the said written or printed notice of warning, and upon failure to comply with this Act, after the lapse of ten days from the date of service of said notice of warning, said parent, guardian or other person having charge or control of said child shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than ten (\$10.00) dollars, and not more than twenty-five (\$25.00) dollars; *provided*, such fine may be suspended and finally remitted by the court trying the case with or without payment of cost, at discretion of the court, if the child be immediately placed in regular attendance in some day school as aforesaid, and if such fact of regular attendance is proven subsequently to the satisfaction of said court by attested certificate of attendance by the superintendent or teacher of said day school.—*Ib.*

SEC. 7485-o.—*Board to Publish Synopsis Ten Days Before School Opens.* 6. Every board having charge of public schools of any city, town or district in the State of Arkansas, shall each year publish a synopsis of this Act ten days prior to the opening of school, in a newspaper published in the town or city or district in which the members thereof reside or shall post copies thereof in five or more conspicuous places in said district, city or town.—*Ib.*

SEC. 7485-p.—*Prosecutions Under Act to be in Name of State.* 7. Prosecution under this Act shall be

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brought in the name of the State of Arkansas, before any court having competent jurisdiction, and the fines collected shall be paid over to the county treasurer and be credited to the general school fund of the respective city, town or district. No bond for cost shall be required by any court or officer in prosecution under this Act; *provided*, the following counties shall be exempted from the provisions of this Act: Baxter, Cleburne, Polk, Madison, Franklin, Jefferson, Sebastian, Yell, Independence, Scott, Drew, Little River, Lonoke, Woodruff, Boone, Bradley, Calhoun, Desha, Lafayette, Lincoln, Marion, Monroe, Phillips, Ashley, Dallas, Columbia, Montgomery, Chicot, Hot Spring, Saline, St. Francis, Benton, Lee, Ouachita, Pope, Union, Crittenden, Pulaski, Prairie, Hempstead, Howard.—*Ib.*

REPEALING CLAUSE: This Act shall take effect from and after its passage, and all laws in conflict are hereby repealed.

SEC. 7485-q.—*Parent to Send Child to School One-half Time.* 1. Every parent, guardian, or other person in Polk, Cleburne, Baxter, Madison, Franklin, Sebastian, Yell, Independence and Scott counties, in the state of Arkansas, having charge and control of children between the ages of eight and fourteen years, shall cause each child to attend regularly some day school, public, private or parish, not less than one-half of the entire time of the public school said child attends is in session, or shall provide said child at home with such regular daily instruction during the usual hours as shall be in judgment of court or school board having competent jurisdiction, substantially equivalent to at least the instructions given the child of like age and advancement of any day public school in the locality in which said child resides; *provided*, that every parent, guardian or other person in

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Polk, Cleburne, Baxter, Madison, Franklin, Sebastian, Yell, Independence and Scott counties, in the state of Arkansas, having charge and control of children between the ages of fourteen and sixteen years, who is not actively and regularly and lawfully engaged in some useful employment or service, shall cause said child to attend school as hereinbefore provided for children from eight to fourteen years.—Act 347, approved May 31, 1909.

SEC. 7485-r.—*May be Excused; When.* 2. Any child between the ages aforesaid may be excused temporarily from complying with the provisions of this act in whole or in part if it be shown to a court of competent jurisdiction or school board of said district that said parent or guardian, or person having charge and control of said child, is not able through extreme destitution to provide or obtain in any way proper clothing for said child, or that said child is mentally or physically incapacitated to attend school for the whole period required or any part thereof, or that there is no public school taught within two and one-half miles of the residence of said child by the nearest traveled road, or that the labor of said child is absolutely necessary for the support of the family, or that said child has completed the common school course, including the eight (8) grades, and has certificate of same school the child attended.

If any child is unable to attend school, as hereinbefore required, by not being able to procure books, on satisfactory proof of same the school board shall purchase said books out of the incidental fund for use of said child.—*Ib.*

SEC. 7485-s.—*Board to Appoint Attendance Officer.*
3. The board having charge of a public school in a

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city or district of 3,000 or more population by the last census, may appoint, and remove at pleasure, one or more attendance officers to enforce the provisions of this act, and shall fix the compensation and manner of performance of the duties of the said attendance officers, and shall pay them from the public school fund of said city or district, and the attendance officers as aforesaid shall serve written or printed notices upon the parents or guardians, or persons who have charge or control of the children aforesaid, who violate the provisions of this act, shall when reasonable doubt exists as to the age of any such child, shall require a proper attested birth certificate or an affidavit stating such child's age, date of birth and physical characteristics; shall have the right to visit any office, factory or business house employing children as aforesaid; shall have the right to require a proper attested certificate of attendance of any child or children at such day schools; shall have power to arrest without warrant all truants and non-attendants as aforesaid, and place them in some public school, unless the parents, guardian or person in charge and control of said children respectively, shall at once place them in some other day school aforesaid, and shall serve legal notice and subpoenas of the court and make such required arrests in the case which they prosecute without further fee or compensation than that paid by the board, as aforesaid. All constables, marshals, sheriffs and their deputies are *ex-officio* attendance officers and shall receive fees the same as in other cases of misdemeanors and shall carry into effect such other regulations as may lawfully be required by the school board.—*Ib.*

SEC. 7485-t.—*Provision for Juvenile Disorderly Persons.* 4. The board having charge of the public school of any city or district having ten thousand or more population by the last census, may establish and maintain

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from the public school fund, one or more ungraded truant or parental schools in such city or district. Any school board may at its discretion purchase land and maintain such school either within or without their own school district, for children who are between the ages of eight and sixteen years, and who are either habitual truants from any school in which they are enrolled as pupils, or who while in attendance at any school are incorrigible, vicious or immoral, or who habitually wander or loiter about the streets or woods or public places without lawful employment, and such children shall be deemed juvenile disorderly persons, and may be by said school board, through its officers, assigned to and required and compelled to attend such truant or parental school or any department of the graded schools as such school board or court may direct.—*Ib.*

SEC. 7485-*u.*—*Penalty for Violating Act.* 5. Any parent or guardian or person having charge and control of children between the ages of 8 and 16 years violating any of the provisions of this act shall be warned, as aforesaid, as soon as possible after the beginning of the public school term of the city or town, district in which said child resides, and also at any time thereafter, by the attendance officers therein provided, or by clerk of district where no attendance officer is provided for, to place and keep said child in regular attendance at some day school within ten days from the service of said written or printed notice of warning, and upon failure to comply with this act, after the lapse of ten days from the date of the service of said notice of warning, said parent or guardian or person having charge and control of said child (shall) be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not less than five dollars nor more than

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twenty-five dollars; *provided*, that such fine may be suspended, finally remitted by court with or without payment of cost, at discretion of the court if said child be immediately placed and kept in regular attendance of some day school as aforesaid, and if such fact of regular attendance is proven subsequently to the satisfaction of said court by attested certificate of attendance by the superintendent or teacher of said school.—*Ib.*

SEC. 7485-*v.*—*Board to Publish Synopsis of Act Ten Days Before School Opens.* 6. Every board having charge of the public schools of any town or district within the counties of Polk, Cleburne and Scott, in the state of Arkansas, shall each year publish a synopsis of this act ten days prior to the opening of the school in a newspaper published in the city or town or district in which the members thereof reside, or shall post copies thereof, in five or more public places in the district, as will in their judgment best give knowledge thereof.—*Ib.*

SEC. 7485-*w.*—*No Child to be Employed in Factory While School in Session.* 7. No child between eight and fourteen years of age shall be employed in any mine, factory, workshop, mercantile establishment, or any other manner within the usual school hours, unless the person employing him shall first procure certificate from the superintendent or the teacher of the school he or she attended, stating that such child attended school for a period as required by law, or has been excused from attendance as provided in Section 2. And it shall be the duty of such superintendent or teacher to furnish such certificate upon application of parent or guardian or person having such control of such child entitled to same.—*Ib.*

SEC. 7485-*x.*—*Owner of Workshop Employing Child*

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Guilty of Misdemeanor. 8. Every owner, superintendent or officer of any mine, factory, workshop or mercantile establishment, and any other person who shall employ any child between eight and fourteen years of age contrary to the provisions of this act, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined for each offense in a sum not less than five (\$5.00) dollars nor more than ten (\$10.00) dollars and costs.—*Ib.*

SEC. 7485-y.—*Prosecution Under This Act Brought in Name of County.* 9. Prosecutions under this Act shall be brought in the name of the county of Polk, Cleburne, Baxter, Madison, Franklin, Sebastian, Yell, Independence or Scott, in the state of Arkansas, before any court of record having competent jurisdiction. In cities having fifty thousand population or more, and before any court having competent jurisdiction in other districts, and the fines collected shall be paid over to the county treasurer, to be credited to the general school fund of the city or county. No bond for cost shall be required by any court or officer in prosecution under this act.—*Ib.*

SEC. 7485-z.—*Repealing Clause, Form of Synopsis to be Published.* 10. All laws in conflict with this law are hereby repealed, and this Act to take effect and be in full force from and after June first, 1909.

Notice to Parents and Guardians, as required in Section 6:

First. Every child between eight and fourteen years old and between fourteen and sixteen years, not regularly employed, must attend some day school at least half of the term each year—three or four months.

Second. No child can be excused on promise to attend, he must attend first half of term before being excused on that account.

Third. Courts having jurisdiction, justice of the

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peace, in rural districts, and cities having less than fifty thousand population, may excuse children from attending school for the following reasons:

- (a) Parents cannot supply proper clothing.
- (b) Child mentally or physically unable to attend.
- (c) No public school within two and one-half miles of the home.
- (d) Labor of the child is necessary to support family.
- (e) Child has completed the common school course.

Fourth. No child between eight and fourteen years can be employed in mines, factories, workshops or store, unless excused for one of the five reasons, or has statement from teacher that he has already attended half of the term of that school year.

Fifth. It is the duty of the attendance officer and district clerks to notify parents and guardians when children fail to comply with the provisions of the law.

Sixth. The penalty for nonattendance falls on parent or guardian and in its maximum fee of twenty-five dollars or imprisonment for thirty days, or one or both.

Seventh. For illegal employment of the child employers are subject to a fine of twenty-five dollars and costs.

Eighth. Every school board shall publish this synopsis in a newspaper of the district, or post in five public places ten days before public school opens each year.

Note:—The following counties are under the provisions of compulsory school attendance, Act No. 234, of 1909: Benton, Prairie, St. Francis and Union.

The following counties are under the provisions of compulsory school attendance, Act No. 347, of 1909: Baxter, Cleburne, Franklin, Independence, Madison, Polk, Scott, Sebastian, Yell.

The following counties are under the provisions of compulsory school attendance, Act No. 231, of 1911: Arkansas, Carroll, Clark, Clay, Cleveland, Conway, Craighead, Crawford, Cross, Faulkner, Fulton, Garland, Grant, Greene, Izard, Jackson, Johnson, Lawrence, Logan, Miller, Mississippi, Nevada, Newton, Perry, Pike, Poinsett, Randolph, Searcy, Sevier, Sharp, Stone, Van Buren, Washington, White.

The following counties are under the provisions of no compul-

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sory school attendance laws: Ashley, Boone, Bradley, Calhoun, Chicot, Columbia, Crittenden, Dallas, Desha, Drew, Hempstead, Hot Spring, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Lonoke, Marion, Monroe, Montgomery, Ouachita, Phillips, Pope, Pulaski, Saline, Woodruff.

COMMON SCHOOL FUND.

SEC. 7486. *Sources of revenue.*—The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, and not otherwise appropriated by the United States or this state; also all moneys, stocks, bonds, lands and other property now belonging to any fund for purposes of education; also the net proceeds of all sales of lands and other property and effects that may accrue to this state by escheat, or from sales of estrays, or from unclaimed dividends, or distributive shares of the estates of deceased persons; also any proceeds of the sale of public lands which may have been, or may be hereafter, paid over to the state (Congress consenting); also ten per cent of the net proceeds of the sales of all state land, and it shall be the duty of the state treasurer to set aside this ten per cent to the credit of the common school fund when he receives the proceeds of this sale from the state land commissioner; also all the grants, gifts or devises that have been or hereafter may be made to this state, and not otherwise appropriated by the tenure of the grant, gift or devise, shall be securely invested and sacredly preserved as a public school fund that shall be designated as the common school fund of the state, and which shall be the common property of the state, except the proceeds arising from the sale or lease of the sixteenth section. *Act March 15, 1897.*

No money or property belonging to the public school fund, or to this state for the benefit of schools or universities, shall ever be used for any other than for the respective purposes to which it belongs. Art. XIV, Sec. 2, Constitution.

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SEC. 7487. *Funds in doubt apportioned by court.*—The county courts of the various counties are authorized and empowered to place to the credit of the common school fund of the county, any and all school funds that may be in the county treasury, derived from various sources, and about which there is any doubt as to their proper application with the county court, and that said school funds, when so placed to the credit of the common school fund, shall be, by said county courts, apportioned among the school districts of the county as is now provided by law.

SEC. 7488. *Principal from sixteenth section.*—The principal arising from the sale of the sixteenth section of land shall never be apportioned or used.

SEC. 7489. *Townships not entitled to doubtful fund.*—Should any of the funds mentioned in this act arise from the sale of said sixteenth section of land and there should be any doubt as to the townships from whence it came, then such townships as have not disposed of the sixteenth section of land, or may have disposed of the same and have the proceeds placed to their credit, shall not be entitled to any part of the interest arising from said doubtful sixteenth section fund. *Act March 13, 1885, Secs. 1, 2.*

SEC. 7490. *Annual income from sixteenth section fund and per capita tax.*—The annual income from the said fund, together with one dollar *per capita* to be annually assessed on every male inhabitant over the age of twenty-one years, and so much of the ordinary annual revenues of the state as may hereafter be set apart by law for such purposes, shall be faithfully appropriated for maintaining a system of free common schools for this state, and shall be appropriated to no other purpose whatsoever. *Act December 7, 1875, Sec. 2.*

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SEC. 7491. *State Treasurer required to pay revenue to counties.*—The state auditor shall, on requisition from the state superintendent of public instruction, draw warrants on the state treasurer for payment to the several county treasurers of the school revenues due their respective counties.

SEC. 7492. *County collector required to pay per capita tax into county treasury.*—The *per capita* tax levied by the general revenue laws of the state shall be collected by the county collector at the same time and place that the state taxes are collected, and be paid in the county treasury on or before the first day of July of each year, in the presence of the county court clerk, who shall make a record of the same as revenue for the support of common schools.

Provided, however, that in all cases where the person liable for the payment of such *per capita* tax shall have died since the last assessment of taxes, the collector of taxes shall not collect such *per capita* tax, but shall take credit for same. *Act 46, Approved February 13, 1913.*

The penalty collected for the nonpayment of taxes on personal property is to be paid into the county school fund. See Sec. 7069.

SEC. 7492-a.—*Per Capita Tax for Single or Special School District; How Levied and Collected.* 1. That the *per capita* tax levied by the general revenue laws of the state in any special or single school district in which a treasurer of the school district is now or may hereafter be authorized by law and the tax for school purposes levied by a vote of the qualified electors of any such single or special school district shall be collected by the county collector at the same time and place that the state taxes are collected, and paid to the treasurer of such single or special school district on or

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before the first day of July in each year, such payment to be made in the presence of the secretary of the board of school directors of such special or single school district, who shall make a record of same as a revenue for the support of the schools of such single or special school district. *Sec. 1, Act 219, Approved March 29, 1913.*

SEC. 7492-b.—*Treasurer to Issue Duplicate Receipts For.* 2. That the treasurer of any such single or special school district shall execute duplicate receipts for all funds paid to him by the county collector pursuant to this Act, one receipt to be delivered to the collector and one to the secretary of the board of school directors of such single or special school district. *Sec. 2, Act 219 Approved March 29, 1913.*

SEC. 7493. *Debts due common school fund shall take precedence.*—In payment of debts by executors and administrators, the debts due the common school fund shall have a preference over all other debts, except funeral and other expenses attending the last sickness.

SEC. 7494. *Officers not allowed fees.*—No justice of the peace, constable, clerk of a court or sheriff shall charge any cost in any suit where the collector or any other officer sues for the recovery of any money due to the common school fund, if the plaintiff in such cause is unsuccessful. *Act January 11, 1853, Secs. 50 and 55.*

SEC. 7500. *Warrant of auditor required for payment of money.*—All moneys belonging or owing to the common school fund, as mentioned in Section 7486, or accruing as revenues therefrom, together with the state school tax, shall be paid directly into the state treasury and shall not be paid out except on the warrant of the auditor. *Act December 7, 1875, Secs. 5 to 8.*

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SUPERVISION OF PUBLIC SCHOOLS.

SEC. 7505. *General assembly shall provide officers.*

—The supervision of public schools, and the execution of the laws regulating the same, shall be vested in and confided to such officers as may be provided for by the general assembly. *Art. XIV, Sec. 4, Const.*

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

SEC. 7506. *Office of state superintendent created.*

—At the next general election, and every two years thereafter, there shall be elected a state superintendent of public instruction, by the qualified electors of this state, as state officers are now elected.

Duties of State Superintendent.

SEC. 7507. *He shall take and file oath.*—Before entering upon the duties of his office, he shall take and subscribe the oath prescribed for officers by the constitution of this state, and shall file such oath with the secretary of state.

SEC. 7508. *He shall be general supervisor.*—The superintendent of public instruction shall be charged with the general superintendence of the business relating to the free common schools of this state.

SEC. 7509. *He shall open office at capitol.*—He shall open at the seat of the state government (at the expense of the state) a suitable office, in which he shall keep all books, reports, documents and other papers pertaining to his department, and where he shall be in attendance when not necessarily absent on business, and have personal supervision of the business affairs of his office, and keep a clear and correct record thereof.

SEC. 7510. *He shall furnish questions.*—He shall furnish suitable questions for the examination of teach-

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ers to the county examiners; he shall hold a teachers' institute annually in each judicial district of the state, to be called a normal district institute; he shall arrange the program exercises for each of such institutes, and preside thereat. *Provided*, if he should not be present the teachers who may have assembled may organize and hold such normal district institute.

That portion of this Section referring to institutes repealed by Act May 23, 1907.

SEC. 7511. *He shall furnish materials to county examiners.*—He shall prepare and transmit to the county examiners school registers, blank certificates, reports and other printed blanks, together with other suitable blanks, forms and printed instructions to be forwarded to directors and other school officers, as may be necessary to aid such officers in making their reports and carrying into full effect the various provisions of the school laws of this state. *Act December 7, 1875, Secs. 13-16.*

SEC. 7512. *He shall prepare poll books.*—The superintendent of public instruction shall prepare a form of poll books to be used by the directors of the various school districts of this state at their annual elections as are now, or may hereafter be provided by law, and have the same printed as other blanks for school purposes; and shall transmit the same to the county examiner of each county for distribution to school directors in the same manner as other school blanks are now, or shall hereafter be, distributed. *Act March 2, 1877.*

SEC. 7513. *He shall be guardian of school fund, and may bring suit.*—He shall exercise such supervision over the school fund as to ascertain the amount and disposal made of the same, their protection and safety when invested or deposited, and recommend measures for their

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security and preservation, and for rendering them most productive of revenue; shall enforce the strict application of the school revenues to the legitimate purposes for which they were intended, and shall when directed by the commissioners of the school fund, cause to be instituted, in the name of the State of Arkansas, suits or actions for the recovery of any portion of the said funds or said revenues that may be squandered, illegally applied, or unsafely deposited.

SEC. 7514.—*Annual report.*—*Includes what.*—He shall, on or before the first day of November in each year, prepare and submit to the governor of this state an annual report, in writing, showing the number of persons between the ages of six and twenty-one years residing in the state on the first day of the preceding July; the number of such persons in each county; the number of each sex; the number of white; the number of colored; the whole number of such persons that attended the free common schools of the state during the year ending the 30th day of the last preceding June, and the number in each county that attended during the same period; the number of whites of each sex that attended, and the number of colored of each sex that attended the said schools; the number of common schools in the state; the number of pupils that studied each of the branches taught; the average wages paid teachers of each sex; the relative average wages paid to male and female teachers respectively, according to the different grades of their certificates; the number of school houses erected during the year, the material and cost thereof; the number previously erected, the material of which they were constructed, their condition and value; the number with their grounds enclosed; the counties in which teachers' institutes were held, and the number that attended the institutes in each county.

SEC. 7515. He shall likewise report the amount of

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permanent school fund belonging to the state at the close of the fiscal school year, and the amount of other property apportioned to school purposes; the nature, kind and amount of such investments made of the same; the safety and permanency of such investments; the amount of revenue accruing from the school funds; the income received from the *per capita* assessments of each county, and the amount derived from such assessment in all the counties of the state; the income derived from all other sources, together with the amount derived from each; likewise in what sums, for what purposes and in what manner the said school revenue shall have been expended, and what amount of school moneys of various kinds are in the various county treasuries unexpended.

SEC. 7516. *Shall also report to general assembly.*—He shall include in his report such plans as he may have matured for the improvement of the common school system of this state; for the accumulation, the investment and the more judicious management of the common school fund, and, when he may deem it advisable, shall recommend measures for a more economical and advantageous collection and expenditure of the revenues accruing from the said fund; and whenever it comes to his knowledge that any of the investments of the school funds are not safe, or that any portion of the said fund is liable to be lost, that it is unproductive of revenue, or that any of the school revenues have been diverted from their proper channel or from the appropriate objects contemplated, he shall report the facts to the governor and to the general assembly, if in session.

SEC. 7517. *He shall make a statistical table.*—He shall also append to his report a statistical table, compiled from the materials transmitted to his office by

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school officers, with proper summaries, averages and totals given.

SEC. 7518. *Shall make comparison.*—He shall present such comparison of results and such an exhibit of his administration, and of the operation of the common free school system, together with such statements of the true condition of the schools of the state, as shall distinctly show the improvements and progress made from year to year in the department of public instruction.

SEC. 7519. *Report transmitted to General Assembly.*—The annual reports of the state superintendent to the governor shall be transmitted by the governor to the general assembly at the opening of the session.

SEC. 7520. *He shall have reports published.*—He shall have his reports to the governor published as soon as practicable after they have been made, and shall cause them to be distributed among the various school officers of the state, to be kept on file in their respective offices. *Provided*, he shall not have more than five thousand copies of such reports printed for any one year, the printing of such reports to be let out as other contracts for printing. *Act December 7, 1875, Secs. 16-23.*

SEC. 7521. *He shall make a pro rata apportionment.*—He shall on the first Monday of September of each year make a *pro rata* apportionment to the several counties of the state of the remaining revenues in the state treasury available for distribution for school purposes, on the basis of the number of persons between the ages of six and twenty-one years, residing in said county, respectively, on the first day of July previous; and he shall publish a statement of the same, as early as practicable, shall transmit a copy thereof to each county examiner and to each of the several treasurers in the state, and to each county clerk, who shall submit the

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same to the county court at its next term; and he shall thereupon draw his requisition on the state auditor in favor of the treasurers of the several counties for such amount as the said counties may be entitled to receive for the support of free common schools. *Act April 23, 1901.*

SEC. 7522. *He shall publish acts of General Assembly and give opinions.*—He shall, from time to time, publish in convenient pamphlet form, and furnish each school officer, the acts of the general assembly relating to common schools, and the decisions of the courts having competent jurisdiction in relation to the school laws; and he shall likewise, at the request of any school officer, render a decision relating to the intent, construction or administration of any portion of the school laws on which decisions shall not have been published, and he may, when he shall deem it advisable to have the opinion of the attorney general, require said opinion to be given in writing.

It is the duty of the superintendent of public instruction to render decisions relating to the intent, construction, or administration of any portion of the school laws. The attorney general is the legal adviser of the superintendent and not of school officers.

SEC. 7523. *He shall have access to auditor's books.*—He shall, for the purpose of ascertaining the amounts, safety and preservation of the school funds, have access to the auditor's books and papers, with full power to use and inspect the same.

SEC. 7524. *He shall deliver records to successor.*—At the expiration of his term of office, he shall deliver to his successor possession of his office, together with all books, records, documents, papers and other articles belonging or pertaining to his office.

SEC. 7525. *He shall affix seal.*—He shall affix the

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seal of the department of public instruction to all official communications from his office.

SEC. 7526. *Vacancy filled by appointment by Governor.*—Whenever a vacancy in the office of superintendent of public instruction shall occur, from death, resignation or otherwise, the governor shall appoint a person of suitable attainments to serve the remainder of the unexpired term. *As modified by Amendment No. 3 to Constitution.*

SEC. 7527. *He shall not act as agent or receive gift.*—Neither the state superintendent nor county examiner shall act as agent for any author, publisher or bookseller, nor directly or indirectly receive any gift, emolument, reward or promise of reward for his influence in recommending or procuring the use of any book, school apparatus or furniture of any kind whatever, in any public school; and any school officer who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and subject to removal from office. *Act December 7, 1875, Secs. 25-30.*

SEC. 7528. *He may grant state certificates.*—The state superintendent of public instruction shall have power to grant state certificates, which shall be valid for life, unless revoked, to any person in the state who shall pass a thorough examination in all those branches required for granting county certificates; and, also, in algebra and geometry, physics, rhetoric, mental philosophy, history, Latin, the constitution of the United States and of the state of Arkansas, natural history and theory and art of teaching.

State licenses are not granted to inexperienced teachers. Applicants for the same must present satisfactory evidence of having taught successfully at least twenty months.

State licenses are granted, under the law, only on approved examinations, conducted by the state superintendent.

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While the law is silent as to the scope of the examination, naming the subjects only, the following outline will give an idea as to the requirements:

Algebra,	} Such matter as is comprehended in the average high school text-books on these subjects.
Natural History,	
Physics,	
General History,	

Latin—Grammar and Composition; first four books of Caesar; first two books of Virgil; first two orations of Cicero against Catiline, and his essay De Senectute—or equivalent readings.

Geometry—Plane geometry, and first two books of solid geometry, including exercises.

Rhetoric—With special reference to the essentials of English composition.

Constitution of the United States and of Arkansas—Embracing a study of the origin, subject-matter, and civic relations under the same.

Theory and Art of Teaching, } As discussed in works on these subjects.
Mental Philosophy, }

Note—Holders of first grade certificates may not be examined on the common school branches. An average of 80 per cent. will be required on all subjects. Below 70 per cent. on any subject will be considered a failure thereon.

SEC. 7529. *He may grant a professional license.*—The state superintendent of public instruction is authorized to grant a professional license, good in any county of the state for a period of six years, to those who take a satisfactory examination on the studies required for a first grade license, and in addition thereto, an approved examination on the following subjects: Algebra, plane geometry, general history, rhetoric and civil government. Examinations for this grade of license shall be held annually at at least two convenient points in the state. All applicants for this grade of license shall be required to pay a fee of \$5.00 into the state treasury.

