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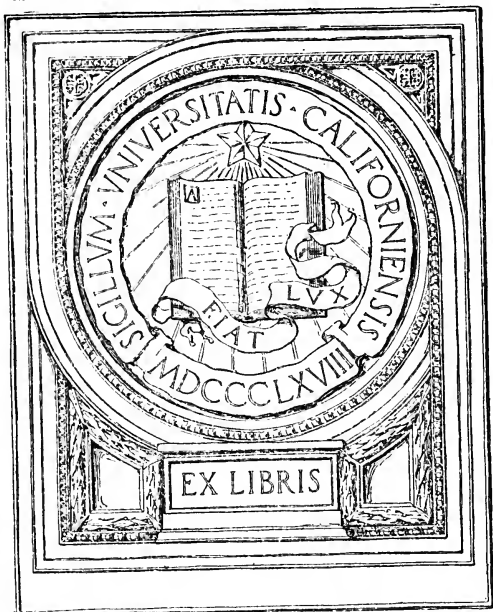
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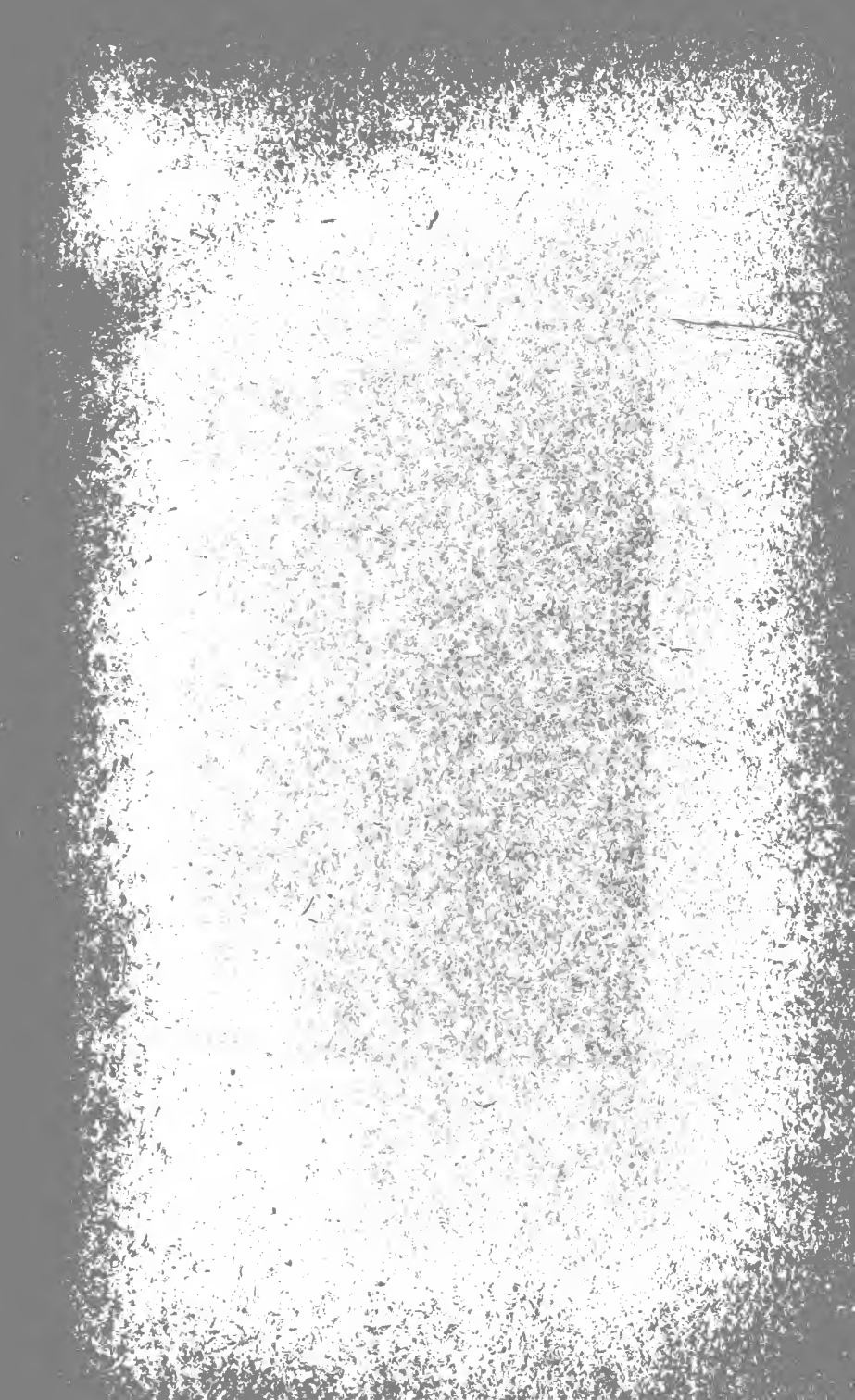
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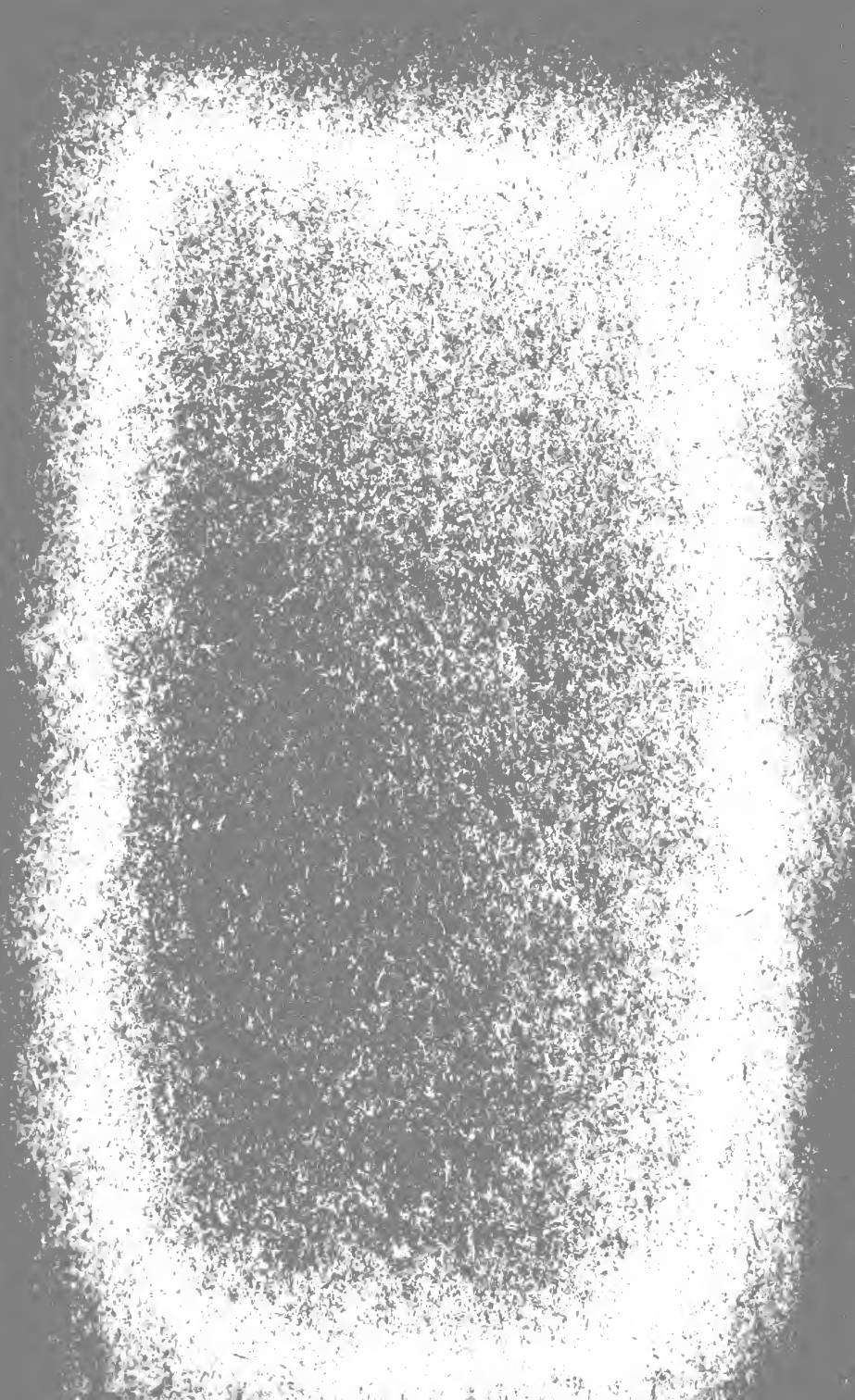
GEORGE COLVIN
Superintendent of Public Instruction

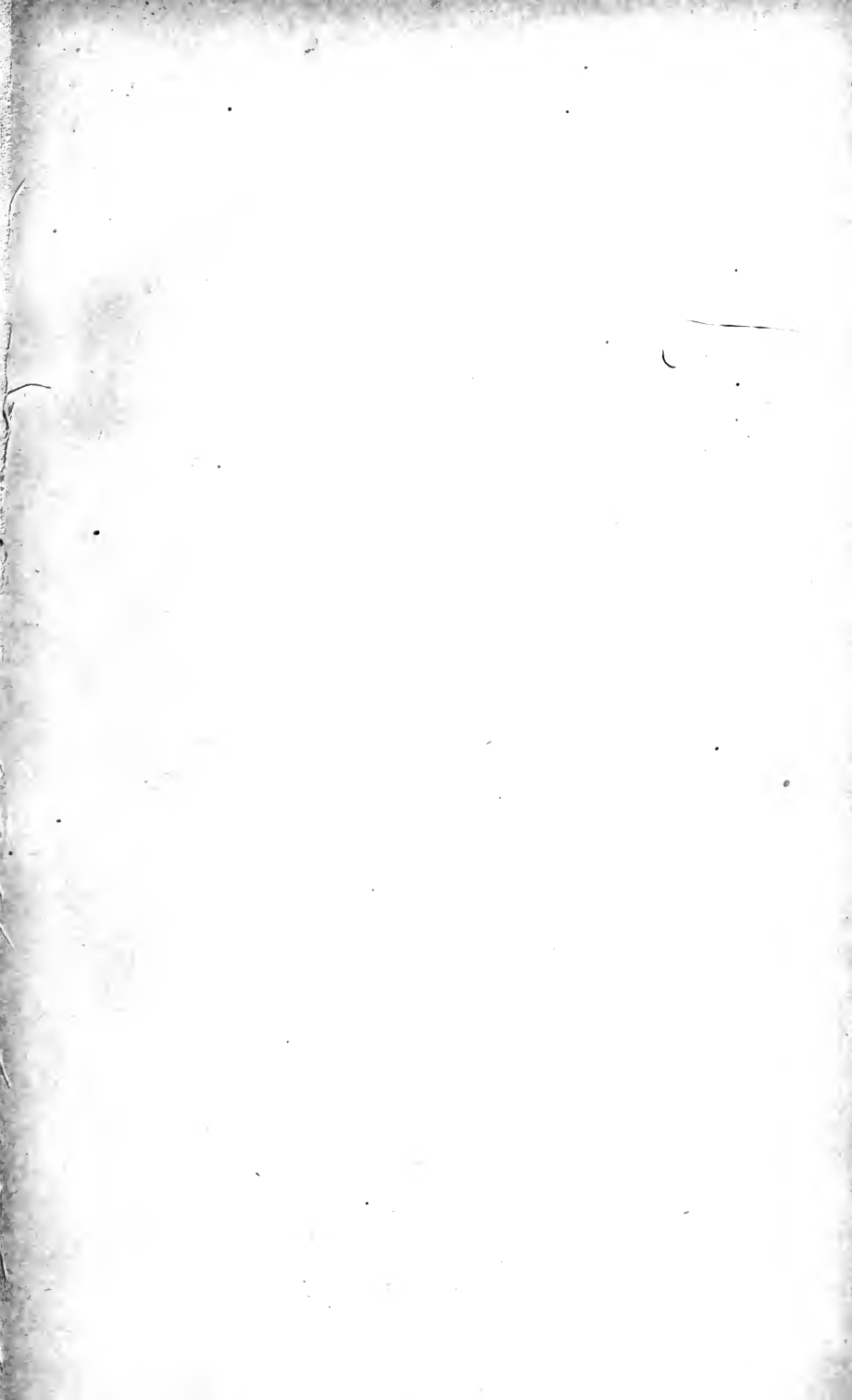
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COMMON SCHOOL LAWS

of

KENTUCKY

1922

Compiled by

State Department of Education
with the assistance of William T. Fowler, Esq.,
of the Frankfort Bar.

GEORGE COLVIN

SUPERINTENDENT OF PUBLIC INSTRUCTION

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PREFACE

It is with some degree of pride that we issue an entirely new compilation of the school laws now in force in this Commonwealth. It has been no little task to arrange in logical order the various acts of the Legislature relating to our public schools. The demands of the various communities have influenced legislation suited to their respective needs, so that our entire system is largely a series of special acts which, when thrown together, form a sort of "crazy quilt" or patchwork.

Thus we have a separate and distinct type of school for each class of our municipalities, five distinct types or systems for the favored rural communities, and another type for the less favored rural community, and still another for the small towns and villages. When looking up a question of law relating to a particular school, it is well to keep in mind the kind of school you are dealing with, because there is little uniformity in the various types or classes.

By the Acts of 1920, making the county the unit outside municipal and graded school districts, creating a county board with jurisdiction co-extensive with the county district, the legislature took a step forward in school legislation, looking ultimately to the merger of all the schools in the county supported by general taxation into one comprehensive system under the jurisdiction of one central board having its office at the county seat.

We now have in Kentucky thirty-six distinct types of schools which are supported in whole or in part by state taxation, and they are under the control and supervision of sixteen separate and distinct boards, thus making our system so complex and altogether technical that the State Department of Education finds itself overwhelmed with detail in administering the law. We have attempted a new classification in this compilation in which the laws relating to the common schools of the county, (Common schools, High Schools, Consolidated Schools), in fact all the schools under the jurisdic-

tion of the County Board of Education, are under one chapter, while Graded Schools and Municipal Schools are under separate appropriate headings.

All laws heretofore repealed have been omitted, but in a number of instances where a statute has been repealed only in part, the entire section is given with a notation that a part of same has been repealed. The section numbers in Kentucky Statutes are given at the beginning of each section in parentheses to aid the reader in turning to the statute with ease in investigating any question. The decisions of the Court of Appeals interpreting or construing the school law, where same are of interest, are included, and have been brought down to date.

The manuscript of this edition has been in the hands of the Printing Commission and of the State Printer since July, 1922.

We acknowledge the assistance of William T. Fowler, Esq., of the Frankfort bar, and former assistant to the Attorney General, in the arrangement and classification of the subjects and the selection and classification of the decisions of the Court of Appeals and opinions of the Attorney General cited in support of the text.

GEORGE COLVIN,

Superintendent Public Instruction.

Frankfort, Ky., Nov. 1st, 1922.

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Chapter I.

CONSTITUTIONAL PROVISIONS

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Section 1. (§ 183.) Common Schools to be Provided For.
—The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the State. See Sec. 4363, Ky. Stat.

Section 2. (§ 184.) Fund Set Apart for Common Schools—Taxation for A. & M. College.—The bond of the Commonwealth, issued in favor of the Board of Education, for the sum of one million three hundred and twenty-seven thousand dollars, shall constitute one bond of the Commonwealth in favor of the Board of Education, and this bond and the seventy-three thousand five hundred dollars of the stock in the Bank of Kentucky (now seventy-nine thousand eight hundred), held by the Board of Education, and its proceeds, shall be held inviolate for the purpose of sustaining the system of the common schools. The interest and dividends of said fund, together with any sum which may be produced by taxation or otherwise for the purpose of common school education, shall be appropriated to the common schools and to no other purpose. No sum shall be raised or collected for education other than in common schools until the question of taxation is submitted to the legal voters

Sec. 183. Poll tax may be levied for school purposes. *McIntyre v. Powell*, 137 Ky. 789.

Escheated property for use of schools. *Com. v. Thomas*, 140 Ky. 789.

What system of common schools is most efficient is a matter for legislative decision. *Prowse v. Board of Education for Christian County*, 134 Ky. 365.

This section leaves to legislative discretion the best method of providing for an efficient system of common schools. *Elliott v. Garner*, 140 Ky. 157.

The indebtedness of a board of education of a city of the second class is not a portion of the indebtedness of the city within Const., Sec. 158. *City of Newport, ex parte*, 141 Ky. 329.

The colored schools of a city of the fourth class have a right to participate in revenue arising from taxes on corporations. *Trustees of Graded Free Colored Common Schools of Mayfield v. Trustees of Graded Free White Common Schools of Mayfield*, 180 Ky. 574.

and the majority of the votes cast at said election shall be in favor of such taxation: Provided, The tax now imposed for educational purposes, and for the endowment and maintenance of the Agricultural and Mechanical College, shall remain until changed by law. See Section 4370, Ky. Stat.

Sec. 184. Agricultural and Mechanical College of Kentucky furnishes something more than a common school education, and, therefore, does not constitute a part of the common school system of the State. *Higgins v. Prater*, 91 Kentucky; and State may appropriate money for. *A. & M. College v. Hagar*, 121 Ky. N. 1178.

Appropriation or Division of School Fund.—Can not be appropriated to payment of teachers not acting under the control or supervision of the common school officers. *Halbert v. Sparks*, 9 Bush 259. Appropriation to graded schools. *Williamstown G. F. S. Dist. v. Webb*, 89 Ky.; *Riggs v. Stevens*, 92 Ky. 393. Appropriation of common school fund to afford better facilities for teaching the higher branches. Board of Trustees v. Thomas, 12 R. 832, 15 S. W. 670.

An act authorizing a particular district to vote a tax in aid of the common school fund in order to have a school taught the entire year, or the higher branches brought within reach of all the children, was held to be valid. *Newman v. Thomson*, 9 R. 199, 4 S. W. 341. And to the same effect was Board of Trustees v. Thomas, 12 R. 832, 15 S. W. 670.

Appropriation for purchase of "Collins' History of Kentucky," held not to be in aid of common schools. *Collins v. Henderson*, 11 Bush 74. An act which allows the trustees of an academy within a certain district to make contracts with parents of children in such district, for an agreed tuition for children attending the academy, and which provides for the payment of the pro rata of the common school fund to the teachers of the academy, and exempts such parents from taxation for maintaining, furnishing or building any common school house during the year their children attend the academy is unconstitutional. *Underwood v. Wood*, 93 Ky. 177.

Control of School Fund.—General Assembly can not abdicate its control over the school fund and abandon it to the county courts. *Auditor v. Holland*, 14 Bush 147.

Expenses of the State Department of Education may be paid out of the school fund as provided by Ky. Stats., Sec. 4471. Superintendent of Public Instruction v. Auditor, 97 Ky. 180.

Graded School.—Legislation providing for the conversion of a common school district into a graded school and the payment to the latter of the school fund going to the district, is constitutional. *Riggs v. Stevens*, 92 Ky. 393; *Williamstown Dist. v. Webb*, 89 Ky. 264.

Normal Schools.—Appropriation for. *Marsee v. Hagar, etc.*, 125 Ky. 445; *James v. State University*, 131 Ky. 156.

School fund cannot be appropriated to pay taxes for street improvements or any other purpose, and school property can not be subjected to execution, levy, or lien for street improvements. *City of Louisville v. Leatherman*, 99 Ky. 213; nor can it be diverted to build a free library. Board of Education v. Board of Trustees, 24 R. 98, 113 Ky. 234.

School System General and Uniform.—The system of common schools was intended to be general and uniform. The appropriation by the General Assembly of part of the school fund to certain counties is subversive of this general system. *Auditor v. Holland*, 14 Bush 147.

Taxation in Aid of Other Than Common Schools.—The legislature may impose a tax in aid of an educational institution, although it does not form a part of the common school system. *Higgins v. Prater*, 91 Ky. 6; and see *Ramsey v. City*, 119 Ky. 180.

Text Books.—The prohibition of text books relating to any sect or religion is not objectionable. Board of Trustees v. Thomas, 12 R. 832, 15 S. W. 670.

A city must pay to the school board the proceeds of a tax levied for education; it is no excuse that the money has been paid to the sinking fund. *City of Louisville v. Louisville School Board*, 17 R. 697, 32 S. W. 406.

An appropriation may be made for the State University or the State Normal School without a submission to a popular election. *James v. State University*, 131 Ky. 156; *James v. Board of Regents for Western Kentucky State Normal School*, 131 Ky. 156.

Section 3. (§ 185.) **Common School Funds—Investment—Interest on.**—The General Assembly shall make provision, by law, for the payment of the interest of said school fund, and may provide for sale of the stock in the Bank of Kentucky; and in case of a sale of all or any part of said stock, the proceeds of sale shall be invested by the Sinking Fund Commissioners in other good interest-bearing stocks or bonds, which shall be subject to sale and re-investment, from time to time, in like manner with the same restrictions as provided with reference to the sale of the said stock in the Bank of Kentucky. See Sec. 4370, Ky. Stat.

Section 4. (§ 186.) **Distribution of Fund—Surplus Due Counties.**—Each county in the Commonwealth shall be entitled to its proportion of the school fund on its census of pupil children for each school year; if the pro rata share of any school district be not called for after the second school year, it shall be covered into the treasury and be placed to the credit of the school fund for general apportionment the following school year. The surplus now due the several counties shall remain a perpetual obligation against the Commonwealth for the benefit of said respective counties for which the Commonwealth shall execute its bond, bearing interest at the rate of six per centum per annum, payable annually, to the counties respectively entitled to the same, and in the proportion to which they

The State taxes referred to in Ky. Stats., Sec. 4260 do not include school taxes. *Com. v. Southern Pacific Co.*, 154 Ky. 41.

Under this section and section 2997, relating to collection of taxes a discount for prompt payment is void. *Board of Education of Louisville v. Sea*, 167 Ky. 772.

In view of this section and Ky. Stats., Sec. 4370, it is held that Sec. 4371 does not constitute an appropriation of money, but is a limitation upon the purposes to which the resources of the school fund may be put, and the superintendent can not exceed the appropriations contained in Ky. Stats., Secs. 4385 and 4535f in employing clerical assistance. *Greene v. Gilbert*, 168 Ky. 380.

The legislature may provide taxes for common school purposes without submitting the question to the legal voters. *Larue v. Redmon*, 168 Ky. 487.

Subsection 7 of Ky. Stats., Sec. 4636a, provides that each county may send to the State University one or more students, who shall have free tuition and room rent. This provision is in conflict with Const., Sec. 3, and is void. *Barker v. Crum*, 177 Ky. 637.

Ky. Stats., Sec. 4376, as amended in 1918 (Session Acts, Chapter 139), relating to payments on warrants of the Superintendent of Public Instruction is valid. *Adams v. Greene*, 182 Ky. 504.

Sec. 185. The provision of Ky. Stats., Sec. 2971, for the vesting of escheated property in Louisville in the Board of Education for the public schools is not inconsistent with this section. *Com. v. Thomas' Admr.*, 140 Ky. 789.

are entitled, to be used exclusively in aid of common schools. See Sec. 4375, Ky. Stat.

Section 5. (§ 187.) **Each Race to Share Fund Equally—Separate Schools.**—In distributing the school fund no distinction shall be made on account of race or color and separate schools for white and colored children shall be maintained.