SEC. 7530. *Examinations—Time and manner.*—Examinations for state license shall be held annually at the same time and place as the examination for professional license. All applicants for state license shall pre-

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sent a certificate showing that they have paid the sum of \$10.00 into the state treasury. The fees obtained from the applicants for professional and state license shall be used for defraying the expenses incurred in holding the examinations, and the remainder thereof shall constitute an institute fund and a library fund for the office of the department of public instruction, and upon requisitions of the state superintendent, the state auditor shall draw warrants upon moneys to the credit of this fund in the state treasury.

State and professional examinations are conducted each year coincident with the June examinations.

An appropriation by the legislature is necessary before this fund can be drawn.

SEC. 7531. *He shall recommend text-books.*—He shall prepare, for the benefit of the common schools of the state, a list of such text-books on orthography, reading in English, mental and written arithmetic, penmanship, English grammar, modern geography and history of the United States as are best adapted to the wants of the learner, and as have been prepared with reference to the most philosophical methods of teaching those branches, and shall recommend the said text-books to teachers and to directors throughout the state.

This section is virtually repealed by the county uniformity law.

SEC. 7532. *He shall prepare graded course of study.*—The state superintendent of public instruction is hereby directed and authorized to prepare and have printed for distribution to the various counties of the state, within four months after the passage of this act, a graded course of study to be used in the common school districts of this state, said course of study to embrace only subjects required by law to be taught in said common schools, and to indicate the amount of work to be

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done during each year of the course. It shall be the duty of the school directors to see that the course of study is followed in each of their schools, as far as it is practicable to do so; *provided*, that the state superintendent shall not designate or indicate any text-book to be used in the schools, nor shall any teacher adopt or use any text-books other than those adopted for use in the district.

SEC. 7533. *He shall adopt seal.*—He shall procure and adopt a seal for his office, and furnish an impression and description of said seal to the secretary of state, to be preserved in his office.

SEC. 7534. *A copy made equal to original.*—A copy of any paper or document deposited or filed in the office of the superintendent of public instruction shall, when authenticated by the said seal, be evidence equal, to all intents and purposes, with the original.

SEC. 7535. *He shall prepare certificate forms and registers.*—The said superintendent shall prepare appropriate forms for three several grades of certificates to be issued to teachers by the county examiners. He shall prepare suitable school registers, in which teachers, at the close of the school term, are to make their reports to the trustees of the name and age of each pupil, the date of each pupil's entrance, the separate days on which each attended school, the studies each pursued, the total attendance; and, shall likewise prepare suitable forms for the reports of directors and county examiners. *Act December 7, 1875, Secs. 33-37.*

This register must be kept by each public school teacher according to the forms prescribed, before any charge can be made for services.

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COUNTY NORMAL INSTITUTES.

(Acts 1907, Act 367, Approved May 23, 1907.)

SECTION 7539-a.—*County Examiner to Hold Institute.* 1. It shall be the duty of the county examiners of the various counties of the state of Arkansas to hold one institute for the white teachers and one for the negroes of one week each within the month of June in each year; *Provided*, if there are any less than eight teachers of either race in any county, the county examiner may arrange the institute as may seem best to him, and, *provided further*, that the county examiner may appoint some competent person to take charge of and conduct the institute for the negroes.

SEC. 7539-b.—*State Superintendent Shall Outline Work.* 2. It shall be the duty of the state superintendent of public instruction to outline the work in the common school branches to be done at the institutes, and all of the time of said institute shall be devoted to class work in the branches of reading, writing, arithmetic, orthography, grammar, geography, history of the United States and the State of Arkansas, theory and practice and physiology.

Elementary agriculture and horticulture added to above by Act of May 31, 1909.

SEC. 7539-c.—*Teachers Must Attend Institutes.* 3. It shall be the duty of the teachers holding license to teach in the public schools of the State of Arkansas, to attend said institutes for the full time, unless excused by the conductor, and to do the work outlined by the state superintendent of public instruction.

SEC. 7539-d.—*Examiner May Review License.* 4. The county examiner, on finding that the teachers in attendance for not less than three days are entitled to

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the grade of license they hold, shall endorse the same at the close of the institute, and said indorsement shall have the effect of extending the license from the time of its expiration for the time for which it was originally issued, *provided*, said license shall expire before the convening of the next institute; *provided*, the examiner may endorse a third grade license issued at the September examination next preceding the June institute, and *providing further*, that said teacher shall have complied with the provisions of this act; but no third grade license shall be renewed more than once; no second grade license shall be renewed more than twice.

SEC. 7539-e.—*Attendance at Other Institutes or Normals.* 5. Teachers who attend Peabody institutes or other institutes or summer normals may have their license renewed by any examiner to whom application for renewal is made on presenting within ten days after the close of such institutes or normals certificates of attendance together with receipt from the county treasurer for the payment of regular examination fee.

SEC. 7539-f.—*Renewal—When Made.* 6. Except as provided above, endorsement shall be made only at the close of the June institutes and only to teachers who attend the institutes in the county in which application for endorsement is made and the same fee shall be required for endorsements extending the time of licenses as is required for regular examinations.

SEC. 7539-g.—*Those Holding State and Professional License Shall Assist.* 7. It shall be the duty of those holding state and professional licenses to attend the institutes and assist the county examiner in conducting the same and said licenses shall be endorsed as county licenses, showing the attendance at the institute, and if

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the same be not endorsed each year for five consecutive years, it shall be null and void.

SEC. 7539-h.—*State Superintendent May Revoke License.* 8. The state superintendent of public instruction is hereby authorized and empowered to revoke the license of any county examiner who fails or neglects to perform any of the other duties required of him by law. Upon receiving notice of such revocation of the license of a county examiner the county judge shall within twenty days appoint another examiner in accordance with the law regulating the appointment of county examiners.

SEC. 7539-i.—*Laws in Conflict Repealed.* 9. All laws and parts of laws in conflict herewith are hereby repealed, and this Act take effect and be in force from and after its passage.

COMMON SCHOOL DISTRICTS.

FORMATION.

SEC. 7540. *Notice of change in district shall be given.*—When a change is proposed in any school district, notice shall be given by the parties proposing the change, by putting up hand bills in four or more conspicuous places in each district to be affected, one of said notices to be placed on the public school building in each affected district. All of said notices to be posted thirty days before the convening of the court to which they propose to present their petition; said notices shall give a geographical description of the proposed change. *Act of April 8, 1891.*

The assessment for taxation of the property rights of the railway company in School District No. 84 was not affected by the prior transfer of Jones School tax levied on the land out of which the railway company's easement was carved.—School District No. 4 v. School No. 84; 93 Ark., 112, 124 S.W., 238.

CORPORATE POWERS OF SCHOOL DISTRICTS.

SEC. 7541. *District shall be body corporate.*—Each

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school district shall be a body corporate, by the name and style of "School District No. —, of the county of —;" and by such name may contract and be contracted with, sue and be sued, in any of the courts of this state having competent jurisdiction.

EMINENT DOMAIN, IN CERTAIN COUNTIES.

SECTION 7541-a.—*Districts to Have Power of Eminent Domain.* 1. The school districts in this state are hereby authorized to exercise the power of eminent domain and to condemn, take and use private property for the use of said school districts for school houses or necessary play grounds or other necessary uses incidental thereto. *Act 376, Approved May 31, 1911.*

SEC. 7451-b.—*Must First Offer Just Compensation.* 2. Whenever any such district shall deem it desirable or necessary to condemn, take or use any private property for the purposes mentioned in section 1, it may condemn the same, first offering just compensation therefor. *Act 376, Approved May 31, 1911.*

SEC. 7541-c.—*Proceedings for Condemnation.* 3. In case the owners of such property and the authorized board of directors of the school district shall not be able to agree on the price to be paid for such property, the said school district may file, in the circuit court of the county where such property is situated, condemnation proceedings, in which they shall set out specifically the description of the property desired, the purposes for which it is desired, and that the said district and the owner have not been able to agree upon a price therefor, and may, if the use or enjoyment of the property is needed forthwith for the construction of any building or proper carrying on of any school, request the court, or the judge thereof, at a convenient day,

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notice of such application being given such owner, to fix a proper sum of money to be deposited as security for the payment of such damages as may be assessed, whereupon they shall have authority to take immediate possession of such premises for uses as set up in their petition. *Act 376, Approved May 31, 1911.*

SEC. 7541-d.—*Compensation to Be Fixed by Jury.*
4. If the damages or proper compensation for such property are not agreed upon before the case is called for trial in its regular order, a jury shall be empaneled who, after hearing all the testimony, shall fix the compensation to be paid by such district, not exceeding the actual value of the land taken, without taking into consideration either detriment or benefit on account of school use to said property or any adjacent property. *Act 376, Approved May 31, 1911.*

SEC. 7541-e.—*Payment and Vesting of Title; Act Applicable to What Counties.* 5. After the compensation is so fixed by the jury, as in the preceding section provided, the school district shall, within sixty days thereafter, pay to the owner of said property, or to the clerk of the court wherein such verdict was rendered, the amount of such verdict, and the court shall thereupon enter an order condemning said property and vesting the title in the same for school purposes in said district; *provided*, either party shall have the right of appeal from any such order or judgment.

The provisions of this Act shall apply to the following named counties only: Howard, Jackson, Faulkner, Logan, Arkansas, Woodruff, Cross, Madison, Pulaski, Pope, Yell, Searcy, Sevier, Mississippi, Miller, Crittenden, Baxter, Craighead, Montgomery, Cleburne, Sebas-

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tian and Little River. *Act 238, Approved March 29, 1913.*

A school district, in seeking a recovery of funds illegally paid on the warrants of its directors, does not exercise any of the functions of the sovereign power. *Clark v. School District No. 16, 84 Ark., 520; 106 S.W., 677.*

SEC. 7542. *Shall hold the title of lands.*—Every district shall hold in the corporate name of the district the title of lands and other property which may be acquired by said district for school district purposes. *Act December 7, 1875, Sec. 53.*

School districts are not liable for trespass committed by their officers. *School District No. 11 v. Williams, 38 Ark., 454.* See *School District v. Bodenhamer, 43 Ark., 140; School District v. Reeve, 56 Ark., 68.*

Mandamus can only be used after judgment against a school district to force the payment of debt. *School District v. Bodenhamer, 43 Ark., 140.*

School property is not subject to the tax and suit therefor, for local improvements of a public nature. *Board v. School District, 56 Ark., 354.*

Deed conveying land to people of school district is sufficient. *Morris v. School District, 63 Ark., 149.*

District may sue for trespass. *Ib., May employ attorneys. State v. Aven, 70 Ark., 291.*

SEC. 7543. *Number required for formation.*—No new school district shall be formed having less than thirty-five persons of scholastic age residing within the territory included in such new district, and no district now formed shall, by the formation of a new district or transfer, be reduced to less than thirty-five persons of scholastic age. *Act April 8, 1887, Sec. 2. See Sec. 7639.*

SEC. 7544. *County court may form districts.*—The county court shall have the right to form new school districts or change the boundaries thereof, upon a petition

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of a majority of all the electors residing upon the territory of the district to be divided.

This section contemplates a petition by a majority of the electors of all the districts combined, and not a majority of the electors of each district separately. *Hudspeth v. Wallis*, 54 Ark., 134.

An admission that district was duly organized is conclusive as to its legal formation. *Evins v. Batchelor*, 61 Ark., 521. See *School District v. School District*, 63 Ark., 543.

The order of the county court consolidating two school districts is final, unless overruled by a higher court. Neither the state superintendent nor the county examiner has any authority in the premises.

SEC. 7545. *Law must govern formation.*—Such territory shall have the requisite number of children or property to comply with the now existing law in such case.

SEC. 7546. *New district held liable for debt.*—In the formation of new school districts that part of territory taken off from the old district or districts, shall be held liable for a proportionate part of the old indebtedness of the former district or districts at the time of the making of said new district.

SEC. 7547. *County court shall divide surplus.*—In case there be a surplus fund on hand at the time of the formation of said district, it shall be entitled to a proportionate part of said fund, the same to be ascertained and determined by the county court of the county in which said new district may be created, as in the judgment of said court may be considered right and proper. *Act April 8, 1887, Sec. 3.*

See *Evins v. Batchelor*, 61 Ark., 521; *District No. 15 v. District*

SECTION 7547-a.—*Two or more districts may be con-*

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solidated. 1. Any two or more school districts in this state may be organized into and established as a single consolidated school district in the manner and with the powers hereinafter specified.—Acts 1911, Act 116, *Approved March 24, 1911.*)

SEC. 7547-b.—*Directors to submit question, when.*
2. The board of school directors of each school district proposing to enter into the consolidation may, and, upon the written petition of ten per cent of the electors of the district shall, at any annual election or at a special election to be held for that purpose, which special election shall be held not less than thirty nor more than sixty days from the date of the presentation of the petition, submit the question of consolidation to the electors of the district.

SEC. 7547-c.—*Must give notice that question is to be voted on.* 3. The board of directors of the district shall give notice that the question of consolidation is to be voted on by posting notices in at least five public places in the school district, and by posting a notice at the school house of the district, at least five days before the day of election. If a special election is held it shall be held by the officers and in the manner provided in Section 7591 of Kirby's Digest. The ballots shall have written or printed on them, "For Consolidated School District" and "Against Consolidated School District." The returns of said election shall be made to the clerk of the county court.—*Ib.*

SEC. 7547-d.—*Duty of county court if majority vote for consolidation.* 4. If a majority of the qualified voters of each school district proposing to enter into the consolidation shall vote "For Consolidated School District,"

it shall be the duty of the county court on the first day on which the court may be in session after the returns of the election have been filed with the county clerk, to make an order dissolving said school districts and creating out of the same territory a new district to be designated "Consolidated School District No. —." Said order shall designate the place of holding the annual and special elections of the consolidated district, which shall be held at the time and in the manner now provided by law.—*Ib.*

SEC. 7547-e.—*Consolidated districts, how governed.*

5. Between the date of the consolidation and the first annual election the said consolidated school district shall be governed by a board of directors composed of all the directors of the several school districts entering into the consolidation, but after the first annual election the consolidated school district shall be governed by a board of six directors to be elected in the manner provided in Section 7591 of Kirby's Digest by the qualified voters of the consolidated district. At the first annual election after the consolidation the six candidates receiving the highest number of votes shall serve, two for three years, two for two years, and two for one year, and they shall determine by lot which shall serve for these respective periods. At each succeeding annual election two directors shall be elected to serve for a term of three years and until their successors are elected and qualified. Vacancies in the board shall be filled as provided in Section 7682 of Kirby's Digest.—*Ib.*

SEC. 7547-f.—*Board of Directors to organize and hold regular meetings.* 6. Said board of directors shall organize as provided in Section 7681 of Kirby's Digest, and shall hold regular meetings, and have the powers

and discharge the duties prescribed in Section 7683 of Kirby's Digest.—*Ib.*

SEC. 7547-g.—*Powers of Board of Directors.* 7. Said board of directors shall have the power to purchase or lease school house sites; to build, purchase or lease school houses, and keep them in repair; to purchase or acquire the use of the necessary desks, seats, furniture, fixtures, apparatus, books, stationery and school equipment; to provide water, light and heat for school buildings, fence school grounds, erect out-houses, and make any and all improvements necessary or proper for the health, comfort or convenience of pupils; to provide records, blank books and stationery for the board of directors, and registry blanks and stationery for teachers; to procure insurance on any property belonging to the district; to hire the necessary teachers, officers and employees; to provide ample facilities and establish and maintain a sufficient number of grades in one consolidated school to accommodate all the pupils in the consolidated district, if practicable; and, if not, to provide, equip and maintain other schools in the district; to determine the branches to be taught and the text-books to be used, in accordance with the laws governing special school districts; to admit pupils from other school districts, upon such terms as may be agreed upon with their parents or guardians, or with the district from which they come; to procure for pupils living in the district the privilege of attending school in other districts upon terms to be agreed upon with such districts, and to pay the charges therefor; to examine, from time to time, the books and accounts of the county treasurer, so far as they relate to the several funds belonging to the district; and to appoint a committee of three to serve during the pleasure of the board of directors, whose duty it shall be

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to visit the school or schools of the district. The board of directors shall also have power, when in the judgment of a majority of said board the interests of the district demand it, to sell, exchange or lease any property, real or personal, belonging to the consolidated district, or which belongs to any district merged into the consolidated district, and a deed or bill of sale executed by the president of said board of directors pursuant to a resolution of the board shall pass all the right, title and interest of the district to the purchaser or buyer.—*Ib.*

SEC. 7547-h.—*Title to real estate, how vested.* 8. The title to all the real estate and other property belonging to the several school districts entering into the consolidated school district shall best absolutely in the consolidated school district.—*Ib.*

SEC. 7547-i.—*To be body corporate.* 9. Each consolidated school district formed under this Act shall be a body corporate, and by its corporate name may sue and be sued, contract and be contracted with, purchase, acquire, lease, hold, sell and exchange property, and receive grants, gifts and bequests, and shall generally possess and enjoy all the corporate powers usually possessed by bodies corporate of like character.—*Ib.*

SEC. 7547-j.—*Debts of the several districts paid, how.* 10. The board of directors of a consolidated school district shall pay and discharge all the debts and liabilities lawfully incurred by the several districts entering into the consolidated school district.—*Ib.*

SEC. 7547-k.—*Penalty for refusal to serve as director.* 11. Any person elected a director of a consolidated school district who shall fail to perform the duties of

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such director, shall suffer the penalty named in Section 7691 and Section 7692 of Kirby's Digest.—*Ib.*

SEC. 7547-l. 12. Section 7693 and 7694 of Kirby's Digest shall apply to consolidated school districts formed under this Act.—*Ib.*

SEC. 7547-m.—*Board to have power to borrow money.* 13. Consolidated school districts shall have the power to borrow money for the purposes and in the manner provided in Sections 7696, 7697 and 7698 of Kirby's Digest. In addition to such power, the board of directors shall have the power to borrow money for building purposes, if authorized by a vote of a majority of the electors of the district at any annual election. Such vote may be "For Building Fund" or "Against Building Fund," and shall state the amount of the building fund tax which the voter desires levied. If a building fund is voted, the amount of such tax shall be determined by taking the largest amount or rate of taxation voted for by a majority of the voters and if no rate shall have received such majority, then all the votes cast for the highest rate shall be counted for the next highest and so on, till some rate voted for shall receive a majority of all the votes cast. If a majority of the votes cast are "For Building Fund" it shall be equivalent to voting a building tax of the amount or rate as determined by this section for each succeeding year until the money borrowed by the board of directors, pursuant to such vote, together with all interest thereon, shall have been fully paid. When a building fund has been specially voted for, as provided in this section, the board of directors may borrow money, and mortgage the real property of the district as security therefor, under such conditions and regulations as to amount, time and manner of payment:

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as the board of directors shall determine, and may, from time to time, renew or extend any evidence of the indebtedness or mortgage issued or executed hereunder. All moneys borrowed under this provision shall be placed in the county treasury to the credit of the building fund of the district, and the board of directors shall issue to the person, firm or corporation advancing or lending such money a certificate, signed by the president and secretary of said board, in the following form:

This is to certify that at the annual election held on theday of....., 19....., in Consolidated School District No.....County, Arkansas, a majority of the electors of said district cast their votes "For Building Fund," and fixed the amount or rate at.....mills; and that pursuant to the provisions of an Act approved on the.....day of....., 19....., the board of directors of said consolidated school district have borrowed from.....the sum of \$....., for a period of.....years, which amount, with interest at the rate of.....per cent per annum from this date until paid, is to be paid from funds arising from a tax of.....mills to be levied annually upon the property in said district.

Witness our hands, as directors of said consolidated school district, on this theday of..... 19.....

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The said certificate shall be executed in triplicate and signed by a majority of the board of directors. One copy shall be retained by the board, another shall be delivered to the lender, and the third shall be filed by the board of directors with the clerk of the county court. Upon the filing of said certificate, it shall be the duty of the county court to levy each succeeding year a building tax, of the amount or rate voted for, against the property in said district, until the amount thus borrowed, with the interest due thereon, has been fully paid. It shall be the duty of the county treasurer to pay to the holder of said certificate, upon demand, any funds to the credit of the building fund of said district, applying the same first to the payment of the interest due.

Provided, That whether the vote be "For Building Fund" or "Against Building Fund," this shall not prevent the electors from voting for a building tax as now provided by law.

Provided, further, That the county treasurer shall receive no commission on the building funds of consolidated school districts handled by him.—*Ib.*

SEC. 7547-n.—*Funds of several districts transferred to consolidated district.* 14. All funds to the credit of the several school districts dissolved and consolidated under this Act shall be transferred to the credit of the consolidated school district, and all outstanding debts of the dissolved school districts shall be charged to and paid by the consolidated school district.—*Ib.*

SEC. 7547-o.—*Board may provide for transportation of pupils.* 15. The board of directors shall have power

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to provide such transportation for the pupils of the districts as the board may deem advisable, and may purchase, rent or hire conveyances for this purpose; or the board of directors may enter into contracts with others for transportation service, requiring proper bonds for the faithful performance of the terms of said contracts. Such transportation shall be comfortable and safe, and shall be governed by such rules and regulations as the board of directors may prescribe. The cost of transportation shall be paid out of the school funds to the credit of the consolidated school district.—*Ib.*

SEC. 7547.-*p.*—*General laws to govern when applicable.* 16. The provisions of the general school laws of the state and the provisions of the special act for the regulation of schools in cities and towns which are now or may hereafter be in force, so far as applicable and not inconsistent with or repugnant to this Act, shall apply to consolidated school districts created under this Act, but those provisions which are inconsistent with or repugnant to the provisions of this Act shall not apply to consolidated school districts; and this Act shall take effect and be in force from and after its passage.—*Ib.*

SEC. 7547.-*q.*—*Consolidation on petition of electors.* 1. Whenever a majority of the electors of any number of school districts, which are contiguous, situated in two or more adjoining counties petition the county court of the respective counties for the formation of a common school district, a consolidated school district, or a special or single school district, the county court, within fifteen days after the filing of such petition, together with a map showing the total amount of territory to be embraced in said proposed district and written description of the boundaries of the same showing all districts

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and parts of districts so embraced, shall order an election, and specify the time for holding the same in each district so petitioning.

The directors in each district shall serve as the judges of said election, together with two clerks selected by the judges, who shall hold said election and shall make returns of the election to the county clerk of the county in which such district is located. Notices of such special election shall be posted in at least three public places in each district at least ten days before such special election and such special election shall be held in each district at the regular voting place.

The ballot of said special election shall be, "For Common School District," "Against Common School District," "For Consolidated School District," "Against Consolidated School District," or, "For Special School District," "Against Special School District"—as the kind or class of said proposed district may have been designated in said petitions.

If a majority vote of such election in each district be for the formation of said proposed district, the county court of the county in which such district is located at its regular next time of meeting, shall make an order of transfer of such districts or parts of districts to said proposed district. *Provided*, in such transfer herein mentioned no district shall be reduced to less than 35 persons of scholastic age.

In the event however, a majority vote in any district be against the formation of said proposed district, then the district or part of district affected shall not be

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made a part of said proposed district.—(Act 450, Approved June 2, 1911.)

SEC. 7547-r.—*Board to be appointed by County Court, when.* 2. Whenever a district is formed under the provisions hereinbefore set forth, such district shall possess and have all the powers and privileges now given to districts of the kind or class designated in said petition, as provided in section one of this Act.

When such district shall be formed as provided in this Act, there shall be appointed by the county court of the county in which the largest area of territory of such district is situated a board of three, or six directors, as the case may be according to the kind or class of district so formed, from the electors of all the districts affected. Said board of directors shall serve until the next annual school election, at which election a board of directors shall be elected in said district. *Provided*, that in the case of common school districts there shall be elected a board of three directors, one to serve one year, one to serve two years, one to serve three years; and in the case of consolidated, or special school districts, there shall be elected a board of six directors, two to serve for one year, two to serve for two years, and two to serve for three years, and annually thereafter an election shall be held in said district, as provided by statutes for annual school elections for districts of the kind or class of the respective districts formed under this act.—*Ib.*

SEC. 7547-s.—*For certain purposes, district considered part of county from which largest portion was taken.* 3. For the purpose of administration of the affairs of said district, such as making the annual and enumeration reports, certifying the election of directors,

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and any and all other reports now required to be made by directors and teachers, said district shall be considered a part of the county in which the largest area of territory of said district is located, and all such reports as are required to be made to the respective officer of such county. *Provided*, that the teacher or teachers of said district is considered a part for the administration of its affairs. *Provided, further*, that persons living in any part of said district shall have the same right to vote and to hold office as those persons living in any other part of the district.—*Ib.*

SEC. 7547-t.—*Tax voted, how reported.* 4. The tax, amount and kind, voted in said district shall be reported by the directors to the county clerk of each county in which any part of the county clerk of each county in which any part of said district is located in order that such tax may be levied and collected in the county in which any part of said district is located.

The tax, when so certified by the directors of said district to the county clerk, shall be levied and collected in the same manner as is now prescribed by law, and such tax, when collected shall be placed to the credit of said district. *Provided*, that all polls and penalties assessed and collected within said district shall be credited to said district by the county court of the county in which said polls and penalties are collected. *Provided further*, that all moneys of whatsoever character, placed to the credit of said district in each county wherein any of the territory of said district is situated, shall be paid out by the treasurer of the county where same is held in the same manner as is now prescribed for paying out school moneys, upon the warrants of the directors of said district, when such warrants are properly drawn.

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All laws applicable to districts of like kind or class shall be made applicable to all districts formed under the provisions of this Act.—*Ib.*

SEC. 7547-*u.*—*Titles vested in new district.* 5. The title to all real estate and other property belonging to the several districts and all school property within the parts of districts entering into said new district shall vest absolutely in said new district. *Provided*, that all terms of school in session at the time said district is formed and all contracts with teachers in the several districts forming said new district may not be interrupted or annulled, but such terms shall continue to the end and such contracts be fulfilled.

REPEALING CLAUSE: All laws and parts of laws in conflict herewith are hereby repealed and this Act, being for the immediate protection of the public peace, health, and safety, shall take effect and be in force from and after its passage.

DISSOLUTION OF

SEC. 7548. *County court may dissolve.*—The county courts of this state shall have power to dissolve any school district now established, or which may hereafter be established in its county, and attach the territory thereof in whole or in part to an adjoining district or districts, whenever a majority of the electors residing in such district shall petition the court so to do.