Section 6. (§ 188.) **School Fund—Money Received From United States, Part of.**—So much of any moneys as may be received by the Commonwealth from the United States under the recent act of Congress refunding the direct tax shall become a part of the school fund and be held as provided in section 184; but the General Assembly may authorize the use by the Commonwealth of the moneys so received or any part thereof, in which event a bond shall be executed to the Board of Education for the amount so used, which bond shall be held on the same terms and conditions and subject to the provisions of section 184, concerning the bond therein referred to. See Sec. 4370, Ky. Stat.

Section 7. (§ 189.) **Appropriation for Sectarian Purposes Forbidden.**—No portion of any fund or tax now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to, or used by, or in aid of, any

Sec. 186. Surplus Due Counties—Deficit—Census.—Ky. Stats., Sec. 2974, requiring a census of school children to be taken every five years is not a violation of this section, which does not require a census to be taken each year for the purpose of ascertaining the fund due the counties. Superintendent of Public Instruction may question, in a judicial proceeding, the correctness of the number of children returned to him in a district. *Louisville School Board v. Superintendent Public Instruction*, 102 Ky. 394; *Crabbe v. Board of Education*, 132 Ky. 478.

Deficit in amount due a county and not paid in any year is to be paid out of the fund for succeeding year. *Lou. School Board v. McChesney*, 109 Ky. 9.

The words "school fund" in this section do not embrace escheated property. *Com. v. Thomas' Admr.*, 140 Ky. 789.

Ky. Stats., Sec. 4376, as amended in 1918 (Sess. Acts, Chapter 139), relating to payments on warrants of the Superintendent of Public Instruction is valid. *Adams v. Greene*, 182 Ky. 504.

Sec. 187. Distribution of school fund. *Crosby v. City*, 133 Ky. 215. "Colored children" defidated. *Mullins v. Belcher*, 142 Ky. 673.

Each of two free graded public school districts, one for white children, and one for colored children, occupied the same territory, a proposition to incur indebtedness for the erection of school buildings for the colored schools, to be paid by taxation on the property of the colored people, was rightly submitted to the colored voters. The indebtedness that could be incurred was two (2%) per cent of the value of the taxable property of colored persons and of the proportion of property of corporations that the number of colored children bore to the number of children of school age. *Moss v. City of Mayfield*, 186 Ky.

church, sectarian or denominational school. (See further, Con., Sec. 5.)

Section 8. (§ 5.) **Freedom of Conscience—Church and State—Education.**—No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in any wise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever, control or interfere with the rights of conscience.

Under section 189 of the Constitution, no fund now existing, or that may hereafter be raised or levied for educational purposes, can be appropriated to, or used by, or in aid of, any church, sectarian or denominational school.

The Constitution not only forbids the appropriation for any purpose of the common school funds to sectarian institutions, but it contemplates that the separation between the common school and the sectarian school shall be open, notorious and complete.

It is a violation of the Constitution for the trustees of any common or graded school or educational institution supported in whole or in part by public funds, to enter into contracts, agreements or arrangements through or under which such school may be brought directly or indirectly under the influence, control or supervision of any sectarian institution or school.—Williams, et al. v. Board, et al., 173 Ky. 708.

Sec. 189. Bible in Public Schools.—Not sectarian or denominational. Hackett v. Brooksville Graded School, 120 Ky. 608.

A trust fund for the propagation of the principles of primitive Christianity as taught by the Christian church is not exempt from taxation. Com. v. Thomas, 119 Ky. 208.

A person who had been a teacher in a church school resigned and became a teacher in a State graded school; two other teachers in the church school became teachers in the graded school, receiving no compensation from the graded school, but being paid by the church school. These facts do not constitute an infringement of this section. McDonald v. Parker, 130 Ky. 501.

A tax levy assessed to be for local school purposes was sufficiently definite. Shanklin v. Boyd, 146 Ky. 460.

A county board of education has no power to enter into a contract with a sectarian educational institution by which the institution will furnish tuition to county high school pupils or other common school pupils in consideration of the payment of a portion of the common school fund to that institution. The opinion in 172 Ky. 133 has been withdrawn. Williams v. Board of Trustees Stanton Common School District, 173 Ky. 708.

Sec. 5. Reading Bible in Public Schools.—Not prohibited by this section. Hackett v. Brooksville Graded School District, 120 Ky. 608.

Witness—Competency.—Exclusion of witness on account of his religious belief or disbelief in any system of religion, is in violation of the Constitution. Bush v. Com., 80 Ky. 244.

A witness shall not be cross-examined as to his religious belief for the purpose of discrediting him. L. & N. R. Co. v. Mayes, 26 R. 197, 80 S. W. 1096.

Section 9. (§ 157.) Tax Rate—Indebtedness—Submission of Question to Voters.—The tax rate of cities, towns, counties, taxing districts and other municipalities, for other than school purposes, shall not at any time, exceed the following rates upon the value of the taxable property therein, viz.: For all towns or cities having less than fifteen thousand and not less than ten thousand, one dollar on the hundred dollars (\$100.00); for all towns and cities having less than ten thousand, seventy-five cents (75c) on the one hundred dollars (\$100.00) and for counties and taxing districts, fifty cents (50c) on the one hundred dollars (\$100.00); unless it should be necessary to enable such city, town, county, or taxing district to pay the interest on and provide a sinking fund for the extinction of indebtedness contracted before the adoption of this constitution. No city, town or county taxing district or other municipality shall be authorized or permitted to become indebted, in any manner or for any purpose, to an amount exceeding in any year, the income and revenue provided for such year, without the assent of two-thirds of the voters thereof, voting at an election to be held for that purpose; and any indebtedness contracted in violation of this section shall be void. Nor shall such contract be enforceable by the person with whom made; nor shall such municipality ever be authorized to assume the same.

A trust fund devoted to the propagation of primitive Christianity, as taught by the Christian church is not exempt from taxation. *Com. v. Thomas*, 119 Ky. 298.

Under this section and section 180 of the Constitution, Stats., Sec. 2997, providing for discount upon prompt payment of taxes, is valid. *Board of Education of Louisville v. Sea*, 167 Ky. 772.

A county board of education has no power to contract with a sectarian educational institution that the buildings thereof shall be kept in repair with funds raised by taxation or other common school funds, and that in return therefor common school pupils shall be taught therein without charge. *Williams v. Board of Trustees, Stanton Common School District*, 173 Ky. 708.

Construction and Effect of the Section.—Without the assent of the voters a city can not become indebted for schools or other purposes in an amount exceeding the income for that year. *City Council v. Powell*, 16 R. 174, 27 S. W. 1.

The limitations imposed by this section and section 180 do not apply to property tax or poll tax voted for school purposes at a valid election. *Christopher v. Robinson*, 164 Ky. 292, 175 S. W. 330.

Chapter II.

GENERAL PROVISIONS

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| Sec. 10. System uniform. | Sec. 22. Humane treatment of animals. |
| Sec. 11. Common school defined. | Sec. 23. Music. |
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| Sec. 20. Thrift and industry. | |
| Sec. 21. Physical training. | |

Section 10. (§ 4363 Ky. St.) **Uniform System to be Maintained.**—There shall be maintained throughout the State of Kentucky a uniform system of common schools in accordance with the Constitution of the State and this chapter. (July 6, 1893, C. 260, p. 1413, Sec. 1 as amended March 18, 1916, C. 24, p. 162.)

Section 11. (§ 4364.) **Common School Defined—Any Child May Attend.**—No school shall be deemed a "common school," within the meaning of this chapter, or be entitled to any contribution out of the school fund, unless the same has been, pursuant hereto, actually kept or is under contract to be kept by a qualified teacher for seven or more successive months in all sub-districts, during the same school year, and at which every child residing in the district, between the ages of six and eighteen years, has had the privilege of attending whether contributing towards defraying the expense or not; Provided, that nothing herein shall prevent any person over eighteen from attending the common school of the district or sub-district in which he resides, and that said person shall not be required to contribute toward defraying the expense or pay tuition fees. (Act March 18, 1918, C. 138, p. 574, as amended by Act March, 1922.)

Section 12. (§ 4365 Ky. St.) **School Year.**—The school year shall begin on the first day of July and end on the thirtieth of June. (C. 24, p. 162, Acts 1916.)

Common school defined. *Collins v. Henderson*, 11 Bush 74.
Teaching higher branches of learning in common schools is not prohibited. *Newman v. Thompson*, 9 R. 199.
Graded schools are common schools. *Riggs v. Stevens*, 92 Ky. 393.

Section 13. (§ 4366.) **School Month—School Day—Assistant Teacher.**—Twenty school days, or days in which teachers are actually employed in the school room, shall constitute a school month in the common schools of the State; but no teacher shall teach on Saturdays. Teachers shall have the benefit of only such legal holidays as they actually observe. Six hours of actual work in the school room shall constitute a school day; and, under no circumstances, shall the daily session, including recess and intermissions, exceed nine hours in length. When the attendance exceeds fifty, the teacher may employ during such attendance, an assistant, whose scholarship and competency shall be acceptable to the division board of his educational division. When the school shall require an assistant to serve regularly at a salary, such assistant shall hold a certificate of qualification, and be employed by the division board of his educational division. (As amended March 18, 1918, C. 24, p. 162.)

Section 14. (§ 4367 Ky. St.) **Pupils to Comply With Regulations—Suspension or Expulsion.**—All pupils who may be admitted to common schools shall comply with the regulations established in pursuance of law for the government of such schools. Willful disobedience or defiance of the authority of the teachers, habitual profanity or vulgarity, or other gross violation of propriety or law, shall constitute good cause for suspension or expulsion from school.

Section 15. (§ 4368 Ky. St.) **Sectarian, Infidel, or Immoral Books or Teaching Prohibited.**—No books or other publications of a sectarian, infidel, or immoral character, shall be used or distributed in any common school, nor shall any sectarian, infidel or immoral doctrines be taught therein.

Section 16. (§ 4369 Ky. St.) **Certificate Granted to Pupil Who Completes Course—Examination For.**—Whenever a pupil of any common school in county school districts shall have

(Employment of assistant teachers now under the jurisdiction of the county board of education on recommendation of county superintendent. See Sec. 4399a-7. V.—Ed.)

Assistant teacher must hold proper certificate in order to draw salary or to be authorized to teach. *Flannery v. Barrett*, 146 Ky. 712.

The Bible is not a sectarian book. A prayer offered at opening exercises of a graded school not sectarian instruction. *Hackett v. Brooksville Trustees*, 120 Ky. 608.

completed the prescribed elementary course of study, and shall have passed an examination in the same prescribed by the county board of education, he shall be entitled to a certificate of such completion signed by the chairman of the county board and by the county superintendent, and such pupil shall be entitled to admission into any county high school free of tuition. (As amended by Act March, 1922.)

Section 17. (§ 4369a Ky. St.) School Houses to be Used for Public Gatherings.—When a responsible person of any sub-district may apply to any subdistrict trustee for the use of a school house, to be used when the school is not in session, during school hours or vacation, by any lawful assembly of educational, religious, agricultural, political, civic or social bodies, organizations or gatherings, and if said subdistrict trustee refuse the use of the same, then the said trustee shall state his cause for refusal in writing, and if a demand, signed by five freeholders of said subdistrict, be presented to said subdistrict trustee, then he shall deliver or cause to be delivered, the keys of said school house, to such freeholder, who shall be responsible for the use and care of said school property and of avoidable damages and the return of the key to the teacher of said district, if school be in term session, or to the subdistrict trustee during vacations. (March 18, 1916, C. 24, p. 162, Sec 8.)

Section 18. (§ 4369b-1.) Elementary Agriculture to be Taught.—After July 1, 1919, the subject of elementary agriculture shall be taught in the common schools of this state except in cities of the first, second, third and fourth classes. (March, 1918, C. 83, p. 410.)

(§ 4369b-2.) **Teachers to Pass Examination of Elementary Agriculture.**—After July 1, 1919, no person shall be authorized to teach in the common schools of this state, except in the cities aforesaid, unless he shall have first passed an examination prepared by the state board of examiners on the subject of elementary agriculture, and the law in regard to the examination of teachers on other subjects in the common school course shall apply to the subject of elementary agriculture. (March, 1918, C. 83, p. 410.)

(§ 4369b-3.) **Teaching of the Subject to be Enforced.**—After July 1, 1919, the State Board of Education, teachers and

all school officers shall enforce the teaching of the subject of elementary agriculture in the same manner that the teaching of other branches of the curriculum is or may be enforced. (March, 1918, C. 83, p. 410.)

(§ 4369b-4.) **Teachers' Examinations.**—Any person holding a certificate to teach need not be examined on any other branch than elementary agriculture until the expiration of the certificate held by him. (March, 1918, C. 83, p. 410.)

Section 19. (§ 4369c-1) **Temperance Day—Observed.**—That there be one day in each scholastic year of the public and high schools of the State of Kentucky to be known as Temperance Day and that the fourth Friday in October of each year is hereby designated as Temperance Day. This day shall be observed as such in each public and high school of the State, or if preferred, in each sub-division thereof. (March, 1918, C. 164, p. 672, Sec. 1.)

(§ 4369c-2.) **Programs Furnished.**—The State Superintendent of Public Instruction shall have prepared and furnished in due time to every teacher of said public and high school of the State a suitable program to be used on said Temperance Day. (Id. Sec. 2.)

(§ 4369c-3.) **Placards—What Must Set Forth.**—It shall be the duty of the State Superintendent of Public Instruction to have prepared and furnished to the teachers in the public and high schools, placards printed in large type which shall set forth in attractive style statistics, epigrams, mottoes and up-to-date scientific truths showing the evils of intemperance and especially from the use of alcoholic and intoxicating beverages of all kinds and from cigarettes. (Id. Sec. 3.)

(§ 4369c-4.) **Teacher—Duty.**—It shall be the duty of every teacher in the State paid entirely or in part by the State to keep posted in a conspicuous place in the school-room occupied by said teacher, one of the said placards. (Id. Sec. 4.)

Section 20. (§ 4369d-1.) **Thrift to be Inculcated.**—That there shall be taught in the public and high schools of the State a course of lessons to inculcate habits of thrift and industry. (March 7, 1920, C. 21, p. 106.)

(§ 4369d-2.) **State Superintendent to Prepare and Furnish Placards, Etc.**—It shall be the duty of the State Superin-

tendent to have prepared and furnished to every teacher in said public and high school of the State a bulletin covering thrift and industry. Also it shall be the duty of the State Superintendent of Public Instruction to have prepared and furnished to the teachers of the public and high schools placards printed in large type, which shall set forth in an attractive style, statistics, epigrams and mottoes showing the advantages of thrift and industry. It shall be the duty of every teacher in the State paid entirely or in part by the State, to observe at least one fifteen minutes' period each week to the teaching of thrift and industry and to keep placards on thrift and industry posted in the school room. (March 7, 1920, C. 21, p. 106.)

Section 21. (§ 4369e-1.) **Physical Training and Education—Manual to be Prepared.**—The Kentucky State Board of Education shall prescribe a course of study in physical education for all common schools of the State and shall fix the time when said course shall go into effect. This course shall occupy periods totaling not less than thirty minutes each school day which shall be devoted to instruction in health and safety, to physical exercises and to recess play under proper supervision.

A manual setting out the details of said course of study shall be prepared by the superintendent of public instruction in co-operation with the State Board of Health of Kentucky and such other expert advisers as he may choose.

Said manual when published shall be sent by said Kentucky State Board of Education to the teachers of the common schools in the State of Kentucky. (March 22, 1920, C. 42, p. 190.)

(§ 4369e-2.) **Teachers' Courses to Include such Instruction.**—The curriculum of the State Normal Schools of Kentucky and of all other institutions in the State supported wholly or in part by public funds having special courses adopted for the preparation of teachers, shall contain one or more courses in physical education, and after the first day of July, nineteen hundred and twenty-one, each person graduating from a teacher's course in any of these institutions shall have completed one or more courses in physical education. (March 22, 1920, C. 42, p. 190.)

(§ 4369e-3.) **Physical Instructors—Use of School Buildings as Community Centers.**—County boards of education, boards of education of cities and of graded common school districts may employ supervisors and special teachers of physical education in the same manner as other teachers are employed, provided they possess such qualifications as the State Board of Education may prescribe. Boards of education of two or more school districts, city, graded school, or county, may jointly employ a supervisor or special teacher of physical education. Boards of education may allow the use of school buildings and school grounds after regular school hours and during vacations as community centers for the promotion of play and other healthful forms of recreation, under such rules and regulations as to them may seem proper. (March 22, 1920, C. 42, p. 190.)

Section 22. (§ 4369f.) **Humane Treatment Toward Animals to be Inculcated.**—That for the purpose of lessening crime and raising the standard of good citizenship, and inculcating the spirit of humanity, such humane education shall be given in the public schools as shall include the kind and just treatment of horses, dogs, cats, birds and all other animals.

In every public school within the State not less than one-half hour of each week during the whole of each term of school shall be devoted to teaching the pupils thereof kindness and justice to, and humane treatment and protection of animals and birds and the important part they fill in the economy of nature. It shall be optional with each teacher whether it shall be a consecutive half hour or shorter period daily or whether such teachings shall be through humane reading, stories, narratives of daily incidents, or illustrations taken from personal experience. This instruction shall be a part of the curriculum of study in all the public schools of the State of Kentucky.

The principal or teacher of every school shall certify in his or her reports that such instruction has been given in the school under his or her control. (March 23, 1920, C. 74, p. 342.)

Section 23. (§ 4369g.) **Music Made a Part of the Common School Curriculum.**—That singing be included in the curriculum of the public schools of the State for the opening and

recreational exercises. That the minimum requirement shall include the State song and two National airs. That singing be regarded as a subject in the public schools of the State for the purpose of instilling into the minds of youth patriotic feeling and a deeper love for their country. (Act March 18, 1922.)

Section 24. (§ 4370 Ky. St.) **What Constitutes—Dividend on Bank Stock—Annual Tax—Fines and Forfeitures.**—The school fund shall consist of the fund dedicated by the Constitution and laws of this Commonwealth for the purpose of sustaining a system of common schools therein: (1) The interest on the bond of the Commonwealth for one million three hundred and twenty-seven thousand dollars (\$1,327,000.00) in aid of common schools, at the rate of 6 per cent. per annum, payable semi-annually on the first day of January and July of each year. (2) The dividends on seven hundred and thirty-five (now seven hundred and ninety-eight) shares of the capital stock of the Bank of Kentucky, representing a par value of seventy-three thousand five hundred dollars (now seventy-nine thousand eight hundred) owned by the State. (3) The surplus, three hundred and eighty-one thousand nine hundred and eighty-six dollars and eight cents (\$381,986.08), now due the several counties, and remaining a perpetual obligation against the Commonwealth for the benefit of said respective counties, for which the Commonwealth shall execute its bond, bearing interest at the rate of 6 per cent. per annum, payable annually on the first day of July to the counties respectively entitled to the same, and in the proportion to which they are entitled, to be used exclusively in aid of common schools. Said bond shall be executed by the Governor and attested by the Secretary of State for, and on behalf of the Commonwealth of Kentucky, and when said bond is executed the old bond for three hundred and seventy-eight thousand nine hundred and forty-six dollars and seventy-one cents, being part of said bond, shall be cancelled and destroyed. (4) The interest at 6 per cent. per annum, payable semi-annually, on the first day of January and July, on six hundred and six thousand six hundred and forty-one dollars and three cents (\$606,641.03, received from the United States under an act approved March 2, 1891, for which the Commonwealth has executed bond pur-

suant to an act approved March 12, 1892. (5) The annual tax of twenty-six cents on each one hundred dollars of value of all real and personal estate and corporate franchises directed to be assessed for taxation. (6) Such portions of fines, forfeitures and licenses which may be realized by the State as the amount of taxes for common school purposes bear to the whole State tax other than for the benefit of the Agricultural and Mechanical College.

(§ 4371 Ky. St.) **Common School Fund Shall Not be Used For Any Other Purpose.**—The foregoing shall constitute the annual resources of the school fund of Kentucky, and shall be paid into the treasury, and shall not be drawn out or appropriated, except to pay the expenses of the State Department of Education of whatever character or kind, and in aid of common schools, as provided in this character.

(§ 4372 Ky. St.) **Fund Used for Payment of Teachers, Unless Otherwise Provided.**—Except as otherwise expressly provided in this chapter, no part of the common school fund, or of the revenue thereof, shall be used for any other purpose than the payment of teachers of common schools, legally qualified and employed in pursuance thereof.

An act appropriating a part of the school fund to purchase a copyright of Collins' History of Kentucky held unconstitutional. *Collins v. Henderson*, 11 Bush 74.

Laws regulating manner in which common school fund shall be expended must be general. *Auditor v. Holland*, 14 Bush 147.

Constitution vests power in legislature to control school fund. This can not be delegated to the county courts. *Auditor v. Holland*, 14 Bush 147.

For construction of this section see *Fuqua v. Superintendent*, 119 Ky. 407.

State Superintendent limited in expenditures for clerical assistants. *Green, Auditor v. Gilbert*, 168 Ky. 380.

The common school fund is entitled to share in the income from inheritance taxes. *Green v. Gilbert*, 185 Ky. 817.

The Constitution does not limit the use of the common school fund to the payment of teachers of the common school, and the legislature has a right to enact section ten and provide that the expenses of the Department of Education of whatever character or kind shall be paid out of that fund. *Superintendent, etc. v. Auditor, etc.*, 97 Ky. 180.

The legislature has no power to divide the common school fund in a particular district, and appropriate a part of it to the payment of teachers in a private school. *Underwood v. Wood, etc.*, 93 Ky. 177.

School fund can not be devoted to payment of teachers' salaries not under the control of the officers of common schools. *Halbert v. Sparks*, 9 Bush 259; *Underwood v. Wood*, 93 Ky. 177.

The legislature may provide for the conversion of a common school into a graded school and the payment to the latter of the pro rata of the school fund due such district on a pupilage basis. *Riggs v. Stevens*, 92 Ky. 393.

(§ 4373 Ky. St.) **Auditor—Duty of With Relation to Fund.**—The Auditor shall keep the accounts in relation to this fund. He shall, once in each month, make a transfer to the credit of said fund of all receipts into the treasury, with the source of each item, for the benefit of the common schools up to the date of such transfer. He shall allow no expenditures on that account beyond the annual revenue of the fund, and shall see that no county draws more than its proper proportion.

(§ 4374 Ky. St.) **Net Revenue to be Distributed—Fees and Expenses Not to be Paid Out of.**—The net revenue of the fund accruing during each school year shall constitute the sum to be distributed. But no fees to county judges or clerks, discount on checks, or other incidental expenses, shall be paid out of the distributable share of the revenue apportioned to any county; but such payment, when allowed by the fiscal court, shall be made out of the county levy.

(§ 4375 Ky. St.) **Superintendent to Estimate Share Pupils Entitled to—Duty of Auditor and Superintendent—Surplus Due Counties.**—The Superintendent of Public Instruction shall, on or before the fifteenth day of July in each year, ascertain and estimate for the school year the pro rata share to which each pupil-child will be entitled, according to the whole number of such children residing in each county, as shown by the returns of the County Superintendent.

If at the time of making such estimate and apportionment, the census returns of the superintendent for any county have not been made to him, he shall use the census returns made for the previous year. It shall be the duty of the Auditor to furnish the Superintendent of Public Instruction such data as may be needed in making such estimate and apportionment. It shall be the duty of the Superintendent of Public Instruction, as soon as practical, to file such a copy of said estimate and apportionment with the Auditor, and to inform each county superintendent of the amount to which his county shall be entitled. Whatever difference may exist between the estimated and the actual revenue of the school fund for any school year shall be taken into the account of the estimate and apportionment for the succeeding school year.

A detailed statement of the surplus amount to which each county is entitled shall be made out by the Superintendent of Public Instruction and filed and preserved in his office. The bonded surplus in the State Treasury to the credit of the counties shall bear interest at the rate of 6 per cent. per annum, and per capita derived from said interest shall be duly apportioned to the white and colored schools of the county respectively, and be paid as provided in the following section: Provided, that when any county heretofore established out of the territory belonging to a county or counties having a surplus which has not been apportioned among said counties, and when any new county shall hereafter be established out of territory belonging to a county or counties having such a surplus, then the Superintendent of Public Instruction shall apportion such surplus among the original and new counties in an equitable manner.

(§ 4376 Ky. St.) **Distribution by Auditor on Warrants of Superintendent—Dates of.** * * * .—For each school year the Auditor of Public Accounts, on the successive warrants of the Superintendent of Public Instruction, shall distribute the amount of the school fund due each county superintendent of Common Schools and the amount due each city, town or village organized as one district, to the treasurer of the school board thereof as follows: On or before the first day of September one-sixth of the whole amount; on or before the first day of October one-sixth of the whole amount; on or before the first day of November one-sixth of the whole amount; on or before the first day of December one-sixth of the whole amount; on or before the first day of January one-sixth of the whole amount; on or before February the first the residue including the undistributed surplus; provided that if the amount in the treasury on the first day of September, October, Novem-

Under section 14, where a majority of the districts have been overpaid because of an erroneous estimate of the revenue of the school funds for the year, such districts must be postponed in the apportionment of the revenue of the next year, until the underpaid districts are made equal to them. *Louisville, etc. v. McChesney, etc.*, 109 Ky. 9.

State Superintendent may question accuracy of returns made to him by any district showing pupils in district. *Louisville School Board v. Supt.*, 102 Ky. 394.

Graded school district entitled to its pro rata any time during second year where there was no school on account of delay in constructing building. *Trustees v. Webster County*, 132 Ky.

ber, December, January or February be insufficient to admit of a full distribution of the proportion required by this Act, then the Auditor of Public Accounts shall upon the successive warrants of the Superintendent of Public Instruction issue his warrant, bearing interest at the rate of five per centum per annum for the residue. The warrant shall be paid together with the interest thereon out of the common school fund. (Act as amended March, 1918, C. 139, p. 592.)

(§ 68b-37.) **Net Balance of "Dog Fund" Paid Into "School Fund."**—All moneys collected by the various county clerks in this Commonwealth under the provisions of this Act shall, after deducting the amounts paid out for loss, damages, compensation and other expenses necessary for the enforcement of this Act, revert to the school fund of the county.

Section 25. (§ 4376a Ky. St.) **School Term—Extension—Day to Pay Teachers.**—*The school term shall not be less than six (now seven) months (120) (now 140) days and may by the Superintendent of Public Instruction be extended to seven months or to eight months when the resources of the school fund or contributions by local taxation or donations shall justify such extension; provided, however, no such extension shall be made if it reduces the salaries of the teachers below the standards fixed in section 104. (Sec. 34a.)* When the school term is extended to seven months the school fund for that year shall be divided into seven equal installments, and if extended to eight months, into eight equal installments. When either such extension is made six installments shall be paid as hereinbefore provided and when the term is seven months the last payment shall be on the first day of March; when the term is eight months the last payment shall be on the first day of April, on warrants as in case of six months' term.

The second Saturday of each of the aforesaid months is hereby designated as the day on which the County Superintendent of Common Schools and the treasurer of each school

This section is not invalid for uncertainty. It authorizes county superintendents and independent school boards to sell warrants issued under it. *Adams v. Greene*, 182 Ky. 504.

Sec. 68b-37. The fund is to accumulate from year to year, until sufficient to pay all outstanding claims in full. The surplus at the end of each year is to be paid to the county school fund, and the live stock fund starts afresh. The court construes subsection 27. *Nicholas v. Logan*, 184 Ky. 711.

board of a city, town or village organized as a separate common school district, shall pay to the teachers under them the sums due said teachers, according to the provisions of this Act. (Act as amended March, 1918, C. 139, p. 592.)

Section 26. (§ 2054a-13.) **County Health Officer to Inspect Schools—Confidential Reports to Parents.**—The county health officer shall make frequent trips of inspection to all parts of the county to determine and remove causes of sickness. He shall visit the schools of the county and make such inspections of surroundings, premises or inmates as the county or state boards of health may determine are necessary to protect the public from communicable diseases. If in school examinations of children for defective eyesight, hearing, diseased tonsils and teeth and adenoids, such conditions be found either by himself or his assistant, a confidential report in writing shall be made to the parent or guardian of such child or children, calling attention to the defect or disease and requesting that such condition be corrected.

Section 27. (§ 2054a-14 Ky. St.) **Analysis of Drinking Water Used by School Children to be Made—Pure Water to be Furnished—Condemnation of Unsanitary School Premises—Court May Require Erection of Safe and Sanitary Building.**—The health officer shall make a physical, chemical and bacteriological examination of the drinking water used by school children, and if dangerous to their health the county or State Board of Health may order that a supply of pure water be furnished at the expense of the county or city board of education. If in the opinion of such board the premises are constructed in violation of the law and are found to be unsanitary or unsafe for the housing of children, the local or State Board of Health may institute an action in the circuit court of the county where the building is situated, and the court, after due hearing and verifying of the facts, may order a safe and sanitary school building to be erected **within a reasonable time by** the county or city board of education in accordance with the laws of this Commonwealth governing the erection of school-

Words in italics supplied by Act 1922, fixing minimum term seven months.

Warrants for a school teacher's salary governed by provisions relating to State warrants under Sec. 4688a. *Adams v. Greene*, 182 Ky. 504.

houses and the control of disease, and the rules and regulations of the State Board of Health. (March 27, 1918, C. 65, p. 290.)

Section 28. (§ 4526a. Ky. St.) **White and Colored not to be Taught in the Same College—Penalty.**—That it shall be unlawful for any person, corporation or association of persons to maintain or operate any college, school or institution where persons of the white and negro races are both received as pupils for instruction; and any person or corporation who shall operate or maintain any such college, school or institution shall be fined one thousand dollars (\$1,000.00), and any person or corporation who may be convicted of violating the provisions of this Act shall be fined one hundred dollars (\$100.00) for each day they may operate said school, college or institution after such conviction.

(2) That any instructor who shall teach in any school, college or institution where members of said two races are received as pupils for instruction shall be guilty of operating and maintaining same and fined as provided in the first section hereof.

(3) It shall be unlawful for any white person to attend any school or institution where negroes are received as pupils or receive instruction, and it shall be unlawful for any negro or colored person to attend any school or institution where white persons are received as pupils or receive instruction. Any person so offending shall be fined fifty dollars (\$50.00) for each day he attends such institution or school; provided, that the provisions of this law shall not apply to any penal institution or house of reform.

(4) Nothing in this Act shall be construed to prevent any private school, college or institution of learning from maintaining a separate and distinct branch thereof, in a different locality, not less than twenty-five miles distant, for the education exclusively of one race or color. (March 22, 1904, C. 85, p. 181, as amended March 18, 1916, C. 24, p. 162, Sec. 210.)

Sec. 4526a. So much of this statute as imposes punishment for operating an institution of learning in which white and colored persons may be taught at the same time and in the same place, is valid; so much as prohibits the operation by any institution of learning of separate branches for white and colored persons less than twenty-five miles distant from each other is void. *Berea College v. Com.*, 123 Ky. 209.

Section 29. (§ 4435e Ky. St.) **Seminaries—Trustees—Appointment of.**—Whenever the number of the trustees of any county academy or seminary heretofore created by Act of the General Assembly of the Commonwealth of Kentucky has been reduced by death, resignation or otherwise, to less than a quorum, the county court of the county for which such academy or seminary was created shall have authority, and it shall be its duty, to fill said vacancy by appointing trustees for such academy or seminary. The trustee so appointed shall have the authority heretofore conferred, or that may hereafter be conferred, upon trustees of such academy or seminary.

Section 29a. (§ 1258 Ky. St.) **Injuring Public Building or School House.**—If any person wilfully and unlawfully pull down or injure a church, courthouse, school house or other public building he shall be fined not less than five nor more than five thousand dollars. (See further 3951-52.)

(§ 3951 Ky. St.) **Trespass or Injury to Public Property.**—Any person for trespass on or injury to any of the public property of the Commonwealth, or of a county, shall be liable to be indicted and fined, at the discretion of a jury, in addition to his civil liability. The net proceeds of the fine for trespass on or injury to the public property of the State shall be paid into the treasury, and reported by the treasurer to the next General Assembly. The net proceeds of the fine for a trespass on the public property of a county shall be paid to the county court in aid of the county levy. (See sections 1261 and 1262.)

(§ 3952 Ky. St.) **Trespass or Injury to School or Church Property—Penalty.**—Like remedy, civil and penal, shall be given to the trustees of any college, seminary, school, church, public charity or house of public worship against any person for any injury to or intrusion on the buildings or grounds or property attached thereto, as is given for a similar injury or intrusion on the public property of a county. The net proceeds of the recovery in any such proceeding, civil or penal, shall be paid over to the trustees entitled thereto. A civil action for such injuries shall not be impeded by the death,

Former conviction for the offense of shooting on the streets is a bar to a prosecution under this section for injuring the court house by the same act. *Reddy v. Com.*, 97 Ky. 784.

resignation or removal of one or more trustees, but the same shall progress as if he or they were still acting.

Section 29b. (§ 1277a-4 Ky. St.) **Prohibited in School Buildings and Grounds.**—Every person, who shall smoke or use a cigarette or cigarettes, in any school building or any building or such parts thereof as may be used for school purposes, or upon school grounds, while children are assembled there for lawful purposes, shall be guilty of a misdemeanor, and upon conviction, shall be punished for each offense by a fine of not less than one nor more than five dollars.

Chapter III.

STATE BOARD OF EDUCATION

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| Sec. 30. Board's duty and powers. | Sec. 34. Records to be kept. |
| Sec. 31. High school certificates. | Sec. 34a. Teacher's salary schedule. |
| Sec. 32. Course of study for common schools. | Sec. 34b. Summer training schools. |
| Sec. 33. Validation teacher's certificates. | Sec. 34bl—Minimum salary of Teachers. |

Section 30. (§ 4377 Ky. St.) **Members of Board a Corporate Body.**—The Superintendent of Public Instruction, together with the Secretary of State and Attorney General, shall constitute the State Board of Education. The board thus constituted shall be a body politic and corporate by the name and style of the Kentucky State Board of Education.

(§ 4378 Ky. St.) **Property Held and Disposed of for the Benefit of Schools.**—The corporation shall take, hold and dispose of real or personal estate for the benefit of the common schools of the State. The bonds, certificates of stock and other evidences of property held by the board for common school purposes shall be in the custody of the chairman, and the place of deposit shall be shown by the records of the board.

(§ 4379 Ky. St.) **Superintendent Chairman, and With One Member a Quorum.**—The Superintendent of Public Instruction shall be the chairman of the board, and, with one other member may control its corporate action at any regular or called meeting of the board, of which all the members shall have had timely notice in writing.

Section 31. (§ 4380 Ky. St.) **Meetings—How Called.**—The board shall meet only on written call of the chairman.

(§ 4381 Ky. St.) **Corporate Acts.**—The corporate acts of the board shall be attested by the signature of the chairman, and his private seal shall stand in lieu of a corporate seal.

(§ 4382 Ky. St.) **Powers and Duties—Standing Committee.**—The State Board of Education shall constitute a standing committee, who shall prepare rules, by-laws and regulations for the government of the common schools of the State, which shall be adopted and enforced under the authority and direction of the county superintendents, trustees and teachers;

Two members of State Board of Education constitute a quorum and may approve bond of book publisher. *Reid v. Comith.*, 123 Ky. 240.

shall prescribe regulations for the management of county teachers' libraries, and prepare suitable lists of books for sub-district libraries with regulations for the management thereof; shall prescribe and publish a public graded course of study for the common schools, specifying the order of studies, and the time to be allotted to each, which course of study shall be observed by the teacher and enforced by the trustees.

Section 32. (§ 4383 Ky. St.) **Course of Study.**—The instruction prescribed by the board shall embrace spelling, reading, writing, arithmetic, English grammar, English composition, geography, physiology and hygiene, civil government, United States history, and the history of Kentucky. After July 1, 1893, the nature and effects of alcoholic drinks and narcotics upon the human system shall, in all schools supported wholly or in part by the State, be taught as thoroughly as other required studies to all pupils studying physiology and hygiene as a part of this branch.

Section 33. (§ 4502a Ky. St.) **State Board of Education—High School Certificates Granted by.**—That the State Board of Education of Kentucky shall have power to determine the qualifications of and issue certificates to teachers to teach in the public high schools of Kentucky, through the State Board of Examiners, on such examinations as may be held under such rules and regulations as the State Board of Education may prescribe for said State Board of Examiners, and that the State Superintendent of Public Instruction may validate for extension during a term of years the certificate of any person holding such a high school certificate as prescribed by sections 180, 181, 182, 183 and 184 of this Act.

(§ 4502a-2 Ky. St.) **Certificate Valid During Good Behavior—State Superintendent May Revoke.**—(1) The validation and extension of the said certificate may be made during good behavior of the holder on condition that after the proper investigation the State Board of Education, may in their judgment find that the holder of said certificate has attended professional schools and improved himself in the arts and methods of teaching to the satisfaction of said State Board.

(2) The State Superintendent shall have power to revoke at any time, for cause any such certificate.

(§ 4502a-3.) **Higher Institutions in State or Out to be Recognized—Standard of Work.**—The State Board of Education may, on the application of an institution of higher learning, whether within or without the State, that is not conducted for private gain, inspect such educational institutions, investigate their work, standards and courses of study, and in its own discretion, grant certificates to the graduates of such institutions, giving them the right to teach in the high schools of Kentucky. Such certificates shall be issued upon evidence furnished by the applicant for the work and attainments accomplished in said institutions. No such certificates shall be given for any work done in such institution of a lower amount or standard than that required for similar certificates issued by the State Board of Examiners, or granted to the students of the State University of Kentucky and the State Normal Schools of Kentucky.

The State Board of Education may grant certificates to teach in the high schools of the State to graduates of standard colleges of agriculture either within or without the State who have had one-tenth of their work in education, which certificate shall be valid for four years and renewable at the option of the State Board of Education. Applicants for this certificate may present a satisfactory equivalent for the requirements herein set forth. Cross reference. (See further Sec. 4535c-1 et. seq.)

(§ 4502a-4 Ky. St.) **Teachers' Certificates in Other States Recognized.**—The State Board of Education shall have the power to recognize and validate teachers' certificates of other states which shall not be of a lower standard than the State certificate of Kentucky, and they shall have power to approve or disapprove such certificate of qualification as may be recognized by County Superintendents and County Boards of Education in this State. (See Secs. 177, 187.) (4502a-5.—Repealed March 22, 1920, C. 39, p. 172.)

(§ 4502a-6 Ky. St.) **Teachers of Twenty Years' Experience.**—The State Board of Education, in their discretion, shall have the power to extend for life, teachers' certificates of such teachers who have had as many as twenty years of successful experience teaching in the common schools of this State, pro-

vided that no such certificate shall be of a lower class than the first class. (Sec. 4503 Repealed March 22, 1920, C. 39, p. 172.)

(§ 4503a-1 Ky. St.) **County Certificates.**—(1) County certificates shall be first class and second class, and shall be valid for four years and two years respectively.

(2) No county certificate shall be valid in any county other than the one in which it is issued, except that in cases of emergency a first class certificate issued in one county may be validated in another county by the County Board of Examiners for a period of one year.

(3) No certificate of the second class shall entitle the holder to teach in any school or district reporting seventy-five or more pupil children.

(4) A county certificate of the first class shall require an average grade of eighty-five per centum upon all the subjects in the common school course and upon the science and art of teaching, and the lowest grade on any subject shall not be less than sixty-five per centum.

(5) A county certificate of the second class shall require an average grade of seventy-five per centum and the lowest grade on any subject shall be not less than sixty per centum.

(6) - If at any time the holder of a county certificate shall be found incompetent, inefficient, immoral or otherwise unworthy to be a teacher, the County Superintendent shall revoke the certificate of such person; and no teacher whose certificate has been revoked shall be entitled to receive payment for services only up to the time of revocation.

(7) No person shall be entitled to receive a county certificate of either class who was not eighteen years of age prior to the date of the examination.

(8) Nothing in this act shall be construed to require any teacher now holding a State diploma, State teacher's certificate or county certificate to be re-examined until the expiration of said certificate.

(9) A person having taught for eight consecutive years in the same county under first class certificates may have the last one renewed for a period of four years by the County Superintendent, who shall write upon it "renewed," signed officially and give the date of such renewal. When a cer-

tificate has been renewed one time the teacher shall again receive two first class certificates as stated above before it can be renewed a second time. (See Sees. 74 and 183 notes.)

(§ 4503a-2.) **State Board to Validate Foreign Certificates.**—The State Board of Education of Kentucky is hereby authorized to inspect and validate for Kentucky State diplomas and State certificates of other states on the reciprocity plan.

Section 34. (§ 4504 Ky. St.) **Record to be Kept by Teachers—Facts to be Recorded in.**—(1) It shall be the duty of each teacher of a common school to keep such register of the school as the State Superintendent may require of him on forms furnish to him as needed, through the County Superintendent. The teacher's register shall be the property of the sub-district; shall be systematically graded for at least four years' work; shall be well preserved, without mutilation or useless marking; shall be in the care of the teacher during the school term, and at the close thereof, shall be delivered to the sub-district trustee, who shall be responsible for it, and deliver it to the teacher at the opening of the next school term, and it shall be open at all times to the inspection of the trustees and the County Superintendent. The section allotted to each year shall be divided into two parts, designated as monthly summary and term summary. The monthly summary shall show the day of the week and day of the month upon which the term began; the day of the week and of the month of each day taught; the number of pupils enrolled; the number in attendance each day; the name, sex and weekly standing of each pupil in each subject, and such other facts as the Superintendent of Public Instruction may desire.

This section has been modified if not repealed by sections 4501a-5. County board of examiners now have no authority to issue county certificates. County certificates are no longer valid. Elementary certificates are issued by the State Board.—Ed.

A holder of a third class certificate not entitled to teach as an assistant in district reporting fifty-five or more pupil children. Flanary, etc. v. Barrett, 146 Ky. 712.

Unquestionably under our statutes the county board of examiners have discretionary powers in granting or withholding teachers' certificates upon the question of moral fitness of the applicant, and unless they act arbitrarily and in abuse of their discretion mandamus will not lie. Crawford v. Lewis, etc., 170 Ky. 589.

OPINION OF THE ATTORNEY GENERAL

If a teacher has taught in the same county for eight consecutive years, under first class certificate, he may have the last of such certificates renewed each year for four years, but no longer than that.

(2) On the last day of each month taught, the teachers shall sum up and place at the end of the record for the month the facts herein required to be kept, with the day of the week and month on which school month closed; the highest and lowest number of pupil children in attendance and the average percentage of the attendance of the whole number of children in the district.

(3) The term summary shall show the monthly statement made at the end of each month, the percentage of the enrollment of the whole number of pupil children in the district, the highest, lowest and average number of children in attendance, the average percentage of the children in attendance, the number of pupils in each class, the name of the text-book used in each class, the point reached by each pupil in each book at the close of the term, the names of all the pupils that should be advanced, the class of the teacher's certificate, his average monthly salary, and such other facts as may be required in the register.

(§ 4505 Ky. St.) **Reports by Teachers—Blanks Furnished—Duty of Chairman, Subdistrict Trustee and Teacher—Penalty.**—(1) The Superintendent of Public Instruction shall provide for each teacher a blank monthly report for each month to be taught, and also a blank term report. At the end of each month taught the teacher shall fill the monthly report of that month from the facts summed up in the monthly summary of the register, and shall present the monthly report to the subdistrict trustee, who shall carefully examine it, and if found correct he shall fill out and sign a certificate attached to the monthly report, certifying that the month has been legally taught; and upon the chairman of the division board's certificate the teacher shall draw his salary from the County Superintendent for the month so certified, after the monthly report has been duly delivered to the County Superintendent.

(2) Within ten days after the close of the last month of the term, the teacher shall make out the term report from the term summary in the register; shall present the term report, the last monthly report and the teacher's register to the subdistrict trustee, who shall carefully inspect them and approve the reports, if correct. Said term report shall then be pre-

sented to the chairman of the division board; and, if found correct, he shall sign a certificate attached to said term report, which shall then be delivered to the County Superintendent.

(3) Nothing herein shall be construed to prevent a sub-district trustee or a chairman of the division board from certifying to, or a County Superintendent from paying for, a fraction of a month in any case in which the teacher, from sickness or other disability shall be unable to continue the school.

(4) Any teacher who shall make a false monthly or term report, or any subdistrict trustee or chairman of a division board who shall give a certificate of a month or months taught before he has carefully examined and approved the report of each month, or any County Superintendent who shall make a payment upon a teacher's salary, except upon the certificate of the subdistrict trustee and chairman of the division board shall be guilty of a misdemeanor, and, on conviction, be fined fifty dollars for each offense.

(§ 4506 Ky. St.) **Teachers—Duties—Removal by Superintendent—Power Over Pupils—Appeal.**—(1) The teacher shall faithfully enforce in school the course of study, the use of the text-books adopted in the county, and the regulations prescribed in pursuance of law; and if any teacher shall wilfully refuse or neglect to comply with such regulations, the division board may remove him, at any time, subject to the approval of the County Superintendent; and in case of such dismissal or removal, the said teacher shall receive payment only for the time taught.

(2) The teacher is authorized and directed to hold each pupil to a strict accountability for any disorderly conduct on the playground, or during any intermission or recess, or on the road to and from school; and for good cause he may suspend any pupil; but such suspension shall be immediately reported, in writing, to the subdistrict trustee. In cases of suspension, the action of the teacher shall be final unless reversed by the trustee. Either party may appeal from the decision of the subdistrict trustee to the County Superintendent, whose decision shall be final.

(3) But no teacher shall be required or under any obligation to teach any other than the common branches prescribed

by the State Board of Education in the common schools, unless it shall be so specified in a written contract with the division board.

Section 34a. (§ 4434a-4 Ky. St.) **Method of Fixing Salaries.**—All salaries of subdistrict teachers shall be based on, and regulated by the qualification of the teacher and the number of children actually in attendance in proportion to the number enrolled in the school census for the district, graduated in accordance with, and in conformity to, such rules and regulations governing same as shall be hereafter prescribed by the State Board of Education.

(§ 34b.) **Teacher's Summer Training Schools—Institutes Abolished.**—That sections 4507, 4508, 4509, 4510, 4511, 4512, 4513, 4514, 4515, 4516, 4517, of the Kentucky Statutes, Carroll's Edition, 1918, be and the same are hereby repealed, and there is enacted in lieu thereof the following:

The State Board of Education is hereby authorized and empowered to establish and cause to be held and conducted in each county of this Commonwealth a summer teacher training school, such school to be conducted in a central place, preferably the county seat, and which school shall be taught for a term of not less than six weeks, under such rules and regulations as the State Board of Education may provide. It shall be the duty of the County Board of Education and the Board of Education of any municipal or independent school taught in any such county seat to provide a suitable room or rooms in which such training school can be conducted, and to provide for the care of such room free of any cost to the State Board of Education.