SEC. 7549. *Notice of dissolution shall be posted.*—When such dissolution is proposed, notice shall be given by those proposing the same by posters in four public places in the district. Said notices to be posted thirty

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days before the meeting of the term of the court at which such petition is proposed to be presented.

SEC. 7550. *Court shall proportion funds or indebtedness.*—Whenever, under this act, any district shall be abolished, any indebtedness due by it, or funds on hand to its credit shall be proportioned by the court among the districts to which its territory has been attached, according to the value of the territory each received, of which action of dissolution and distribution of indebtedness or funds, as the case may be, the clerk of the court shall give due notice to directors of each district affected, showing the territory attached to their district, and credited to it, as the case may be.

SEC. 7551. *Directors shall transmit records.*—The directors of the district dissolved, upon receipt of notice of clerk, shall transmit, without delay, all of the records of said district to the county examiner of the county for preservation in his office.

APPORTIONMENT OF SCHOOL FUND.

SEC. 7552. *County court shall apportion.*—The county court, immediately on receiving notice of the distributive share of school revenue apportioned by the state superintendent to each county, shall proceed to apportion to the several school districts of the county, in proportion to the number of persons between the ages of six and twenty-one years residing within the school districts, respectively, on the first Monday of July previous, the said school revenue apportioned to the county and shall forward to the county treasurer, and to each of the directors of each district, a statement of such apportionment carefully distinguishing the sources from which the school revenues so apportioned are derived, and the

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amount due each school district in the county from each separate source, and shall see that the revenues from the public school fund are invariably paid to the county and to the school districts strictly in accordance with the apportionment made to them.

An apportionment may be compelled by mandamus, and the parents of children of scholastic age are proper parties to petition therefor. *Mattox v. Neal*, 45 Ark., 121.

In the case of *J. C. Merritt et al. vs. J. H. Merritt*, County Judge, appealed from Arkansas county, the supreme court, in May, 1891, held:

"It was the duty of appellant, as county judge, on receiving notice of the amount apportioned to the county, to proceed to appropriate the same to the several districts upon whose enumeration the superintendent made the apportionment. The duty was absolute, and in its performance the country judge had no discretion. There is no reason why a district should be kept out of its funds, for any length of time, on account of county lines, and it is the duty of the county judge to prevent it. If he fails to do his duty its performance should be coerced."

This case clearly establishes the following principles:

1. The county judge must apportion common school funds upon the enumeration of the apportionment as made by the superintendent and upon no other. He has no right to change the enumeration and apportionment. He simply appropriates to each district the amount apportioned by the state superintendent.

2. This must be done without delay and despite changes in county lines.

3. Duties are absolute and contain no element of discretion. This principle applies to every school officer and teacher.

The amount of the per capita tax collected in the county should be apportioned to the districts in proportion to their educable children.

SEC. 7553. *Apportionment to new districts.*—Whenever a new district shall have been formed and organized, the court shall, at the next apportionment made thereafter, apportion to the new district, school revenues in proportion to the number of persons between the ages

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of six and twenty-one years reported by the directors of the new district. *Provided always*, the number of persons between the ages of six and twenty-one years reported in any year by the district electors of each county shall be taken as the quota of that county, and the number reported from each school district shall be taken as the quota of that district, and that the only basis on which an apportionment of the school revenue shall be made is to be the number of persons so reported each year by the district directors. *Act December 7, 1875, Secs. 40, 41.*

A special school district in which a common school district has been merged, is bound by all existing legal contracts made by the common school district.

SEC. 7554. *County examiners shall report to clerk.*—The county examiners of the several counties shall, annually, on or before the tenth day of August transmit, verified by affidavit, to the county clerks of their respective counties, a written report, showing the number of persons between the ages of six and twenty-one years residing in each school district in their respective counties, as shown by the reports of the district directors made for the same year to the county examiners, as is now required by law. *Act April 23, 1901, Sec. 3.*

SEC. 7555. *County clerk shall report to court.*—The county clerks shall, during the first terms of their respective county courts held after the reception of the reports provided for in the preceding section, lay such reports before such county courts, to be used as a guide in making the apportionment of the general school fund to the various school districts. *Act March 23, 1881.*

SEC. 7556. *Counties shall be reimbursed for loss.*—

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Any county which, by a change in county lines, or by the formation of a new county or counties, shall fail to receive the school funds which justly should be apportioned to it, from the fact of its school population being reckoned with that of the county or counties to which the said funds may be apportioned, shall be reimbursed for the loss thus incurred. Said loss shall be corrected in the first apportionment of the school revenue thereafter. *Provided*, if such correction be not made in the first apportionment thereafter, it may be made in the second.

SEC. 7557. *Loss borne by original counties.*—The amounts refunded according to the provisions of Section 7556 shall be deducted from the funds apportioned to the counties which were the original recipients of the erroneously apportioned revenues.

Mandamus will lie to compel apportionment as herein provided. *Merritt v. School District*, 54 Ark., 468.

SEC. 7558. *Auditor shall draw warrant for fund.*—Upon the presentation of the certificate of the superintendent of public instruction of the amount or amounts due any county, by the provisions of this act to the auditor, he shall draw his warrant on the state treasurer for said amount or amounts in favor of the treasurer of said county for the benefit of the school fund and in compliance with Section 7553. *Act March 6, 1877.*

COUNTY EXAMINERS AND COUNTY SUPERINTENDENTS.

SEC. 7559. *County court shall appoint examiner.*—The county court of each county shall, at the first term thereof after each general election, appoint in each county, not divided into two judicial districts, one county examiner, and in each county divided into two judicial

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districts, may appoint one county examiner for each district, such examiner to be of high moral character and scholastic attainments. *As amended by Act March 7, 1893.*

A license from either district of a county, where there are two districts, is valid throughout the county.

Note:—This section was amended in so far as it applied to Logan, Franklin, Yell and Clay counties by Act of May 4, 1911.

The appointment of a county examiner becomes complete upon the issuance to him by the superintendent of public instruction of the license required.—*In re Smith*, 84 Ark., 535; 106 S. W., 679.

SECTION 7559-a. 1. That at the general election for state and county officials, and every two years thereafter, there shall be elected in the same manner, and under the same restrictions as are provided by law for the election of other county officials, a county superintendent of schools for each county in the State of Arkansas, who shall qualify as other county officials, and who shall hold his office for a term of two years, or until his successor shall have been elected and qualified.

Question must be submitted to electors.—Provided, that before any county shall be authorized to elect a county superintendent, the question of "For County Supervision" and "Against County Supervision," shall be submitted to the qualified electors at the annual school meeting held on the third Saturday in May in the years preceding those in which the general state and county elections are held, and if a majority of the electors voting on the question in said election vote for County Supervision, then said county shall elect a county superintendent as provided by this act. (*Acts 1907, Act 399, Approved May 27, 1907.*)

Counties having two judicial districts would not vote separ-

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ately upon the question of county superintendency, a majority of the vote of the whole county would govern. Where a district occupies territory in more than one county, the votes of the election shall be forwarded to their respective county seats. There can be no joint superintendency as a superintendent shall have jurisdiction only over one county.

SEC. 7559-b.—*Office of County Examiner abolished.*

2. The present county examiner in each county shall continue to perform the duties of his office, and to receive compensation therefor, until the county superintendent shall be duly elected and qualified, in keeping with Section 1 of this Act, upon which the office of County Examiner shall be and the same is hereby abolished.

SEC. 7559-c.—*Eligibility for County Superintendent.*

3. Before any person shall be eligible to the office of county superintendent, he shall have attained the age of twenty-five years, shall have taught at least twenty-four months in the county within five years preceding his candidacy, and shall at the time of his candidacy hold a first grade teacher's license, to be approved by the state superintendent, professional teacher's license, or state teacher's license, and he shall be eligible to re-election without further examination.—*Ib.*

Duties.

SEC. 7559-d.—*He shall hold examinations and grant licenses.*

4. The county superintendent shall hold quarterly examinations, using questions furnished by the state superintendent of public instruction, and shall grant to persons of approved moral character, a license to teach in the public schools of the county in which the examination is held under the following regulations:

Applicants receiving third grade license, which shall

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be valid for six months, must pass an approved examination in spelling, reading, penmanship, English grammar, arithmetic, geography, and United States history.

¹Also, elementary agriculture and horticulture. Act May 31, 1909.

Receiving a second grade license valid for one year, an approved examination in the subjects required for a third grade license, and also in the history of Arkansas, physiology, and theory and art of teaching.

Receiving a first grade license valid for two years, an approved examination in the subjects required for a second grade license, and also in civil government, and elementary algebra.

He shall be empowered at the request of the school board desiring the services of such teacher, and upon satisfactory evidence of qualification, to grant special license to teach subjects not enumerated above, valid for two years and good only with reference to the teaching of subjects mentioned therein. No persons shall be granted an examination until he or she shall present a receipt from the county treasurer for two dollars paid by him to the said treasurer, which amount shall be placed to the credit of the fund for the payment of the salary of the county superintendent.

Each teacher shall be authorized to teach only those branches upon which he has passed an approved examination and which he has been licensed to teach.—*Ib.*

SEC. 7559-e.—*He shall keep account with districts.*

5. He shall keep an accurate account with each school district in the county, which shall include the name of

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directors, amount debited and credited to each district, source of receipt and manner of disbursement. He shall keep a record of all contracts made with the teachers and all contracts made with the dealers for school supplies, and no charts, maps, globes or other school supplies, shall be purchased by the directors unless the same shall meet with his approval. He shall be required to furnish plans and specifications for the erection of new school houses, subject to the approval of directors. He shall file in his office a record of the amount voted for various purposes at the annual May meeting of the electors of the several districts of his county, and he shall not approve any warrant drawn for any purpose other than those ordered at the May meeting. Within ten days after the annual school meeting the directors of the various districts shall report to the county superintendent, upon a blank provided for that purpose, the amounts ordered expended by the directors of their districts for the ensuing twelve months, also the number of mill's voted for school purposes.—*Ib.*

SEC. 7559-f.—*Teachers required to file reports.* 6. He shall receive from each teacher monthly reports as to their work, including the number of pupils enrolled, the average number of daily attendance, the number in each of the branches taught, the number of visits of directors and patrons, and such other items as the state superintendent may direct. He shall require the teachers to file or cause to be filed in his office a similar report for the entire term of their schools, together with a copy of his daily register; *Provided*, That in any school having more than one teacher, the principal teacher thereof may file one report for the entire school.—*Ib.*

SEC. 7559-g.—*He may refuse to grant license.* 7.

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He shall not license any person to teach who is given to profanity, drunkenness, gambling, licentiousness, or other demoralizing vice, and who does not believe in the existtnce of a Supreme Being. He may cite to re-examination any person holding a license in his county, and on being satisfied by re-examination, or by other means, that such person does not sustain a good moral character, or that he has not sufficient learning or ability to render him a competent teacher, he may, for these and other adequate causes, revoke the license of such persons. In case of such revocation, he shall immediately give notice thereof to such teacher and the director, and thereby terminate the contract between said parties, but the wages of such teacher shall be paid for the time he shall have actually taught prior to the day on which he received notice of the revocation of his license.—*Ib.*

SEC. 7559-h.—*He shall prepare course of study and help secure books.* 8. He shall co-operate with teachers and directors to secure in those counties, which have adopted county uniformity the use of the books which have been adopted. In those counties which have not adopted uniformity, he shall co-operate with teachers and directors to have district adoptions as now required by law, and where adoption in districts may not be made, he shall strive to secure the use of those text-books in most general use. He shall prepare a course of study for the use of schools of his county, following the plans suggested by the state superintendent, and shall aid the teachers in putting the same into successful operation in his county.—*Ib.*

SEC. 7559-i.—*He shall open and keep office.* 9. He shall have and maintain a suitably equipped office at the county seat at the expense of the county, and shall

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keep therein a supply of blanks as may be furnished by the state superintendent of public instruction to the directors, and shall see that the various districts of his county are supplied with the same. He shall also keep in his office a record and description of each district in his county, making such changes and alterations in the boundaries of the same from time to time as the action of the county court in forming new districts may require, and shall keep an up-to-date map of the districts of his county. He shall also keep a record of all official acts and deliver the same to his successor in office. He shall remain in his office during business hours on the second and fourth Saturdays in each month to attend to his official duties.—*Ib.*

SEC. 7559-j.—*He shall devote entire time to office.*
10. He shall devote his entire time in the performance of his official duties, and shall visit each school in his county at least once during each year, and as often thereafter as practicable, remaining therein not less than three hours on his first visit. He shall keep a record of each visit, giving therein the condition of the school and all official acts and recommendations made by him at the time of such visit. He shall labor to create among the people an interest in public schools, and shall give such directions and shall make such recommendations and suggestions to teachers and to school boards, as he may deem needful to secure the best results in the instruction of pupils, and he shall from time to time examine classes and note the character of work that is being done. He shall also, in addition to the annual county institute now required by law to be held, divide his county into as many districts as may be practicable, and hold in each district at some place suitable to the convenience of the teachers, during school terms, institutes for the purpose

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of instructing the teachers in methods of teaching, and for the discussion of all matters pertaining to the interest of schools. A district institute shall be only one day in length, and all teachers of the district, unless excused for sickness or other adequate cause, shall attend the same, and for failure to do so their licenses may be revoked. His supervision as indicated in this act shall not extend to cities or towns that have provided for the supervisions of their schools.—*Ib.*

SEC. 7559-k.—*Annual report—Contains what.* 11. He shall annually on or before the 10th of August, prepare in tabular form an abstract of the reports made to him by the directors of the school districts embraced in his county, showing the number of organized districts in his county at the commencement of the year; on the first day of July preceding, those districts that have made their annual reports, the number of persons in each district between the ages of six and twenty-one years, distinguishing the sex, and also the color of said person; the number of said persons that attended school during the year, and the number enrolled in private schools; the average number of males and females of each color in daily attendance, and the number that pursued each of the studies designated to be taught in the common schools, the number of teachers of each sex employed in his county, the average wages paid per month to the teachers of each sex according to the grade of certificate; the whole amount paid as teachers' wages in each county; the number of pupils that studied in his county, and the several branches taught; the number of school houses erected during the year in his county, material used in their construction, their condition and value; the grounds of how many inclosed, the amount of money paid by tax in each district, for what purpose raised; the

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amounts that have been expended and for what purpose; the amount of revenue received by his county from the common school fund, and received for the support of schools from each of all other sources; for what purpose and in what sums the said revenues were expended, and what amounts unexpended were at the close of the school year in the county treasury and shall report also the number of deaf mutes and blind in each school district in his county, between the ages of six and twenty-six years, their names and postoffices.—*Ib.*

SEC. 7559-*l.*—*Examination held.*—*How.* 12. The county superintendent shall hold the quarterly examination on the third Thursday and Friday following of March, June, September and December at the hours designated by the state superintendent of public instruction at the county seat of each county, in a suitable room to be provided by the county court, and using the questions prepared by the department of public instruction. The questions shall be mailed by the state superintendent of public instruction under seal, and shall not be opened until the day of the examination, and then in the presence of the applicants for license. He shall conduct all examinations in writing, but shall grant no certificates of qualification except in accordance with the provision of the law respecting teachers' certificates. He shall grant private examinations only when public necessity demands it, and then only on the written request of the directors of the district in which the teachers propose to teach. The examination papers of all persons licensed shall be graded and filed for two years in the county superintendent's office, subject to the inspection of the state superintendent of public instruction, or any school director of the country. The questions furnished by the state superintendent shall be used only at the time des-

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ignated for public examinations. The standing of each applicant in each study must be endorsed on the certificate issued only upon examination; otherwise the certificate shall not be valid.—*Ib.*

SEC. 7559-m. 13. That section 13 of Act 399 of the Acts of the General Assembly of 1907, be and the same is hereby amended so as to read as follows: "The county superintendent shall conduct a five days' institute during the month of June under the same directions and requirements as is now required of county examiners." (*Acts 1911, Act 275, Approved May 19, 1911.*)

SEC. 7559-n. 14. That section 14 of said act be and the same is hereby amended, so as to read as follows: Section 12. "The compensation of the county superintendent shall be paid out of the general school fund of their respective counties and shall be drawn by a warrant signed by the county clerk and allowed by the county court or judge of his county. Said compensation shall be as follows: Each superintendent shall receive the same salary as the county judge of his county, but no superintendent's salary shall exceed twelve hundred (\$1,200.00) dollars a year, nor in any case be less than six hundred (\$600.00) dollars a year; *provided*, that county superintendents shall receive the fees paid in each county for examination for license to teachers, in addition to the salary specified herein; and, *provided further*, that the salary for the last quarter of each year of his service shall not be paid until the county treasurer shall see in person that the proper records for the year have been filed among the permanent records of the county superintendent's office."—*Ib.*

SEC. 7559-o.—*County court shall set aside fund for*

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salary. 15. For the purpose of paying the salary of the county superintendent, as set forth in Section 14 of this Act, the county court shall at the first term after the collector and the state shall have paid to the county treasurer all funds due the common schools, before said sums are pro rated or credited each district of the county, set aside the salary herein mentioned, said salaries shall be placed in the county treasury, to the credit of the county superintendent, and shall be known as the 'County Superintendent's Fund.' Said salary shall be paid to the county superintendent quarterly and shall be drawn by warrant, as provided in Section 14 of this Act. (*Act 399, Approved May 27, 1907.*)

SEC. 7559-p. 16. That section 16 of said act be and the same is hereby amended, so as to read as follows: "The fees paid for examination for license to teachers as provided in section 7567 of Kirby's Digest, shall be set aside and paid to the county superintendent of each county, as now paid to the county examiner, in addition to the salary specified in above section." (*Acts 1911, Acts 275, Approved May 19, 1911.*)

REPEALING CLAUSE: That all laws and parts of laws in conflict herewith be and the same are hereby repealed, and this Act, being for the immediate protection of the health, peace and safety of the people, the same shall take effect and be in force from and after its passage.

SEC. 7559-q.—*He shall take oath.* 17. Before entering upon the duties of said office, the county superintendent shall take and subscribe the oath prescribed for other county officers by the Constitution of this

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State, and file such oath in the office of the county clerk. (*Acts 1907, Act 399, Approved May 27, 1907.*)

SEC. 7559-r.—*Laws in reference to county examiner shall apply.* 18. That all laws and parts of laws applicable to the office of county examiner, not in conflict herewith, shall be applicable to the office of county superintendent; and that all laws and parts of laws in conflict herewith be and the same are hereby repealed, and that this act shall take effect and be in force from and after its passage.

SEC. 7559-s.—*What city schools exempt from Sec. 7559-a to 7559-s, providing for a county superintendent.* 19. Any city in this state, including the territory annexed thereto for school purposes, in which the number of persons between the ages of six and twenty-one years, exceeds five thousand, as shown by the report of the school directors as provided for in Section 7633 of Kirby's Digest, and which is situated in any county in which the Act of May 27th, 1907, creating the office of county superintendent of schools has been adopted, shall be and the same is hereby exempted from the provisions of the said act. (*Acts 1911, Act 444. Approved June 2, 1911.*)

SEC. 7559-t.—*School board of such schools to have control.* 20. The school board of any such city, in addition to the powers now vested in it by law, shall determine the course of study for schools under its charge and shall fix the qualifications of teachers in the schools of such city. (*Acts 1911, Act 444. Approved June 2, 1911.*)

SEC. 7559-u.—*Superintendent of city schools to li-*

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cense teachers to teach therein, but not elsewhere. 21. The superintendent of the city schools in any such city, duly elected as such by the school board, shall have the authority and perform the duty of a county examiner as provided by law; *provided*, a license to teach issued by any city superintendent shall be valid only for the schools of the city in which issued for a term of two years, subject to renewal upon such conditions as may be fixed by the school board. (*Acts 1911, Act. 444. Approved June 2, 1911.*)

REPEALING CLAUSE: All laws and parts of laws in conflict herewith, be, and the same are hereby, repealed, and this act shall take effect and be in force from and after its passage. (*Ibid*)

SEC. 7560. *Prior appointments made valid.*—Any appointments heretofore made by the county courts for the districts of such counties as are mentioned in the preceding section in which an examiner has been appointed for each district are hereby declared to be legal and valid appointments. (*Act March 20, 1883, Sec. 2.*)

The examiner must have the qualifications of an elector. He is an officer of the state—being a part of the executive department of the state. A woman may not be appointed to this position.

The law authorizes, but does not require the appointment of two examiners in counties having two judicial districts.

SEC. 7561. *Examiner shall take oath.*—Before entering upon the duties of that office, the county examiner shall take and subscribe the oath prescribed for officers by the constitution of this state, and file such oath in the office of the county clerk. (*Act March 7, 1875, Sec. 43.*)

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SEC. 7562. *He shall stand examination.*—All county examiners shall be required, before entering upon the duties of their offices, to stand the same examination as is required of the teachers who receive first grade licenses.

Before a county examiner enters upon his duties, he must secure a license from the superintendent of public instruction.—In re Smith, 84 Ark., 535; 106 S. W., 679.

SEC. 7563. *He is not eligible for director.*—No one shall fill the offices of county examiner and school director at the same time.

SEC. 7564. *County clerk shall notify Superintendent of appointment.*—The clerk of the county court in each county shall notify the superintendent of public instruction of the appointment of the county examiner in his county immediately upon his appointment, together with his name and address.

SEC. 7565. *State Superintendent shall examine.*—The superintendent of public instruction shall either attend in person or appoint some one duly qualified to examine such person appointed as county examiner, as to his qualifications, using the same questions as are then being used in the examination of teachers applying for first grade license.

SEC. 7566. *Compensation.*—All county examiners shall be paid such salary each year as may be fixed by the county judge of the county for which he was appointed, out of the school fund of such county; *provided*, such salary shall not be greater than the amount received by the county treasurer from the tax imposed in the following section.

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The intention of the statute was to fix the salary of an examiner at an amount equal to the amount paid in by the applicants for examinations, and it was not intended to reduce the salaries already paid these officers.

The salary of the county examiner cannot be paid in county scrip. The law expressly says that it shall be paid out of the common school fund of the county.

SEC. 7567. *Applicant for license must have receipt.*
—No county examiner shall examine any one applying to him for license as a teacher until he shall present a receipt from the county treasurer for two dollars paid by him to such treasurer to go to the credit of the county school fund. (*Act. March 7. 1893.*)

The examiner's fee must be paid to the county treasurer and not to the examiner. Any fee greater than two dollars is illegal. This fee is the same for either public or private examinations and is to be paid for the examination and not for the certificate. It should be paid to the county treasurer and a receipt taken before the examination begins.

SEC. 7568. *He shall examine and license teachers.*—it shall be the duty of such examiners to examine and license teachers of common schools. He shall hold on the third Thursday and Friday following of March, June, September and December, at the hours designated by the state superintendent of public instruction, at the county seat of each county, in a suitable room to be provided by the county court, and using the questions prepared by the department of public instruction, a public examination for that purpose. The questions shall be mailed by the superintendent of public instruction, under seal, and shall not be opened until day of examination, and then in the presence of the applicants for license. He shall conduct all examinations in writing and shall grant no certificate of qualification, except in accordance with the provisions of the law respecting teachers' certificates.

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He shall grant private examinations only when public necessity clearly demands it, and then only on the written request of the directors of the district in which the teachers propose to teach. The examination papers of all persons licensed shall be graded and filed in the county examiner's office, subject to the inspection of the state superintendent of public instruction or any school director of the county. The questions furnished by the state superintendent shall be used only at the time designated for public examinations. The standing of each applicant in each study must be indorsed on the certificate issued only upon examination, otherwise the certificate shall not be valid.

The examination must be quarterly and public. The dates fixed for these quarterly examinations are the third Thursday and Friday following of March, June, September and December. The written questions are furnished by the state superintendent and are uniform throughout the state. The regulations as to the grading of the certificates are furnished to each examiner with the questions. He is positively forbidden to grant certificates without examination, or upon a partial examination. He is not authorized to issue a license based upon a diploma or upon a license issued in another county or state.

Examination papers are a part of the public documents of the county examiner's office. They are in no sense the property of the teacher by whom they are prepared. Like all other public documents, they are open to inspection by any one desiring to examine them, but they must not be removed from the county examiner's office.

The examiner is not required to grant a private examination or one held at any other than the regular quarterly dates. Private examinations should be granted only when public necessity demands. When granted they should be conducted in the same manner and with the same regulations and requirements as are the public quarterly examinations.

SEC. 7571. *He shall grant license.*—All persons present and applying for examination, with the intention of teaching, the examiner, if convinced that such persons are of good moral character and are com-

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petent to teach successfully the foregoing branches shall give such persons certificates, ranking in grades to correspond with the relative qualifications of the applicants, according to the standard adopted. (See Sec. 7577.)

SEC. 7572. *He shall not license in some cases.*—He shall not license any person to teach who is given to profanity, drunkenness, gambling, licentiousness or other demoralizing vices, or who does not believe in the existence of a supreme being; nor shall he be required to grant private examinations, except as provided in Section 7568.

The examiner must convince himself by evidence if the applicants are unknown to him, that they are of good moral character. He must exclude every person who is given to profanity, drunkenness, gambling, licentiousness, or other demoralizing vices. Such vices may be refusal to obey the law as to institute work or regular examination work. A positive refusal upon the part of an applicant, or one holding a license, to obey the school law should exclude him or take from him his license. Obedience to law is the first mark of a true teacher, and no one may claim privileges under it who refuses to obey it. He should ascertain by direct question the belief of every person as to the Supreme Being. The words "who is given to," mean either "habitual" or "habitual when opportunities afford." It requires no nice distinction to avoid extremes at this juncture. If the applicant is given to these things so as to raise a question of doubt in the mind of the examiner, the applicant should be excluded. The doubt must be resolved in favor of the schools and not in favor of the applicants. He must show a positive moral character, one emphatically marked by the absence of these vices and cannot rely upon the ordinary presumptions of innocence. He must show himself clear or be excluded from the state's schools.

SEC. 7573. *He may re-examine and revoke license.*—He may cite to re-examine any person holding a license and under contract to teach any free school within his county, and on being satisfied by a re-examination, or by other means, that such person does not sustain a good moral character, or that he has not sufficient learning and ability to render him a competent teacher,

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he may for these and other adequate causes, revoke the license of such person.

In the case of *Huff v. Lee*, 61 Ark., 494, the supreme court held that the examiner was not personally liable for damages for the revocation of a teacher's license, provided he acted in good faith and without malice, and provided he gave the teacher due notice and a fair hearing before revoking the license.

In the case of *School District v. Maury*, 53 Ark., 471, it was held that the power given the examiner to revoke the license of a teacher does not exclude the right of a board of directors to terminate a contract for gross immorality or incompetency. Only the question of revocation for these two causes was raised in this case, but it may be inferred that other adequate causes would justify a board of directors in terminating a contract, without waiting for a revocation of license by the county examiner. In all such cases justice demands that the teacher be given a proper hearing before final action is taken.