The State Board of Education is further authorized and empowered to establish a teacher training department in high schools wherever, and whenever, such departments are practicable.

For unlawful dismissal a teacher may maintain an action for damages against the County Board of Education, but the extent of the liability is the amount of salary due under the contract and where on an appeal to the Court of Appeals the amount due is only \$132.50 the appeal will be dismissed.

Educational division of a district not being incorporated, can not be sued, but the trustees of such division may be sued.

The County Board of Education and the trustee of a school may not be joined as parties defendant. *Mock v. County Board, etc.*, 145 Ky. 715.

Under this section a teacher is not required to teach higher branches without a special contract and receive tuition from the pupils studying same. *Mayor v. Cayse, etc.*, 98 Ky. 357.

It is further provided that all teachers of the county, including the city, graded or other independent districts, shall have the privilege of attending such training schools free of tuition.

There is hereby appropriated out of the general funds of the State, the sum of fifty thousand dollars per annum to the State Board of Education for the purpose of meeting the cost incident to the organization, operation and management of such summer teacher training schools and to enable it to employ competent teachers and directors thereof. The Auditor of the Commonwealth is hereby directed to draw his warrant for said sum annually upon requisition signed by the chairman and secretary of the State Board of Education.

All laws and parts of laws in conflict with the provisions of this Act are hereby repealed. (Acts of March, 1922.)

Section 34b-1. (§ 4434a-14a.) **Minimum Teacher's Salaries—Tax Levy to Pay.**—No teacher regularly employed in public schools of the Commonwealth of Kentucky, outside of graded school districts and incorporated cities and towns maintaining a separate school system, shall, except as herein provided, receive a salary of less than seventy-five dollars (\$75.00) per month; and for the purpose of supplementing the state fund so as to meet the requirements of this act, it shall be the duty of each county board of education to request, and of the fiscal court to levy, a minimum tax of twenty-five cents (25c) on each one hundred dollars (\$100.00) of taxable property in the territory affected by this act; and the tax so collected, or so much thereof as may be necessary, shall be devoted first to the payment of said minimum salary of seventy-five dollars (\$75.00) per month. In the event the said minimum levy of twenty-five cents (25c) together with the funds received from the state for paying teachers' salaries will not provide sufficient funds for the payment of said minimum salary of seventy-five dollars (\$75) per month, said county board may levy a higher rate to raise such funds as may be necessary to meet said minimum salary of seventy-five dollars (\$75.00) per month, or may fix a minimum salary at such a sum per month as the state fund, when supplemented by the entire twenty-five cent (25c) levy may pay. (March 5, 1920, c. 6, p. 8.

Chapter IV.

SUPERINTENDENT OF PUBLIC INSTRUCTION

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| Sec. 35. Qualifications and bond. | Sec. 41. School law to issue biennially. |
| Sec. 36. Powers and duties. | Sec. 42. To digest decisions. |
| Sec. 37. Duty to visit schools. | Sec. 43. Gifts or bequests to schools. |
| Sec. 38. State Board of Examiners. | Sec. 44. Duty to turn over records, etc. |
| Sec. 39. Reports to General Assembly. | Sec. 45. Inspector and Examiner; duties and salary. |
| Sec. 40. Annual reports to be filed with. | |

Section 35. (§ 4384 Ky. St.) **Oath—Bond—Beginning of Term.**—The Superintendent of Public Instruction shall take the oath and enter upon the duties of his office, on the first Monday in January after his election, and shall give bond to the Commonwealth, with good security, for the faithful performance of his duties to be approved by the Governor, with at least twenty-five thousand dollars, the bond to be filed in the office of the Secretary of State.

Section 36. (§ 4385.) **Salary—Office Supplies—Clerks and Stenographers—Salaries.**—The Superintendent of Public Instruction shall receive a salary of twenty-five hundred dollars (\$2,500.00) and the additional amount he receives as chief inspector and examiner of schools, per annum, besides which he shall be entitled to all office fixtures and stationery, of his office, and traveling expenses incurred in the necessary and proper performance of his duties. The Superintendent of Public Instruction shall have power to appoint for his department such clerks and stenographers as may be needed, who shall serve for the term for which he is elected, unless sooner removed by him. They shall perform such duties as otherwise provided by law as may be assigned them by the superintendent of public instruction for the furtherance of the discharge of his duties.

The salary paid to each clerk and to each stenographer shall be determined by the State Superintendent of Public Instruction, and such salary or salaries shall be paid monthly out of the school fund by the state treasurer, provided that not more than eleven thousand dollars (\$11,000.00) is to be used annually for the payment of salaries of such clerks and stenographers. (Act March '23, 1920, C. 71, p. 333, section 2.)

Section 37. (§ 4385 Ky. St.) **Expenses Paid Not Exceeding \$500.**—The Superintendent of Public Instruction should visit various portions of the State in the interest of the common schools. The necessary expenses thus incurred by the State Superintendent, not to exceed in all five hundred dollars annually while engaged in such work, shall be paid by the Treasurer and charged to the common school fund; and that the Superintendent is hereby authorized to make monthly requisitions on the Auditor for such expenses, and that he render an itemized account of the same.

Section 38. (§ 4386 Ky. St.) **State Board of Examiners—Duties of.**—The Superintendent of Public Instruction shall appoint two professional educators, who, together with himself, shall constitute a State Board of Examiners, who shall examine all applicants, personally applying to them for certificates of qualifications as county superintendents or for State diplomas or State certificates. The said Board of Examiners shall prepare the series of questions for the examination of candidates for county superintendents, as provided in Section 4501a-4, Ky. St., and also the different series of questions for the examination of teachers as provided in Section 4501a-4, Ky. Statutes, and before forwarding to the county superintendent shall submit all of the said series to the State Board of Education for their approval.

Section 39. (§ 4387 Ky. St.) **Office at Seat of Government—Entire Time to be Devoted to Duties.**—He shall keep his office at the seat of government in such suitable buildings as may be provided, and shall devote his entire time and attention to the duties of his office.

(§ 4388 Ky. St.) **Accounts—Settlements—Changes in County Superintendent.**—He shall keep an account of all the orders drawn or countersigned by him on the Auditor; of all the returns of settlements and of all changes in the office of county superintendents, which shall be furnished to the Auditor whenever required.

Sec. 4386. By act of March 8, 1912 (S. A., p. 91), inspection of schools and school funds is provided for; for special duties thereunder the salary of the Superintendent of Public Instruction is increased; assistants are provided for and the efficiency of the Department of Education is increased. The act contains penalties.

(§ 4389 Ky. St.) **Report of Condition and Prospects of Schools—Printing and Distribution.**—He shall biennially, on or before the meeting of the General Assembly, make report of the condition, progress and prospects of the common schools; the amount and condition of the school fund; how its revenue for the two previous school years has been distributed; the amount produced and disbursed for common school purposes from local taxation or other sources and how and for what the same was expended; an abstract of the county superintendents' reports, the practicable working of the common school system of the State, with suggestions as to any alterations it may require; all of which, together with such other facts, statistics, and information as may be deemed of interest to be known, he shall deliver to the contractor for public printing, and cause to be printed a copy for each school district and for each county and city superintendent of schools in the State, seven hundred and fifty copies for the use of the members of the General Assembly and for exchange with the Superintendents of Public Instruction of other States and five hundred copies for distribution by the Superintendent, according to his discretion.

Section 40. (§ 4390 Ky. St.) **Blind, Deaf, Dumb and Feeble-Minded Institutions—Reports Concerning.**—The Superintendent in his report shall set forth the objects, methods of admission and other general information concerning the institutions for the blind, the deaf and dumb, and the Feeble-minded; and, to aid him in his work, the superintendents of these institutions shall be required annually, by the first day of September, to furnish the Superintendent of Public Instruction with such condensed statement of their respective institutions as it would be profitable to publish.

(§ 4390a Ky. St.) It shall be the duty of all educational institutions and county superintendents receiving aid from the State of Kentucky to make a report to the State Department of Education at the close of each scholastic year, showing in detail all funds received from the State of Kentucky, and from all other sources, during such year, and a detailed statement of all expenditures for the year.

All laws or parts of laws in conflict herewith are hereby repealed. (Act of March, 1922.)

(§ 4391 Ky. St.) **Copies of Records in Office Evidence.**—Copies of records and papers in his office certified by him shall in all cases be evidence equally with the originals.

Section 41. (§ 4392 Ky. St.) **Blanks—Documents to be Prepared and Furnished.**—He shall prepare suitable blanks for reports, registers, certificates, notices, and such other official documents as may be provided for in this chapter and shall cause the same with such instructions and information as he may deem necessary to a proper understanding and use of them, to be transmitted to the officers and persons intrusted with the execution of the provisions of the school law.

(§ 4393 Ky. St.) **School Laws to be Biennially Arranged and Edited.**—The Superintendent of Public Instruction shall biennially collect, arrange for publication and index the school laws, omitting all that has been repealed and inserting in its proper place that which is amendatory.

(§ 4394 Ky. St.) **County Superintendent or Trustee—Neglect to be Reported—Duty of County Attorney.**—It shall be his duty to report any neglect of duty, or any misappropriations of common school funds on the part of the county superintendent or trustees of common schools in this Commonwealth to the county attorney, whose duty it shall be, whenever such neglect of duty or misappropriation of funds shall come to his knowledge, to prosecute such person in the circuit court of the county.

Section 42. (§ 4395 Ky. St.) **Publication and Distribution of School Laws and Decisions.**—He shall have published for biennial distribution throughout the State, the general school laws of the State, abstracts of the decisions of the Appellate Courts and of the Attorney General on points of school law and construction thereof, decisions, rules, and regulations of the State Board of Education and of the State Board of Examiners, plans and specifications for building school houses; information and instructions in regard to application of the school law and the management of the common schools, important official and legal periods of the school year, with due notice thereof; and such other important facts and data as may be of interest to the public.

(§ 4396 Ky. St.) **Decisions of Questions—Appeal—Opinion of Attorney General.**—The Superintendent of Public Instruction shall, at the written request of any county superintendent of common schools, decide any question of difference or doubt touching the administrative duties of officers and teachers of the common schools in his county. The decision of the Superintendent of Public Instruction shall in such cases be final unless appeal be prosecuted from his decision to the State Board of Education within thirty days. Before rendering such opinion, the superintendent may obtain the advice of the Attorney General, whose opinion in writing, shall be conclusive for the time, and sufficient defense against all parties. The decisions of the Superintendent of Public Instruction, and the opinion of the Attorney General, shall be duly filed and duly recorded in the book kept for the purpose.

Section 43. (§ 4397 Ky. St.) **Gift or Devise to School Fund—Appointment of Agent to Take Charge of—Powers and Duties.**—Whenever he shall be informed that any donation, gift or devise of any real or personal estate shall have been made to the common school fund of Kentucky, it shall be the duty of the Superintendent of Public Instruction to appoint some discreet person, who shall take charge of the real or personal estate so granted, devised or donated and sell and dispose of the same, and pay the proceeds into the State Treasury. Before said agent so appointed by the Superintendent of Public Instruction shall proceed to act he shall give a bond, with good security, to the Commonwealth, for the faithful discharge of his duties as agent. Said bond shall be given in the county in which the donor, grantor, or devisor shall have died, or in the county in which the property is situated; the bond shall be executed in, and approved by the county court. The person so appointed shall make a settlement with the county court of his county, once in each year, and shall pay into the treasury the amount found in his hands after said settlement. The court shall allow said person a reasonable compensation for collecting and paying over said money, not exceeding ten per cent. on the first five hundred dollars, and five per cent. on the resi-

No appeal lies to the Superintendent of Public Instruction from an order of the county superintendent under section 4396 recognizing a trustee pending a dispute. *Patrick v. Fletcher*, 149 Ky. 193, 148 S. W. 16.

due, which amount said person shall retain in his hands out of the money collected. For any failure of the person so appointed to discharge the duties under this law, he and his securities shall be liable to all damages sustained, and for all money collected, with twenty per cent. damages on the amount so collected, and which he has failed to pay over. The suit on the bond shall be brought in the name of the Commonwealth's Attorney or County Attorney. The person appointed by the Superintendent of Public Instruction shall have the same power in collecting and settling the estate as an administrator or executor now has by law, may institute and defend all suits in reference to said estate, and sell and convey the real estate by deed. The amount of money paid into the treasury under the provisions of this section shall remain there until disposed of by law, and the treasurer and his sureties shall be liable for the same on his official bond. This section shall apply to all gifts, donations or devises heretofore or hereafter made to the school fund of Kentucky. But the provisions of this section shall not apply to cases where the terms or conditions of the devises, gifts or donations conflict with said provisions; but, in such cases, the terms or conditions of the devise, grant or donation shall be carried out as intended by the person making the same.

Section 44. (§ 4398 Ky. St.) **Books and Papers to be Delivered to Successor—Penalty.**—Upon retiring from office, the Superintendent of Public Instruction shall deliver to his successor all books, papers and effects belonging to the office, and on failure to do so shall be fined in a sum not less than one hundred nor more than five hundred dollars, to be recovered by indictment in the Franklin Circuit Court.

Section 45. (§ 4398a-1 Ky. St.) **State Superintendent to Act as State Inspector and Examiner of Schools—Salary—Assistants—Power—Duties.**—The State Superintendent of Public Instruction be, and is hereby, authorized to act as Special State Inspector and Examiner of all schools in cities, towns and counties in the Commonwealth, receiving funds directly or indirectly from the State or said cities, towns and counties. The State Superintendent of Public Instruction, before entering upon this special duty shall take an oath before some one quali-

fied to administer the oath, to faithfully and diligently perform the duties of this office and shall execute bond with good and sufficient security, to be approved by the Governor, in a sum not to exceed ten thousand dollars, which bond shall be filed with the Secretary of State.

The Superintendent of Public Instruction shall receive annually for such special duty the salary of \$1,500.00, payable monthly out of the State School Fund.

He shall have power to appoint two assistants at salaries of one thousand dollars per annum, and all necessary and contingent and traveling expenses for himself and his assistants, when on business pertaining to these official duties. He shall be allowed not to exceed two thousand dollars per annum for additional clerk hire for this department, in connection with the State Department of Education, that the State Department may be made more efficient in the conduct, supervision, management and inspection of the schools and school revenues of the Commonwealth. These salaries and necessary expenses thus incurred shall be paid by the Treasurer and charged to the common school fund, and the Superintendent is hereby authorized to make monthly requisitions on the Auditor for such salaries and expenses and that he render an itemized account of the same.

(§ 4398a-2 Ky. St.) **Bond to be Given by Assistant Inspectors.**—The assistants appointed by the Superintendent may be required by him, subject to the approval of the State Board of Education to make such bond as they may deem sufficient to faithfully and diligently perform, under the direction of the State Superintendent, such duties as he may assign them, either in the office of the Superintendent, or on business pertaining to the official inspection duties. Such bond shall be filed in the office of the Superintendent of Public Instruction.

(§ 4398a-3 Ky. St.) **Power to Inspect School Funds and Management of all Schools.**—It shall be the duty of the State Superintendent as Special Inspector, by and through the cooperation of his assistants, to inspect and examine into the fiscal management and conduct of the office of all school officials, whose duty it is to receive, handle or disburse the public school funds either directly or indirectly and to compel an ac-

count of such school officials. The said inspector shall have power to examine into the management of public schools supported in whole or in part by the State and to see that the school laws, rulings, regulations and all by-laws of the State Board of Education are enforced and operative in such a way as to best and most equitably distribute the educational equipment of the State and to make the public school system of the State a more efficient system.

(§ 4398a-4 Ky. St.) **May Issue Process to Compel Attendance of Witnesses—Penalties.**—He shall, at all times, have access to the papers, books and records of any and all teachers, trustees, superintendents or other public officials, and shall have power to issue process and compel attendance of witnesses before him and to administer oaths to and to compel witnesses to testify in any of the investigations he is authorized to make, and upon the failure of any witness to attend or testify without legal excuse, he shall be deemed guilty of a misdemeanor and upon conviction, fined not to exceed \$25.00 for each offense. He shall have power to clothe his assistants with full power of attorney to act for him as inspector.

(§ 4398a-5 Ky. St.) **Report of Misconduct to County or Commonwealth Attorney.**—When he or his assistants shall find any mismanagement, misconduct, violation of law, or wrongful or improper use of any County or State school fund, or neglect in the performance of duty on the part of any school official, he shall report any and all such violations of the school laws when discovered to the State Board of Education, whose duty it shall be, through the State Superintendent, as Special Inspector, or one of his assistants, to call in the assistance of the County Attorney or Commonwealth's Attorney in the county or district where such violation occurs to assist in the indictment, prosecution and conviction of the accused, or if indictment, prosecution or conviction are not warrantable he shall report such neglect or misconduct to the State Board of Education who shall have power to rectify and regulate all such matters.

Chapter V.

STATE BOARD OF EXAMINERS

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| Sec. 46. Appointment and qualifications. | Sec. 53. Certification of teachers—examinations, etc. |
| Sec. 47. Teachers' Elementary Certificates. | Sec. 54. Normal and high school training. |
| Sec. 48. State Diploma. | Sec. 55. Diploma completing common school course. |
| Sec. 49. State Certificate. | Sec. 56. Science and art of teaching. |
| Sec. 50. Elementary Certificate, first grade. | Sec. 57. Penalty—examination questions. |
| Sec. 51. Examination questions. | Sec. 58. Effective date of law. |
| Sec. 52. Elementary Certificate, second grade. | |

Section 46. (§ 4386.) **State Board of Examiners—Duties of—Appointment.**—The Superintendent of Public Instruction shall appoint two professional educators, who, together with himself, shall constitute a State Board of Examiners, who shall examine all applicants, personally applying to them for certificates of qualifications as county superintendents or for State diplomas or State certificates. The said Board of Examiners shall prepare the series of questions for the examination of candidates for county superintendents, as provided in section 70 of this Act and before forwarding to the county superintendents shall submit all of the said series to the State Board of Education for their approval. (Modifications of this are made in section 4501a-1, et. seq.)

Section 4501. (Repealed March 22, 1920, c. 39, p. 172, Ed.) See Sec. 4501a-1, et seq.

Section 4501. Employment and payment of teachers; actions by against trustees. See notes to 445.

Teachers certificate can not be revoked by superintendent without notice and hearing. *Wilson v. Hite*, 21 R. 1199, 54 S. W. 726; and see, further, as to revocation of certificate and grounds for. *Superintendent Schools v. Taylor*, 105 Ky. 387, 20 R. 1241.

Teacher is entitled to a certificate in that class which his examination determines he has the right to enter, and examiners and superintendent may be compelled by mandamus to issue it. *Northington v. Sublette*, 114 Ky. 72, 24 R. 835.

Teacher's salary can not be attached in the hands of the superintendent. *Tracy v. Hernbuckle*, 8 Bush 336; *Allen v. Russell*, 78 Ky. 105.

Teachers may by contract with the trustees be empowered to teach higher branches for compensation, and pupils who refuse to pay the extra compensation can not complain because they are not taught these branches. *Major v. Cayee*, 98 Ky. 357, 17 R. 967.

This section vests in the county board of examiners discretion in determining the moral fitness of applicants for license to teach. *Crawford v. Lewis*, 170 Ky. 589.

Mandamus will not lie to compel the granting of a teacher's certificate unless the board of examiners act arbitrarily and in abuse of their discretion in withholding the certificate. *Crawford v. Lewis*, 170 Ky. 589.

This section does not require the formal investigation with notice and opportunity to an applicant for license to present evidence as to his moral fitness to teach. *Crawford v. Lewis*, 170 Ky. 589.

The board of school examiners was held not to have abused its discretion in withholding a teacher's certificate on account of moral unfitness of the applicant. *Crawford v. Lewis*, 170 Ky. 589.

Section 47. (§ 4501a-1.) **Teachers' Certificates—Grades—Requisite to Qualification.**—(a) There shall be four grades of certificates to teachers of common schools; first, a teacher's diploma; second, a State teacher's certificate; third, an elementary certificate of the first grade; and fourth, an elementary certificate of the second grade.

(b) Before any person shall be qualified to teach in any common school such person shall obtain one of these four grades of certificates or a certificate as now provided by law from the State University, State Normal Schools or other schools authorized by law to issue certificates. (March 22, 1920, C. 39, p. 172, Sec. 1.)

Preceding section 1 of the Act as above compiled the Act provides: "That sections 177, 178, 183, 185 and 186 of the common school laws, the same being sections 4501, 4502, 4502a-4 and 4503, respectively, of the Ky. Statutes, Carrol's Edition, 1915, be and the same are hereby repealed and the following enacted in lieu thereof."—(Ed.)

Section 48. (§ 4501a-2.) **State Teachers Diploma—Examination—Qualifications of Applicants—Value of Diploma.**—(a) State diploma may be issued by the State Board of Examiners after a personal examination held at the State Capitol on the third Friday and Saturday of June and Sempember, upon the subjects embraced in the common school course of study and also upon the science and art of teaching, psychology, English and American literature, algebra, higher arithmetic, geometry, physics, and elementary Latin. .

(b) The laws governing the issuing of State certificates shall govern the issuance of State diplomas in all respects whatever, except that applicants for State certificates may take the examination in their respective counties on the same dates that examinations are held for State diplomas, as now provided by law.

(c) The questions for examination for State diploma and State certificate shall be the same in all subjects common to both.

(d) The purpose and standard of this diploma are to evidence a scholarship equivalent to the completion of a standard junior college course.

(e) In order to be entitled to a State teacher's diploma the applicant in addition to attaining in the required examination an average grade of not less than 85 per centum (85%), the lowest grade on any subject being not less than seventy per centum (70%) shall be at least twenty-four years old, shall have taught in the State at least two years and shall present satisfactory evidence of unexceptional moral character.

(f) A State diploma shall be good in all schools throughout the State maintained wholly or partly by the State, until revoked by the Superintendent of Public Instruction, or until the holder shall fail for five consecutive years to be engaged in active school work. It shall qualify the holder for eligibility as candidate for the office of county superintendent of schools, and may for cause be revoked by any county superintendent, subject to the approval of the State Board of Education, as far as it applies to his county, of which immediate information shall be given to the Superintendent of Public Instruction. Said diploma shall be impressed with the seal of the State Board of Examiners, and the fee of the applicant shall be five dollars (\$5.00.)

Section 49. (§ 4501a-3 Ky. St.) **State Teachers' Certificate—Examination—Regulations Concerning.**—(a) A State teacher's certificate may be granted by the State Board of examiners, after a written examination held in the county of the applicant's residence, or on a personal examination before the State Board of Examiners at the State Capitol, said applicant attaining an average grade of at least eighty-five per centum (85%), the lowest grade upon any subject being not less than seventy-five per centum (75%), upon the grades embraced in the common school course of study, and also upon English and American literature, elementary algebra, higher arithmetic, and the science and art of teaching. In order to be entitled to a State certificate, the applicant in addition to passing the required examination, shall be at least twenty-one years old, and shall have had two years' experience in teaching. Examinations for State teacher's certificates shall be held in all counties of the State on the third Friday and Saturday of June and September each year, and the questions for the examinations shall be provided by the State Board of Examin-

ers, with the questions for the June and September elementary examinations at the same time and in the same package, be preserved and opened at the same time as the questions for elementary certificates. The questions for examination for State certificates shall be identical with those for State diploma in all subjects common to both. The applicants for State certificates shall be examined on the same days upon which the applicants for elementary certificates are examined in June and September and immediately upon the close of the examination for State certificates, and county superintendent shall collect the papers of each applicant for State certificate, preserve them from all inspection and immediately forward them to the State Board of Examiners with the recommendation that the certificate should or should not be granted. No applicant shall be examined for a State certificate unless the said applicant is known to the county superintendent to possess an unexceptional moral character and to possess the age and experience herein required.

(b) The county superintendent shall enclose with the answers a written statement, signed and sworn to by the superintendent and two members of the county board of examiners, that the examination has been held in strict accordance with the law and that the applicant has not either directly or indirectly received any assistance, and that the moral character of the applicant is unexceptional. If the answers are deemed sufficient and the recommendation of the county board of examiners is favorable, the State Board of Examiners shall issue a certificate which shall entitle the holder to teach in any school in the State for a period of eight years, unless revoked by the Superintendent of Public Instruction, or unless the holder shall fail for two consecutive years to be engaged in active school work.

(c) The purpose and standard of this certificate are to graduate a scholarship equivalent to the completion of a four-year high school.

(d) At the expiration of the time for which it was granted, if it shall not have been revoked by the superintendent of public instruction and if the holder shall not have failed for two consecutive years to be engaged in active school work,

a State certificate may be renewed for another eight years by the State Board of Examiners, without additional fee, provided the county board of examiners for the county where the holder at the time resides recommends the renewal of said certificate, stating that the applicant is of good moral character and that said applicant has not failed for two consecutive years to be engaged in active school work. In no case shall any State certificate be valid for a period longer than sixteen years.

(e) Any county superintendent may, for cause, revoke a State certificate as far as it applies to his county, of which immediate information shall be given to the Superintendent of Public Instruction and be subject to his approval.

(f) A State certificate shall be impressed with the seal of the State Board of Examiners and the fee charged the applicant shall be four dollars (\$4.00) besides the registration fee for forwarding the answer.

Section 50. (§ 4501a-4.) **Elementary Certificates of the First Grade.**—An elementary certificate of the first grade shall require an average grade of eighty-five per centum (85%) upon all subjects in the common school course, upon the science and art of teaching, including the State course of study for elementary schools; and the lowest grade on any subject shall not be less than seventy per centum (70%.)

(b) The elementary certificate of the first grade shall be valid in any public school in the State for a period of four years.

(c) If at any time the holder of an elementary certificate shall be found incompetent, inefficient, or immoral, the county superintendent shall revoke the certificate of such person; and any teacher whose certificate has been revoked shall be entitled to receive payment for services only up to the time of this revocation.

(d) No person shall be entitled to receive an elementary certificate of either grade who was not eighteen years of age prior to the date of the examination.

(e) Nothing in this Act shall be construed to require any teacher now holding a State diploma, State teacher's certificate or elementary certificate to be re-examined until the expiration of said certificate.

(f) A person having taught for eight consecutive years under first grade certificates may have the last one renewed for a period of four years by the State Superintendent, who shall write upon it "renewed," signed officially and give the date of such renewal. When a certificate has been renewed one time, the teacher shall again receive two first grade certificates as stated above before it can be renewed a second time.

(g) The State Board of Examiners shall carefully prepare three series of questions for white and colored teachers on all of the branches necessary for elementary certificates of the first and second class, and shall enclose in envelopes such number of questions of each branch as the county superintendent shall make requisition for at least twenty days before the examination, with the name of the subject written or printed across the seal thereof, and shall enclose the several envelopes of each series containing questions on each branch in a package which they shall seal and forward by registered mail to each county superintendent, at least one week before the examination, designating on the outside of the package the month and the date for which same shall be used.

(h) The county superintendent shall carefully preserve the said package of questions under seal until the hour of examination; and the seal of the said package shall be examined by the other examiners and the applicants for certificates and the packages shall then be opened in their presence.

(i) Immediately after examining the package of questions the county superintendent and each of the county examiners shall under his official oath, upon blanks furnished for that purpose by the superintendent of public instruction, give a separate certificate, with signatures, attested to by two reliable witnesses, that he had personally inspected said package, and whether he had found the same intact as provided herein, and forward the certificate to the superintendent of public instruction on the same date.

(j) There shall be two examinations held in each county of the State annually for State certificates, on the third Friday and Saturday in June and September, and on the same dates there shall be held in the State Superintendent's Office at Frankfort, an examination for State diploma. There shall be

three examinations held for elementary certificates for white and colored teachers in each county of the State on the third Friday and Saturday in May, June and September of each year.

Section 51. (k) The State Board of Examiners under the same rules and regulations laid down in section (g) of this Act shall prepare questions for State certificate and shall enclose each branch in separate envelopes sealed, with the name of subject written or printed thereon, and enclose all these separate envelopes in a package which shall be sealed and marked "examination questions for State certificates" and in June and September the packages containing the elementary certificate questions and the State certificate questions shall be enclosed together in another package and registered to the county superintendent at least one week before the date for the examination.

(1) The examiners shall exclude from the room during the examination all persons other than applicants and see that the applicants are seated at the proper distance from each other and shall see that no assistance is given or obtained by any applicant during the examination, and no certificate shall be granted by the State Superintendent and the State Board of Examiners to any person who may either obtain or give assistance in the examination. It shall be the duty of the county superintendent and the county board of examiners to disclose any fact in regard to any person or persons obtaining or giving assistance in the examinations. The county superintendent or examiners shall pass on no question in the presence on any applicant for certificate. Failure on the part of the county superintendent or examiners to comply with the provisions of this section shall be a misdemeanor, punishable by a fine of not less than twenty-five dollars (\$25.00.)

(m) The examiners shall allot a reasonable time for the examination on each subject, taking the subjects in the following order: 1, spelling; 2, reading; 3, writing; 4, arithmetic; 5, grammar; 6, English composition; 7, geography; 8, physiology and hygiene; 9, civil government; 10, United States history and history of Kentucky; 11, theory and practice of teaching, including State course of study for elementary schools; 12, agriculture; and shall collect the answers of all applicants when

the time allotted has expired and no additional subjects shall be given until the answers to the previous subjects have all been collected.

(n) The county superintendent shall have two examiners as now provided by law, except they shall receive four dollars (\$4.00) per diem as hereinafter provided; and he, together with the examiners shall conduct all examinations. The examinations for white and colored teachers shall be held in each county on the same date, on the same subject, and use the same questions, provided that the white teachers shall be in one room and the colored teachers in another room. When there is a greater number of white teachers than of colored teachers in any given examination, the county superintendent and one examiner shall have charge of the white teachers and one examiner shall have charge of the colored teachers. When there is a greater number of colored teachers than there is of white teachers, the county superintendent and one examiner shall have charge of the colored teachers, and the other examiner of the white teachers. Both the colored and white teachers shall conform to the same rules and regulations as provided by law.

(o) No person shall be allowed by the county superintendent and county board of examiners to take an examination who indulges in drunkenness, profanity, gambling or licentiousness, and each person taking an examination shall be required to give satisfactory evidence of unexceptionable moral character to the county superintendent and the county board of examiners. Failure on the part on any county superintendent or board of examiners to comply with the provisions of this section shall be a misdemeanor, punishable by a fine of not more than fifty dollars (\$50.00.)

(p) All elementary certificates shall be issued by the State Board of Examiners just as State certificates are issued. Every law relating to the preparations of questions, holding examinations, and grading papers for State diplomas and State certificates applies with equal force to elementary certificates.

(q) Each applicant for an elementary certificate of either grade shall pay to the county superintendent a fee of two dollars (\$2.00.) The fees received by the county superin-

tendent from applicants for State and elementary certificates shall be forwarded to the State Superintendent who shall use it in defraying the expenses of the examinations. The amount received from all the counties for examination fees shall constitute one fund, from which the state superintendent shall pay the county examiner four dollars (\$4.00) per diem for each of the two days' service rendered in the examination of teachers for elementary and State certificates. From the same fund the State Superintendent shall pay his State Board of Examiners and their assistants for the preparation of the questions and the grading of the manuscripts of the applicants for State and elementary certificates, a sum not to exceed ten dollars (\$10.00) per diem, with actual and necessary traveling expenses. If after the county examiners and the State examiners with their assistants are paid there should remain a balance in said fund, it shall be covered into the treasury and credited to the school fund of the State.

Section 52. (§ 4501a-5.) **Elementary Certificate of the Second Grade.**—(a) An elementary certificate of the second grade shall require an average grade of seventy-five per centum (75%) upon all the subjects in the common school course and upon the State course of study, and the lowest grade on any subject shall not be less than sixty per centum (60%).

(b) The issuance of elementary certificates of the second grade shall conform in all respects whatever to the laws relating to the issuance of elementary certificates of the first grade.

(c) An elementary certificate of the second grade shall be valid in any elementary common school in the State for two years from the date of issue.

(d) After July 1st, 1921, an elementary certificate of the second grade shall not be issued twice to the same person.

Section 53. (§ 4501a-6.) **Grading Papers—Additional Examiners.**—(a) For the purpose of grading papers in examinations for certificates the State Superintendent shall have power to employ a sufficient number of competent persons to assist the State Board of Examiners in grading such papers so that the work may be well and promptly finished; and he shall have the power to agree with such persons as to compensation,

provided that no person so employed shall receive more than ten dollars (\$10.00) per diem and actual traveling expenses.

(§ 4501a-7.) **Papers to be Numbered.**—In all examinations for State certificates, and elementary certificates, the applicants shall be given numbers by the county superintendent which numbers shall be placed upon the papers instead of names. The county superintendent shall keep a record in his office of such numbers and names and forward a copy of the same in a separate envelope by registered mail to the State Superintendent. In grading papers and in certifying to the State Superintendent the results of such examinations, the numbers must be used; nor shall the names be disclosed to any one except to the persons making out the certificates. The violation of this law by any person whatever shall constitute a misdemeanor, and be punishable by a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00) in each case. The only distinction that shall be made between the manuscripts of the white and colored teachers shall be that the numerals shall be used for the white teachers and letters of the alphabet in alphabetical order for the colored teachers.

Section 54. (§ 4501a-8) **Professional Training.**—(a) From the first day of July, one thousand nine hundred and twenty-two, applicants for an elementary certificate, of the first grade, shall have at least one year of high school work or its equivalent; and in addition thereto, five weeks' study of professional subjects in a State normal school or some other training school recognized by the State Board of Education.

(b) From the first day of July, 1924, such applicant must have had two years of high school work or its equivalent; and in addition thereto, ten weeks' study of professional work in a school as aforesaid.

(c) From the first day of July, 1926, such applicants shall have had four years of high school work or its equivalent, and in addition thereto, twenty weeks' study of professional work in a school or schools as aforesaid; provided that the State Board of Education shall have authority and power to make all the rules and regulations necessary to meet the em-

emergencies growing out of the advancement in subsections a, b, and c, of Section 8.

(d) No person shall be admitted to examinations for the aforesaid certificate until he has satisfied the county board of examiners or the State Board of Examiners by documentary evidence or otherwise that he has complied with the provisions of law.

Section 55. (§ 4501a-9.) **Common School Diploma.**—The county board of examiners shall hold certificates of the first class and assist the superintendent in the examining and grading of applicants for common school diplomas as directed by the county board of education subject to the approval of the State Superintendent of Public Instruction.

Section 56. (§ 4501a-10.) **Science and Art of Teaching.**—After July 1st, 1921, all examinations for a certificate on the theory and practice of teaching, or the science and art of teaching shall be based upon a suitable text book selected by the State Board of Education. The questions on such examinations on said subject shall test the applicant's knowledge of school organization, discipline, program making, organization of lesson material, lesson planning and such other knowledge as the State Board of Examiners think the applicant should have.

Section 57. (§ 4501a-11.) **Peddling Examination Questions.**—This Act shall not be construed to repeal any sections of law relating to the unlawful handling or peddling of examination questions, or section 4426, Carroll's Kentucky Statutes, 1919 (1918.)

Section 58. (§ 4501a-12.) **Repealed Laws.**—All laws and parts of laws in conflict herewith are hereby repealed.

(§ 4501a-13.) **Effective Date.**—Whereas the schools of this State are on the verge of a collapse from a lack of a sufficient number of qualified teachers, and whereas, there is a great need for a complete reorganization of the schools, and a uniform method of certification of teachers, therefore an emergency is hereby declared to exist, and this bill shall become a law, on its passage, and approval by the governor.

Chapter VI.

COUNTY BOARD OF EDUCATION

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nually. | |

Section 60. (§ 4399a-1-2-3.) That section 1, section 2, and section 3 of chapter 36 of the Acts of the General Assembly of 1920, relating to the election and qualifications of members of county boards of education and providing for the selection of a treasurer thereof be and the same is hereby repealed and that there be enacted in lieu thereof the following sections providing for a system by which the county district may be divided into five divisions as nearly equal in population as practicable, and for the election of one member of the county board of education from each such division, and fixing the manner and time of election, the term of office, and the jurisdiction of the county board so elected, and providing for the selection of a treasurer thereof.

(§ 4399a-1.) Each county district in the Commonwealth of Kentucky at the time this Act goes into effect shall be under the management and control of a county board of education, consisting of five members to be nominated and elected as hereinafter provided for.

Section 61. (§ 4399a-2.) It shall be the duty of the county board of education of each county in this State, serving at the time this Act goes into effect, as soon as practicable after this Act goes into effect but not later than July 1, 1923, to meet and to divide their respective county school districts into five divisions as nearly equal in population as is practicable, and to cause boundaries to be made for such division which shall be recorded in a book to be kept in the office of

the county board of education; provided that divisions shall contain so far as practicable integral voting precincts.

Any citizen may except to the action of the board in forming any division, and shall have a right to be heard; and if any citizen residing in any such division shall feel himself aggrieved he shall have a right to prosecute an appeal to the county court and from the county court to the circuit court in which such county is located. The procedure on appeals shall be the same as in other civil cases.

Section 62. (§ 4399a-3.) The county board of education in each county in this Commonwealth, after such counties have been laid off into five divisions as herein directed, shall be elected every two years by the qualified voters of such divisions, each division being entitled to elect one member, as herein provided.

The first election under this Act shall be held at the regular November election in 1923, and the members so elected shall qualify and assume the duties of the office on the first Monday in January, 1924.

Any person shall be eligible to the office of member of the county board of education who is over twenty-one years of age, and who has had a common school education, and who has been a resident in the county for which he or she is elected at least one year next preceding his or her election, and who is a resident of that division of the county district that he or she is chosen to represent, and who is not in the employ of the county board of education and not a party to any contract with the same.

All elections for members of the county board of education under this Act shall be held on the regular election day in November, and shall be at the regular voting place in each precinct in each county, and shall be by secret and separate ballot. Said elections shall be conducted by the same officers who conduct the regular November election, and except where otherwise provided in this act, such elections shall in all particulars be conducted in the same manner as other general elections.

It shall be the duty of the county court clerk to cause to be printed on the ballot used for the election of members of the county board of education the names of all candidates in each division for membership on the county board of education in whose behalf he may be petitioned so to do in writing by not fewer than twenty-five legal voters of the said county entitled to vote in said election and living in said division. The petition herein provided for must be filed in the office of the county clerk not more than sixty days nor less than fifteen days before the day of election, and no person shall sign more than one petition or the petition of any person who does not reside in the division in which the petitioner resides.

When any vacancy shall occur on the county board of education, the vacancy shall be filled by appointment of the board, but the person so appointed shall reside in the division in which the vacancy occurred. It shall be the duty of the county court clerk to prepare a separate ballot on which shall be placed the names of candidates for membership on the county board of education, which shall show the division in which each candidate is to be voted for, and which shall be in the form prescribed by the general election law of the State except that no party emblem or device or distinguishing mark of any character shall be placed on said ballot save the words "school ticket," at the head thereof, and such directions as will aid the elector, and the names of candidates for membership on the county board of education in each division shall be printed under the said heading in a single column; the names shall be printed on the ballots as arranged by lot. Each voter in each division shall be entitled to vote for one candidate living in that division and seeking to represent that division on the county board of education. If any voter votes for more than one candidate or for any candidate living in any other division than the one in which the voter resides, then this ballot shall be treated by the election officers as a mutilated ballot and not counted for any person in said election. The candidate in each division receiving the highest number of votes shall be declared to be elected. The ballots cast at said election shall be deposited in a separate ballot box furnished

for that purpose by the sheriff of that county. The election officer shall make out for said election a separate tally sheet and certificate which shall be returned and canvassed as now provided by law in other general elections.

Section 63. (§ 4399b.) The county board of education first elected under the provisions of this Act shall hold its first meeting on the first Monday in January, 1924, and at such meeting shall organize by electing one of its members to serve as chairman and one as vice chairman. Other regular meetings shall be held at least once in each school term and such special meetings may be held as the county superintendent or a majority of the board may order. The board, by order entered on its record book, shall designate its regular meeting days, but in all special meetings called by the county superintendent or by the chairman or by the majority of the board, written notice of the same must be mailed to members of said board at least three days prior to date of such special meetings. Members of the county board of education shall receive no salary, but each member shall receive a per diem of \$5.00 and in addition thereto shall be allowed out of the county school fund his actual and necessary expenses in attending said board meetings, provided that not more than seventy-five dollars shall be spent as per diem and expenses of each member in any one year.

The county superintendent of schools shall be the executive officer and secretary of the county board. He shall attend all meetings of the county board and each meeting of its committees except when his own tenure, salary, or the administration of his office is under consideration, and he shall have the right to advise on any question under consideration, but he shall not have the right to vote.

Section 64. (§ 4399a-2.) The county board of education so elected shall have the same power, authority, and jurisdiction as now conferred by law on county boards of education except the board shall elect in the month of May, 1924, and biennially thereafter a treasurer other than the county superintendent of schools, and who shall not be a member of the board. The board shall give at least ten days' notice of its

meeting to select a treasurer and shall receive sealed bids from persons and corporations who desire to act as such treasurer, and the person or corporation filing the best bid shall be selected. The treasurer so selected shall be required to execute, with approved security, the bonds now required by law to be executed by the county superintendent as such treasurer, and shall serve without pay, and shall perform the duties now imposed and that may hereafter be imposed by law.

(§ 4399c.) All funds and securities due and belonging to the county board of education for the use of the public schools of the county district, or of any subdistrict thereof shall go into the hands of said treasurer, who shall, together with his sureties, be responsible therefor; and he shall pay out such funds only for the purposes for which they were respectively collected, upon the order of the county board of education evidenced by warrant signed by the chairman and secretary of the board.

(§ 4399c-1.) The first county board elected under this Act shall, so far as is consistent with the welfare of the schools and with the best interests of the pupil children of the county, continue in force such valid contracts as were executed by the old county board of education which by their terms have not expired.

(§ 4399c-2.) All laws and parts of laws in conflict herewith are hereby expressly repealed. (Act of March, 1922.)

Section 65. (§ 4399a-4.) **Powers and Duties of Board.**—Subject to the course of study and to the by-laws and policies of the State Board of Education, the county board of education shall determine by the consent and advice of the county

Contest as to office of superintendent. *Wilson v. Tye*, 126 Ky. 34, 31 R. 491, 102 S. W. 856.

Sec. 4399. If a tax voted at one election under this section is not sufficient, another election may be held and another tax voted. Any tax voted may be repealed at an election. (Subsection 8.) *Christopher v. Robinson, Sheriff*, 164 Ky. 262, 175 S. W. 287.

Women may vote in the election of county school superintendent. *J. H. Crook, County Clerk v. Bartlett*, 155 Ky. 305, 159 S. W. 826.

A county superintendent who holds a State certificate of qualification issued pursuant to section 4503, which does not expire during his term of office, is eligible to re-election without undergoing another examination or securing a new certificate. *Gilbert v. Brock*, 175 Ky. 54, 193 S. W. 1050.

A county board of education may include portions of subdistricts in a consolidated school district created by it, although the remainder of such a subdistrict will include less than 45 school children. *Holton v. Board of Education of Mason Co.*, 176 Ky. 578, 195 S. W. 1108.

superintendent the educational policies of the county, and shall prescribe rules and regulations for the conduct and management of the schools. The county board of education shall exercise through its executive officer, the county superintendent and his professional assistants, control and supervision over the schools of the county. The county board of education shall consult and advise through its executive officer and his professional assistants, with the local subdistrict trustees, principals, teachers and interested citizens and shall seek in every way to promote the schools under their jurisdiction. (Act of March 22, 1920, c. 36, p. 148, section 1.)

Section 66. (§ 4399a-5.) Further Powers—Control of Property and Funds—Payment of Claims.—The county board of education and their successors in office shall be a body politic and corporate, with perpetual succession and as such may sue and be sued. The county board of education, in its corporate capacity shall have control of the county school property and county school funds. No school funds shall be appropriated out of the treasury of the school board except when so ordered by majority of the county school board, and all orders appropriating money from the treasury of the county school board shall be of record signed by the chairman and secretary. Said record shall be kept in a book or books provided by the State Board of Education and shall show the amount appropriated, for what appropriated, to whom paid and the time of appropriation, together with the names of the members who favor and oppose the appropriation written thereon. Before any claim against the county school board shall be paid, it shall be submitted in writing, itemized and verified. (Act of March 22, 1920, c. 36, p. 148, section 1.)

Section 66. (§ 4399a-6.) Duty to Provide Proper Water Closets.—The county board of education in every county in the State shall provide sanitary and hygiene, suitable and con-

(Sec. 4395-5.) The county board of education can not allow the county superintendent the salary of an office assistant, unless the board has itself employed such assistant and agreed upon his compensation. *Beauchamp v. Snider*, 170 Ky. 220, 185 S. W. 868.

(Sec. 4399-6.) The county board of education cannot allow the county superintendent extra compensation for discharging the duties of supervisor of rural schools, where she was already acting as county superintendent under subsection 2, *Beauchamp v. Snider*, 170 Ky. 220.

venient water closets or outhouses for each of the schools under their jurisdiction, one for the boys and one for the girls, same to meet the requirements of the county board of health. Neglect or failure on the part of the county board of education to comply with the provisions of this section will constitute cause for removal from office or they may be proceeded against under the general laws of Kentucky for nonfeasance in office. (Act of March 22, 1920, c. 36, p. 148.)

Section 67. (§ 4399a-7.) Appointment of Principals and Teachers—Salaries—Removal of Superintendent, Principals, Teachers or Assistants or District Trustees—Title to Real Estate and Other School Property.—The county board of education shall appoint on the written recommendation of the county superintendent from a list of names submitted by him all principals, assistant principals and teachers and fix their salaries subject to the provisions of law.

For incompetency, neglect of duty or immoral conduct, the county board of education may suspend or remove from office the county superintendent or any of his professional assistants, any principals, assistant principal or teacher or sub-district trustee.

The county board of education, subject to the by-laws, rules and regulations of the State Board of Education, shall, on the written recommendation of the county superintendent, grade and standardize the schools under their jurisdiction.

In the matter of holding the title to the real estate and other school property, the acquiring, the control, the management and disposition thereof, the county boards of education created by this Act shall be the successors in the office of the county board of education created by Acts of 1908. (Act of March 22, 1920, section 7.)

Section 68. (§ 4399a-8.) Tax Commissioner to Certify Property Valuations Subject to Tax—School Budget—Board

(Sec. 4399-7.) The board of education shall allow the county superintendent only such necessary official expenses as are incurred in the county. *Beauchamp v. Snider*, 170 Ky. 220.