SEC. 7574. *He must give notice of revocation to teacher and directors.*—In case of such revocation, he shall immediately give notice thereof to such teacher and the directors, and thereby terminate the contract between the said parties, but the wages of such teacher shall be paid for the time he shall have actually taught prior to the day on which he received notice of the revocation of his license. (*Act April 14, 1893.*)

SEC. 7577. *He shall grant three grades of certificates.*—There shall be three grades of certificates granted on the following conditions: Applicants receiving a third grade license, which shall be valid for six months, must pass an approved examination in spelling, reading, penmanship, English grammar, arithmetic, geography and United States history; receiving a second grade license, valid for one year, an approved examination in the subjects required for a third grade license, and also in history of Arkansas, physiology and theory and art of teaching; receiving a first grade license, valid for two

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years, an approved examination in the subjects required for a second grade license, and also in civil government and elementary algebra. He shall also be empowered, at the request of school boards desiring the services of such teachers, and upon satisfactory evidence of qualifications, to grant special licenses to teach subjects not enumerated above, valid for two years, and good only with reference to the teaching of subjects mentioned in said license. No person shall be granted an examination until he shall present a receipt from the county treasurer for two (\$2) dollars, paid by him to the said treasurer, which amount shall be placed to the credit of the common school fund of the county. Each teacher shall be authorized to teach only those branches upon which he has passed an approved examination and which he has been licensed to teach.

Directors and teachers should notice this section. No teacher can, without violating the law, teach those subjects in which he has not passed an approved examination. Directors cannot cause him to do so.

SEC. 7578. *He shall keep a record of each teacher.*—He shall keep a record of the age, name, sex, post-office address and nativity of each person licensed by him to teach, and of the date and grade of his certificate, and shall include such record in his report to the state superintendent.

SEC. 7579. *He shall instruct and encourage teachers and patrons.*—He shall encourage the inhabitants to form and organize school districts, to establish public schools therein, under qualified teachers, to furnish suitable text-books for their children and to send them to school. He shall direct the attention of teachers and school patrons to those methods of instruction that will

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best promote mental and moral culture, and to the most feasible and improved plan for building and ventilating schoolhouses. He shall labor to create among the people an interest in public schools, and shall take advantage of public occasions, such as the dedication of schoolhouses, public examinations and institutes, to impress people with the importance of educating every child, and consequently of the duty of maintaining a system of free schools established by law. He shall receive the reports of the directors, transmit an abstract of the same to the state superintendent, and transmit therewith a report of the condition and prospects of the schools under his superintendence, together with such other information and suggestions as he may deem proper to communicate.

SEC. 7580. *Annual report—Includes what.*—He shall, annually, on or before the 10th day of August, prepare in tabular form, an abstract of the reports made to him by the directors of the school districts embraced within his county, showing the number of organized districts in his county at the commencement of the year, on the first day of July preceding, the districts that have made their annual reports, the number of persons in each district between ages of six and twenty-one years, distinguishing the sex and also the color of said persons; the number of said persons that attended school during the year; the average number of males and females of each color in daily attendance; and the number that pursued each of the studies designated to be taught in the common schools; the number of teachers of each sex employed in his county; the average wages paid per month to the teachers of each sex, according to the grades of their certificates; the whole amount paid as teachers' wages in his county; the number of pupils that studied in

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his county, and the several branches taught; the number of schoolhouses erected during the year in his county, material and the cost of the same; the number before erected, the material used in their construction, their condition and value; the grounds of how many inclosed; the amount of money raised by tax in each district, for what purpose raised; the amounts that have been expended, and for what purpose; the amount of revenue received by his county from the common school fund and received for the support of the schools from each of all other sources; for what purposes and in what sums the said revenues were expended, and what amounts unexpended were, at the close of the school year, in the county treasury; and shall report also the number of deaf mutes, blind and insane in each school district in his county, under thirty years of age, their names and their post-offices.

SEC. 7581. *He shall number districts.*—He shall number the several school districts in his county in regular order from number one upward, and shall keep in his office a record and description of each district, with the boundaries clearly defined, and also a record of such changes or alterations in the boundaries of each as shall from time to time be made.

SEC. 7582. *To hold institutes—may appoint.*—He shall have the power to appoint some suitable person to hold teachers' institutes and examine teachers in his county in case of his inability to attend such institutes and examinations. (*Act December 7, 1875, Secs. 45-52.*)

SEC. 7583. (*Act March 11, 1881; Sec. 7.*) This section was repealed by Sec. 7539-h. In re Smith, 84 Ark., 533, 106 S. W. 679.

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SEC. 7584. *Penalty for neglect of duty.*—If any county examiner shall neglect, fail or refuse to perform any of the duties required of him in Section 7580, and shall not forward the abstract mentioned in said section to the superintendent of public instruction on or before the tenth day of August of each year, he shall forfeit to the county the sum of twenty-five dollars, to be recovered as provided by law, together with all cost, and be paid into the county treasury. (*As amended by Act of April 23, 1901.*)

SEC. 7585. *County court may allow expenses.*—Each county examiner shall make out and present to the county court of his county, at its first term after the thirtieth of June in each year, an account of expenditures for postage, county district records, or a school district map of the districts of his county, and of freight or express charges for the transmission of blanks or such other expenditures as he may have actually and unavoidably incurred, and the county court may allow the same in any sum not exceeding twenty-five dollars in any one year, including ten dollars for his report to the superintendent of public instruction.

SEC. 7586. *County clerk shall issue warrant for expenses.*—When the county court shall have allowed the account of the county examiner as provided in the previous section, the county clerk shall issue a warrant upon the treasurer for said claim, and upon presentation of said warrant to the county treasurer, he shall pay the same out of the common school funds in his hands belonging to the county and not yet apportioned to the several school districts. (*Act March 2, 1887, Secs. 2-3.*)

SEC. 7587. *Shall furnish pupils a certificate.*—

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When a pupil has completed the course prescribed in Section 7532 and passed a satisfactory examination the teacher and directors shall certify the same to the county examiner, and thereupon he shall furnish to said pupil a certificate to be supplied by the state superintendent, and in the nature of a diploma, the same to be signed by the state superintendent, and countersigned by the county examiner and teacher of said pupil.

ANNUAL SCHOOL MEETING.

SEC. 7588. *Who may hold meetings.—When held.*—That the male residents in each organized school district in this state over the age of twenty-one years, who have paid their poll tax and resided therein for thirty days, and within the state for a period of one year, and in the county six months, previous to said elections, shall annually on the third Saturday in May at two o'clock p. m., hold a public meeting to be designated "The Annual School Meeting of the District," and each school district for the purpose of school elections alone, shall be a political township." (As amended by Act of January 10, 1897.)

SEC. 7589. *Qualifications of voters.*—All persons qualified to vote for county and state officers at the general election shall be deemed qualified electors of the school district in which they reside, and shall have the privilege of voting at all school meetings.

SEC. 7589-a.—*What taxes to be levied at meeting.*

1. That Act No. 266 of the Acts of 1905 be and the same is hereby amended to read as follows:

For the purpose of raising revenue to support the state government, the charitable institutions of the state,

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and the common school, a tax shall be levied on the taxable property of the state, as follows :

For defraying the general expenses of the state government, including the charitable institutions of the state and to supply deficiencies, there shall be levied for each fiscal year beginning on the first Monday in February, 1907, one and three-fourths mills on the dollar; for the support of common schools, three mills on the dollar. There shall also be levied annually one dollar per capita on every male inhabitant of the state over twenty-one years of age for common school purposes. *Provided*, this act shall not be construed to effect the levies provided for in Sections 6493 and 242 of Kirby's Digest, and that provided for a Capitol fund by act of April 29, 1901, and the act to pension ex-Confederate soldiers, approved March 4, 1907.

SEC. 7590. *Quorum; Routine of Business.*—The electors of every school district shall, when lawfully assembled in annual school district meeting, with not less than five electors present, have the power, by a majority of the votes cast at such meeting; first, to choose a chairman; second, to adjourn from time to time; third, to appoint when necessary, in the absence of the directors of the district, a clerk *pro tem*; fourth, to elect a director for the district for the next three school years, who can read and write; fifth, to designate a site for a school house; sixth, to determine the length of time during which a school shall be taught more than three months in a year; seventh, to determine what amount of money shall be raised by tax on the taxable property of the district, sufficient, with the public school revenues apportioned to the district, to defray the expenses of a school

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for three months, or for any greater length of time, they may decide to have a school taught during the year; *provided*, no tax for the purpose aforesaid greater than seven-tenths of one per cent on the assessed value of the property of the district shall be levied; and, *provided further*, they may if sufficient revenue cannot be raised to sustain a school for three months during any one year, determine by ballot that no school shall be taught during such year, in which case the revenue belonging to such district shall remain in the treasury to the credit of such school district; eighth, to repeal and modify their proceedings from time to time.

REPEALING CLAUSE: All laws and parts of laws in conflict herewith be and the same are hereby repealed, and this act shall take effect and be in force from and after its passage. (*Acts 1907, Act 189. Approved April 17, 1907.*)

To be an elector he must have his name on the paid tax list or exhibit a poll tax receipt.

The power of the electors as enumerated in the above section may be considered briefly as follows:

1. To choose a chairman. This must be done in order that the business of the meeting may be properly conducted. Failure to hold the annual meeting would not set aside the election of school director and the voting of tax, if the polls are opened for these purposes as provided in Section 7591 of the school law.

2. To adjourn from time to time. The annual meeting may be adjourned to another date for good reasons, but the election of director and the voting for or against tax could not be considered at an adjourned meeting. These matters must be settled at the meeting held on the third Saturday in May.

3. To appoint a clerk. This is necessary in order that the requirements of Section 7632 may be met; also that a permanent record may be had of the proceedings of the meeting.

4. To elect a director who can read and write. Certainly a reasonable requirement. In case there are to be elected two or more directors the ballot should show the length of time each is to serve.

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5. To designate a site for a school house. Due notice should be given in the annual school meeting notice, if the election of a site is to be considered. See Section 7629 of the school law. Directors have no authority to change the site of a schoolhouse, unless the electors in the annual school meeting vote that this be done, and select the new site.

6. To determine the length of time the school shall be taught more than three months in the year. It is expected that a school be maintained in each school district for at least three months in the year, if there be funds in the treasury available for that purpose. The electors may vote to extend the term more than three months. In the absence of any negative action on the part of the electors, the directors would be authorized to extend the term beyond three months, if the funds in the treasury to the credit of the district justify such extension.

7. To determine what amount of money shall be raised to defray the expenses of the school. In order that the electors may vote intelligently on this question, it is very important that the directors submit the estimate required in Section 7625 of the school law.

8. To repeal and modify their proceedings. The acts of the electors at any school meeting may be repealed or modified at a subsequent meeting within certain limitations. This does not apply to the invalidation of any contracts that may have been made, unless by consent of both parties to the same, a repeal or modification is effected.

Directors may permit a school to be taught for a shorter term than three months, in the absence of an instruction to the contrary on the part of the electors, though this is of doubtful expediency.

Besides these powers, the electors are authorized by Section 7614 to direct the sale or exchange of the site or schoolhouse; and by Section 7643, to direct the use of the schoolhouse with reference to private schools; and by Section 7626, to direct the proceedings in all actions and suits at law brought for or against the district, if they elect to do so.

Directors have no power to build a schoolhouse with funds of the district unless authorized to do so at the May meeting, and a contract made for such purpose under authority conferred by a special meeting held in June is void. *Fifty v. School District*, 49 Ark., 94.

Changing boundary of school districts. The people at an annual meeting have no power to change the boundary lines of their district, or to re-organize the district. The law places such matters in the hands of the county court.

School furniture can only be furnished by a common school district from funds derived from a special tax for that purpose. Special

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school districts may buy school furniture out of any funds to their credit.

SEC. 7591. *Annual election—How held.*—The annual district election shall be held by the school directors as judges who shall have power to appoint two clerks; and if any of the directors should not attend, the assembled voters may choose judges in the place of those not attending, and the judges and clerks shall take the oath prescribed by the general election law; *provided*, that it shall be lawful for the county court of any county at the April term thereof to enter an order adjudging that the general election law shall apply to any school election to be held in said county for said year, and thereupon it shall be the duty of the sheriff of said county to publish his proclamation of said election, and the county election commissioners shall appoint judges to hold said election in the respective school districts, and said election of directors and the voting of said school tax shall be held subject to and conform to all the requirements of the general election laws of the state of Arkansas; but this act shall not be construed to interfere with or in any way to diminish the rights and duties of the assembled electors as to the matters to be passed upon in open meeting. The expenses of the election herein provided for shall be paid out of the general county fund as the expenses of general elections are now paid.

The question as to who shall administer the prescribed oath is answered in Section 2807, Kirby's Digest, as follows:

"In case there shall be no person present at the opening of any election authorized to administer oaths, it shall be lawful for the judges of the election to administer the oaths to each other and to the clerks; and such judges shall have full power and authority to administer all oaths that may be necessary in conducting any election."

Unless the judges make return of the election or vote to the

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county court, it cannot levy the tax. *Hodgkin v. Fry*, 33 Ark.,716.

Even if it could be held that by an order of the court the general election laws could be made applicable to school elections, it would be necessary in a suit to recover the penalty provided for a violation of Section 1667, to allege the existence of such an order. *Brown v. Haselman*, 79 Ark.,215; 95 S. W. 136.

SEC. 7591-a.—*Elections to be held when and for what purpose.* 1. That on the third Saturday in May of each year after any special or single school district shall have been organized, according to the provisions of Act No. 321, of the General Assembly of the year 1909, approved May 31, 1909, and annually thereafter, an election shall be held at a school house or other convenient place in said school district to be selected by the board of directors of said district and designated and advertised by them in their notice of the annual school election required by this Act. Said election shall be for the purpose of electing two directors who shall serve for three years or until their successors are elected and qualified. The ballot of the voter, in addition to the name of the persons voted for as directors, shall have written or printed on it the words, "For Tax" and "Against Tax," and the rate, if any, the voter desires levied. (*Acts 1911, Act 169. Approved April 7, 1911.*) (*Amendatory to Act 321, 1909, see Secs. 7695-a et seq.*)

SEC. 7591-b.—*Notice to be given, and directors to preside.* 2. When any special or single school district has been organized as provided by Act No. 321, of the General Assembly of 1909, the board of directors shall give notice of each annual election at least fifteen days previous to such election by posting notices in at least five public places in said district. The annual district election shall be held by three members of the board of directors as judges and two members as clerks, to be

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selected for such purpose by the president of said board; *provided*, if any of the directors, so selected to hold said election, shall fail to attend, the assembled voters may choose judges and the judges may choose clerks in the place of those not attending and the judges and clerks shall take the oath prescribed for judges and clerks by the general election law.

SEC. 7591-c.—*When polls to open and close.* 3. The judges shall cause the polls to be opened at nine o'clock and closed at sunset.

SEC. 7591-d.—*Returns of election to be made to county clerk; Court to levy taxes.* 4. The returns of said election shall be made to the county clerk, who shall declare the result of the votes for and against tax and certify the same to the county court on the first day of the term fixed by law for levying county taxes, and the rate of taxes so certified shall be levied by the court as other school taxes.

SEC. 7591-e.—*Judges of election to give those elected director's certificates thereof.* 5. The judges of said school election shall within five days thereafter give to each of the two persons securing the highest vote for director a certificate of election, and each of said persons shall, within ten days after receiving said certificate, take the oath of office prescribed by law for directors, and file the same, together with his certificate of election, with the county clerk of his county and enter at once upon the duties of his office.

SEC. 7591-f.—*Property of district under control of directors.* 6. The title to all real estate and other prop-

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erty for school purposes to any such special or single school district shall vest, and hereby is vested in said school district, and shall be under the management and control of the board of school directors of said district as fully and completely as other school property belonging so said district.

SEC. 7591-g.—*Districts known as Rural Special School Districts.* 7. All school districts formed under the provisions of Act No. 321, of the General Assembly of 1909, and governed by the provisions thereof and the provisions of this Act, shall be known and designated as Rural Special School District No....., in the order of the formation thereof which said number shall be designated by the county court in its order for an election as provided in said Act of 1909, looking to the formation of such district; *provided*, such districts as have heretofore been formed under said act shall retain and be known and designated by any name or number which such district may have assumed; and by such name such district may sue and be sued, contract and be contracted with; purchase, acquire, hold and sell property, receive gifts, grants and bequests, and generally shall possess and enjoy all the corporate powers usually possessed by bodies corporate of like character. The style of the board of directors for such school districts shall be, "Board of School Directors."

SEC. 7591-h.—*Directors may borrow money.*—Rural special school districts shall have the power to borrow money for the purpose and in the manner provided in sections 7696, 7697 and 7698, of Kirby's Digest. In addition to such power the board of directors shall have the power to borrow money for building purposes if au-

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thorized by a vote of a majority of the electors of the district at any annual election. Such vote may be "For Building Fund," or "Against Building Fund," and shall state the amount of the Building Fund Tax which the voter desires levied. If a Building Fund is voted, the amount of such tax shall be determined by taking the largest amount or rate of taxation voted for by a majority of the voters, and if no rate shall have received such majority, then all the votes cast for the highest rate shall be counted for the next highest and so on till some rate voted for shall receive a majority of all the votes cast. If a majority of the votes cast are "For Building Fund," it shall be equivalent to voting a building tax of the amount or rate as determined by this section for each succeeding year until the money borrowed by the board of directors, pursuant to such vote, together with all the interest thereon shall have been fully paid. When a building fund has been specially voted for, as provided in this section, the board of directors may borrow money, and mortgage the real property of the district as security therefor, under such conditions and regulations as to amount, time and manner of payment as the board of directors shall determine, and may, from time to time, renew or extend any evidence of indebtedness or mortgage issued or executed hereunder. All moneys borrowed under this provision shall be placed in the county treasury to the credit of the building fund of the district, and the board of directors shall issue to the person, firm or corporation advancing or lending such money, a certificate, signed by the president and secretary of said board, in the following form:

This is to certify that at the annual election, held on the.....day of.....19....., in Rural

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Special School District No.....,
County, Arkansas, a majority of the electors of said dis-
trict cast their votes "For Building Fund," and fixed the
amount or rate at.....mills; and that pursuant
t the provisions of an Act approved on the.....day of
.....19....., the board of directors of said
Rural Special School District have borrowed from.....
.....the sum of \$....., for a period
of.....years, which amount with interest at the
rate of-----per cent per annum from this date un-
til paid, is to be paid from funds arising from a tax of
.....mills to be levied annually upon the proper-
ty in said district.

Witness our hands as directors of said Rural Spe-
cial School District, on this the.....day of.....
19.....

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.....

The said certificate shall be executed in triplicate
and signed by a majority of the board of directors. One
copy shall be retained by the board, another shall be de-
livered to the lender, and the third shall be filed by the
board of directors with the clerk of the county court. Up-
on the filing of said certificate, it shall be the duty of
the county court to levy each succeeding year a building
tax of the amount or rate voted for, against the property
in said district, until the amount thus borrowed, with the
interest due thereon, has been fully paid. It shall be the
duty of the county treasurer to pay the holder of said

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certificate upon demand, any funds to the credit of the building funds of said district, applying the same first to the payment of the interest due.

Provided, that, whether the vote be "For Building Fund," or "Against Building Fund," this shall not prevent the electors from voting for a building tax, as now provided by law.

Provided, further, that the County Treasurer shall receive no commission on the building funds of rural special school districts handled by him.

SEC. 7591-i.—*Laws relating to districts in towns shall apply when not inconsistent.*—All general laws of this State relating in any wise to special or single school districts in incorporated towns and cities and not inconsistent with this Act nor Act 321 of the General Assembly of 1909, shall apply with the same force and effect to rural special or single school districts as mentioned in this Act, as to special or single school districts in incorporated cities and towns.

SEC. 7592. *Ballot—Shall contain what.*—The ballot of the voter shall, in addition to the names of the persons voted for as directors, have written or printed on it the words, "for tax," or "against tax," and also the amount of tax the voter desires levied.

SEC. 7593. *Judges shall make return to county court.*—When the polls are closed the judges shall proceed to count the votes, ascertain the result and make return thereof to the county court, showing the number of votes cast for each person voted for for school director, also the number cast for and against tax, and the num-

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ber of votes cast for each amount or rate of tax voted for; such return, together with the ballots, shall be sealed up and delivered by one of the judges to the county clerk within twenty days after the election, and it shall be the duty of the county clerk to make a record of these returns and present the same to the county court when it meets for the purpose of levying taxes. (*As amended by Act of March 16, 1901.*)

The annual school meeting is held at two o'clock. It is presumed that immediately after the regular business as prescribed in Section 7590, Kirby's Digest, is transacted, the polls will be opened for the annual school election. The supreme court held, in the case of *Holland v. Davies*, that the statute fixes no time for the closing of the polls, and that, "though the law has not been strictly complied with, where no obstruction or impediment to a fair expression of the will of the electors is shown" the election should be considered valid.

A special school meeting can be called only for the election of a director.

It was also held in the same case that the omission of the judges to state in the returns the number of votes cast for and against tax will not defeat a levy adopted by the annual school meeting. The court concludes as follows: "If the substantial requisites of the vote appear, informalities and mere irregularities should be overlooked and disregarded."

SEC. 7594. *County court shall ascertain tax.*—The county court, at its said meeting for levying taxes, shall take the record of the county clerk and ascertain whether a majority of the votes cast be for tax; and if a tax has been voted, then the county court shall determine the amount of taxes voted by taking the largest amount or rate of taxation voted for by a majority of the voters, which shall be levied and collected by the district so voting, and if no rate shall have received such majority, then all the votes cast for the highest rate shall be counted for the next highest, and so on, till some rate voted for shall receive a majority of all the votes cast. (*As amended by Act of March 16, 1901.*)

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SEC. 7595. *Taxes.—Levied and collected.*—All taxes voted for school purposes by any school district shall be levied by the county court at the same time the county taxes are levied, and shall be collected in the same manner as the county taxes are collected, at the same time and by the same person, and be paid into the county treasury, there to be kept subject to disbursement on the warrant of the school directors; *provided*, no tax for the purposes aforesaid greater than seven-tenths of one per cent on the assessed value of the taxable property of the district shall be levied, which shall be done by ballot.

The county court has no power to levy a school tax independent of action on the part of the electors of each school district for which the tax is levied; it can only cause to be placed on the tax books and collected such rates as are reported from the districts. An excessive levy vitiates the whole tax. *Worthen v. Badgett*, 32 Ark., 496. See *Ry. v. Parks*, *ib.*, 131; *Rogers v. Kerr*, 42 Ark., 100.

COUNTY UNIFORMITY OF TEXT-BOOKS.

SEC. 7596. *Electors shall vote on question.*—The electors of every common school district shall, when lawfully assembled in annual district school meeting on the third Saturday in May, with not less than five electors present, have the power, in addition to the powers already provided by law, to vote on the question of county uniformity in text-books.

A majority of all the electors voting at an election in the common districts, and not a majority voting on the question, is necessary to adopt county uniformity. Only those electors residing in common school districts are allowed to vote on county uniformity.

SEC. 7597. *Ballot shall contain what.*—The ballot of the electors shall, in addition to the name of the persons voted for as directors, and the words "for tax" or "against tax," have written or printed on it "for county uniformity" or "against county uniformity."

SEC. 7598. *County court shall ascertain vote.*—The county court at its regular meeting for levying taxes shall open the returns and ascertain, in addition to its other duties as now provided, whether the majority of all the votes cast at that election in the county be “for county uniformity,” and if such be the fact the county clerk shall within ten days thereafter so certify to the county examiner and to the state superintendent of public instruction.

The design of the law makers was simply to designate the term of court at which the votes should be canvassed and to name the county court as the agency therefor. The legislature did not intend to confer upon the quorum court jurisdiction, to determine whether county uniformity carried. *Firestone v. White*, 71 Ark., 111; 71 S. W., 250.

SEC. 7599. *County uniformity board—How appointed.*—In each county in which a majority of all the votes cast shall be “for county uniformity,” the county examiner, together with two resident teachers of the county, holding first grade certificates, to be appointed by the state superintendent of public instruction within thirty days after receiving notice as in above section, and two citizens of the county interested in the public schools, to be appointed by the county judge within thirty days, shall constitute the county school book board, who shall take the oath of office prescribed by the constitution of the state, and who shall serve until their successors are appointed and qualified in like manner.

SEC. 7600. *County uniformity board—Duties.*—The county examiner, who shall be chairman of the county school book board, shall call its members to meet together at the county seat in the courthouse on or before the third Tuesday in November, for the purpose for which the board is constituted. The board, after its

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organization, shall proceed to carefully examine and compare the school text books and their prices, which may be submitted for its consideration, and shall within sixty days, by a majority vote of all its members, select and adopt a list or series of school text books on the following subjects, to-wit: Writing, spelling, reading, arithmetic, language lessons, English grammar, geography, history of Arkansas and of the United States, civil government of Arkansas and of the United States, physiology and hygiene and elementary algebra, for uniform use in the common school districts of the county for a period of six years from and after their adoption. In making such adoptions, the county school book board shall give due consideration to the school text books which are used in the majority of the school districts of the county, and to the wishes and recommendations of the teachers and school patrons, as may be expressed to the board by petition or otherwise; *provided*, equally as good terms can be obtained for the regular supply of the books already in general and satisfactory use in the schools of the county and for any exchange of books required, as can be obtained from publishers of other school books of equal merit and workmanship; and *provided further*, that no school books shall be adopted the price of which exceeds the price at which said books are furnished or sold to school patrons in any other state or territory.

Act 315, May 31, 1909, requires adoption of text on elementary agriculture and horticulture. (See Section 7622d et seq.)

SEC. 7601. *County uniformity board—Compensation.*—The county school book board shall be in session not to exceed ten days in any one year and each member of the board shall receive two dollars (\$2.00) per day for each day he shall serve, to be paid out of the common

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school funds of the county. The chairman of the board shall file with the county clerk a statement showing the number of days each member has served, and the county clerk shall issue his warrant on the county treasurer in favor of each member in accordance with such statement, payable out of the common school funds of the county.

SEC. 7602. *Penalty for using other books.*—The county examiner shall keep a record of the proceedings of the county school book board and the books adopted by it for uniform use in the schools of the county, with the contract prices of the same, of which adopted list and prices he shall give due notice to the teachers and school directors of the county by circular letters or otherwise. The books so adopted shall be brought into exclusive use in all the public schools of the county as soon and as rapidly as practicable; and any teacher or school director permitting any other book or books than those adopted by the county board to be used in the schools under their charge after one year from the date of their adoption, shall be subject to a fine of not less than fifteen dollars (\$15.00), and any person selling any book so adopted to a school patron at a price greater than the contract price thereof, shall be subject to a fine of not less than ten dollars (\$10.00); *provided*, that nothing in this act shall be so construed as to prohibit any board of school directors, superintendent or teacher, from using readers or other books for supplementary purposes, but no such supplementary books shall take the place of any adopted book on the county list.

SEC. 7603 *Publisher shall deposit books and give bond.*—Before any school book may be lawfully adopted by any county school book board in this state, its publisher shall deposit in the office of the state superintendent

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of public instruction a sample or standard copy thereof, with its regular or wholesale mailing price plainly written or stamped therein, together with a written proposition to furnish such school books to any school or school board, or to their authorized agent at the lowest wholesale or mailing price thereof. And any publisher making a proposition to the state superintendent for furnishing school books in this state, shall file with the auditor of state a duplicate copy of his or their proposition to the state superintendent, and shall enter into a bond to and with the state of Arkansas in the sum of twenty thousand dollars (\$20,000) for the faithful performance of his or their stated proposition. Said bond to be made through some reputable guaranty company.

SEC. 7604. *Publisher required to make contract.*—That each county school book board, before adopting any text-books, shall require its publishers to deposit in the office of the county examiner a sample or standard copy of the same, and after its adoption, shall require said publisher to enter into contract with it, to furnish said text-books, so adopted for the entire period of its adoption and use in the schools of the county at its lowest wholesale or mailing price as certified by the state superintendent; and shall require the publisher of each and every school book so adopted to guarantee and maintain the mechanical quality and execution of such book equal to the sample or standard copy thereof filed in the office of the county examiner, and no county school book board shall adopt any school book whose publisher shall not have complied as to said book with the provisions of this act.

SEC. 7605. *Special district board may adopt.*—The board of directors of special school districts in any coun-

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ty which shall adopt a uniform series of books, as provided in this act, shall have the option of adopting the county uniform series or a different series, in whole or in part, for use in its schools.

SEC. 7606. *Counties voting "against uniformity."*—In counties in which the vote is "against uniformity" there shall be no change in the school books in use in the public schools therein for one year; *provided*, the publishers of the books so in use shall furnish them upon the same terms as the same books are furnished in counties voting "for county uniformity," according to the provisions of this act.

SCHOOL DIRECTORS.

SEC. 7607. *Directors—When elected How.*—At the annual school meeting, held on the third Sunday in May, there shall be elected by the legal voters in each school district a director, who shall hold office for the term of three years, and until his successor shall have been elected and have qualified. *Provided*, at the first annual school meeting of the district after the passage of this act, three school directors shall be elected, to hold office one, two and three years respectively. *Provided* further, when a new school district shall have been formed under the provisions of this act, three directors shall be immediately elected by the electors of the new district, and shall hold their office for one, two and three years respectively, and until their successors are elected and qualified, as herein provided for. *Act December 7, 1875, Sec. 57, as amended by Act March 11, 1881, Sec. 2, and Act January 30, 1889.*

SEC. 7608. *Directors shall take oath and file certificate.*—The judges of any school election of this state for

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school directors shall within five days after said election give to the said elected director a certificate of his election, who shall within ten days thereafter take the oath of office prescribed for directors, and file the same, together with his certificate of election, with the county clerk of his county, and enter at once upon the duties of his office. *Act January 30, 1889.*

SEC. 7609. *Oath—Who shall administer.*—An old director shall, upon an application of an incoming director, administer to him the oath of office. *Act March 11, 1881, Sec. 5.*

SEC. 7610. *Director fined for refusing to serve.*—Any person who shall have been elected or appointed a director, and shall neglect or refuse to qualify and serve as such, shall forfeit to his district the sum of ten dollars, which may be recovered by action against him at the instance of any elector in the district, and which, when collected, shall be paid into the county treasury by the officer before whom the action was maintained, and added by the treasurer to the school fund revenues appropriated to the district.

SEC. 7611. *Directors fined for neglect of duty.*—Any director who shall neglect or fail to perform any duties of his office shall forfeit to his district the sum of twenty-five dollars to be recovered as directed in the preceding section, and to add in like manner to the school fund revenues apportioned to his district.

SEC. 7612. *Vacancy in office—How filled.*—If the office of any director in a district becomes vacant, the electors of said district shall, in a district meeting assembled, within fifteen days after the occurrence of such

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vacancy, elect a director to serve the remainder of the unexpired term; but if the district in which such vacancy occurs neglects or fails to elect a director to fill such vacancy, then the county court shall appoint from the electors of said district a director to serve the remainder of the term.

From Section 7608 it is plain that the last day upon which the newly elected director may take the oath of office is fifteen days from the third Saturday in May. In case no director is elected, the electors will have the right within fifteen days after the annual meeting to elect a director for a vacancy caused by a failure to elect at the proper time. For a vacancy caused by death, resignation, or otherwise, the electors have fifteen days from the date of such, death, resignation or other occurrence which caused the vacancy, to fill the same.

A bona fide removal of a school director from a district annuls his right to serve as such. His subsequent return to the district does not revive this right. A vacancy has been created, which should be filled by a special election, or by appointment, in case the special election is not held within the time prescribed by law.

Where the offices of two school directors, the term of one of whom would expire in two years, and that of the other in three years, become vacant, and the electors fail to fill the vacancies within fifteen days, the county court may appoint from the electors persons to fill the vacancies. And if the appointment be made without designating which of the two appointees shall serve two, and which shall serve three years, and the electors at the next annual school meeting, agree that one of such appointees should serve the long term, and elected a successor for the other, the former continued to hold office because no successor was elected to succeed him. *Click v. Sample*, 73 Ark., 197, 83 S. W. 932.

SEC. 7613. Duties in general—*Shall establish schools.*—The said board shall make provisions for establishing separate schools for white and colored children and youth, and shall adopt such other measures as they may judge expedient for carrying the free school system into effectual and uniform operation throughout the state, and providing, as nearly as possible, for the education of every youth.

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In the case of Maddox et al. v. Neal et al., 45 Ark., 121, the supreme court of this state says: "A wide range of discretion is vested in these boards by the statute in the matter of government and details of conducting of the common schools, but in the nature of things there is a limit to this discretion. Some positive and imperative duties are imposed upon them about which they have no discretion. The first and most important duty of the board is to make provisions for establishing schools. When the funds are provided, and the directors are not otherwise instructed by the school meeting of the district, the duty to provide a school for at least three months is mandatory, and the duty to establish separate schools for the whites and blacks is also incumbent on them. All the provisions of the law in relation to schools, in conformity to the constitutional mandate, are general, and the system, so far as the statute can make it, is uniform. No duty is imposed upon or discretion given the directors about schools for one race that is not applicable to the other. It is the clear intention of the constitution and statutes alike to place the means of education within the reach of every youth. Education at the public expense has become a legal right extended by the laws to all the people alike. No discrimination on account of nationality, caste or other distinction has been attempted by the law-making powers. The boards of directors are only the agents, trustees appointed to carry out the system provided for. Their powers are no greater than the authority conferred by legislation. They can do nothing they are not expressly authorized to do, or which does not grow out of their expressed powers. * * * The opportunity of instruction in public schools, given by the statute to all the youths of the state, is in obedience, as we have seen, to special command of the constitution, and it is obvious that a board of directors can have no discretionary power to single out part of the children by the arbitrary standard of color, and deprive them of the benefits of the school privilege. To hold otherwise would be to set the discretion of the directors above all law."

A director living in an old district, should his property be included in a new district form from a portion of the old, ceases to be a director.

The duty of establishing separate schools for races is mandatory. If there are eleven or more black children, or eleven or more white children, they must have a school. Ten black children or a less number, or ten white children or less should be transferred to an adjoining district under the provisions of the act approved April 3, 1891.

The directors have power to require each pupil to pursue certain studies, and for violation of such rule, adequate punishment may be administered. In the common school districts of this state only the common school branches may be required; in special school districts the board has power to decide that additional studies shall be taught.

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While a school director cannot make a binding contract with the district to pay him an agreed sum for his services outside his official duties, still, if the district accepts the benefit of his services, it will be liable to make just compensation therefor. *Smith v. Dandridge*, 98 Ark., 38.

SEC. 7614. *Directors as custodians.*—The directors shall have charge of the school affairs and of the school educational interests of their district, and shall have the care and custody of the school houses and grounds, the books, records, papers, and other property belonging to the district, and shall carefully preserve the same, preventing waste and damage; and shall purchase or lease in the corporate name of the district, such schoolhouse site as may be designated by a majority of the legal voters at the district meeting; shall hire, purchase or build a schoolhouse with funds provided by the district for that purpose; and may sell or exchange such site or schoolhouse, when so directed by a majority of the electors of any legal meeting of the district.

In general, school property is to be used for the purpose of education. It appears that the legislature has not inhibited the directors from permitting the schoolhouse to be used temporarily and occasionally for other purposes.

School directors have the care and custody of schoolhouses and grounds belonging to the district. It is their duty carefully to preserve the same, preventing waste and damage. They have the power to allow the house to be used for other than school purposes, unless otherwise directed by a majority of the electors of the district in a legal meeting assembled. The electors of school districts in legal meeting have the power to direct that the house be used for other than school purposes, provided it be a legal purpose.

The school law makes it the duty of the board of directors to fix a time of beginning a school term. The law gives the people the right at the annual school meeting to say how long the school shall continue more than three months in the year.

Section 7614 vests the power of directing the sale or exchange of the site or the schoolhouse in the electors alone, and Section 7643 authorizes the directors to permit the use of the schoolhouse by a private school unless otherwise directed by a majority of the

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legal voters of the district. This enlargement of the power of the electors, as set out in Sections 7614 and 7590, as to directing the sale or exchange of the site or schoolhouse, must be considered in construing these sections; and the exercise of the enlarged power must be controlled by the provisions of Section 7590; that is, the electors may act upon these questions at the annual meeting or an adjournment thereof.

The common school fund apportioned by the state cannot be used for building purposes. The law says that no schoolhouse shall be built except by money provided by the district for that purpose. This has been construed literally that the money must be provided "by the district" and "for that purpose."

Directors have no power to build a schoolhouse with funds of the district unless authorized to do so at the annual school meeting, and a contract made for such purpose under authority conferred by a special meeting held in June, is void. *Fluty v. School District*, 49 Ark., 94.

If proper notice of such action has been given in the notices of the annual school meeting, that meeting may select the site for schoolhouse, order the board of directors to purchase or lease such site, and vote money for building a house thereon, without reference to the number of children in the district or the number of schoolhouses already therein. This is a matter entirely within the discretion of the annual school meeting, and it may be considered thereat, or at an adjourned session thereof, but no special called meeting of electors can pass upon any of these questions.

It is evident that the respective powers and rights of directors and electors are not clear. The general principle is that the whole matter is left to the sound discretion of the directors, subject to a controlling direction on the part of the electors.

S53. 7615. They shall hire for and in the name of the district only such teachers as have been licensed according to law, and employ no person to teach in any common school of their district unless such person shall hold, at the time of commencing his school, a certificate and license to teach, granted by the county examiner or state superintendent; and they shall make with such teacher a written contract in triplicate form, specifying the time for which the teacher is to be employed, the wages to be paid per month, and any other agreement entered into by the contracting parties, and shall furnish the teachers with a duplicate of contract, keep the origi-

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nal and immediately file an exact copy of such contract in the office of the county treasurer of the county in which the contract is to be enforced; and the county treasurer shall not pay the wrarants of any school district until a copy of all such contracts have been filed with him.

REPEALING CLAUSE.

That all laws and parts of laws in conflict with this Act are hereby repealed and this Act to take effect and be in full force from and after its passage. *Acts 1911, Act. 206, Approved April 24, 1911.*

The law auzorizes none but a written contract, and parole evidence is not admissible to change or contradict it; nor to show that a contract in writing was entered into between the parties. *Griggs v. School District No. 70, 87 Ark. 96, 112 S. W., 215.*

Parol evidence of the terms of the contract is admissible to show that a contract, valid under the statute, has been made by and between the parties. *School District No. 68 v. Allen, 83 Ark. 494, 104 S. W., 172.*

The right to select a teacher, fix his salary, and the time for the opening of the school are matters which belong exclusively to the directors. The electors have no right to direct upon any question connected with the teaching of the school, save the single one of extending the term of the school.

If there will be sufficient funds in the treasury during the year for which the contract is made to maintain a school, then the directors are allowed to enter into a contract for the same; otherwise they are not.

Directors cannot make a legal contract with a teacher who has no license. This negatives the right to contract with a principal teacher who is licensed for an amount of money to be paid him, out of which he is to pay the salaries of unlicensed assistants.

Directors make regulations governing the school, but are advised to consult the teachers.

The acts of school directors are corporate acts. To bind the district it is necessary for them to act at a regular meeting, or a called meeting, of which notice was given to each director. At such meetings the act of a majority of the board is the act of the whole board.

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There is nothing in the school law prohibiting directors from having a school for less than three months, unless the electors at the annual school meeting so decide.

Notice of a called meeting of a board of school directors must be given in writing to each member of such board, and must state the time, place and purpose of the meeting. When two directors meet at a called meeting from which the third director is absent without having received legal notice of the meeting, the directors present have no authority to bind the district by employing a teacher. *Burns v. Thompson*, 64 Ark., 489.

A board of school directors empowered by statute without any limitation to employ a superintendent of schools may make a contract for a superintendent for a term beginning after some members of the board go out of office. *Gates v. School District of Fort Smith*, 53 Ark., 468.

This decision applies to all teachers employed in the school as well as to the superintendent.

The school district being a body corporate, may sue and be sued in any court of the state having competent jurisdiction. Ordinarily, school directors are not liable in official contracts, nor are they individually liable for the debts of the district when contracted pursuant to law. However, they may be liable by fraud or neglect of duty to be subject to a common law liability.

Directors are charged with the educational affairs of their districts, and are clothed with considerable authority and discretion. They should see that the schools are not too much crowded. They have the power to fix the school limits, and to assign scholars to particular schools. In doing so, they should exercise sound discretion and serve the best interests of all concerned.

The contracts made by a board of directors are good, though it should turn out that the directors are disqualified to hold office. They are de facto officers.

SEC. 7616. *They may not employ relative except by petition.*—Hereafter all school directors and members of the boards of trustees of public and agricultural schools are hereby prohibited from employing any person as teacher in said schools related to them by consanguinity or affinity within the fourth degree; unless two-thirds of the patrons of said schools shall petition them to do so. Any director or directors or member or members of the board of trustees of said public or agricultural

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schools violating this section shall upon conviction be fined in any sum not less than ten dollars nor more than fifty dollars and in addition thereto shall be suspended from office. (*Act 206, Approved March 24, 1913.*)

This act means two-thirds of the patrons residing in a school district and not those in the vicinity of a certain school. The word "school" here applies to the entire school district. The word "patron" applies to those who are electors, who pay taxes, or who send children to school, and includes widows who have children of school age and widows or spinsters who pay taxes.

A teacher must have a petition signed by two-thirds of all the patrons in the whole district at the time he may be employed by a board, any member of which is related to him, it will not be sufficient to secure petition after contract is made.

Third cousins are related within fourth degree of consanguinity. In the absence of a petition signed by a majority of the patrons of the school requesting the employment of a relative of the directors, they will be enjoined from entering into a contract with a person who is thus related to either of the directors. *Holt v. Watson*, 71 Ark. 90, 71 S. W. 262.

SEC. 7617. *Money necessary to employ teacher.*—

It shall be unlawful for any director or board of directors in any school district in this state to employ a teacher to teach a school in any district in this state unless said district has money to its credit in the treasury of the county in which said district is located, to pay said teacher for such work; *provided*, that if the amount of taxes to be paid in by the collector of any county shall be sufficient to have a school taught in any district in which such taxes are to be paid, then the directors shall have the power to employ teachers to teach a school in such district; *provided further*, that a majority of the patrons of any school district in this state shall at all times have the right to petition said board of directors to employ a teacher and cause a school to be taught in any district whenever they so desire; *provided further*, that said directors do not pay more for services of said teach-

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er than would be necessary to pay said teacher for said service, if said money were in treasury. That any board of directors violating this law shall be fined in any sum not less than ten nor more than one hundred dollars.

In case there is money in the treasury to the credit of the district, sufficient to maintain a school, and available for that purpose, or a tax voted which, when collected, will be sufficient to defray the expenses of the school, and the directors make no provision for having one taught, the right of petition for a school is given to the patrons of the district by the above act.

SEC. 7618. *The term "month" defined.*—The term "month" however it occurs in any section of this act, shall be construed to mean twenty days, or four weeks of five days each. (*Act December 7, 1875, Secs. 58-62.*)

SEC. 7619. *They may insure school buildings.*—The officers of special and common school districts are authorized and empowered to insure school buildings of their respective districts and to use sufficient funds of their districts to do so. (*Act. March 3, 1903.*)

SEC. 7620. *Directors may buy apparatus.*—The directors of school districts, other than special school districts, may expend annually, out of the common school fund, not more than twenty-five dollars during any one year for any school under their control for maps, charts, globes, dictionaries and other apparatus necessary to the progress of the school; *provided*, said maps, charts, globes, dictionaries and other apparatus meets the approval of the state superintendent in price and merit; *provided further*, that said expenditure be authorized by a majority of the qualified electors of any school district making said purchases at the annual school election pre-

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vious to said expenditure. (*As amended by Act of February 22, 1899. See comments under Sec. 7625.*)

SEC. 7621. *Directors may choose books.*—The directors of each school district in this state shall adopt and cause to be used in the public schools of their respective districts one series of text books in each branch of science taught in the public schools of their respective districts, and no changes in these books shall be made for a period of three years, unless it be by a petition of a majority of the voters of the district desiring the change. (*Act March 11, 1881, Sec. 2.*)

This section is virtually repealed by the county uniformity law.

SEC. 7622. *Directors to see that physiology and hygiene are taught.*—Physiology and hygiene, which must in each division of the subject thereof, include special reference of the effect of alcoholic drinks, stimulants and narcotics upon the human system, shall be included in the branches of study now and hereafter required to be regularly taught and studied by all the pupils in the common schools of this state, and it shall be the duty of the board of directors and county examiners to see to the observance of this statute and make provisions therefor. (*Act March 10, 1899, Sec. 1.*)

Sec. 7622-a.—*Robert E. Lee Day.*—That the nineteenth of January, the birthday of Robert E. Lee, shall be observed in all the public schools of this state as a day for patriotic exercises and the study of the history and achievements of Arkansas men. (*Acts 1905, Act 35, Approved Feb. 14, 1905.*)

SEC. 7622-b.—*Superintendent to prepare program for exercises.*—The state superintendent of public instruction is hereby authorized to prepare and publish

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annually for use in all public schools of the state, a program of exercises dealing with events in the life of General Lee and other distinguished men, giving attention also to the achievements and work of eminent men who have served this state in civil and military life. (*Acts 1905, Act 35, Approved February 14, 1905.*)

SEC. 7622-c.—*Heads of schools to aid in work.*

3. It shall be the duty of county examiners, city superintendents and principals of schools to aid in carrying on this work, and they shall arrange the exercises of their various schools in accordance with the provisions of this act. This act shall be in full force and effect from and after its passage.

SEC. 7622-d.—*Elementary Agriculture to be taught.*

1. That school directors of the various school districts of the State of Arkansas are hereby directed and required to require all persons teaching in the public schools of this state to teach elementary agriculture and horticulture in their schools. (*Acts 1911, Act 315. Approved May 31, 1911.*)

SEC. 7622-e.—*To adopt some text on subject.*

2. That all authorities empowered by statute to adopt text books for use in their public schools of this state are hereby directed and required to select and adopt some suitable elementary text book on the subject of agriculture and horticulture to be used in the public schools of their respective counties or districts.

SEC. 7622-f.—*Duty of county examiner.* 3. That it shall be made the duty of the county examiner of each and every county in the state to see that every public school district in the various counties of this state have

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in their possession the text book on elementary agriculture and horticulture adopted for use in their respective counties or districts.

SEC. 7622-g.—*To see that act is enforced.* 4. That it shall be the duty of each and every county examiner to see that the provisions of this act be enforced.

SEC. 7622-h.—*Penalty for failure to enforce act.* 5. That any county examiner, school director or other officer having authority to enforce the provisions of this act, shall neglect or refuse to enforce the same, shall forfeit to the district so neglected or refused, the sum of twenty-five dollars, said sum to be added to the school fund of said district, which may be recovered by action brought against him at the instance of any elector in said neglected or refused district.

REPEALING CLAUSE: All laws and parts of laws in conflict herewith be and they are hereby repealed. That this law take effect ten months after its passage.

SEC. 7623. *They shall furnish register.*—They shall procure from the county examiner, and furnish the teacher at the commencement of the term, a register for his school, and require the said teacher to report, in said register, at the close of the school term, the number of days of the said term, the name and age of each pupil, the date on which each entered the school, the separate days on which each attended, the whole number of days each attended, the studies each pursued, the total number of days all pupils attended, the average daily attendance and the number of visits received from the directors during the said term. (*Act December 7, 1875, Sec. 63.*)

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The keeping of this register according to all its requirements, perfected and complete, is compulsory upon the teacher, and he can not draw his last month's wages until this duty is performed. See Sec. 7656.

SEC. GFBD.. *They must visit schools.*—They shall visit the schools at least once each term, and encourage the pupils in their studies, and give such advice to the teacher as may be for the benefit of teacher and pupils.

SEC. 7625. *Annual report to electors—Contains what.*—They shall submit to the district, at the annual meeting, an estimate of the expenses of the district for that year, including the expenses of a school for the term of three months for the next year, after deducting the probable amount of school moneys to be apportioned to the district for that school year, and shall also submit an estimate of the expenses per month of continuing the school beyond the term of three months, and of whatever else may be necessary for the comfort and advancement of the said school.

As a guide to the electors in voting the tax in the annual school meeting the directors are required to submit to them at that meeting an estimate of the amount of revenue necessary to meet expenses of the district for the year to follow.

A tax voted for a specific purpose can be used for no other; thus a tax voted for building purposes or for teachers' salaries must be applied to the purpose mentioned.

If there be a fund left over at the end of the fiscal year, the electors may at any annual meeting divert this balance from its original purpose and appropriate it to some other.

If the tax is voted for general purposes, without any direction on the part of the electors as to its expenditure, the directors would be authorized to use the same for the actual expenses necessary to the maintenance of the school, except that no part of the same could be used for building purposes.

Incidental expenses, such as fuel, stoves, blackboards, crayon, etc., are necessary expenses, and directors are authorized to draw warrants on the common school fund to meet such expenses, if no

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provision is made for them in the estimate submitted by the directors in the annual meetin.

If any part of the common school fund is to be spent in the purchase of maps, globes, charts, etc., the estimate should so state, and directors are limited to the amount therein mentioned.

The electors may by vote authorize the directors to expend not exceeding twenty-five dollars out of the common school fund in the purchase of supplies mentioned above.

A failure of the directors to submit the estimate of school expenses as required in Section 7625 of the school law is a finable offense. See Section 7611 of the school law.

SEC. 7626. *They shall appear for district.*—They shall, in all suits and actions at law brought by or against their district, appear for and in behalf of said district. *Provided*, they shall have no other directions or instructions by a lawful meeting of the electors of their district.

The law makes it obligatory on directors to appear in behalf of the district in all suits brought by or against the district. This carries with it the right to employ a lawyer and to pay him out of the school funds, unless they have other instructions from the lawful meeting of the electors of the district. The county treasurer cannot refuse to pay a warrant properly drawn and signed by two directors for such a purpose.

SEC. 7627. *They shall draw warrants.*—They shall draw orders on the treasurer of the county for the payment of wages due teachers, or for any lawful purpose, and they shall state in every such order the services or consideration for which the order is drawn, and the name of the person rendering such service; but they shall not draw any order on the county treasurer for the payment of the wages of any teacher not licensed.

When the county treasurer is notified by the county examiner that a certain person has no license to teach in that county, it is the duty of the treasurer, when that person presents a warrant drawn on the funds of some School District in the county, to ascertain whether such party has a license to teach, and if not to refuse payment. *Arnold v. State*, 71 Ark. 372, 74 S. W. 513.

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SEC. 7628. *Treasurer shall pay warrants.*—When the warrant of any board of directors, properly drawn, is presented to the treasurer of the proper county, he shall pay the same out of any funds in his hands for that purpose belonging to the district specified in said warrant.

Every teacher, whether as principal or assistant, must be elected by the board of directors; every such person must have a license from the county examiner or state superintendent, and every such person must have a written contract. County treasurers are warranted to demand the contract of every teacher or assistant who presents a warrant for the payment of wages from the public school funds. If the warrant shows that its holder is principal, and that the amount specified on its face is for the payment of the wages of assistants, or if it is proven to the treasurer that such is the case, he should refuse to pay the same as a violation of Section 7615. The treasurer may also refuse to pay the warrant of any teacher who has not been licensed. The words, "properly drawn," in this section refer back to the inhibitions of Section 7615 and of Section 7617, and the treasurer should exercise great care in the matter of paying these doubtful warrants.

School warrants may be issued by two directors. *Crain v. State*, 45 Ark., 450.

A warrant which has been merged into a judgment is not such a warrant as the treasurer is authorized to pay in satisfaction of the judgment. The warrant must specify for what the money is being paid. *Ferrell v. Laughinghouse*, 87 Ark. 381, 112 S. W. 894.

Treasurers are required to pay all warrants properly drawn, if there is money in the treasury to the credit of the district, belonging to the fund on which the warrant is drawn. If the tax was voted for general purposes, the treasurer would be authorized to pay all warrants drawn on a fund so voted, for teachers' salaries and other necessary expenses. Each warrant should specify for what service or consideration it was drawn.

SEC. 7629. *They shall give notices of meeting.*—The directors shall give notice of each annual meeting, by posting notices thereof, at least fifteen days previous to such meeting, in three or more conspicuous places within the district; but it shall not be lawful for a district, at any annual meeting, to fix a site for a school-house, or to raise money for building or purchasing a

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schoolhouse, unless the directors shall have particularly set forth in the previous notice given of such meeting that these matters were to be submitted for their consideration and action.

It is the duty of the directors to designate the place of the annual meeting, and notice of the time and place is essential to the validity of a tax voted at such meeting. But the statute designates the time, and all are bound to take notice of it. If notice of the place be given, the meeting will be legal, though the time be not specified in the notice. *Hodgkin v. Fry*, 33 Ark., 716. A notice given by two of the directors is sufficient. *Holland v. Davies*, 36 Ark., 446; *Davies v. Holland*, 43 Ark., 425.