The county board of education cannot delegate to the county superintendent the authority to incur a bill of expenses. *Beauchamp v. Snider*, 170 Ky. 220.

The county board of education can pay only actual expenses of the county superintendent necessarily incurred in discharging his duties, and other expenses necessary to an efficient system of schools. *Beauchamp v. Snider*, 170 Ky. 220.

to Fix Tax Rate—Levy by Fiscal Court—Poll Tax—Collection—Expenditure.—It shall be the duty of the county tax commissioner of each county, upon blanks furnished to him by the State Tax Commission in making the assessment for the county to show on each assessment the property subject to taxation under the provisions of this Act, and it shall be the duty of the county court clerk, after the tax commissioner has made out and completed the tax assessor's books of the county, to certify to the county superintendent the total assessed valuation of property in the county subject to taxation under the provisions of this Act. Upon receipt of such certificate from the county court clerk, it shall be the duty of the county board of education created by this Act each year beginning with the year 1921, and of the present county board of 1920, to prepare subject to the rules and regulations of the State Board of Education and on and with the advice of the county superintendent, an itemized and detailed school budget, showing the amount of money needed for supplementing teachers' salaries, for permanent improvements, repairs, furniture, old buildings, maintenance and support of schools during the succeeding school year and also the estimated total amount that will be received from the state and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such amount which in no event shall be less than twenty-five cents (25c.) nor more than fifty cents (50c.) on each one hundred dollars (\$100.00) worth of taxable property in the territory affected by this act. This annual school budget shall be submitted in writing to the county court clerk not less than ten days before the usual day for making the county levy and it shall be the duty of the clerk of the county court to present it to the fiscal court when it convenes to make the annual county levy. Provided, that for the year one thousand nine hundred and twenty, the said budget need not be submitted ten days before the regular levying day of the fiscal court.

When such budget has been submitted to the fiscal court as herein provided, it shall be the duty of the fiscal court to make the levy therein recommended and demanded, upon all

taxable property subject to State taxation in said county, exclusive of property located in graded school districts and cities and towns, maintaining a separate and distinct system of common schools.

At the same time that the fiscal court makes the ad valorem levy demanded by the county board of education, it shall also impose upon all legal voters (now males only) residing in the territory affected by the said ad valorem tax, a capitation tax not exceeding one dollar (\$1.00 each. It shall be the duty of the sheriff of the county in the same manner and at the same time he collects other State and county revenues, to collect the tax imposed under the provisions of this Act and after deducting his compensation for same as now allowed by law and provided herein. Provided, however, the commission allowed the sheriff for the collecting said tax shall not exceed one per cent (1%) of the total school tax collected. (Act 1922 limits school poll tax to male citizens. Sec. 4399a-13.)

For the purpose of determining the sheriff's commission for collecting the tax provided for in this Act, the tax so collected, together with the State and county revenue collected by the sheriff, shall be treated as one fund, and the sheriff shall deduct from the taxes collected under the provisions of this Act his commission for collecting same, which shall be in proportion to his entire commission on the combined funds referred to herein, as the school taxes collected bear to all the taxes collected by him. The county board of education by an order entered of record on its books may require the sheriff to make monthly settlements of the taxes collected by him under the provisions of this Act. The fiscal court shall annually make a settlement with the sheriff for the taxes collected under the provisions of this Act in the same manner as now provided for by law for the settlement of State and county taxes and a copy of said settlement must be filed with the county board of education. The money collected by taxation under the provisions of this Act shall be expended by the county board of education in accordance with the recommendation contained in the budget submitted to the fiscal court as herein provided. The money raised by the levy under this section of this Act

shall be devoted first and exclusively, up to the amount of the minimum levy herein provided, for the purpose of supplementing the teachers' salaries engaged in teaching in the territory affected by the provisions of this section, until the minimum salary now allowed by law, or as may hereafter be allowed by law for teachers is reached, and after said minimum has been reached the money raised by such levies may be used for supplementing teachers' salaries, building of school houses, equipment of same, and other costs of maintenance and operation as in the judgment of the county board of education may be determined; but the amount necessary, as well as the levy necessary, for supplementing teachers' salaries and for the other purposes herein set forth, must be itemized in the budget submitted by the county board of education to the county fiscal court at the time the request for the levy is made. (Act of March 22, 1920, Sec. 8.)

Section 69. (§ 4399a-9.) Audit of Books—Reports to State Superintendent.—The county board of education shall hereafter provide for at least an annual audit of its business

Fiscal courts are required to levy such a rate, within the statutory limit, as will produce the amount requested by the county board of education in its budget. The county board may include any outstanding indebtedness in its budget. *Elliott County Fiscal Court v. County Board of Education*, 193 Ky. 66.

County board of education has an implied power to insure the public school property under its jurisdiction and supervision. The selection of the insurance companies to write such insurance must be left to its sound discretion; and where companies are selected which are authorized by law to write such insurance the courts will not interfere. *Dalzell v. Bourbon County Board of Education*, 193 Ky. 171.

County board of education is liable to suit and may have judgment rendered against it on its obligation even where the claim has been allowed and voucher issued therefor, where the treasurer of the board has failed or refused to pay the voucher. The remedy of mandamus against the treasurer is not an exclusive remedy. *County Board of Education of Pulaski Co. v. Jasper*, 193 Ky. 222.

Where there is a written offer to purchase a lot and school building and an acceptance of the offer by the board of education by a formal order entered on its records the purchaser cannot avoid the contract on the ground that the purchase included the furnishings of the school building. *Isaacs v. Jackson County Board of Education*, 93 Ky. 695.

Sec. 4399-8. Under this section the whole question of school taxes may be left to the voters of the district, without limitation on either the amount of property or poll tax which may be levied, or as to the number of elections which may be held. *Christopher v. Robinson*, 164 Ky. 262.

The board of education has authority to submit the question whether the electors of a consolidated boundary will vote a tax for a school house without submitting the question of transportation of pupils. *Gibson v. Anderson*, 170 Ky. 664.

Under this subdivision, omissions as to procedure in election of school trustees, should be supplied by reference to other sections of the school law, so it will be presumed that it was the intention to follow Sec. 4426 as to the election of school trustees. *Travelstead v. Ray*, 169 Ky. 706.

Under this section it is the duty of the county board of education to levy a tax voted at the consolidated district meeting, to erect necessary school buildings. *Davis v. Anderson*, 171 Ky. 544.

and financial transactions and of the accounts of its treasury by special accountant, agent approved by the State Superintendent or by the State Superintendent himself, and the result of this audit shall be made public by the county board of education in one issue of some paper which has general circulation in the county. This audit shall be on or about the close of the school year as directed by the State Superintendent of Public Instruction.

Each county board of education shall make all reports required by the State Board of Education, and the State Superintendent of Public Instruction at such times and upon such blanks as may be prescribed by the State Board of Education and the State Superintendent of Public Instruction. (Act of March 22, 1920, Sec. 9.)

Section 70. (§ 4399a-10.) **Board to Appoint County Superintendent—Term—Qualifications—Duties—Salary.** —The county board of education of each county shall appoint, in 1921, a county superintendent of schools for a term of not more than four years from the first day of January next succeeding his appointment. He shall hold office until his successor has been appointed and qualified. No person shall be eligible to the office of county superintendent of schools who does not hold a proper certificate in scholarship, administration and supervision as provided by law, provided that all county superintendents of schools holding office at the time that this Act shall take effect shall continue to serve to the end of the term for which they were originally elected, and until their successors are appointed and qualified, unless removed as provided by this Act, and he shall be eligible for reappointment.

The county superintendent of schools shall devote his entire time to the public school business and shall receive such compensation as the county board of education shall direct to be paid from the county school funds in monthly installments, provided that no county superintendents of schools appointed to this office under the provisions of this section shall be paid a salary of less than twelve hundred dollars (\$1,200.00) per year. In case of vacancy due to any cause the county board

of education shall fill the vacancy and the appointment shall be for the unexpired term and until his successor shall have been appointed and qualified.

The county superintendent of schools as executive officer of the county board of education shall see that the laws relating to the schools, the by-laws, rules and regulations of the State Board of Education, and regulations and policies of the county board of education are carried into effect.

The county superintendent of schools shall recommend for condemnation, school buildings which are unsanitary and unfit for use. He shall recommend the repairs, the purchase of grounds, school sites and grounds, the sale of same, and shall cause to be prepared all plans and specifications for remodeling of old buildings, provided that the plans and specifications for any and all buildings to be erected in said county shall be submitted to the State Superintendent of Public Instruction or his agent for approval.

The county superintendent shall approve in writing all contracts of any kind, entered into by the county board of education and no contract entered into by the county board of education without the written approval of the county superintendent of schools shall be valid.

The county superintendent of schools shall be the representative of the State Superintendent of Public Instruction in all examinations for teachers' certificates, conducted within the county and shall perform such duties connected therewith as may be required by law. (Act of March 22, 1920, c. 36, Sec. 10.)

(§ 4399a-11.) **County Superintendent to Recommend Principals and Teachers—Transfers and Suspensions—Other Employees.**—The county superintendent of schools shall nominate for appointment by the county board of education all principals, all assistant principals and teachers and shall assign them to the positions of principals, assistant principals and teachers of the various schools of the county; transfer them as the needs of the school require; recommend them for promotion; suspend them for cause and recommend them for dismissal. Provided, nothing herein shall be construed as

affecting the present law for the employment of teachers before the year one thousand nine hundred and twenty-one.

The county superintendents of schools, acting under the rules and regulations of the county board of education, shall be responsible for the administration of the office of the county superintendents of schools. He shall nominate for appointment by the county board of education all professional and clerical assistants of the office, but the qualifications of all such appointees, the tenure and compensation, except as may be provided by law, shall be determined by the county board of education. (Act of March 22, 1920, Sec. 11.)

Section 71. (§ 4399a-12.) **Attendance Officer—Duties—Compensation—County Superintendent to Prepare the Required Budget and Reports.**—There shall be appointed in each county at least one attendance officer whose duties shall be to compel the regular attendance of all pupil children at school as provided by law. Said person shall receive such compensation as the county board of education shall direct. Provided, however, that in high school districts the respective school boards of said district may employ out of their own funds, a special truant officer, who may be any peace officer in said district.

The county superintendent of schools shall take the initiative in the preparation and presentation of the annual school budget, and shall seek to secure adequate funds for the support and development of the schools of the county.

The county superintendent of schools, acting as the executive officer of the county board of education, shall conduct the correspondence, receive all reports from the subdistrict trustees, principals, assistant teachers and teachers, and shall see that all reports are properly made and submitted. He shall prepare or cause to be prepared and submitted to the county board of education for adoption all reports required of that body, by the State Board of Education or the State Superintendent of Public Instruction. (Act of March 22, 1920, Sec. 12.)

Section 72. (§ 4399a-13.) **Male Citizens Only Subject to County School Poll Tax.**—At the same time that the fiscal

court makes the ad valorem levy demanded by the county board of education, it shall also impose upon all male citizens over 21 years of age residing in the territory affected by the said ad valorem tax, a capitation tax not exceeding one dollar each. It shall be the duty of the sheriff of the county in the same manner and at the same time he collects other State and county revenues, to collect the tax imposed under the provisions of this Act and after deducting his commission for same as now allowed by law and provided herein. Provided, however, the commission allowed the sheriff for the collecting said tax shall not exceed one per cent of the total school tax collected. (Act March 18, 1922, amends section 4399a-8.)

Sections 4400-4403 repealed March 18, 1912, c. 117, p. 399.

Section 72a-1 (§ 4434a-6 Ky. St.) **School Buildings and Repairs.**—(1) The County Board of Education shall have the power to purchase, lease or rent school sites, to build, to repair and to rent school houses, purchase maps, globes, charts, school furniture or other apparatus necessary to the efficient conduct of the schools of the county, and said county board is hereby vested with the title, care and custody of all school houses, sites, or other property belonging to the districts of their several counties, and when, in the opinion of the board, any site for school house has become unnecessary, they may sell and convey the same in the name of the County Board of Education.

(2) It shall have the power to receive any gift, grant or donation for the use of the schools within their respective counties, and all conveyances of real estate which shall be made to said County Board of Education shall vest the property in said board and their successors in office for the use and benefit of the schools of the county.

(3) It shall have the power to condemn any real estate necessary for school purposes in any district and may proceed

to do so in the manner provided for by law for the condemnation of lands for railroad purposes. (See Sec. 111.)

(§ 4434a-7 Ky. St.) **Payment of Old Debts.**—The various County Boards of Education in this Commonwealth shall assume the payment of any legal indebtedness contracted by the old boards of trustees under the old law, and prior to the taking effect of the Act of 1908, by compromise, partial payment, or otherwise, as is deemed expedient and proper by said Board of Education. Said payments to be made out of the general school fund of the county.

This law shall also apply to common school sub-districts that have become graded common school districts since 1908.

(§ 4437 Ky. St.) **Titles to Land.**—(1) In the acquisition of land as a site for a school house, the title thereof shall be made in fee simple to the County Board of Education and the titles to the land now used for sites for school houses shall, at the earliest possible time, be perfected by the County Board of Education.

(2) Any reversionary interest in any land now used as a site for a school house shall not deprive the county boards of the school house or other improvements thereon.

Section 72a-2. (§ 4439 Ky. St.) **Securing Site, Erecting, and Locating School House—Damages For Injury to Property—Passways—Tolls—Pikes.**—(1) The County Board of Education may take land by purchase or donation for the purpose of erecting thereon a school house, provide for and

Voluntary payment of rent of school house. Supplies furnished by teacher can not be recovered from school board. Noble, etc. v. Williams, etc., 50 Ky. 439.

The authority to select the site for school house vests solely with the County Board of Education; its actions in that respect will not be disturbed by the courts unless it is made to appear that the board has, in the selection of the site, abused a sound discretion.

The County Superintendent being now a member of the Board of Education, the right of appeal to him has been withdrawn. Vincent, etc. v. Edmonson, etc., 169 Ky. 34.

A railroad company can not do by an independent contractor what it may not do itself, and where it obtains no right of way from school property, but directs its independent contractor to enter thereon, and construct its road bed and injury results to the property, the railroad company as well as the independent contractor is liable, each being a trespasser. Lexington & Eastern R. R. Co. v. Breathitt Co. Board of Ed., 167 Ky. 541.

A school district is "a taxing district or other municipality" within the meaning of section 157 Constitution.

This section authorizes County Boards of Education to assume only legal indebtedness, according to section 157 Constitution. Scobee, etc. v. County Board, etc., 157 Ky. 510.

secure the erection of the same, construct such out-buildings and enclosures as shall be conducive to the protection of the property and comfort and decency of the pupils and teachers; make repairs and provide the necessary furniture and apparatus; but the said county board shall not buy for such use property in which it is either directly or indirectly interested.

(2) It shall have power to recover for any damages that may be done the property in its charge, and it may change the location of the school house, sell or dispose of the old site, and use the proceeds thereof towards procuring a new one.

(3) If it can not agree with the owner of any land most suitable for a school house site as to the price and terms of purchase and sale thereof, it may have the same condemned in the manner provided for condemning lands for the use of railroad companies; and cause a deed to the land by a commissioner to be made to the county board and its successors; which deed shall be duly acknowledged and recorded in the office of the clerk of the county court; and thereupon the fee simple title to said lot shall vest in said county board and its successors in office; but it shall not have the right to condemn any private property which is used by the owner as a residence, garden, orchard or burying ground. The quantity of the land thus condemned shall in no case exceed one acre.

(4) A majority of the school electors of any district, within thirty days after the location or site has been selected by the county board, may appeal from the decision of the county board in the location of the school house, or site for the same, to the County Superintendent of the county, whose decision in the case shall be final.

(5) In such location it shall be made as near as practicable to the center of the district as will be convenient of access to all the inhabitants of the district; and the trustees shall make provisions for such roadways or passways to the school house as will accommodate all the pupils who may be entitled to attend, and may apply to the county court having jurisdiction to open the same as other roadways are opened

for public necessity and convenience. But where there is no road or passway from the residence of any pupil to the school house, it shall be lawful for such pupil, in attending school, to walk over the land of any person between the residence of such pupil and the school house.

(6) No toll shall be collected of any pupil child for travel upon any turnpike road while attending a common school.

(7) That the governing boards of the respective school districts of this Commonwealth be and they are hereby empowered to receive real and personal property by gift or by will, in fee, or for limited uses or in trust, if the same be for use in the cause of education in whole or in part within their respective districts; and shall hold, use and administer said limited use funds and trust funds, principal and interest, in strict accordance with the terms of the respective instruments of gift or trust, and no part thereof shall ever be used for any purposes other than those provided therein.

(8) Every vote upon the use or investment of any of said funds shall be by call of ayes and nays and the record shall show how each member voted.

(9) The principal of said funds shall be invested and reinvested from time to time by the board in the bonds of any city, county, State or district which has not defaulted its interest within twenty years, or in loans secured by first mortgage on real estate worth at least double the amount so loaned (but no such loan shall ever be for more than said property was assessed for taxes the preceding year), or in the purchase of substantially improved income-bearing real estate, taking the title in the name of said board as such trustee. But no loans shall ever be made to, or real estate purchased from or sold to any member, officer or employe of the board, or to one who has been a member, officer or employe within one year.

(10) Said board shall make an itemized statement under oath of all receipts, disbursements, assets and investments of each and all such funds separately in January of each year and file same in the county court, and shall publish

a notice that it has done so, at least once a week for two weeks, in a paper of general circulation in the district, if there be such a paper, and in addition shall post a copy of such notice on the door of the school house, if it be a rural school district, or at the door of the city hall or court house, if it be a city district. At the next regular county court after the two full weeks, the report shall stand for exception or confirmation as any other fiduciary report to said court.

(11) Any member of said board who shall vote for, and any officer of said board who shall certify to or draw a check for an appropriation in violation of this act shall thereby be and become liable for the restoration of the amount of such wrongful appropriation, such liability to be enforced in an action brought by the board or by any citizen of the district or by the Superintendent of Public Instruction of the State, and in addition thereto shall be guilty of malfeasance in office and upon conviction shall forfeit his office and may, for each offense, be fined not less than \$50.00 nor more than \$1,000.00, or imprisoned from one year to five years, or both so fined and imprisoned in the discretion of the court—one-half of said fine to be paid over by the collecting officers to said board. (See Sec. 148 Graded Schools.)

Section 72a-3. (§ 4439a Ky. St.) **Seminary Property May be Acquired by County Board of Education.**—The trustees holding the legal title to the property of any county seminary, under laws enacted and in force prior to the 18th day of December, 1865, by a majority of their board, the county court consenting thereto by order of the county judge, entered of record in the county court, are hereby authorized and empowered to sell, transfer or convey by deed the title held by such trustees to such county seminary property or otherwise dispose of it as to them may seem best, to the County Board of Education, or to the board of trustees of the white graded common school district in which such seminary property is situated, on such terms and conditions as may be agreed upon by both parties; Provided, that whenever such county seminary property shall be taken over by and invested in the County Board of Education or the said

board of trustees of the white graded common school district, as authorized in this section, it, or the proceeds thereof, shall be used or disposed of by such County Board of Education or said Board of Trustees of the white graded common school district, for the benefit of all the white pupils in the county, in such a way as to make good to them their interest in such seminary property.

(§ 4440 Ky. St.) **Size and Value of House—Furniture.**
—(1) Each school house, including the site, furniture, apparatus, shall have a property value of not less than one hundred and fifty dollars.

(2) Each school house hereafter erected shall have a floor space of not less than ten square feet to each pupil in the district; shall be at least ten feet between floor and ceiling; shall have at least four windows, one or more fire places, with chimneys, made entirely of brick or stone, or a sufficient number of stoves or other heating apparatus with safe flues, to warm the room in coldest weather, one or more doors, with locks and keys, which shall be kept during the vacations by subdistrict trustees, who shall be liable for any damage occurring on account of neglect.

(3) The County Board of Education shall furnish each school house with at least the following articles of furniture and apparatus, and the teacher shall, at the close of the school each year, deliver a complete inventory of the said articles to the subdistrict trustee: Teacher's desk and chair, a seat, patent or otherwise, with back, for each child, the height of the seat and its back to suit the age of the child; no desk or bench to be made to accommodate more than two children; writing desk for all pupils; blackboard space of at least fifty square feet; water stand; and the County Board of Education may furnish gong or call bell; terrestrial globe, wall map of the world, wall map of the United States, and a wall county map of Kentucky and such charts upon reading, writing, physiology, etc., as the County Board of Education may select; and the County Board of Education is authorized to have said houses and furniture insured against damage by fire or other casualty, the expenses incurred from such insur-

ance to be paid out of the funds raised for general county purposes.

Section 72b. (§ 4434a-12 Ky. St.)—**Supervisors of Rural Schools—Appointment, Duties.**—The county board of education shall have power to provide whenever it deems wise for the employment of supervisors for the rural schools under the supervision of the County Superintendent. It shall be the duty of the said supervisors to assist in supervising the rural schools, to act as substitute teachers under the direction of the County Superintendent and to act as truant officer in accordance with the laws governing the attendance of pupils in the rural schools and with such other rules and regulations as may be made according to law by the County Board of Education. The county board of education shall have power to pay the necessary expenses of the County Superintendent and the said supervisors of rural schools while in the discharge of official duties. (March 18, 1912, C. 117, p. 399, as amended March 18, 1916, C. 24, p. 165).

A county board may contract with a city board for fee tuition of county pupils in the city high school; it is not necessary that the high school be under the control of the county board. *Co. Board of Education, Christian County v. Bd. of Trustees of Hopkinsville Public Schools*, 154 Ky. 309.

A teacher under a verbal employment, made pursuant to a resolution of a county board of education, taught a school. He could not recover for his services. *Co. Board of Education v. Dudley*, 154 Ky. 426.

The board of trustees of a graded school and the county board of education may enter into a contract by which a school building may be erected and a joint school conducted in it under the management of the two boards. The contract may provide that the building be paid for in part by the board of education and in part by bonds issued by the graded school district under section 4481. *Munfordville Mercantile Co. v. Board of Trustees, District No. 39*, 155 Ky. 382.

A county has no cause of action against a superintendent of schools for money belonging to the school fund appropriated by the superintendent during her incumbency. *Leslie County v. Hoskins*, 175 Ky. 821.

The control and distribution of school funds by the board of education when they act within the scope of the statute are in its own discretion. If it makes an order on its books in advance of its application to the fiscal court for school funds, showing the purpose to which the funds will be applied, it may afterwards revoke this order. *Spradlin v. Floyd County Board of Education*, 162 Ky. 677.

Under this section the board of education has discretion in the use to be made of school funds, and apply them to the best interests of the schools of the county, and such discretion can not be controlled by injunction at suit of a citizen of a school district. *Spradlin v. Floyd County Board of Education*, 162 Ky. 677.

In view of this section, a county superintendent of schools who receives a railroad tax levied for the benefit of a school district is required to pay over to the county board of education that part of the tax to which a colored common school is entitled, and such payment should be made to the trustees of such colored school. *Board of Education of Hopkins County v. Board of Trustees of Earlington Graded School*, 171 Ky. 125.

Chapter VII.