Where a meeting of a school district is held for a special purpose, all that is necessary in the form of the notice is that it should be so expressed that the inhabitants of the district may fairly understand the purpose for which they are convened.

SEC. 7630. *Clerk shall keep records and make report.*—One of the directors shall act as clerk at all district meetings, shall keep a record of the proceedings thereof in a book provided for that purpose, or, if absent, shall transcribe into said book the minutes kept by the clerk *pro tempore*, and signed by the chairman, as so much of the authenticated records of the district; and he shall enter on the said book copies of all his reports to the county clerk and the county examiner.

At the first meeting of the board after the annual election, there should be a regular organization of the board by the election of a president and a secretary to serve for one year. This is absolutely necessary, in order that the work of the board may be transacted in a business like manner, and a correct and permanent record of its proceedings be kept.

There is no authority for the directors of a common school district to employ one of their number as clerk and pay him a salary for the services thus rendered. *Clark v. School District No. 16*, 84 Ark. 519, 106 S. W. 677.

SEC. 7631......*Clerk's report.*—*Shall contain what.*—He shall keep, in a book provided for that purpose, the

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accounts of the district, by debits and credits, including the accounts with the county treasurer, and shall present the same to each annual meeting, showing the current expenses for the year, for schoolhouses, outbuildings, fences with which to inclose a schoolhouse site, for stoves, wood, maps, charts, blackboards, a dictionary, and other necessaries for a school, and stating the number of days the directors have been necessarily employed in the performance of their duties as directors; the date of each order drawn by them on the county treasurer, and for what services or consideration, for what amounts and in whose favor, exhibiting vouchers therefor; a statement of the indebtedness of the district, and also of the surplus moneys, if any, in the county treasury belonging to the district at the commencement of the year; the amount of taxes levied on the district for school purposes within the year; the different purposes for which said taxes were levied, and the amount levied for each purpose. If, on examination, the report be found correct the chairman of the meeting shall approve the same, and order that it be filed with the records of the district.

The directors of a common school district have the power to make contracts for the purchase of those articles which are clearly necessary to be provided in order that a school may be carried on and taught, and this includes the purchase of desks when necessary for that purpose. *A. H. Andrews & Co. v. De'light Special School District*, 95 Ark. 26, 128 S. W. 363.

SEC. 7632. *Directors shall report to county clerk.—* The directors shall, within ten days after any school meeting, report to the clerk of the county so much of the proceedings of said meeting as pertains to the election of officers; and they shall, on or before the first day of October in each year, furnish to the clerk so much of the copy of their record, attested by the chairman of the

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meeting, as shows the amount of money voted to be raised by the district for school purposes at the annual meeting.

SEC. 7633. *Annual report to examiner—Contains what.*—The directors shall, annually, between the first and twentieth days of July, transmit, verified by their affidavit to the county examiner, a written report, in proper form, of the name of their county; of the number of their district; the names and ages of all persons between the ages of six and twenty-one years, residing in their district on the first day of July; the number of males and females respectively of each color that attended the common schools during the last school year; the average number of each sex that attended daily; the number that pursued each of the studies designated to be taught in the common schools of this state; the number of times the school was visited each term by the directors; the number of days the school was taught during the year by a licensed teacher; the name of each teacher; the grade of his certificate; the wages paid each teacher per month; and the whole amount of wages paid teachers during the year. They shall include in their report the amount of taxes voted by the district during the last school year, for what purpose voted, and the amount voted for each purpose; the amount drawn from the county treasury for each purpose for which money was raised by district tax the previous year; the amount of revenues received from the common school fund, and the amount received from each of the various other sources from which school revenues are derived; the amount of each kind of revenue remaining in the county treasury and subject to the order of the district; the number of schoolhouses erected during the year, and the cost and material of each; the number, the material,

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the condition and the value of those before erected, and the value of all other property belonging to the district; the condition of the schoolhouse grounds and whether the said grounds are enclosed; also name, age and post-office of deaf, dumb, blind and insane in each district, including all who are blind or deaf to such an extent as not to be educated in common schools; and they shall record the said report in the proper place in the district book in which the current record of the proceedings of the district is kept. (*As amended by Act of April 23, 1901.*)

SEC. 7634. *Penalty for false oath.*—The annual and enumeration reports of the directors of the various school districts of the state of Arkansas shall be good under their official oaths, when signed by them officially; *provided*, that any director or school officer who certifies falsely to any such report shall be guilty of a misdemeanor, and fined in any sum not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00.)

SEC. 7635. *They are liable for neglect of duty.*—If the directors of any district fail or neglect to make a report of the enumeration, statistics and finances of their district at the time and in the manner prescribed in the preceding section, the said directors, in addition to their forfeiture for neglect of duty, shall severally be liable for any damages, including the costs of the suit, that the district may sustain by reason of losing the school revenues that would otherwise have been appropriated to them.

SEC. 7636. *They shall settle with county treasurer.*—They shall, at the close of the school year, settle with the county treasurer, and ascertain what moneys, if any,

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to which their district may be entitled, and the amounts severally thereof that are in the county treasury and subject to be drawn by their district.

SEC. 7637. *They may suspend pupil.*—The directors of any school district may, at the instance of the teacher, suspend from the school any pupil for gross immorality, refractory conduct or insubordination, or for infectious disease. *Provided*, such suspension shall not extend beyond the current term.

Wholesome discipline is absolutely necessary to the success of any school. Any conduct on the part of a pupil that tends to demoralize other pupils and to interfere with the proper and successful management of the school, that is, to impair the discipline which the teacher and the board shall consider necessary for the best interests of the school may subject the offending one to the punishment prescribed by this statute. Being drunk and disorderly in violation of a town ordinance is sufficient cause for the infliction of the punishment. *Douglas v. Campbell*, 89 Ark. 258, 116 S. W. 211.

Bona fide residence in a school district entitles one to school privileges for his children or wards. The fact that the children were not included in the enumeration for the year does not deprive them of this privilege. However, parents are not entitled to school privileges in two or more districts in the same year, when a removal is made solely for this purpose.

The power of suspension rests with the school board, though in extreme cases, the teacher would be justified in dismissing a pupil from the school, pending the action of the board, provided the attention of the board is at once called to the matter.

In cases where suspension of a pupil may be deemed necessary by the board, care should be exercised that neither prejudice nor malice actuate the board in its conduct. The important question to be considered is the good of the school. The acts of the board in all such cases are considered to be without malice or prejudice, and, in order that they may be held responsible for any injury done the pupil by suspension, it will be necessary that the contrary be proved.

In cases of contagious or infectious disease it has been uniformly held that a school board is authorized to deny to a person infected or exposed to the disease the right to school privileges till the danger of such infection or exposure is past. In many states the supreme court has ruled that requiring persons who wish to at-

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tend school to be vaccinated is a reasonable requirement, in case there is danger of a spread of smallpox in a community, and that the board may deny to anyone who refuses to comply with such requirement the right to attend school until the danger is past.

Absence and tardiness are the bane of many schools, and rules exacting reasonable excuses from the parent or guardian of children who are guilty of this fault are just and proper. A failure of a parent or guardian to comply with such rule may subject the child to suspension.

The right to administer corporal punishment is not denied to the teacher under our law, though the drift of sentiment among educators is away from such method of discipline. If, in the judgment of the teacher, the rod must be used, the offense, the condition and temperament of the child, the extent of the punishment—all should be considered in advance. In the Illinois school laws and decisions the following excellent summary of the subject may be found:

"The opinions of the highest judicial tribunals and eminent jurists concur in respect to the propriety and necessity of granting school teachers the authority to inflict corporal punishment in certain cases, and of protection to them in the prudent and reasonable exercises of such authority either to promote the welfare of the child or of the whole school. Teachers are, however, held to a just accountability for the abuse of the power conferred."

The teacher's jurisdiction over the pupil, as expressed by various supreme courts is, that this control covers the time from the leaving home on the part of the pupil, until his return thereto. It has also been held that the teacher may take the pupil to task for any misconduct committed at any time or place, the result of which may prove subversive of the authority of the teacher or directly detrimental to the best interests of the school.

Directors, not teachers, give holidays.

It should be borne in mind the rule-making power rests with the school board. The members of the board are selected from the community and are supposed to represent the best type of citizenship of the community. In their hands is placed the control of the schools of the district, and to their judgment the welfare of the same is entrusted. The rules by them made for the government of the school are taken to be reasonable and equitable, and will be so held by the courts, unless the contrary is shown. Pupils are expected to abide by these rules, and the fact that a pupil is enrolled in the school is taken as a tacit agreement on his part to be obedient to them. Insubordination constitutes a just cause for the suspension of any pupil.

SEC. 7638. *Older persons may attend.*—They may

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permit older persons to attend the school under such regulations as they may deem proper.

It has also been held that the directors, unless there be instruction to the contrary from the electors in the annual school meeting, may admit non-resident pupils to the privileges of the school. If this be done the rate of tuition should not be less than the per capita paid for the education of the children resident in the district. Directors should in no case allow the admission of non-resident pupils to the disadvantage of the pupils who are entitled to school privileges by reason of residence in the district.

SEC. 7639. *County court may transfer.*—The county court shall have power, upon the petition of any person residing in any particular school district, to transfer the children or wards of such person, for educational purposes, to an adjoining district in the same county, or to an adjoining district in an adjoining county; *provided*, said petitioner shall state under oath that the transfer is for school purposes alone. *Provided further*, where a number of colored children or wards, not exceeding ten, reside in a particular school district, the county court shall have power, upon petition of any person to transfer said colored children or wards of such person to an adjoining district in the same county, or an adjoining district in an adjoining county; and, also, where a number of white children or wards, not exceeding ten, reside in a particular school district, the county court shall have power upon the petition of any person, to transfer said white children or wards of such person to an adjoining district in the same county or an adjoining district in an adjoining county; and said transfers under the last named proviso shall not destroy the legality of such school district, although the number of children be reduced to a number less than thirty-five persons of scholastic age; and said petitioner shall at once notify the county examiner of the county or counties and the

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directors of both districts. (Act April 3, 1891. See Sec. 7543.)

A petition for the transfer of children from one school district to another must state facts sufficient upon which an order of transfer may be made. The petition must show that the petitioner has children. A joint petition may be filed, but it should show that each of the petitioners has children, and unless it does, it is open to demurrer. Norton v. Lakeside Special School District, 97 Ark. 71, 133 S. W. 184.

An order made under this statute does not have the effect of transferring the land owned by the party from one district to the other. School District No. 4 v. School District No. 84, 93 Ark. 112, 124 S. W. 238.

SEC. 7640. *Transferred children—included where.*
—The directors of the district to which such children have been transferred at the time of taking the enumeration shall include such children in the district to which they have been transferred, and they shall not be enumerated in the district where they reside. The district school tax of such person shall be added to the school revenues of the district to which he has been transferred and shall not be included in the school revenues of the district where he resides.

An elector, who has transferred to a district for school purposes and has all other qualifications necessary for a director, may hold the office of director.

Transfers can be made only into adjoining districts.

Transfers are authorized for the benefit of better school facilities, and a person having no children cannot transfer. Property without children cannot be transferred.

Application for transfer must be made by the person whose children or wards are to be affected by the same.

If A transfers his taxes to an adjoining district for school purposes, and afterwards moves away, the right of transfer does not hold for the person who may move on the property formerly occupied by A.

The transfer ceases when the parent or guardian no longer has children or wards of school age.

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Children over twenty-one years of age, or who may attain that age after a transfer has been made by their parents, have no school rights under such transfer.

A transfer must be made in the name of the parent or guardian of the children for whose benefit the transfer is made, and does not affect the children or wards of renters on the land of the party transferring.

Parents are not transferred into other school districts, but their taxes, both personal and real, may be, and this entitles the children or wards of such persons to school privileges in the district to which transfer is made.

SEC. 7641. *Transferred persons—Powers.*—Any person who transfers his child, children or wards and property to any district for educational purposes, shall have the same right to vote in said district for directors and tax as other electors have of the district to which he is transferred. Where such person is transferred to a district out of his county, the county treasurer of the county wherein he resides, shall open an account with the district to which he is transferred, and his school taxes shall be credited to the same and paid on the warrants of the directors of the district to which he is transferred. *Provided*, any person transferring his property and children to an adjoining district for educational purposes shall have the right, after having been transferred, or residing therein for thirty days previous to said election, and within the state for one year and in the county six months, and who has paid his poll tax, to vote in said school district, and in no other for directors or tax at said school elections.

SEC. 7642. *Same—Transfers to another county.*—Whenever any person or persons transfer from one school district to another school district across a county line, it shall be the duty of the directors of said district to which said person or persons have transferred, to

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allow all qualified electors that have transferred across the county line to vote in said school election the same as if he lived in the same county; and when a tax is levied, the directors shall notify the county judge in the county where said transfers live, the amount of taxes levied and the names of all taxpayers who have transferred into said district across the county line, and the county judge shall cause the levy to be made. It shall be the duty of the collector of taxes to collect the school tax from said person or persons who have transferred and to turn it over to the treasurer of his county and the treasurer shall notify the directors of the school district where said transfer was made, the amount of taxes in his hands to their credit, and said directors shall draw their warrant on said treasury for the same, and he shall pay said warrant to the amount of all in the treasury to their credit in the same manner as if the said directors lived in his county. Any officer willfully violating any of the provisions of this act shall be fined in any sum not to exceed twenty-five dollars (\$25.00.)

SEC. 7643. *They may permit private school.*—The directors may permit a private school to be taught in the district schoolhouse during such time as the said house is not occupied by a public school, unless they be otherwise directed by a majority of the legal voters of the district.

SEC. 7644. *Examination and institute*—*School shall close.*—The directors shall cause the public schools in their districts to be closed on the days appointed for public examination of teachers in their county, and also cause the said school to be closed during the session of the teachers' institute. *Provided*, said school shall not be closed for a greater length of time than five days dur-

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ing any one session of not more than five months. (*Act March 27, 1885.*)

By Act XXVII, approved March 5, 1895, so much of this section as relates to public examinations is repealed. Teachers are not now required to attend examinations unless they desire to obtain license to teach. No examination and institute can be held at the same time. Teachers are required to attend one institute annually, and cannot be charged for loss of time while attending. See Secs. 7652 and 7653.

SEC. 7645. *Directors and examiners exempt from road duty.*—Directors and county examiners shall be exempt from working on roads and highways. (*Act December 7, 1875, Secs. 77-79, as amended by Act March 23, 1891.*)

SEC. 7646. *Penalty for not reporting tax levy.*—Any director or other person whose duty it may become to report to the county court the per cent of tax levied by any school district at an annual meeting, and who shall neglect or refuse to do so in the manner and at the time provided by law, shall be liable for all loss which may be sustained by such failure and for all costs, and shall be fined not less than ten nor more than fifty dollars.

SEC. 7647. *Shall furnish county clerk with list of property.*—Within fifteen days after any special tax shall be voted by a school district at an annual meeting, it shall be the duty of the directors to furnish the county clerk with a certified list of all persons owning property in the district to pay such special tax.

SEC. 7648. *Penalty for neglect of duty.*—Any person whose duty it is to execute Sections 7621, 7647, 7664, and who shall fail to do so, shall be fined not less than ten nor more than fifty dollars, and the same shall

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be paid into the county treasury. (*Act March 11, 1881, Secs. 1, 3, and 9.*)

TEACHERS.

SEC. 7649. *Teachers must be licensed.*—Any person who shall teach in a common school in this state, without a certificate of his qualification and his license to teach, shall not be entitled to receive for such services any compensation from revenues raised by tax or in any wise appropriated for the support of common schools; *provided*, if his license expires by limitation during any school, such expiration shall not have the effect to interrupt his school, or to debar his claim against school revenues for the payment of teachers' wages.

The right to teach is based upon an approved examination. Every teacher must hold a certificate in order to receive school revenue for his services. This includes all assistants. The assistant is a teacher and can only receive compensation lawfully through the directors. No principal can draw a lump salary from the school revenues to pay for either licensed or unlicensed assistants. Each teacher must have a separate contract and draw his separate compensation. The treasurer is warranted in demanding the license and the contract before paying any warrant; and if such contract discloses the fact that the warrant is drawn to cover the salary of an unlicensed teacher, it should not be paid. See Sections 7628, 7627 and 7615.

The teacher must have a living license on the day he begins the actual work of teaching. Having begun his school lawfully he may finish it, although his license expires before the end of his term, but if a vacation occur, the teacher must secure a license before resuming the school; neither is a teacher authorized to teach a school on a license that expires a few days after his school is begun.

If directors employ a teacher who has not a certificate, as required by law, and the treasurer knows the fact, even if the directors issue a warrant, the treasurer should not pay it.

If a teacher teaches for awhile without a certificate and then gets one, the directors cannot pay for the time taught without a certificate. Neither can they pay him indirectly for such time by hiring him over at an advance in salary sufficient to make up for

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the time taught before he got a certificate. Public officers must not do indirectly what the law forbids them to do directly.

The number of hours for keeping a school open is not fixed by the law, but is a matter of contract between directors and teachers. The number of hours usually includes the time given for recesses and excludes the noon intermission.

All assistant teachers, substitute teachers, special teachers of writing, etc., included, in the public schools, must have certificates of qualification from the county examiner—there is no exception to the emphatic requirements of the law in respect to certificates.

This opinion is grounded upon the plain object of the legislature in requiring teachers to possess certificates; which can be none other than to secure the employment of teachers of approved character and ability—a consideration of quite as much moment in the case of assistant teachers as any other.

It is held that the superintendent of city and village schools belongs to the teaching force, and should, therefore, have a certificate of qualification in order that he may draw his pay.

When the directors persist, in violation of law, in retaining a teacher who does not hold a certificate, any taxpayer or patron of the school would be entitled to an injunction to restrain the teacher or board from continuing the school.

SEC. 7649-a.—*Graduates of Normal Department of University of Arkansas to be licensed to teach.*—1. That the diplomas from teachers training department of the University of Arkansas shall be equivalent to a teacher's professional license, which shall entitle the holder thereof to teach in any public school of the State of Arkansas for a period of six years from and after the date of issue, and after the expiration of that time said diploma may be converted into a life certificate; *provided*, the work done by the holder thereof and his or her moral character meet with the approval of the State Superintendent of Public Instruction.

REPEALING CLAUSE: That all laws in conflict herewith are hereby repealed, and this act shall be in force from and after its passage.

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SEC. 7650. *He shall keep register.*—Every teacher shall keep a daily register of his school in the manner prescribed by law, and indicated by the blank school register to be furnished by the directors at the commencement of the school.

Directors cannot make the reports required by law without the information contained in this register, and they should exact rigidly a compliance with the requirements of this section. No teacher should be given a warrant for his last month's salary until this register is completed for the term.

SEC. 7651. *Record.*—*Contains what.*—It shall be the duty of each teacher to leave in his school register a complete record of the various grades in his school, indicating the amount of work done by each student during the session and the position of each student at the close of the school term.

SEC. 7652. *Teachers desiring to be examined.*—It shall be the duty of only such teachers as desire to be examined for license to teach in the public schools in any county to attend any public examination for teachers of said county.

SEC. 7653. *Shall attend one institute annually.*—It shall be the duty of all the teachers of the public schools to attend one institute annually, which shall be held by the county examiner, after having given twenty days' notice of the time and place of the institute in the same manner as is now required by law for quarterly examinations. No institute and quarterly examination shall be held at the same time. No teacher when attending a quarterly examination, or an institute, shall be charged for loss of time while necessarily absent from his school to attend such examination or institute. (*Act March 5, 1895.*)

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The law requires each examiner to hold at least one institute annually. Teachers are expected to attend the same. Due notice should be given them of the institute, and, in case they fail to attend, it is within the power of the examiner to revoke their license, provided opportunity is given the teachers to appear before the examiner and show cause why they did not attend. Reasonable excuses should of course have their weight with the examiner, though he is to be the judge of their reasonableness; and, if he act in good faith in the revocation of a license, he will not be held liable under the law for any damage that may result in consequence of such revocation.

SEC. 7654. *Shall not permit sectarian books.*—No teacher employed in any of the common schools shall permit sectarian books to be used as a reading or textbook in the school under his care.

SEC. 7655. *Teacher's claim not superseded.*—Any teacher who shall have complied with the provisions of this act shall be paid from the first money received into the county treasury to the credit of the district; and his claim shall not be superseded by any subsequent claim; and no money in the county treasury belonging to any district shall, so long as there is any such claim filed against the said district, be applied to any purposes whatever other than the payment of teachers' wages. (Act December 7, 1875, 1875, Secs. 80-84. See Sec. 7661.)

SEC. 7656. *Penalty for failure to file Register.*—No teacher shall be entitled to the last month's pay for any school taught by him until he shall have returned to the directors of the district in which such school was taught the daily register furnished him, with all statistical work which teachers are by law required to perform, perfected and complete, and no director shall otherwise issue an order for such last month's pay. (Act March 11, 1881, Sec. 4.)

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TRESPASS ON SCHOOLHOUSES, ETC.

SEC. 7657. *Penalty for destruction of property.*—Any person who shall wilfully destroy or injure any building used as a school house, or for other educational purposes, or any furniture, fixtures or apparatus thereto belonging, or who shall deface, mar or disfigure any such building, or who shall deface, mar or disfigure any such building, furniture or fixtures, by writing, cutting, painting or pasting thereon any likeness, figure, words or device, without the consent of the teacher or other person having control of such house, furniture or fixtures, shall be fined in a sum double the value of any such building, furniture, fixtures or apparatus so destroyed, and shall be fined in a sum not less than ten nor more than fifty dollars for each offense for writing, painting, cutting or pasting in any such building, furniture or fixtures any such words, figures, likeness or device, to be recovered by civil action in any court of competent jurisdiction; and the punishment provided in this section is in addition to and not in lieu of, the punishment provided by the statutes for such offenses. (*Act December 7, 1875, Sec. 86.*)

SEC. 1923. *Penalty to deface.*—To cut, write upon, deface, disfigure or damage any part or appurtenance or the inclosure of the statehouse, or any other building belonging to the state, or any church or schoolhouse, or other public building, or to any citizen of this state, when not occupied, shall be a misdemeanor punishable by a fine not exceeding one hundred dollars.

DISTURBANCE OF SCHOOL.

SEC. 1653. *Penalty for disturbance.*—If any parent, guardian or other person, from any cause, fancied

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or real, visit any school and insult any teacher in the presence of his pupils, the person offending by such conduct shall be liable to a fine of twenty-five dollars. (*Act December 7, 1875, Sec. 85.*)

SEC. 1927. *Penalty for trespass.*—Any person or persons who shall, by any boisterous or other noisy conduct, disturb or annoy any public or private school in this state, or any person not a student who, after being duly notified to keep off the school grounds during the school hours by the board of directors or the superintendent or principal teacher in charge of any such school, shall continue to trespass or go upon said grounds, whether at recess or during the sessions of said school, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars. (*Act February 16, 1893, Sec. 2.*)

SCHOOL WARRANTS—DISBURSEMENTS OF FUNDS, ETC.

SEC. 7658. *Certain officers prohibited from owning school warrants.*—It shall be unlawful for county collectors and treasurers to purchase or otherwise be the owners of or interested, directly or indirectly, in any school warrant issued by any school director of the county in which they reside.

SEC. 7659. *School tax payable by warrant.*—The district school tax in each county may be payable and receivable in the warrants drawn by the directors of the school district in which a school tax may be levied by the county court.

SEC. 7660. *County treasurer shall keep register.*—It shall be the duty of the county treasurer of each coun-

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ty to keep in his office a suitable and well-bound book, in which he shall register by number and in the order of presentation all district school warrants that may be presented to him; this registration to be made before the warrant is paid, and it shall show the date of presentation of the warrant, by whom drawn, on what district, and in whose favor, and for what purpose drawn, the amount and date of warrant, date of payment, and to whom paid; and said book shall at all times be subject to the inspection of any taxpayer.

SEC. 7661. *Treasurer shall give notice of funds.*—It shall be the duty of the county treasurers, immediately upon the receipt by them of any school funds, to give notice of the amount and kind of funds received, and from what source received, by written or printed notices put up in two public places in each and every school district, and at the court house door, and the funds so received shall be paid out on the warrants registered in accordance with the provisions of the preceding section. (As amended by act of April 17, 1899. See Sec. 7552.)

SEC. 7662. *Penalty for failure to comply.*—Any officer failing to comply with the requirements of this act, for each and every offense, shall be subject to indictment, and, if found guilty, shall be punished by a fine of not less than five hundred dollars and by confinement in the penitentiary of the state for a period not less than three nor more than twelve months.

SEC. 7663. *Director.*—*Penalty for fraud.*—Any director who shall fraudulently issue any school warrant shall be guilty of a misdemeanor, and, upon conviction, shall be subject to the penalties enumerated in the preceding section. (Act May 27, 1874.)

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SEC. 7664. *Treasurer's report.*—*Contains what.*—The county treasurer shall, on or before the tenth day of August each year, forward to the superintendent of public instruction a certified statement showing the amount, in kind, of public school funds received by him; from what sources they were received; how and for what purposes they have been disbursed, and what amount, in kind, remains in the treasury. See Sec. 7648.

SEC. 7665. *Warrants.*—*Time for presentation.*—The order of any board of directors, properly drawn after the passage of this act shall be presented to the treasurer of the proper county within sixty days after it was drawn by the said board of directors. All such orders shall be paid in the order of their presentation; *provided*, that this act shall not apply to warrants issued prior to May 1, 1889. *As amended by act of April 17, 1899.*°

SEC. 7666. *Warrants shall be paid in order.*—If there are no funds with which to pay such order the treasurer shall indorse the same: "Not paid for want of funds," giving the date and signing his name officially. He shall number and record each warrant in the book provided for such purpose, keeping a separate record for each district, and shall pay said warrants in the order of their number. (*Act March 21, 1885, Sec. 2.*)

The treasurer is empowered to pay only the amount of the face of the warrant; there is no authority given him to pay interest thereon. *A. H. Andrews & Co. v. Delight Special School District*, 95 Ark. 26, 128 S. W. 362.

SEC. 3509. *Treasurer's commission.*—He (the county treasurer) shall be allowed, as commissions on the aggregate amount of all the school funds of the coun-

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ty coming into his hands in any one year, the rate of two per cent. and no more; *provided*, that if any county treasurer shall have taken commissions from any particular school fund, the same fund shall not be subject to commissions in the hands of his successor in office. (*As amended by act of March 12, 1895.*)

VIOLATION OF SCHOOL LAWS—DUTY OF PROSECUTING ATTORNEYS.

SEC. 7667. *He shall bring offender to trial.*—The prosecuting attorney of each judicial district shall, upon being satisfied that any violation of the school laws of this state has been committed by any officer or person, in any county of his district, which renders such officer or person so offending liable to any fine, pain, penalty or forfeiture for damage, without delay, institute in any court of competent jurisdiction such proceedings as are necessary to bring such offender to trial, and secure to the county, school district, or person so damaged by such violation, the benefits and reliefs to which each or any of them may be entitled; and for such services the prosecuting attorney shall be allowed the same compensation as he is allowed in cases of misdemeanor, which shall be assessed against such offender as cost. (*Act March 11, 1881, Sec. 10.*)

SPECIAL ACT FOR THE REGULATION OF PUBLIC SCHOOLS IN CITIES AND TOWNS.

SEC. 7668. *Cities and towns may be special districts.*—Any incorporated city or town in this state, including the territory annexed thereto for school purposes, may be organized into and established as a single school district in the manner and with the powers hereinafter specified; *provided*, all school districts which are

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already organized and all hereafter organized under this Act, shall include all the territory of the city or town, and when the limits of the city or town are extended so as to include territory not before within the school district, all of said new territory into the city or town become a part of special district of said city or town. (Act May 31, 1909.)

In the case of *Beavers vs. State*, 60 Ark., 124, it is held that the territory, which was included with the incorporated city or town, in a common school district prior to its formation into a single school district, is not by the act or organization included therein and can only be so included by annexation as provided for in Section 7695.

SEC. 7669. *Voters may petition for election.*—Upon the written petition of twenty voters of such city or town, praying that the sense of the legal voters of said city or town may be taken on the adoption of this act for the regulation and government of the public schools therein, it shall be the duty of the mayor of such city or town, within five days after the presentation of such petition, to designate and fix a day, not less than seven nor more than fifteen days distant, for holding an election in said city or town for that purpose and also for the election by ballot, at the same time, of a board of six school directors for said city or town.

SEC. 7670. *Mayor shall give notice of election.*—The mayor shall cause notice of said election to be given by posting notices in at least five public places in said city or town, and by one insertion in such newspapers as may be published in said city or town. The electors at said election desiring to vote in favor of the adoption of this act shall have written or printed on their ballots, "For the school law," and those opposed thereto shall have written or printed on their ballots, "Against the

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school law"; and if a majority of the ballots cast at said election shall be "For school law", then, and in that case only, shall such city or town be deemed and held to be a single school district under and in pursuance of this act, and the directors voted for and elected at said election shall qualify and enter upon the discharge of their duties as hereinafter provided. (*Ib.*, part Sec. 2.)

The preceding sections are to determine whether the special act for the regulation of public schools in cities and towns shall be adopted. They are preliminary to organization. They require the following *modus operandi*:

1. A written petition of twenty voters asking that the sense of the legal voters be taken on the adoption of the act.
2. The mayor must fix within five days from the presentation of said petition a day for said election.
3. Said election shall not be less than seven nor more than fifteen days from the date of the proclamation.
4. Said election shall also determine by ballot a board of six directors.
5. The mayor must promulgate the election notices by posting and printing should there be a paper.
6. The electors must vote by ballot and as prescribed.
7. A majority of all the votes cast are necessary to make said city or town a single school district.

SEC. 7671. *Election—How held.*—On the third Saturday in May, 1893, and annually thereafter, an election shall be held at the usual voting place in each ward of all incorporated towns and cities heretofore organized into single or special school districts, for the election of two directors, who shall serve for three years, and until their successors are elected and qualified. The ballot of the voter, in addition to the names of the persons voted for as directors, shall have written or printed on it the words "for tax", "against tax", and the rate the voter desires levied; *provided*, in incorporated towns and cities

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of the second class, the election may be held at one or more of the voting places therein, and not in each ward, if the board of directors shall so direct by notice posted in three public places in said city or town ten days before the election designating the place or places at which said election shall be held.

S53. 7672. *Directors shall give notice of election.*—When any special school district has been organized as provided by law, the board of directors shall give notice of each annual election at least fifteen days previous to such election, by posting notices in at least five public places in said district.

SEC. 7673. *Who shall hold election.*—Said election shall be held by the judges appointed to hold the municipal elections in said city or town next preceding the said election, for the ward or wards in which such school election may be held. The judges at each voting place shall appoint two clerks, and each judge and clerk shall take the oath required by law, and shall receive for their services the sum of one dollar each, to be paid out of the school fund of the district on the order of the board of directors.

SEC. 7674. *Polls—When open.*—The judges shall cause the polls to be opened at nine o'clock and closed at sunset.

SEC. 7675. *When voters may select judges.*—If any of the regular judges shall fail to appear by ten o'clock, the assembled voters, not less than ten in number, shall select other judges in their places.

SEC. 7676. *Where voters may vote.*—If the election

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shall be held in all the wards of the city or town, each voter shall vote in the ward where he resides. *Provided*, voters residing in any part of the district not embraced in any ward may vote at any place they may deem most convenient.

SEC. 7677. *Returns of election made to clerk.*—The returns of said election shall be made to the county clerk, who shall forthwith deliver a certificate of election to each of the persons elected directors.

SEC. 7678. *Clerk shall certify result to county court.*—He shall also declare the result of the votes for and against tax, and certify the same to the county court on the first day of the term fixed by law for levying county taxes; and the rate of taxes so certified shall be levied by the court as other school taxes.

SEC. 7679. *Directors shall take oath—when.*—Each person elected director shall take the oath of office within five days after receiving a certificate of election, which shall be filed with the county clerk, and thereafter during his term of office no further oath nor affidavit shall be required of him in the discharge of his official duties.

SEC. 7680. *Chapter 57 does not apply.*—The provisions of chapter 57 shall have no application to the elections herein provided for. (Act April 10, 1893, Secs. 1-7.)

Chapter LVII, referred to in above section, is that providing for general elections (Kirby's Digest).

SEC. 7681. *Board to organize—how.*—The board of directors shall organize by choosing from their own

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number a president, who shall hold his office until the last Saturday in May, and the said board shall at the same time choose a secretary who may also be clerk of the board, and said secretary may be chosen from persons other than members of the board, and he shall hold his office until the last Saturday in May, and annually on that day the said board shall meet and elect a president and secretary in the same manner as provided above. (*Act March 24, 1911.*)

SEC. 7682. *School board may fill vacancy.*—If the office of director in any special school district shall become vacant, the remaining directors of said district shall elect a director to fill such vacancy, who shall serve until the next annual election for school directors, at which time all vacancies shall be filed by the electors for the unexpired term. (*For Newton and Sevier counties see Act 458, Acts 1911.*)

SEC. 7683. *Board shall meet—When.*—Said board of directors shall hold a regular meeting on the last Saturday in each month, and may hold stated meetings at such other times and places in said district as they may appoint; four members of said board shall constitute a quorum, but a less number may adjourn from time to time; special meetings thereof may be called by the president, or by any two members of the board, on giving one day's notice of the time and place of the same, and, in case of the absence of the president at any meeting of the board, a president *pro tempore* shall be chosen. The office of any member of said board, as such, who shall, without good cause, fail to attend three consecutive monthly or stated meetings of said board, may be declared vacant by the board. The board may make rules and regulations for their own government.

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and for the dispatch and regulation of the school business and the affairs of the district, not inconsistent with law. (*Act February 4, 1869, Sec. 4.*)

SEC. 7684. *Powers of board.*—Said board of directors shall have power to purchase or lease schoolhouse sites, to build, hire or purchase schoolhouses, and to keep in repair and furnish the same with the necessary seats, desks, furniture, fixtures and fuel, and to insure the same; to fence the school grounds, erect out-houses, provide wells and make all other improvements on the schoolhouse grounds and schoolhouses belonging to said district necessary and proper for the comfort, convenience and health of the scholars, and the preservation of said property; to hire teachers for all public schools of the district, employ a superintendent of schools, who may also be principal of any graded or high school that said board may establish; to provide books and apparatus for the schools, and the necessary blank books and stationery for the board, and school registers and the blanks for the teachers; to establish and maintain a sufficient number of primary, graded or high schools to accommodate all the scholars in said district; to determine the branches to be taught and the text-books to be used in the several schools of the district; to admit pupils not belonging to the district on such terms as they may agree upon with the parents, or guardians of said pupils, or the district from whence they came; to appoint a board of three visitors and examiners for the schools of the district, which board shall examine persons applying to teach in any of the schools of said district; *provided*, no teacher shall be employed who does not hold a certificate from the state superintendent or county examiner; to examine, from time to time, the books and the accounts of the county treas-

urer, so far as the same relate to the several school funds belonging to the district; and when, in the opinion of a majority of the members of said board, the best interest of the district demand a sale or exchange of any real estate or school house site belonging to the the district, they may sell or exchange the same, the deed therefor to be executed by the president of the board upon a majority vote of the whole board of directors authorizing and directing such sale or exchange. *Ib.*, Sec. 5.

This section does not authorize the directors to substitute their examination for that of the examiner. The examiner's rights are superior to those of the directors. He should examine under his oath, and license or refuse to license as his judgment decides, and is not accountable to any board of directors. Nor should he hold his examination in connection with the examination of the board. His work should be entirely separate from their work. They have the right to examine, but not to interfere in any particular with the examiner's work.

REMOVAL OF A TEACHER FOR INCOMPETENCY.

Under Sections 7684 and 7685, which enjoin the board of school directors to hire suitable teachers; to enforce all necessary rules for the government of teachers and pupils; and to visit the schools and observe the discipline and progress of the pupils, the board has the power to remove a teacher for incompetency and for immorality; and the fact that the teacher has been duly licensed by the county examiner, and that the latter has failed to revoke the license as he is empowered to do by Section 7573, is not conclusive to the board as to competency or morality of the teacher. The fact that the board has tolerated the teacher's misconduct and inefficiency for a time does not operate as a waiver of its rights to discharge him therefor, as the teacher's undertaking to perform his duty in a moral and skillful manner is assumed for the benefit of the school, its pupils and patrons, and not for the benefit of the board. *School District of Fort Smith v. Maury*, 53 Ark., 471.

SEC. 7685. *Board shall establish schools.*—It shall be the duty of said board, as soon as the means for that purpose can be provided, to establish in said district an

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adequate number of primary schools, so located as best to accommodate the inhabitants thereof; and it shall be the further duty of said board to establish in said district a suitable number of other schools of a higher grade or grades, wherein instruction shall be given in such studies as may not be provided for in the primary schools; the number of schools, the grades thereof, and the branches to be taught in each and all of said schools to be determined by said board. It shall be the duty of said board to keep said schools in operation not less than three nor more than ten months in each year. The said board shall have power to make and enforce all necessary rules and regulations for the government of teachers and pupils in said schools. Said board shall also, separately or collectively, together with such persons as they may appoint or invite, visit the schools in the district at least twice in each year, and observe the discipline, mode of teaching, progress of the pupils, and see that the teachers keep a correct register of the pupils, embracing the periods of time during which they attend school, the branches taught, and such other matters as may be required by law or by the instructions of the state superintendent. (*Ib.*, *Sec. 6.*)

SEC. 7686. *Board shall order warrants drawn.*—No draft or warrant shall be drawn on the county treasurer, except in pursuance of an order of said board; all drafts or warrants on the treasurer shall be signed by the president, or president *pro tempore*, and the secretary, and shall specify the fund on which they are drawn and the use for which the money is assigned. (*Ib.*, *Sec. 8.*)

SEC. 7687. *Secretary—Duties of.*—The secretary shall record all the proceedings of the board in books

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kept for that purpose; shall make and preserve copies of all reports required by law to be made to the state superintendent of public instruction or county examiner; shall file all papers transmitted to him pertaining to the business of the district; shall make, or cause to be made, the annual enumeration of the youth of the district in the time and manner required by law of school directors, and shall perform such other duties as the board of directors may order and direct; and for his services may be allowed reasonable compensation, to be audited and allowed by a majority of said board. The other members of said board shall receive no compensation for their services. (*Ib.*, *Sec. 9*).

SEC. 7688. *Board shall control real property.*—The title of all real estate and other property belonging, for school purposes, to any city or town organized into a separate school district under this act, shall vest, and hereby is vested, in said city or town, as a school district and shall be under the management and control of the board of school directors for said district as fully and completely as other school property belonging to said district. (*Ib.*, *Sec. 10*.)

SEC. 7689. *District shall be known by name of city.*—All school districts formed under and governed by this act shall be known by the name of the city or town constituting the district, with the words "School District of prefixed thereto (as, for example, "School District of Little Rock"); and by such name, may sue and be sued, contract and be contracted with, purchase, acquire, hold and sell property, receive gifts, grants and bequests, and generally shall possess and enjoy all the corporate powers usually possessed by bodies corporate of like character. The style of the board of directors for school dis-

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tricts under this act shall be "Board of School Directors."
(*Ib.*, Sec. 11.)

SEC. 7690. *Board shall pay all debts.*—The board of school directors of any district organized under this act shall pay and discharge all debts and liabilities lawfully incurred by the several school districts existing under previous law and embraced in the district organized under this act. (*Ib.*, Sec. 12.)

SEC. 7691. *Penalty for failure to qualify.*—Any person elected a director under the provisions of this act who shall fail to take the oath of office and qualify as herein required, or who, after qualifying as such director, shall fail to perform and discharge the official duties incumbent upon him as a director, shall be liable to the same penalties that now are or may be hereafter provided by law against directors of school districts for failing or refusing to qualify, or for neglect of official duty. (*Ib.*, Sec. 13.)

SEC. 7692. *May appoint and fix term of examiners.*—The board of directors may fix the term of office and define the duties of the board of visitors and examiners of the public schools in their district, and any person appointed by the board of directors a member of said board of visitors and examiners who shall refuse to act as such, and discharge the duties pertaining to such position, shall forfeit and pay to said district the sum of twenty-five dollars, to be recovered in civil action in the name of said district, and added to the teachers' fund belonging to said district. *Provided*, no person shall be compelled to serve in that capacity more than three consecutive years. Said board of visitors and examiners

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shall receive no compensation for their services. (*Ib.*, Sec. 14.)

SEC. 7693. *Special districts shall have share of general fund.*—All school districts organized under this act shall have and receive their full proportion and distributive share of the general school fund of the state, in the same manner and according to the same rule as it is or may be apportioned to other districts. (*Ib.*, Sec. 15.)

SEC. 7694. *Superintendent and examiner may suggest.*—It shall be the duty of the state superintendent and county examiners to make such suggestions and recommendations to the board of directors in relation to organizing and conducting the public schools in the districts organized under this act as they shall deem important.

SEC. 7695. *General school law shall apply.*—The provisions of the general school laws of the state which are now or may hereafter be in force, when not inapplicable, and so far as the same are not inconsistent with and repugnant to the provisions of this act, shall apply to districts organized under this act; and such provisions of said laws as are inconsistent with and repugnant to the provisions of this act and inapplicable to districts organized thereunder, shall have no operation, force or effect in such districts. The county court shall annex contiguous territory to single school districts under the provisions of this act, when a majority of the legal voters of said territory and the board of directors of said single district shall ask, by petition, that the same shall be done. (*Ib.*, Secs. 16 and 17.)

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SEC. 7695-a.—*Electors may organize any given territory into special school districts.* 1. That when the people of any given territory in any county in this state, other than incorporated cities and towns, desire to avail themselves of the benefits of all laws of this state, for the regulation of public schools in incorporated cities or towns, they may be organized into and established as a single school district in the manner and with powers therein provided, with such modifications of said laws as are herein provided. (Acts 1909, Act 321. Approved May 31, 1909.) (Amended by Act 169, Acts of 1911. See Secs. 7519-a et seq.)

SEC. 7695-b.—*Petitions to be accompanied by maps showing territory affected.* 2. That the petitions provided for in Section 7669 of Kirby's Digest of the laws of Arkansas shall be accompanied by a map showing the territory asked to be made into the special district and shall be presented to the county judge of the county containing such territory, who shall perform the duties imposed upon the mayor of cities and towns in said original Act, and with like force and effect and said county judge shall designate the time and place for holding the election provided for therein, and shall appoint three qualified electors of the proposed territory to hold said election.

SEC. 7695-c.—*Districts to have power to borrow money.* 3. That all school districts created under this Act shall have the power to borrow money as any other special or single district, in cities or incorporated towns, when a majority of the legal electors vote for the same, at any annual school meeting.

REPEALING CLAUSE: All laws and parts of laws in

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conflict with this Act are hereby repealed and this Act be in force and effect from and after its passage.

RURAL SPECIAL SCHOOL DISTRICT—Organization of.—Under the authority of Acts 1909, c. 321, any given territory in any given county, outside of incorporated cities and towns and the territory annexed thereto for school purposes, may be organized into a rural special school district, except territory already included within a special school district. *Bonner v. Snipes*, 103, Ark., 298.

SAME.—Petition—Residence of petitioners.—Where a petition is presented to the court to establish a rural special school district, out of territory composed of several common school districts, under Acts 1909, c. 321; it is immaterial where the petitioners reside, provided they reside within the territory affected. (*Ibid.*)

SAME.—When rural special school districts created.—A rural special school district is created under Acts 1909, c. 321, whenever a majority of the qualified electors within the territory named in the petition vote for its establishment. (*Ibid.*)

SAME.—How rural special school district created.—No official canvass of votes upon the question of establishing a rural special school district is provided by Acts 1909, c. 321, nor is it necessary that the county court shall make or enter of record any orders as to such special election or relative to the establishment of such district. (*Ibid.*)

SAME.—Establishment.—Where a majority of the voters within certain territory voted to form a rural special school district, under Acts 1909, c. 321, it was not within the province of the county court to limit the purpose for which the district was formed by stating that certain schools for colored children should remain as heretofore, nor can it affect the validity of the organization or establishment of the district that the petition praying for its formation, stated that such schools should be maintained as before. (*Ibid.*)

SAME.—Creation of new district—Diversion of funds.—Where several common school districts are combined into one rural special school district, the school taxes previously levied and collected by such common school districts and turned over to the new district are not wrongfully diverted within Art. 14, Sec. 2, of the constitution, since all the money so collected will be expended for the benefit of the inhabitants of such district. *Bonner v. Snipes*, 103 Ark., 298.

SCHOOLS.—Formation of rural special school district.—Territory once organized and established into a rural special school district, under act of May 31, 1909, as amended by act April 7,

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1911, can not be cut off and included within another rural special school district. *Crow v. Special District No. 2*, 102 Ark., 401.

SEC. 7696.—*Special free school districts may borrow money.* 1. All special free school districts in the State of Arkansas are hereby authorized and empowered for the purpose of raising funds for the erection and equipment of necessary school buildings, to borrow money and mortgage the real property of the district as security therefor, under such conditions and regulations as to amount, time and manner of payment as the board of directors of said school district shall prescribe, and renew and extend from time to time, any evidence of indebtedness or mortgage, or both, issued or made by virtue thereof, and to refund such indebtedness and execute new evidences of indebtedness and mortgages therefor. (*Act 25, Approved Feb. 7th, 1913.*)

SEC. 7697. *Notes and warrants valid.*—Said evidence of indebtedness, whether warrants or promissory notes, or both, and mortgages, shall be in form in all respects as other instruments of like kind are required by law to be, and shall have the same force and effect as they would if executed by natural persons, and the warrants shall have the same validity as they would if there were money in the county treasury to pay the same at the time they were drawn, and may be drawn payable in the future and need not be registered with the county treasury until the time for payment, but shall be drawn upon the building fund and paid out of it in the order of their date, as the building fund is provided and collected by successive levy and collection, and said special school districts shall be allowed in law or equity no defense merely by reason of the fact that it is a school district. (*Ibid, Sec. 2.*)

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SEC. 7698. *District shall have rights of natural person.*—Nothing in this act shall be so construed as to prevent or cut off from any such school district any right in law or equity which a natural person might claim and assert in like circumstances; and in any action by or against said district arising on any instrument or contract made under this act, the district shall, as far as practicable, be deemed and treated as natural persons. (*Ib.*, Sec. 3.)

This general act impliedly repealed the special act passed earlier the same session authorizing special school of Fordyce to borrow money to the amount of \$15,000.00. *Hampton v. Hickey*, 88 Ark. 324, 114 S. W. 707.

STATE BOARD OF EDUCATION.

(*State High School Board.*)

SEC. 7699-a (*See Sec. 7484-a*)—*Board created; composed of whom.* 1. A board consisting of the State Superintendent of Public Instruction, the President of the University of Arkansas, and a city superintendent of schools or a high school principal of this State, said superintendent or high school principal to be appointed by the Governor, is hereby established, said board shall be known as the State High School Board, and shall perform any duties hereinafter prescribed until such time as a State Board of Education is created by the Legislature. When said State Board of Education is created the duties hereby conferred upon the State High School Board shall devolve upon said State Board of Education. The city superintendent, or high school principal, constituting the third member of said board as herein provided, shall hold his office for a period of four years and until his successor is appointed and qualified, unless a State Board of Education is created before the expira-

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tion of said four years. When said State Board of Education is created, said State High School Board shall turn over its records and all unexpended funds held by it together with all other property to the State Board of Education. The members of the State High School Board, as provided for herein shall not receive any compensation for their services on said board other than traveling and necessary expenses incident to the performance of their duties in carrying out the terms of this Act. *Provided*, the State Superintendent of Public Instruction shall receive no compensation for any expenses as a member of said board. (*Acts 1911, Act 328. Approved May 30th, 1911.*)

SEC. 7699-b.—*Board to organize.* 2. Said State High School Board (*State Board of Education*) shall organize by electing one of its members chairman and one secretary. It shall adopt such rules and regulations for the conduct of its business as it may deem expedient.

SEC. 7699-c.—*To classify High Schools of State.* 3. It shall be the duty of said State High School Board (*State Board of Education*) to classify the high schools of the State, receiving aid as provided herein, into four year high schools, three year high schools and two year high schools and establish normal training departments in such four year high schools as provided herein.

SEC. 7699-d.—*Board to designate schools in which normal training may be established.* 4. The State High School Board (*State Board of Education*) shall designate the four year high schools in which normal training departments shall be established and shall prescribe the courses of study to be adopted and taught in said schools in connection with the regular high school courses. Said

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board shall determine by proper examination, the qualifications of all teachers employed in said normal departments and approve their selection. The object of said normal department is to instruct teachers in the best methods of organization, teaching and managing the common schools of the State.

SEC. 7699-e.—*To be only one of any such schools in any one county.*—The State High School Board (*State Board of Education*) shall not aid more than one high school in any one county for normal training purposes; shall not designate for normal training purposes any four year high school having fewer than three teachers devoting their entire time to high school instruction, in addition to the normal training teacher. Any school receiving aid from the State High School Board (*State Board of Education*) for the training of teachers, as herein provided shall provide, at its own expense, a professional library for said school to be approved by the State Superintendent of Public Instruction. No student shall be graduated from the normal training department of said school who has not completed the full four years' course prescribed for high schools, including the normal school work. All money received from the State in aid of high schools having a normal training department shall be expended for teaching in the normal training department. *Acts 1911, Act 328. Approved May 30, 1911.*

SEC. 7699-f.—*Graduates to be licensed without further examination.*—The Superintendent of Public Instruction shall issue to graduates of normal training departments, as herein provided, who are of good moral character, a certificate, entitling them without further examination to a license to teach in any of the common schools of this State for a period of two years. After

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twelve months of successful teaching, said certificate may be raised to a full normal training school certificate, without further examination of the holder thereof, which shall entitle him to teach in any of the common schools of the State for a period of six years; *provided*, the holder of said certificate shall pursue the professional course of reading prescribed by the State Superintendent of Public Instruction. Authority is hereby conferred upon said State Superintendent of Public Instruction to revoke for good cause shown, any certificate issued in pursuance of the terms and provisions of this Act. (*Acts 1911, Act 328. Approved May 30, 1911.*)

SEC. 7699-g.—*Who entitled to free tuition.*—All children of any county, in which is located a high school receiving State aid as herein provided, who shall have finished the elementary course of study as prescribed by the State Superintendent of Public Instruction shall, on application, be admitted to said high school free of tuition, as provided herein. (*Acts 1911, Act 328. Approved May 30, 1911.*)

SEC. 7699-h.—*Pupil to furnish elementary certificate.*—Any pupil, whether of the county in which said high school is located, or other county, desiring to avail himself of the provisions of this Act shall present to the principal of said high school a certificate from the principal of the school in which he finished his elementary course, showing that he has completed same. Said certificate shall be approved by the county examiner, or county superintendent of the county from which said pupil comes. Said certificate shall also show that said pupil is of good moral character. If the principal of said high school is not satisfied with the evidence produced as to the qualifications and character of said applicant, he may require

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said applicant to submit to further examination. (Acts 1911, Act 328. Approved May 30, 1911.)

SEC. 7699-i.—*All teachers to be admitted free.*—All teachers of common schools in any county of this State, regardless of their age, in which is located a high school, receiving State aid, as provided herein, shall without charge, be admitted to said schools. Any teacher, desiring to take advantage of this Act, shall present to the principal of said school a certificate from the county examiner, or county superintendent, of the county in which said school is located, showing that he is a teacher in the common schools of the county and entitled to free tuition under this Act. (Acts 1911, Act 328. Approved May 30, 1911.)

SEC. 7699-j.—*Those not entitled to free tuition to pay \$1.50 in advance.*—The tuition of students who are residents of a county having no high school, desiring to attend high school shall be \$1.50 each month in advance. It shall be the duty of the district from which a pupil comes, to pay said tuition out of the common school fund belonging to the district; *provided*, said district is financially able to maintain its common school or schools six months during each year. In the event said district has not sufficient funds to maintain its school or schools six months in the year, then the pupil applying for admission in said high school shall pay the tuition herein specified. (Acts 1911, Act 328. Approved May 30, 1911.)

SEC. 7699-k.—*Tuition how paid.*—It shall be the duty of the school board of any district under obligation to pay the tuition provided for under this Act, having a pupil or pupils attending the high school, to draw its warrant in favor of the school board of said high school at

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tended by said pupil upon receipt of bills from the secretary of the school board of said high schools. (*Acts 1911, Act 328. Approved May 30, 1911.*)

SEC. 7699-l.—*Board to supervise distribution of all funds.*—The State High School Board (*State Board of Education*) shall supervise the distribution of all funds derived in aid of high schools; prescribe rules and regulations governing the distribution of all funds received; require annual reports from all high schools receiving state aid; prepare and publish courses of study for said schools and require general conformance to such courses of study as may be prescribed for said schools and provide for the inspection of said high schools. Authority is hereby conferred upon the State High School Board (*State Board of Education*) in its discretion to withdraw aid from any and all schools failing to comply with the terms and conditions of this Act.