COUNTY SUPERINTENDENT

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| Sec. 78. Property devised to county schools, etc. | Sec. 79a-5. Library committee. |
| | Sec. 79a-6. District library. |
| | Sec. 79a-7. Trustees to control. |

Section 73. (§ 4404 Ky. St.) **Census Report of School Children—Notice of Change in District Boundaries.**—It shall be the duty of each County Superintendent, on or before the first day of June, each year, to prepare, mail to, and cause to be placed in the hands of the Superintendent of Public Instruction a report, certified by the county judge or clerk, that the report is a correct statement as shown from the census on file in the office of the clerk of the county court, showing the whole number of children, between the ages of six and eighteen years, residing in his county, and the whole number residing in each subdistrict, including each city, and each independent district described by its number; and he shall be individually responsible to the County Board of Education by reason of any error made by said Superintendent in reporting the census thereof.

He shall superintend the census taken during the month of April by the trustees, and not later than the twentieth of March of each year shall notify the trustee that the boundaries of the subdistrict are as recorded for the past year in the trustees' register; or, if any changes have been made, shall give to the trustee exact notice of such changes, and, in due time, see that the said changes are included in the description of the boundary entered in the trustees' register.

At the time of such notice he shall give the said trustees printed or written instructions for taking the census; caution him against reporting persons not legally belonging thereto, and calling his attention to section 94 of this act.

He shall base his report upon the census taken during the month of April, and reports thereof made to him by the subdistrict trustees and if such reports are not in from the subdistrict by the tenth of May, the County Superintendent shall take, or have the census of such subdistrict taken, the cost of which shall be paid out of the county levy, and the fiscal court may recover from the delinquent trustee the amount so paid. (March, 1918, C. 138, p. 574.)

Section 74. (§ 4404a Ky. St.) **Duties as to Condemnation of School Houses and School Visitation.**—(1) He shall condemn any school house which is dilapidated, unhealthy, or otherwise unfit to be occupied for the purpose of a common school, and any fence or other inclosure of a school house when such inclosure is for any reason insufficient for the protection of the house or grounds. He shall condemn all school furniture or apparatus insufficient in quantity or not of the required character, and order the same replaced with the proper furniture and apparatus as described in section 115 of this act. He shall, within thirty days after such condemnation, notify the County Board of Education in writing.

(2) He shall at least once a year make an official visit to each sub-district school of his county, but shall not make more than three such official visits in any one day. At the time of such visit he shall note in a book, to be kept for that purpose, the number of pupils in attendance; the number

County superintendent is no longer an elective officer. The County Board of Education has immediate supervision over the county schools, and the superintendent is largely responsible to the board. Whenever this section and the following sections relating to the county superintendent conflict with the Acts of 1920 and 1922 they must give way. See Chapter V in this compilation.

Sec. 4404. Reports by superintendent. It was held that the provision of the Act of 1884, requiring the superintendent to make his report showing number of children in his county on or before the first day of June, was only directory. *Pickett v. Harrod*, 86 Ky. 485, 9 R. 687; and see *Pickett v. Adams*, 12 R. 957.

No one can acquire the right to remain in a common school district by prescription.—*Trustees, etc. v. Young*, 105 Ky. 299. (See Secs. 121, 88.)

absent, and the cause of absence; the names of children unable to purchase books; the conditions of the school house, furniture, apparatus, grounds, and appurtenances; the qualification and efficiency of the teacher; the conduct and standing of the pupils; the method of instruction; the discipline and government of the school. In the visits to the school he shall advise with the teachers and give them such instruction regarding discipline and teaching as he may deem necessary.

(3) He shall counsel the trustees and see that they discharge their duties, especially in securing full and regular attendance.

(4) He shall admonish the teacher found remiss of duty in the matter of cleanliness of house, preservation of furniture and necessary ventilation and complain to the trustees in case of gross neglect of duty in these respects.

(5) He shall examine the teacher's register and grade book, and the trustees' register; if the boundary of the district is not correctly given, he shall write it in said book himself, see that the records are properly kept, and the boundary of the district, the contract with the teacher, the levy of a tax, if any, and the official visits and proceedings of the trustees are properly recorded, and by every means in his power strive to promote and advance the cause of common schools. (March 18, 1916, C. 24, p. 162.)

Section 75. (§ 4405 Ky. St.) **Text Books for Indigent Children—Supplied by County Judge—Duties of Superintendent.**—(1) It shall be the duty of each County Superintendent, before the opening of the schools each year, and from time to time, by personal observation or from trustees and teachers and otherwise, to ascertain the number and cost of text-books upon each of the common school branches needed by the indigent children of each sub-district and of the county for use in the common schools, and shall report to the County Judge the number and kind of books needed, when the County Judge shall purchase the books and pay for them by an allowance made by the fiscal court of the county; the County Judge shall then turn them over to the County Superintendent for distribution, taking receipt for

the number and value of the books, but the cost of said books shall not exceed the aggregate of two hundred dollars in any county per annum

(2) It is hereby made the special duty of the County and City School Superintendent of common schools to report to the County Judge the names of all such indigent children furnished them by trustees, and to see that the provisions of this section are faithfully executed. (March 18, 1916, C. 24, p. 162.)

Section 76. (§ 4406 Ky. St.) **Superintendent and Trustees to Report Additional Facts.**—County Superintendents and trustees of common schools shall report facts additional to those now required to be reported, whenever, in the judgment of the board or of the Superintendent of Public Instruction, the interest of the common schools of the State shall indicate the necessity therefor. (March 18, 1916, C. 24, p. 162.)

(§ 4407 Ky. St.) **Teachers—Payment of—Cities Organized as Single Districts.**—(1) Each County Superintendent of common schools shall, on the second Saturday in October, reckoning school months of twenty days, pay the amount due each teacher of a common school for the month or months completed but not for any fraction of a month, except as provided in section 189 of this act, on the certificate of the trustee for the sub-district and the chairman of the educational division that the school has been legally taught for that period; and thereafter the County Superintendent shall, on the second Saturday of each calendar month, pay the salary due each teacher of a common school for the previous month or months not previously paid for, on the certificate of trustee for the subdistrict and the chairman of the educational division that the school has been legally taught for the period specified: Provided, That all of said payments shall be made to the teacher personally or on written order, and that last payment shall be made for the entire balance due

OPINION OF THE ATTORNEY GENERAL

City School Superintendents should furnish the names of all indigent children, who need school books, to the county judge, and the county school superintendent should furnish the names of such children in the county outside of the city. They should then be furnished to the county superintendent who should turn over to the city school superintendent the necessary books for such children in the city.

the teacher, including the undistributed surplus and interest on the county bond; and that any teacher who may violate his contract with the Division Board by refusing to continue his school shall forfeit any fractional salary that may be due him.

(2) In cities and towns organized as single districts, and reporting direct to the Superintendent of Public Instruction, the provisions of this section shall equally apply, or such city or town may receive in January the whole amount due it if it shall so desire. In either case the president or chairman of the school board of such cities or towns shall make the report required of them by law, under oath, direct to the Superintendent of Public Instruction, and he shall draw his warrant on the Auditor, of Public Accounts in favor of the Treasurer of such school board, which, when approved and countersigned by the Superintendent of Public Instruction, shall entitle such treasurer to a warrant on the treasury of the State for the amount thereof; and the said Treasurer and securities shall be accountable for the same upon his official bond, in any action by such School Board, of which the Superintendent of Public Instruction shall be officially notified. (See Secs. 9, 10, 11. Certificates to teach in school organized by special act. See notes, Sec. 91. March 18, 1916, C. 24, p 162.)

Section 77. (§ 4408 Ky. St.) **Superintendent—Punishment for False Report.**—(1) Any County Superintendent who shall knowingly and wilfully report to the Superintendent of Public Instruction a number of common schools as having actually been taught in his county greater than the number of schools having actually been taught herein according to law, or a number of children entitled to tuition in his county greater than the actual number of such children, or otherwise knowingly or wilfully misstate any fact or facts which he is, or

Sec. 4407. Teachers who have not received certificates to teach are not entitled to be paid out of the common school fund. *Posey v. Board of Trustees*, 19 R. 466, 38 S. W. 1063.

A teacher had a contract with a division board of trustees to teach a public school for a term of six months; the school building was destroyed by fire before the expiration of the six months and no other building was provided. The teacher had no right of recovery for the salary for the remainder of the term. *Vaughn v. Hindman*, 145 Ky. 507.

may be hereafter, required by law to report to the Superintendent of Public Instruction, shall be deemed guilty of a felony, and, upon conviction thereof, be fined in a sum not less than two hundred nor more than five hundred dollars, or imprisoned in the penitentiary not less than one nor more than ten years, or both fined and imprisoned in the discretion of the jury, and be removed from office.

(2) And all sums recovered from him by due process of law, or by voluntary surrender of the excess taken by him, shall be paid into the school fund.

(§ 4409 Ky. St.) **Settlement With County Judge—Money Not Paid Out Returned to Treasurer—Penalty—Duty of County Judge.**—(1) Each County Superintendent shall on or before the first day of August, annually settle his accounts for the previous school year with the County Judge of his county and forward a copy of said settlement, certified by the clerk of said court to be correct, to the Superintendent of Public Instruction. Said settlement shall embrace all sums received since the date of his last settlement by said County Superintendent for the benefit of common schools taught during the school year; a full statement of all such sums paid out by him, for what, to whom, and when paid; and should any part of said fund received by him as aforesaid remain uncalled for, and not be paid out, he shall immediately refund said amount to the State Treasurer, stating why it was not paid out and at the same time notify the Superintendent of Public Instruction that he has refunded the said amount, that he may give said County Superintendent proper credit on his books for said amount refunded.

(2) The receipt of the Auditor for money refunded shall be sufficient voucher with the County Judge in said settlement.

(3) Should a copy of such settlement fail to reach the Superintendent of Public Instruction by the tenth of that month it shall be his duty to notify the County Judge and the delinquent County Superintendent of the fact; and upon receiving such notification it shall be the duty of the judge, in case settlement shall not have been made, immediately to com-

pel a settlement by attachment, as in cases of contempt, and a copy thereof to be forwarded to the Superintendent of Public Instruction.

(4) For his wilful failure to pay out to those entitled thereto any money in his hands for the space of thirty days after the same shall be received by him, or for his wilful failure to make the aforesaid settlement by the time required by law, the County Superintendent shall be guilty of misdemeanor and being indicted and convicted thereof he shall be fined in a sum not less than one hundred nor more than five hundred dollars, as well as remain liable on his official bond, and may be removed from office.

Section 77a. (§ 4410 Ky. St.) **Report to be Made Annually—Penalty for Failure—Present at Office.**—(1) He shall, on or before the first day of August, prepare and mail, and cause to be placed in the hands of the Superintendent of Public Instruction, his official report, showing, in tables of details and aggregates, the school sub-districts of his county by number, the name and address of the trustee of each sub-district, with date at which each one's term expires; the sub-districts in which schools were taught, and the length of time taught; the highest, lowest, and average of number of children at school; the cost of tuition of each child for the session and per month; the number of private schools, academies and colleges taught in the county, and length of session of the same; the number of teachers employed—male, female and total—for the common schools; the average wages for male teachers, female teachers, and total teachers per month; the name and address of teachers resident in this county, with grades of certificates of each; the amount of money raised for common school purposes in the county, by local tax or otherwise, and for what the same was disbursed; the number and kind of school houses,

OPINION OF THE ATTORNEY GENERAL

The county clerk's fees for recording the settlement made by the county superintendent with the fiscal court should be paid out of the county fund, and not out of the school funds.

Sec. 4409. Settlement of Accounts—Indictment—Evidence. Tracy v. Com., 25 Ky. 669.

Under this section and section 4426a, subsections 9, 18, where the discretion of school officers has not been reasonably exercised in regard to the expenses of the county superintendent or in the manner of allowing them, courts will interfere on proper application. Beauchamp v. Snider, 170 Ky. 220.

and the value of each; the number of sub-district libraries, also county library, if any, and number of volumes in each, and the increase during the year; the amount he has received for official compensation and expenses.

(2) For wilful failure to be present at his office at the time appointed to receive reports, or for failing to make the reports herein required, he shall be fined a sum not exceeding fifty dollars. (See Secs. 63, 122, 201.)

(§ 4411 Ky. St.) **Record of Official Acts Subject to Inspection.**—Each County Superintendent shall keep a detailed account of all money received and disbursed by him; a record of all business transacted by him as County Superintendent, together with the reports of the trustees; the names, numbers and description of school sub-districts, and all other papers and documents connected with his office, at all times subject to inspection and examination by any school officer or other person interested in any question pertaining to the common schools. (See Sec. 41.)

Section 78. (§ 4412 Ky. St.) **Devise of Gift to Schools of County—Duty Concerning.**—Any devise, gift or donation of any real or personal estate in aid of the common schools of any county of this State shall be held in trust by the County Superintendent, and he shall be required to make settlement in regard thereto, in the same manner in which, and at the time when, he makes settlement in regard to the money received from the revenue of the school fund; and he shall send a copy of such settlement to the Superintendent of Public Instruction. This section has been repealed by implication. County board now receives gifts and devises for benefit of common schools.

(§ 4413 Ky. St.) **Oath May be Administered by.**—A County Superintendent may administer the oath required of a trustee or of a teacher of common schools, or other persons required to make oath in matters relating thereto. (See Secs. 62, 92, 177.)

(§ 4414 Ky. St.) **Administering Oath to Trustees—Record Concerning—Notice.**—(1) He shall administer the oath of office to trustees-elect applying to him for that purpose;

but it shall be lawful for any justice of the peace, or other person authorized to administer oaths, to administer the oath of office to any trustee; but said oath shall not be valid unless reported in writing to the County Superintendent by said Justice or other person within ten days from the time when administered.

(2) He shall make a record of the names of trustees then qualified, showing the sub-districts in which they were elected, and the postoffice of each. He shall, at the time, deliver to the trustee of each subdistrict such blanks as they will need for the coming school year, and give such information with regard to their duties as may be requested.

(3) He shall address all official correspondence to the trustees. Notice to them shall be regarded as notice to the people of the sub-district, and it shall be the duty of the trustee to notify the people. (See Sec. 61.)

(§ 4415 Ky. St.) **Attendance at Office.**—It shall be the duty of the County Superintendent to be in attendance at his office, at the county seat, on the second Saturday of each month, and at such other times as may be necessary, to transact his official business.

(§ 4416 Ky. St.) **Penalty for Buying Teachers' Claim or Acting as Text-Book Agent.**—No County Superintendent shall be allowed to buy, for himself, or another, any teacher's claim, directly or indirectly, or to act as agent for the sale of any text-book. Any superintendent guilty of violating this section shall be fined not less than one hundred nor more than one thousand dollars for each offense. (See Sec. 124.)

Sec. 4414. Trustee duly elected who takes oath is the legal trustee although no record of his qualification is made. *Graham v. Jackson*, 112 Ky. 883, 23 R. 2235, 66 S. W. 1009; and see *Meadors v. Patrick*, 22 R. 95.

The county superintendent is authorized to declare the office of school trustee vacated for failure to return the certificate of qualification within the proper time, but he also may recognize the trustee if he has in fact taken his oath. *Dotson v. Stratton*, 18 R. 534, S. W. 147.

Neither a parole resignation by a school trustee nor a written resignation, to which his name was signed by another, is valid.

If a trustee took the oath of office before a county superintendent, and his record fails to show that fact, it does not deprive the trustee of his right to the office. *Graham, etc. v. Jackson, etc.*, 112 Ky. 883.

Sec. 4416. Under this section and section 4440a, the county board of education can not allow a county superintendent for livery bill, where she used her own horse and buggy. *Beauchamp v. Snider*, 170 Ky. 220.

Sec. 4417. Repealed March 22, 1920, c. 36, p. 148, secs. 7 and 11. See new Ky. Statutes, secs. 4399a and 4399a-11.

Section 79. (§ 4420a-1 Ky. St.) Superintendent of Schools and Clerk to Furnish Boundary to Company.—(1) It shall be the duty of the County Superintendent of county schools in each county in which a railroad or bridge is operated to furnish, on or before the first day of July of each year, to such railroad or bridge company or companies the boundary of each graded or common school district through or into which any part of such railroad or bridge or other railroad or bridge property is situated; and the county clerk of any county containing any other taxing district through or into which any railroad or bridge company is located shall make a similar report to such railroad or bridge company.

Sec. 4417. Teacher can not be removed without giving notice required by this section and affording teacher an opportunity to be heard, *Wilson v. Hite*, 21 R. 1199, 54 S. W. 726; and see further as to removal of teacher. *Bowman v. Ray*, 118 Ky. 110, sec. 4503 and note.

When a trustee who has been removed by the county superintendent appeals to the State Superintendent who reverses the decision of the county superintendent all acts of the trustee after his removal by the county superintendent and pending the appeal are valid. *Stevens v. Marrs*, 19 R. 1623, 49 S. W. 809.

This section does not authorize the revocation of a teacher's certificate by the county superintendent. Supt. of Common Schools of Daviess County v. Taylor, 105 Ky. 387.

This section does not apply to trustees of graded school district. *Matthews v. Rogers*, 107 Ky. 236.

The provision of this section as to notice has no application to a dismissal under section 4447. *Wheatley v. The Division Board of Hancock County*, 144 Ky. 783.

The proposition that no appeal lies to the Superintendent of Public Instruction from an order of a county superintendent recognizing a trustee pending a dispute is in no way in conflict with the proposition that a trustee removed under section 4417 has a right to appeal to the Superintendent of Public Instruction. *Patric v. Fletcher*, 149 Ky. 193.

Under this section notice from the county superintendent to a teacher sought to be removed on the ground of immoral conduct should specify the act or acts charged and the date of their commission. *Lasley v. Depp*, 171 Ky. 218.

A judgment removing a teacher on the ground of immoral conduct was held not void although the notice given was not sufficient where the teacher appeared at the hearing and submitted to the trial after demurrer to the notice. *Lasley v. Depp*, 171 Ky. 218.

Sec. 4418. (Repealed March 22, 1920, ch. 36, p. 148, sec. 4. See new Ky. Stats., sec. 4399a-4.)

Sec. 4418. Superintendent is not authorized by this section to pass on the propriety or legality of the establishment of a new district. *Howard v. Forester*, 109 Ky. 336. See further as to powers of superintendent. *Patric v. Fletcher*, 149 Ky. 193.

Sec. 4419. (Repealed March 18, 1916, c. 36, p. 148, sec. 10, now sec. 4399a-10 of the Ky. Statutes.)

Sec. 4419. Compensation of superintendent. For decision construing former law on this subject see *Pickett v. Harrod*, 86 Ky. 485.

Salary of superintendent cannot be subjected to his debts by coercive process. *Heilvronner v. Posey*, 103 Ky. 462; see further as to salary. *Piercy v. Smith*, 117 Ky. 990; *Breathitt County v. Noble*, 116 S. W. 777.

This section relating to salary of county superintendent was construed. *Fox v. Lantrip*, 162 Ky. 178.

Superintendent's salary cannot be changed during the term for which he was elected. *Phillips v. Broach*, 186 Ky. 138.

Sec. 4420. (Repealed March 22, 1920, ch. 36, p. 148, sec. 10, now section 4399a-10 of the Ky. Statutes.)

(2) Any County Superintendent or county clerk failing to make report as herein required, or who shall make false report, shall be deemed guilty of misdemeanor, and upon conviction, shall be fined not less than fifty nor more than one hundred dollars for each offense. (March 18, 1916, C. 24, p. 162.)

(§ 4420a-2 Ky. St.) **School Tax Paid to Superintendent.**—All taxes against any railroad or bridge company, which shall be levied in any common school district, shall be paid by said railroad or bridge company to the Superintendent of Common Schools of the county for the benefit of the district entitled thereto. (March 18, 1916, C. 24, p. 162.)

(§ 4420a-3 Ky. St.) **White and Colored School Districts.**—The provisions of this law shall not be construed to apply to any colored school district; Provided, That the same rate of taxation assessed against the real estate of any railroad or bridge company or corporation in any graded school district or common school sub-district, in any year, shall be assessed against all of the taxable property, in such district or sub-district, and the railroad or bridge tax, when collected, shall be paid over to the County Superintendent of the county in which the district or sub-district school house wherein the tax assessed shall be situated, and shall constitute and be held by the County Superintendent as a graded or common sub-district school fund; and the said fund shall be apportioned and distributed by the County Superintendent between the white graded common school or white common school sub-district wherein said tax shall be collected and any colored common

A colored common school, ungraded, is entitled under this section to its pro rata share of the railroad school tax, to be determined, as further provided in this section, by the number of colored pupils in that district as compared to the number of white pupils therein.

A colored common school district, as used in this section, was intended and should be construed to mean, and include, a colored common school in the district, whether graded or ungraded.

A graded school is a common school in the meaning of the words, common school as defined in section 2. Trustees, etc. v. West, 163 Ky. 563.

Taxes levied by white graded common school districts upon the property of a railroad must be apportioned between the white district and the colored school district, if their boundaries are the same. Thornton, etc. v. White, etc., 162 Ky. 796.

We, therefore, think that when there comes into the hands of the county superintendent of common schools a fund derived from a railroad tax levied for the benefit of a graded school district, the county superintendent should pay over to the board of education of the county that part of the tax to which the colored common school may be entitled, and the board of education should then hold and expend the same for the use and benefit of the colored common school. County Board, etc. v. Board of Trustees, 171 Ky. 125.

school district which shall be located over the same boundary; the distribution shall be in the same ratio that the whole number of white children of pupil age and the whole number of colored children of pupil age residing in the district or sub-district shall bear to the whole number of children, white and colored children of pupils age residing in the district or sub-district. (March 18, 1916, C. 24, p. 162.)

(§ 4420a-4 Ky. St.) **Rate of Taxation—Bridges—Auditor to Notify Clerks.**—(1) The same rate of taxation for State purposes which is or may be in any year levied on other real estate, shall be and is hereby levied upon the value, so found by said board, of the railroad bridge, rolling stock, and real estate of each company; and the same rate of taxation for the purposes of each city, town, part of a county or tax district, of any kind, in which any portion of any railroad or bridge is located, which is, or may be in any year levied on other real estate of said company therein, and of the number of miles on said road, therein, reckoned as of the value of the average of each mile of such railroad, with its rolling stock, as ascertained as aforesaid: Provided, That railroad bridges, spanning any river which constitutes the boundary or State line of the Commonwealth, shall be assessed as of the counties in which they are located, and local tax derived therefrom shall be applied to each city, town, county or tax district in which said bridges are or may be located.

(2) And immediately after said board shall have completed its valuations each year, the Auditor of Public Accounts shall notify the clerk of each county court of the amount so assessed for taxation in his county and each railroad or bridge company of the amount of the assessment for taxation for State purposes and for the purposes of such city, town, county, part of county and tax district. (March 18, 1916, C. 24, p. 162, Sec. 72.)

Section 79a. (§ 4421 Ky. St.) **Books and Effects to be Delivered to Successor—Settlement—Penalty.**—(1) Each County Superintendent, when he resigns, vacates, is removed or goes out of office, shall immediately thereafter deliver to his successor, or to the county court clerk for him, any money,

property, books, effects or papers remaining in his hands as County Superintendent, and within ten days shall settle with the county court, and for failure to do so shall be fined not less than fifty dollars nor more than one hundred dollars.

(2) It shall be the duty of the County Clerk to forward a certified copy of said settlement to the Superintendent of Public Instruction. (As amended March 18, 1916, C. 24, p. 162.)