SEC. 7699-m.—*What city schools not entitled to state aid.*—No State aid for general school purposes shall be granted to a school in any city or town having over 3500 inhabitants, as shown by the last census; *provided*, that this restriction shall not apply to state aid for the encouragement of normal training. State aid shall not be granted to a high school with fewer than twenty-five high school students; *provided*, State aid may, at the discretion of the State High School Board (*State Board of Education*) for a period not to exceed two years, be extended to rural high schools having not fewer than fifteen high school students. The funds received for State aid to high schools shall be expended in the payment of the salaries of high school teachers only and State aid shall be granted to no school for whose support the district, in which said school is located, does not expend upon its

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high school department an amount equal to the aid extended by the State.

SEC. 7699-n.—*Funds, how distributed.*—In the distribution of State Aid for general high school development, the board may, at its discretion, grant to any four year high school in any one year, in sums not to exceed eight hundred (\$800.00) dollars; to a three year high school in any one year, any sum not to exceed six hundred (\$600.00) dollars; to a two year high school in any one year, any sum not to exceed four hundred (\$400.00) dollars; *provided*, said board shall not grant to the schools of any one county more than five per cent of the total funds provided by this Act for aid to high schools. In distributing aid for normal training the board may not appropriate annually to any one high school over one thousand (\$1,000.00) dollars; *provided* further, that no high school shall receive annually for general high school development and normal training an amount in excess of one thousand (\$1,000.00) dollars.

SEC. 7699-o.—*Makes appropriation.*—For the purpose of defraying the expense of said board and carrying out the terms and conditions of this Act in developing and aiding high schools, as herein provided, the sum of forty thousand (\$40,000.00) dollars, or so much thereof as may be necessary is hereby appropriated out of the common school fund of the State, each year; and for the purpose of normal training in normal training departments to said high schools, as provided herein, the sum of ten thousand (\$10,000.00) dollars, or so much thereof as may be necessary is hereby appropriated out of the common school fund of the State, each year.

SEC. 7699-p.—*How money expended.*—All moneys

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expended by the State High School Board (*State Board of Education*), under the terms of this Act, shall be by certificate to the State Auditor, signed by the chairman and secretary of said board. The State Auditor on presentation of said certificate, properly signed, shall issue his warrant on the State Treasurer for the amount named in the certificate and it shall be the duty of the State Treasurer to pay the county treasurer of the county where in the high school, receiving the State aid specified in the certificate, upon which said warrant was issued, is situated, the amount thereof, out of any unexpended balance of money appropriated by this Act, remaining in the State Treasury. The county treasurer, receiving money under the terms of this Act, shall place the same to the credit of the district in which is situated the high school receiving such State aid and such money for the purpose as herein provided, may be drawn from the county treasury upon the warrants of the directors of said school district, as provided by law. *Provided*, no officer shall receive any commission or per cent for handling any of the funds appropriated or disbursed under the terms of this Act.

REPEALING CLAUSE: All laws and parts of laws in conflict with this Act are hereby repealed, and this Act being for the protection of the public peace, health and safety, shall go into effect and be in force from and after its passage. (*Approved May 30, 1911.*)

SCHOOL LANDS.

SEC. 7700. *Inhabitants may petition for sale.*— Whenever the inhabitants of any congressional township in this state shall desire the sale of the sixteenth section of such ownership, or of any lands substituted therefor, or any which have been or may be mortgaged to the State

of Arkansas for the use of the school fund, which after foreclosure and sale have been stricken off to the State of Arkansas, they may, by written petition, signed by a majority of the adult male inhabitants of such township require the collector of taxes, or if there be no collector, then the sheriff of the county wherein such land is situated to sell the same. For the purpose of making sales of any of the lands mentioned in this section, the sheriff is hereby vested with all powers now conferred by law upon collectors.

The authority to direct a sale of the sixteenth section of land is vested in the male inhabitants of the Congressional township in which it lies. The county court has the right to reject the sale when made, but in doing so, should direct that it be resold at a minimum price not exceeding its full value, and not less than two-thirds of its appraisement, nor less than \$1.25 per acre. *Ex parte Young*, 74 Ark. 363, 85 S. W. 1133.

SEC. 7701. *Collector shall divide land.*—Upon the reception of such petition, the collector shall ascertain that it is signed by a majority of the male inhabitants of such township and shall immediately proceed to divide the land into 40-acre tracts, and after making such division, a statement or plat of same and number of each tract shall be made so that the boundaries may be defined and ascertained, which statement or plat of the sections shall be used as a guide in advertising and selling said lands; *provided*, the collector may, when necessity requires it, call the county surveyor of his county to assist in such survey and division, and he shall be allowed and paid out of the funds arising from the sale of such school lands by said collector such compensation as he is allowed by law for similar services, and the receipt of such surveyor to said collector shall be a sufficient voucher for the money so paid.

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Directors can confer no authority to cut timber on school lands, and one who does so by their authority, under an agreement with them to pay the value, commits a trespass for which he may be sued by the state. *Widner v. State*, 49 Ark., 172. The legal title to school lands is in the state, and a school district cannot maintain an action for such lands. *Ib.*; *School District v. Driver*, 50 Ark., 346. See *State v. Morgan*, 52 Ark., 150.

SEC. 7702. *No tract more than forty acres.*—In subdividing the sixteenth section land for sale no tract shall contain more than forty acres, and the division may be made into town or city lots with roads, streets or alleys between them.

SEC. 7703. *Land shall be appraised.*—The collector shall cause each tract or sub-division of such school land to be appraised at a fair value by three disinterested householders of the county, each of whom shall take an oath which shall be endorsed upon the appraisement that he does not desire or intend to buy said land or any part thereof, and that he will not directly or indirectly be or become interested in the purchase thereof at the sale to be made by the collector; such appraisement shall be returned to the collector.

SEC. 7704. *Compensation of appraisers.*—When any sheriff in any county in this state shall summon any householder to view and appraise any sixteenth section lands, as is now provided by law, said appraisers shall receive for their services the sum of one dollar and fifty cents per day for each day they are engaged in such service; and it is the duty of the sheriff to certify to the county court the number of days that appraisers have been detained on or by reason of such services, which certificates shall be sufficient evidence for the auditing, allowance and payment of said claim by said county court.

SEC. 7705. *Collector shall give notice of sale.*—The

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collector shall then give notice that he will sell the said school lands at the court house door of the county on the first day of the next term of the county court upon the terms prescribed by law. Such notice shall be published in some newspaper published in the county where the land is situated at least four weeks before the day of the sale. If there be no newspaper published in said county, then the collector shall post up written notices in at least six of the most public places of the county four weeks before the day of the sale.

The collector shall also in either case put up a copy of the notice upon the schoolhouse situated on the land, if there be one thereon; if not, at the most public place on the land.

SEC. 7706. *Land sold at public sale—When held.*— Upon the day of sale the collector shall offer the lands at public auction in separate subdivisions, beginning with number one and ending with the last mentioned division. Such sale shall be made between the hours of 12 m. and 3 p. m., but may be continued from day to day at the same place and between the same hours until all have been sold or offered. The sale shall be made for cash. If any bidder shall fail to perfect his bid by paying the cash, the collector shall immediately resell the land and the bidder shall be responsible for the difference between his bid and the price at which the land sold, which may be recovered from him by the collector, in action for the use of the township, and the collector shall, if necessary, at once institute suit against such bidder to recover the amount of difference between his bid and the price at which the land sold. No tract or sub-division shall be sold for less than three-fourths of its appraised value; *provided, no tract or sub-division of the sixteenth section lands shall*

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be sold at a less price than one dollar and twenty-five cents per acre. If any tract offered is not sold it may be offered again upon like notice, upon the first day of the next, or any succeeding term of the county court and so on until sold without a new petition.

SEC. 7707. *County court may reject or approve sale.*

—The collector shall, without delay, report all sales to the county court, which may reject or confirm the same. If any sale be rejected, the county court may direct the collector to again advertise and offer the land, and may specify the minimum price at which the tract or tracts may be sold, not to be less than two-thirds of its appraised value. *Provided*, no tract or sub-division of the sixteenth section lands shall be sold at a less price than one dollar and twenty-five cents per acre. If the sale be confirmed by the county court the collector shall execute and deliver to the purchaser a certificate in the following form:

I,, collector in and for the county of, state of Arkansas, certify that has purchased.....of section....., in township.....range....., containing.....acres atdollars per acre, and has paid to me in full the sum ofdollars. The expense of this sale was:

- Cost of advertising, \$.....
- Cost of order of confirmation, \$.....
- Cost of rejection of prior sale, \$.....
- Surveyor's fee (if any), \$.....
- Collector's commission, per cent, \$.....

Leaving a net balance of \$.....in my hands due the sixteenth (16) section fund account of this county.

Now, therefore, upon the presentation of this certificate to the commissioner of state lands, the said

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his heirs or assigns, shall be entitled to a deed from said commissioner of state lands for the tract of land above described.

.....
Collector of County.

In all cases proper orders of confirmation or rejection shall be entered on record by the county court.

The statute was intended to give the court authority to reject the sale on account of inadequacy of price as well as on account of irregularities or unfairness. In no other way could the court completely protect the interest of the public. *Williams v. State*, 76 Ark., 291, 88 S. W. 980.

TITLE TO WHAT LANDS QUIETED.

SEC. 7707-a.—1. That Sec. 1 of Act 183 of Acts of 1905 of State of Arkansas be amended to read as follows:

That any person claiming to own land in the State known as Sixteenth Section, or School land, and who is in actual possession, and whose claims are based on a regular and unbroken chain of title, dating back to 1889, and to whose claim there is no adverse claimant, and on which lands the taxes have been regularly paid, that all title, legal or equitable, that the State of Arkansas may have or appear to have, in any such land, is hereby vested in such owner, or parties, now holding and having possession of such Sixteenth Section land, as described above. And the State Land Commissioner, upon such proof being made to him, is hereby directed to execute a deed conveying to said parties all the right and title the State may have in such lands.

REPEALING CLAUSE: That all laws in conflict herewith are hereby repealed, and this Act shall be in force

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from and after its passage. (*Acts 1911, Act 10, Approved Feb. 2, 1911.*)

SEC. 7708. *Collector shall pay costs.*—Out of the money received by the collector for the sale or sales of the sixteenth section lands, he shall pay the cost of advertising, cost of confirmation order, cost of rejection of sale (if any), surveyor's fees (if any), and he may retain for his services two per cent. of the gross amount received by him for the sale of such land; the residue of the money received for the sale of said land, after deducting the expenses as are above provided for, he shall at once transmit to the treasurer of state, who shall place the amount to the credit of the county's sixteenth section fund to which it rightfully belongs.

SEC. 7709. *Taxes on school land—Clerk's duty.*—The county clerks of the several counties in this state shall examine carefully and closely the tax books of their respective counties and ascertain what person or persons are paying taxes on any part or parts or the whole of the sixteenth section lands, and it shall be the further duty of the county clerks after ascertaining from the tax books the names of any person or persons paying taxes on any of the sixteenth section lands, and the numbers of said lands, to examine the record of deeds and find by what authority and whether any title or titles vest in said person or persons in whose name or names said lands are assessed, and shall on or before the first Monday in September, eighteen hundred and eighty-five, make and forward to the commissioner of state lands a full and complete statement of the exact status and condition of all of the sixteenth section lands in their respective counties. The county clerks shall be allowed the sum of forty

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dollars each for their services in making this report and it shall be paid to them by their respective counties.

SEC. 7710. *Clerk shall keep record of funds due townships.*—The county clerks of the several counties in this state shall keep in a well bound book, provided for that purpose, correct and accurate accounts with each and every township in their several counties, which may be entitled to any of the funds under this Act, and shall immediately after each and every sale of any part of said sixteenth sections certify to the auditor of state the amount of moneys received by such collectors on account of such sales, and the auditor shall thereupon charge the same to such collector.

SEC. 7711. *Penalty for neglect of duty.*—A neglect, failure or refusal by any county clerk to perform any and all duties enjoined upon him by the provisions of this act, shall be deemed a misdemeanor, and upon conviction thereof, such clerk shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, for each offense, and may be removed from office.

COLLECTION OF CLAIMS DUE COMMON SCHOOL FUND.

SEC. 7712. *Attorney General shall appoint collectors.*—The attorney general of the state of Arkansas is authorized and instructed to employ competent attorneys residing in the counties in which the lands are situated to collect all claims and notes due the school fund arising from the sale of the sixteenth section lands. Before taking charge of any such notes or claims, each of said attorneys shall be required to give bond for the faithful keeping, collecting and accounting for same, as provided for in this act, in double the sum of the amount supposed

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to come into his hands, and such security as shall be approved by the circuit judge of the judicial circuit in which said attorney resides and such bond when approved shall be filed with the commissioner of state lands, and the commissioner of state lands shall, when such bond has been filed with him, turn over, or cause to be turned over to the said attorney all notes and claims due the school fund pertaining to the sixteenth section lands. Said attorney may retain, as fees for collection, ten per cent of the gross amount collected by them under the provisions of this act. The remainder of said gross amount, after deducting their fees, as above provided for, shall be by said attorneys transmitted without delay to the treasurer of state, who shall place the same to the credit of the sixteenth section fund of the county to which it rightfully belongs, and said attorneys shall prepare and forward to the commissioner of state lands a statement for each and every collection made by them, setting forth the name of the maker of the note or claim, the date of same, the dates of all previous payments (if any) made on such note or claim.

SEC. 7713. *Treasurer of state shall issue receipts.*—

All moneys paid into the state treasury arising from the sale or collection of notes and claims pertaining to the sixteenth section lands, shall be by the state treasurer placed to the credit of the county's sixteenth section fund, to which said moneys may rightfully belong, and the treasurer of state shall, for each payment to him on account of the sixteenth section fund, issue triplicate receipts, one of which receipts shall be filed with the auditor of state, one filed with the commissioner of state lands and one given to the party making payment.

SEC. 7714. *Funds to be invested in bonds.*—The

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treasurer of state shall, by and under the direction of the State Board of Education, as soon as practicable after the receipt of any moneys paid into the state treasury on account of the sixteenth section fund, invest the same in either United States bonds or bonds of the State of Arkansas, and as interest accrues on said investment, he shall collect same and place to the credit of the respective counties' sixteenth section fund accounts, such interest on said investment, in the proportions to which each county is properly entitled.

SEC. 7715. *Funds—how drawn and distributed.*—The interest accruing to the several counties and townships that may hereafter be in the state treasury shall be drawn out of the treasury in the same manner as now provided for by law for drawing other funds due counties, and when drawn shall be accounted for by the county treasurer in the same manner as for other county funds thus drawn, and the county court shall distribute and set apart to the proper townships all such sums and funds as shall be due such township, either from the sales of sixteenth sections in such townships, or from collection of notes belonging thereto.

SEC. 7716. *Claims—Turned over to commissioner of state lands.*—All notes, claims, bonds, papers or evidences of debt belonging to the school fund arising from the sale or sales of sixteenth section lands, in the hands of the county collectors or other persons, shall be, within ninety days after the passage of this act, turned over to the commissioner of state lands.

SEC. 7717. *Must pay claims in ninety days.*—All county treasurers, collectors or other persons, having in

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their possession any funds arising from the sale or sales of the sixteenth section lands, shall, within ninety days after the passage of this act, pay the same into the state treasury, and the state treasurer shall place the same to the credit of the respective counties' sixteenth section fund accounts to which said funds do rightfully belong.

SEC. 7718.—*Commissioner shall make deed.*—Upon the presentation to the commissioner of state lands of any certificate of purchase as specified in Section 7707 the commissioner shall execute to the purchaser a deed for the lands therein described and shall keep a full and complete record of all such sales and of the deeds so issued, and it shall be the further duty of the commissioner of state lands to keep as correct records of sale or sales of the sixteenth section lands as the reports made to him from time to time may enable him to do. (*Act March 31, 1885, Sec. 2-18.*)

PATENTS.

SEC. 7727. *Title may be made to assignee.*—When the purchaser of any portion of the common school lands has heretofore assigned, or may hereafter assign, the certificate of purchase of such land, the title thereof may be made directly to the last assignee of such certificate of purchase, upon full payment of all the purchase money and interest due on said land. (*Act April 12, 1869, Sec. 10.*)

SEC. 7728. *Commissioner may make deed to heirs.*—If any person who shall have purchased any portion of the sections of school lands from the collector of any of the counties of this state, and paid one-fourth the purchase money therefor, and received a bond for title from such collector, shall die before such payment is fully

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made, and the executor, administrator, guardian or legal representative of such deceased person shall pay or cause to be paid the balance, if any, that shall be due to the collector on such purchase, upon the certificate of the collector of the proper county that the whole of the purchase money, with all the interest due thereon, has been fully paid, the commissioner of state lands shall forthwith execute a deed, as is now required by law to the heirs at law of such deceased person. (*Ib.*, Sec. 11, as amended Act February 16, 1885.)

SEC. 7729. *Land shall stand charged.*—The land thus conveyed to the heirs shall stand charged with the amount of money necessarily advanced to the school fund, in order to procure title, and shall, in other respects, be chargeable with the rights and incumbrances that would have attached had it descended regularly to the same heirs.

SEC. 7730.—*Patents made valid.*—All patents issued for sixteenth section, or any part thereof, or common school land during the war between the states and all official acts of the officers of this state, in regard to such lands, during the said war, and also all deeds made by the common school commissioners of the several counties in compliance with an act of the legislature of the state, entitled, "An act to relieve certain citizens of Arkansas who purchased school lands," passed March 4, 1867, are hereby confirmed, ratified and made valid, and full faith and credit shall be given to said patents, deeds and official acts in all the courts of this state. *Provided*, nothing herein shall be construed to prevent the setting aside of any of said deeds or patents for actual fraud or mistake.

SEC. 7731. *Rights of state vested in owner of pat-*

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ents.—Any right, title or interest which the state of Arkansas may have acquired, or holds by virtue of any judgment, decree, execution or sale of any court in this state in lands for which patents or deeds have been made and issued as mentioned in Section 7730 is hereby vested in the proper owners thereof under such deeds or patents.

SEC. 7732. *Attorney may dismiss suits.*—The attorney representing the state of Arkansas is hereby instructed and required to dismiss all suits now pending for school lands where patents or deeds have been made therefor, as specified in Section 7730, or if it does not appear on the face of the pleadings filed that such patents or deeds have been made, then the patent or deed may be pleaded in bar of the suit, or the court may dismiss the suit on exhibition and profert of such deed or patent; and where judgment or decree has been entered and sale has not been made, the states attorney shall enter satisfaction in full thereof on the presentation to him of such deed or patent.

SEC. 7733. *Commissioner required to execute deed.*—If any purchaser of school lands shall have paid the purchase money thereof and received no deed or patent therefor, or if any person now owing for school lands bought shall hereafter pay out his indebtedness therefor, and shall produce to the commissioner of state lands satisfactory evidence of such payment, the commissioner of state lands is authorized and required to execute to such person, or to his legal representative, a deed conveying all the right, title and interest of the state of Arkansas in such lands; but if the payment has not been made before suit is begun, the purchaser shall also pay the costs of the suit. (*Act December 14, 1875, as amended by act March 31, 1885, Sec. 18, and act of February 16, 1885, Sec. 2.*)

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LEASE OF SCHOOL LANDS.

SEC. 7734. *Lands shall be leased.*—All school lands in any county in this state susceptible of cultivation shall be leased by the county collector of said county from the first to the tenth of January in each year. (*Act April 12, 1869, Sec. 12.*)

SEC. 7734-a.—*County judges authorized to lease.*—The county judges of the state of Arkansas are hereby authorized and empowered to lease any tract or parcel of wild and uncleared sixteenth section school lands situated in their respective counties, for a term not exceeding five (5) years, on terms satisfactory to said judges, upon the lessee entering into a good and sufficient bond to be approved by said county (judge) for the faithful performance of this lease contract.

SEC. 7734-b.—*Notice of time and place to be given.*—Whenever the county judge of any county in this state shall desire to lease any lands under the provisions of this Act, he shall first cause notice of the time and place of the leasing of said lands, together with a description thereof, to be published in some newspaper published in said county, or by posting written or printed notices in ten conspicuous places in said county, one of which shall be at the court house and one on the land to be leased, thirty days before the leasing of the same.

SEC. 7734-c.—*Cleared land to be rented annually.*—All lands cleared and put in cultivation under the provisions of this act, shall after the expiration of the lease contract, be by the sheriff of the county renewed annually in the same manner as now provided by law for the renting of sixteenth section school lands.

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REPEALING CLAUSE: That this Act shall be in force from and after its passage and that all laws and parts of laws in conflict herewith are hereby repealed. (*Acts 1905, Act 156. Approved April 13, 1905.*)

SEC. 7735. *Must be leased at public outcry.*—The manner and terms of leasing said lands (*this refers to lands mention in Section 7734*) shall be by public outcry to the highest bidder, the lessee paying one-half the amount of rent in cash at the time of leasing and the balance at the end of the year. *Ib.* L

SEC. 7736. *Twenty days notice must be given.*—At least twenty days' public notice of the time and place of offering such lands (*this refers to lands mentioned in Section 7734*) for rent or lease shall be given by said collector by publishing the same in the newspapers of the county and by posting up hand bills at the most prominent points throughout the county. *Ib.*

SEC. 7737. *Collector may rent privately.*—If any school lands offered for rent or lease at the time and in the manner above indicated shall not bring such price as the collector shall think a reasonable rent therefor, he shall be authorized to rent the same by private contract for the ensuing year, or for a longer term if he shall deem it expedient. *Ib.*

SEC. 7738. *Prior occupants required to pay rent.*—The occupants of school lands prior to the passage of this act shall be required to pay a reasonable annual rental during the time said lands have been so occupied.

SEC. 7739. *Usages of other lessees shall govern.*—The lessees of school lands shall be subject to the same

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provisions governing the lessees of other property. *Provided*, it shall not be rented for a less amount than was offered at public sale. *Ib.*

CUTTING TIMBER OFF SIXTEENTH SECTION.

SEC. 1929. *Unlawful to cut timber.*—It shall not be lawful for any person to cut or remove any timber or stone off the sixteenth sections of school land, for the use of schools, or any section or fractional section selected instead of the sixteenth section.

TRESPASS ON SCHOOL LANDS.

SEC. 1932. *Penalty for trespass.*—Every trespasser upon the school lands shall, upon conviction, be fined in three times the amount of damages done, and shall stand committed as in other cases of misdemeanor. (*Act April 12, 1869, Sec. 13.*)

ESTRAY FUND.

SEC. 7862. *Fund shall go to school fund.*—Every person who shall take up an estray beast which shall not be reclaimed by the owner within one year, shall pay into the county treasury in which such estray was taken up, one half of the residue after deducting all legal expenses from the appraised value of the beast, and shall file the county treasurer's receipt for the same in the office of the county clerk, and the county clerk shall charge the county treasurer with all such funds as shall be paid into the treasury, and all such funds shall be apportioned among the several districts of the county, as other funds are now apportioned. (*Act March 15, 1897.*)

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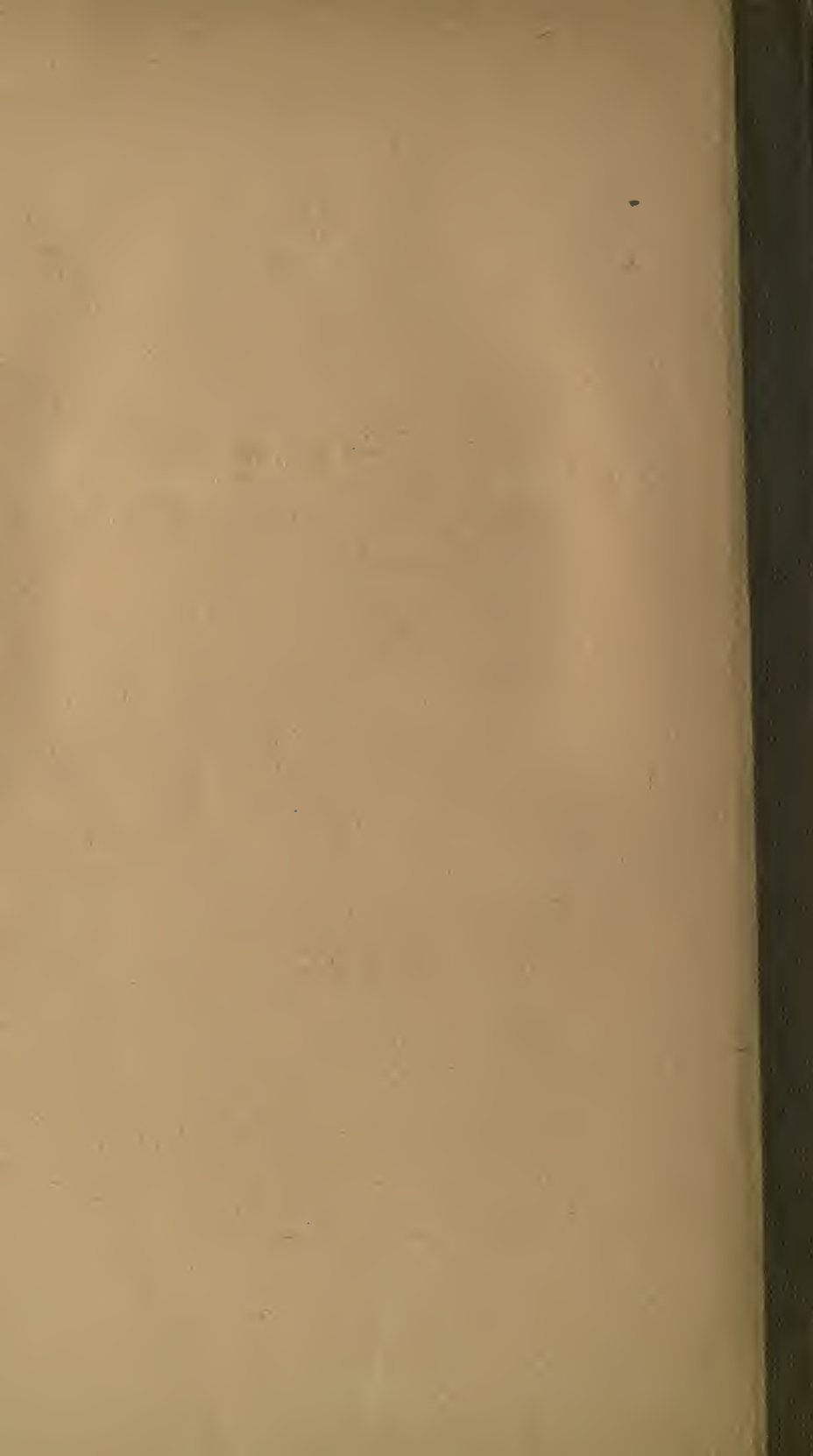
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