Section 79a. (§ 4422 Ky. St.) **County Board of Examiners—Appointment and Qualifications—Oath.**—The County Superintendent shall appoint two strictly moral and well-educated persons, holding county certificates of the first class, State certificates, State diplomas or diplomas from some literary institution of high learning who, together with himself, shall constitute a board of examiners for the county. No person shall be eligible as examiner on said county board who is at the time or for six months previous thereto has been conducting or teaching in any school, college or university where teachers or those preparing to teach are making preparations to be examined for certificates to teach in the common schools of this State. Before they shall be authorized to act in any capacity as such board or grant any certificates said examiners shall take and subscribe to an oath that they will faithfully discharge their duties as required by the common school law, and the said affidavit shall be filed in the office of the clerk of the county court. (July 6, 1893, C. 260, p. 1413, Sec. 60; March 29, 1902, C. 227, as amended March 18, 1916, C. 24, p. 162, Sec. 73.)

(§ 4423-4424 Ky. St.) (Repealed by section 4421a-1, et seq., and sections 4421b-1, et seq.—Ed.)

Section 79a-1. (§ 4425 Ky. St.) **Certificate to Teachers—Affidavit—Penalty.**—All applicants for teachers' county or State certificates or State diplomas in the Commonwealth of Kentucky, immediately before entering upon examination shall subscribe to the following oath, which shall be presented to them by any of the board of examiners, viz.: "I do solemnly

Sec. 4422. Examiners may be removed by superintendent at any time without cause or notice. Johnson v. Ginn, 105 Ky. 654, 20 R. 1475.

swear (or affirm) that I have not had access, direct or indirectly, to the State board or other questions to be used in this examination, and that I have no personal knowledge of any unlawful usage of the aforesaid questions by any person or persons, which knowledge I have not communicated to the grand jury, county attorney or county superintendent of schools of the county in which the aforesaid person or persons did unlawfully use or attempt to use said questions.”

The superintendent of public instruction shall furnish each county superintendent in the Commonwealth with a sufficient number of copies of the oath prescribed in this act, printed on sheets with blank space below for names and addresses of applicants. Each copy, after being subscribed to by applicants as provided in this act, shall be dated and signed officially by the board of examiners and preserved in the office of the superintendent of public instruction or county superintendent of common schools as a public record.

Any superintendent of public instruction or county superintendent of common schools or board of examiners for teachers' county or State certificates or State diplomas failing to comply with the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each offense. (As amended March 18, 1916, C. 24, p. 162, Sec. 74.)

Section 79a-2. (§ 4426 Ky. St.) **Penalty for Improperly Granting Certificate.**—Any county superintendent or county examiner who shall knowingly grant to any immoral person or to any person under the prescribed age a certificate to teach in the common schools, or who shall permit any one to take an examination who is under the prescribed age prior to the date of examination shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each offense. If there should be any doubt as to the age of

Sec. 4425. Teachers' certificates, concerning. *Flynn v. Barnes*, 156 Ky. 499.

No part of this section is now in force as it stood before the act of March, 1906. The new act has taken the place of the old act. *Flynn v. Barnes*, 156 Ky. 498.

an applicant the superintendent may require the applicant to take and subscribe to an oath as to his age before entering the examination.

Any county superintendent, county examiner, printer, officer of State or county or any other person who shall sell, barter, give or furnish, or procure to be sold, bartered, given or furnished to any applicant for a certificate, or to any other person, or any other person who shall have in his possession unlawfully or in any way not provided by law, any question or questions prepared or sent out by the superintendent of public instruction or the State board of examiners for the examination of persons applying for such certificate or in any way dispose of such questions, except in the manner provided by law, shall be guilty of a felony and shall upon conviction be punished by confinement in the penitentiary not less than one nor more than two years. Any applicant for a State diploma, State certificate or county certificate who shall either give or receive any assistance in answering any question during any examination for such certificate shall be guilty of a misdemeanor and upon conviction shall be punished by expulsion from examination. (As amended March 18, 1916, C. 24, p. 162.)

Section 79a-3. (§ 4465 Ky. St.) **County Clerk—Duty of.**—It shall be the duty of the county clerk to give to said sheriff or other officer a certified copy of the order of the judge of the county court as it appears in his order book, within ten days after said order is made. (July 6, 1893, C. 260, p. 1413, Sec. 101, as amended March 18, 1916, C. 24, p. 162.)

Section 79a-4. (§ 4518 Ky. St.) **County Library—Where and by Whom Kept—Funds for.**—There shall be a county teachers' library in each county of the Commonwealth, to be kept under the care and in the office of the County Superintendent, for the exclusive use and benefit of the teachers of the county. The sums collected for the purpose of each annual institute, and all sums added thereto by donation, shall constitute the county library fund, which shall be kept and accounted for by the County Superintendent. (March 18, 1916, C. 24, p. 162, Sec. 202.)

Section 79a-5. (§ 4519 Ky. St.) **Library Committee—Who Constitute.**—The County Superintendent, as chairman, and two persons annually elected by the county institute, shall constitute a library committee, for the selection and purchase of books, periodicals and furniture, and for the adoption of rules for the management of the library under the regulations of the State Board of Education. The Superintendent of Public Instruction shall supply each of these libraries with a bound copy of each edition of the school law, of his biennial reports, and other publications of his department. The library committee shall keep a permanent record of its acts and accounts open at all times for the inspection of the teachers; and, through its chairman, shall annually report to the county institute an itemized statement of all sums received and expended; the number, names and cost of books and other articles purchased; all donations of books and periodicals, with the names of the donors; the number of books belonging to the library; the number in the library; the number on loan, and such other facts as may be required; and in his annual report to the Superintendent of Public Instruction, the County Superintendent shall state the sums received, the sums expended, the number of volumes in the library, and the increase during the year. (March 18, 1916, Sec. 203.)

Section 79a-6. (§ 4520 Ky. St.) **District Library—Organization and Management.**—When by contribution, purchase or otherwise, forty volumes can be collected for such purpose, the sub-district trustee may organize a district library in connection with the school of the sub-district, which shall be for the use of the sub-district in which the same is located. They may make such suitable arrangements for keeping the books and periodicals of the said library as may be necessary, and may appoint a suitable person to take charge of the same, and to manage it according to such rules as they may prescribe, subject to the regulations prescribed by the County Superintendent.

Section 79a-7. (§ 4521 Ky. St.) **Trustees to Control—Books That Shall Not be Kept—Regulations.**—The trustees shall have the same control over the library as over the other

school property, may receive donations of books, maps, charts and other works of interest. But no books of a sectarian, infidel or immoral character shall be placed in the library; and any such books found therein shall be removed by order of the trustees or of the County Superintendent. The library shall be free to all pupils of suitable age belonging to the schools of the sub-district, but any resident of the sub-district may become entitled to the privileges upon the payment of such sum of money for membership as the trustees may prescribe. (See Sec. 6 and notes. March 18, 1916, Sec. 205.)

Chapter VIII.

SCHOOL DISTRICTS—HIGH SCHOOLS—CONSOLIDATED SCHOOLS AND COMMON SCHOOL DISTRICTS

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| Sec. 80. County to compose one district—exception. | Sec. 84. Petition for change in boundary. |
| Sec. 81. Record of boundaries to be kept—children may attend in adjoining districts, when. | Sec. 85. High schools—duty of board concerning. |
| Sec. 82. City, town or village, when deemed a district. | Sec. 86. Board may contract with established city high school. |
| Sec. 82a. Consolidated district—boundaries and election to establish. | Sec. 87. High school may be established by adjoining counties. |
| Sec. 82a-1. Transportation tax. | Sec. 88. Pupils may attend school most convenient—tuition. |
| Sec. 83. Bond issue to provide buildings. | |

Section 80. (§ 4426a-1 Ky. St.) **County to Compose School District—Excepting.**—Each and every county in this Commonwealth shall compose one school district, excepting that where there is a city or town in any county which maintains a separate system of public schools, then the balance of said county outside of such city or town district shall constitute a school district.

Sec. 4426a-1. Board of Education.—Indebtedness that it may pay. *Scobee v. Board of Education*, 157 Ky. 510.

Sheriff's commission for collecting tax. *Hall v. Ballard Co.*, 140 Ky. 84.

High Schools—Establishment of. *Grant County Board v. Chandler*, 144 Ky. 348; *Munfordville Mer. Co. v. Board of Trustees*, 155 Ky. 382.

Validity of Act. *Prowse v. Board of Education*, 134 Ky. 365.

Powers of Board of Education. *McIntyre v. Powell*, 137 Ky. 477. *Fiscal Court v. Board of Education*, 138 Ky. 98; *Vaughn v. Hindman*, 145 Ky. 507.

Teachers—Concerning. *Vaughn v. Hindman*, 145 Ky. 507; *Educational Division v. Butler*, 155 Ky. 164; *Davis v. Harrison*, 140 Ky. 529; *Wheatley v. Division Board*, 144 Ky. 783; *Campbell v. Owens*, 150 Ky. 686; *Maynard v. Maynard*, 152 Ky. 623.

Separate schools for white and colored. *Grady v. Larue Co. Board*, 149 Ky. 49.

School tax levied under subsection 9 is a State tax. *Ramsey v. County Board*, 159 Ky. 827.

Tax for school purposes. *Shanklin v. Boyd*, 146 Ky. 460. Site for school building. *Ritter v. County Board*, 150 Ky. 847; *Snyder v. Board of Trustees*, 142 Ky. 739; *Evans v. Cropp*, 141 Ky. 514.

This section applies only to the balance of the county outside of a city or town which maintains a separate system of public schools. *Taylor v. Sparks*, 132 Ky. 118, S. W. 970.

Money recovered by the Commonwealth on a judgment for violation of a bond belongs to the county board of education, and the board was the proper party to require the defendant by rule to pay over the money. *Board of Education of Mercer County v. Allin, et al.*, 134 Ky. 763.

This act has no effect upon prior judgments against a school district. *Board of Education for Pike County v. A. H. Andrews Co.*, 122 S. W. 207.

This new law being inoperative where a graded school exists, a colored school was not entitled to a ratable proportion of a railroad tax for school purposes under section 4101. *Com. v. Ferguson*, 128 S. W. 96.

By act of 1910 (S. A., p. 333), subdivision 3 of this section relating to election of school trustees is modified.

Section 81. (§ 4426a-3 Ky. St.) **New School Districts—Change of Boundaries.**—The County Board of Education shall have full power when necessary to lay off or establish new school sub-districts or change the boundaries of those already established: Provided, That no change in the boundary of any sub-district shall be made to take effect during the current or the following school year, unless made previous to taking or estimating the census of the pupil children in the county for such school year. (See notes Sec. 51. Act as amended March, 1918.)

(§ 4426a-4 Ky. St.) **Sub-districts—Concerning—Districts Parts of Two Counties.**—(1) With the concurrence of the county boards the County Superintendents of two or more adjoining counties, where the division line intersects a neighborhood whose convenience requires it, may lay a sub-district composed of parts of these counties.

(2) The selection and payment of teachers and control of such sub-districts shall be lodged in the county board of the county in which the school building is located, but the county board of the other contracting county or counties, shall pay such proportion of the total expense of conducting said school as may be mutually satisfactory and stated in a written contract, which contract shall also state definitely the boundaries of such fractional sub-district. Said contract shall be spread

Correcting paragraph 8. As this law does not apply to a district where a graded school exists, a colored common school district in which a graded school existed was entitled to a ratable portion of a railroad tax for school purposes under section 4101. *Com. v. Ferguson*, 128 S. W. 95.

The fact that the first high school in a certain county was not located at the county seat does not excuse the board of education from paying the salary of a teacher of the second high school, which was also not located at the county seat. (Subsection 8.) *The Grant Co. Board of Education v. Chandler*, 144 Ky. 348.

A county board of education is liable to a teacher for salary due under the teacher's contract; it is not liable for the wrongful act of individual trustees of the educational division in unlawfully dismissing the teacher. *Mock v. County Board of Education of Nelson County*, 145 Ky. 715.

The extension of the boundary of a graded school district and the levy of a tax therein did not supersede a previous levy made by the fiscal court before such extension. *Board of Education of Hopkins County v. Givens*, 147 Ky. 837.

Persons and property in territory annexed to a graded common school district should not for the same year be required to pay a school tax under a levy made by the fiscal court, and also a school tax under a levy made by the graded school district. In the case decided, property and persons in the annexed territory were not subject to the graded school tax for the current year. *Board of Education of Hopkins County v. Givens*, 147 Ky. 837.

No appeal lies to the Superintendent of Public Instruction from an order of the county superintendent under section 4436, recognizing a trustee pending a dispute. (Subsection 4.) *Patrick v. Fletcher*, 149 Ky. 193.

upon the minutes of each board and duplicate copies signed by the president and secretary of each board shall be filed in the office of the county clerk of each of the contracting counties.

(3) In the sub-districts thus constituted, one trustee who may reside in either fraction shall be elected from the sub-district at large, but said trustee shall be deemed a resident of the educational division of the controlling county as hereinbefore provided.

(4) "The duties of the trustees of such fractional sub-districts shall be the same as those of other sub-district trustees, save that in making a census of the children of school age residing in the sub-district, he shall list the children of the two or more counties separately and make returns separately to each County Superintendent of the children residing in the respective counties.

(§ 4427 Ky. St.) **Boundaries to Remain as at Present—Numbers.**—The school districts and sub-districts of the several counties, as at present described and numbered, shall be retained until altered or abolished pursuant to law; but no two sub-districts in the same county shall be known by the same name or number.

Section 4428 Ky. Statutes repealed by section 4426a-2.

(§ 4429 Ky. St.) **Record of Boundary and District to be Kept by Superintendent.**—The County Superintendent shall, in a book to be kept in his office for that purpose, and subject to public inspection, describe each district in his county by its number and boundary, and shall furnish to the trustee of each sub-district a description of the boundaries thereof. (See Sec. 51.)

Section 4430 Ky. Statutes repealed by section 4426a-4.

(§ 4431 Ky. St.) **Children May Attend School in Adjoining District—Exception.**—(1) When two school sub-districts adjoin, it shall be lawful for the children of either of such adjoining sub-districts to be taught in and at such schoolhouses as may be most convenient to them. Provided, the transfer does not interfere with the contract between the teacher and the Division Board of Education and that no such change shall be made without the assent of the

trustees of both said sub-districts in writing and of the parents of the children transferred.

(2) In case of an agreement of the kind provided for in this section, the trustee of the sub-district in which the children were reported shall, before the close of the first month of the school term, notify County Superintendent in writing, or the said transfer shall be void; Provided, further, that when the district to which the transfer is made is in a different county, the County Superintendent of the county from which the transfer is made shall pay to the County Superintendent of the county in which the children are taught the money due for teaching them, taking his receipt in duplicate. (As amended March, 1916, C. 24, p. 162.)

Section 82. (§ 4432 Ky. St.) **City, Town or Village—When Deemed District—Duty of Trustees—Penalty.**—(1) When a city, town or village establishes and maintains a system of common schools adequate to the teaching of all children therein, and which all applying for instruction are permitted to attend free of charge, the same shall be deemed one district, and entitled to its proportion of the school fund.

(2) At the termination of each school year the trustees or other officers deputed for that purpose, of each school district, and of each separate school of such city, town or village, shall report to the County Superintendent the facts required of sub-district trustees in section 122 of this act. They shall take the census of such city, town or village by wards or school districts, and make a return to the County Superintendent, to be filed in his office, at the same time and in the same manner as that required of sub-district trustees. They shall file a duplicate of said census with the county clerk, to be retained by him in his office.

(3) For any failure, neglect or violation of their duties, as set forth in this section, the trustees or other officers of such city, town or district shall be subject to the same penalties as imposed on sub-district trustees.

(§ 4433 Ky. St.) **Laws Relating to City or Town for Benefit of School or College.**—This law is not to affect, modify or repeal any local or special law heretofore passed which

established any city or town in one district, except as provided in sections 165 and 166 of this act; but the same shall be governed in all respects by the local law and authorities, and it shall in nowise affect the charter and amendments thereto of any city or town in the Commonwealth, so far as said charter and amendments relate to the public schools of said cities and towns; nor shall this law affect, modify or repeal any local or special laws now in force for the benefit of any school, high school, seminary, college or other institution of learning in this State, except as to teachers, as provided in section 77 of this act.

CONSOLIDATED SCHOOLS

Section 82a. (§ 4426a-9 Ky. St.) **Consolidation and Transportation—Power to Vote Taxes.**—The County Board of Education shall have power to lay off a boundary including a number of sub-districts and submit to the voters in that boundary the proposition of a tax sufficient to provide for the consolidation of the schools within that boundary and the transportation of pupils to and from said consolidated school. Said proposition for taxation may be submitted to the voters at the regular election for school trustees, or at any other time decided upon by the County Board of Education, provided that not less than thirty days' notice be given of said election. When such a tax is voted in such consolidated district for local school purposes, it shall remain and be collected annually in accordance with the provisions of law until repealed by a vote of the people at an election called and conducted in the same manner in which the tax was voted.

School Established by Special Act.—No teacher of common school pupils in any school, high school, seminary, college, or any other institution of learning in this State, operating under a special law, is entitled to any part of the common school fund, unless he holds a certificate as prescribed by common school law, where a city or town is not organized as a single district and reporting direct to Superintendent Public Instruction, as provided in section 55. We conclude that the provisions of the charter of the district giving its board of trustees the right to examine teachers was necessarily repealed by section 125. Harrodsburg, etc. v. Adams, etc., 152 Ky. 735.

Sections 157 and 158 Constitution, as to the amount of property and poll tax that may be levied, have no application to the property or poll tax voted for school purposes under authority of valid election.

Nor is there any limit on the number of elections that may be held to increase the tax to such a sum as will be sufficient to accomplish the purpose of the legislature.

Section 82a-1. (§ 4426a-10 Ky. St.) **Local Expenses—**
Meaning.—In the notices of an election for the purpose of voting a tax to provide for the consolidation of schools, the term “local expense” shall include the transportation of students to and from the said consolidated school; and where sub-districts have already been consolidated according to law and tax has already been voted in said consolidated districts for local expenses, the term “local expenses” shall be construed to include the transportation of children in such cases.

(§ 4426a-2 Ky. St.) **Transportation Further Provided For.**—In districts consolidated under existing laws the County Board of Education shall have power to provide for transportation by local taxation or out of county funds, or otherwise

By a vote of the people the tax may be reduced or abolished. *Christopher v. Robertson, et al.*, 164 Ky. 262; *Oldham County, etc. v. Wise, etc.*, 178 Ky. 617.

A petition assailing a school election should point out specifically the grounds upon which it is attacked.

When there has been a full, free and fair school election and the voters understand the question to be voted on and have ample notice of the time and place when and where the election is to be held, there seems little reason for disturbing the election on mere technical grounds. *Travelstead v. Ray, Sheriff, etc.*, 163 Ky. 706.

The board of education has authority under this section to submit to the voters in a consolidated district the question whether they will vote a tax to provide a schoolhouse alone without submitting to them the question of transporting pupils or maintaining the school. When the schoolhouse has been provided, the tax cannot be longer collected. *Gibson, et al. v. Anderson, Sheriff*, 170 Ky. 664.

This section empowers the county board of education to lay off a boundary to create a consolidated school district and to submit to the voters of the district the question of levying a tax for the purpose of erecting a school building therein, also by implication impose upon that board the duty of levying such tax when voted. *Davis v. Anderson*, 171 Ky. 544.

In creating a consolidated school district in accordance with this section, notice to the trustees of the districts affected is not necessary to give the board of education authority to act.

The fact, that in creating a consolidated school district, subdistricts are reduced in size below forty-five pupil children, does not render the consolidated district void, because it is not to be presumed that the board of education, as a part of its plans, will not provide proper school facilities for the children remaining in the portions of the subdistricts not included in the consolidated district.

Hand bills, giving notice of the time, place and purpose of an election held under this section, posted for thirty days previous to the election, at seven public places in the district, is a sufficient notice to uphold the election.

The county board of education is authorized to create a consolidated school district out of parts of subdistricts, as well as out of entire subdistricts. *Holton, etc. v. Board, etc.*, 176 Ky. 578.

Upon the petition of the requisite number of taxpayers of a consolidated school district to the county board of education to call an election upon a proposition to repeal a school tax theretofore authorized under this section, it is the duty of the board to call an election as requested; and, upon its failure to do so mandamus will lie to compel the board to call the election. *Oldham County, etc. v. Wise, etc.*, 178 Ky. 617.

OPINION OF THE ATTORNEY GENERAL

There is no power given to the county board to change the boundary of a consolidated district until such a time as the people by their votes declare that the tax shall be at an end.

when, in its judgment, such consolidation is more economical than the creation of an emergency school, or when an emergency arises in a sub-district making it impossible for a school to be taught in that district.

Section 83. (§ 4433a-1 Ky. St.) **Consolidated School Districts—Bond Issue for Erection of Building—Popular Election.**—That any County Board of Education may provide funds for purchasing suitable grounds and buildings, or for erecting and repairing suitable buildings, and for other expenses needful in conducting a consolidated school in their county; and to this end they may use such part of the proceeds of said tax as they deem necessary, and it shall be the duty of said board of education, and if, in their opinion, it be necessary, they are hereby authorized and empowered to order an election and submit to the voters of any consolidated school district the question whether or not they shall issue bonds of their respective consolidated school districts, in any amount not exceeding the limit provided by sections 157 and 158 of the present constitution of this State, for the purpose of providing suitable grounds, school buildings, furniture and apparatus for their respective consolidated district; Provided, that due notice of said election shall be given by the County Board of Education, by written or printed posters not less than one foot square, signed by the chairman and secretary of the County Board of Education stating the time and place and hours of the said election, posted at not less than six public, conspicuous places in the district for ten days previous to the day of the election, and by one insertion thereof in the newspaper, if any, published in said county. (March 22, 1920, C. 45, p. 199, Sec. 1.)

(§ 4433a-2 Ky. St.) **Election, How Conducted—Tax Levy to Pay Bonds.**—The board shall appoint two judges, a clerk and a sheriff to hold such election, who shall be first duly sworn before acting, and shall be housekeepers and taxpayers, resident in the district for which they are appointed, and one of the judges shall ask of each voter: "Are you in favor of the issue of bonds by the County Board of Education for this district, for the purpose of providing suitable grounds, school buildings, furniture and apparatus for this district?" and the

clerk shall record the answer, "Yes" or "No," as given by the voter. If two-thirds of the voters voting at said election vote in favor of the issue of the bonds, then the County Board of Education of such consolidated district may issue the bonds of said district for an amount not exceeding the constitutional limit and in conformity with the constitution of this State. And for the purpose of meeting the interest on such bonds and creating a sinking fund for the payment of the principal thereof, the County Board of Education acting for the district where the issue of such bonds is voted, is authorized and empowered to levy annually a tax in addition to that already voted, which shall not increase the tax rate for school purposes in such district to more than one dollar (\$1.00) on each one hundred dollars (\$100.00) worth of taxable property within the district.

Section 84. (§ 4433b Ky. St.) **Independent Consolidated Graded and High School District—Election—Tax Levy—Laws Governing Such Schools.**—Whenever it becomes desirable on account of economical, geographical, educational or other conditions to establish an independent consolidated school, composed of one or more graded schools and other adjoining common school sub-district or sub-districts, it shall be the duty of the county judge of the county in which such district is situated, or of each county in which such district is situated, upon the petition of twenty-five per cent (25%) of the legal voters, who are taxpayers in the proposed district to make an order on his order book, at the next regular term of his court after he receives said petition, fixing the boundary of any proposed independent consolidated graded and high school district, as agreed upon by the county judge and the petitioners, and directing the sheriff or other officer whose duty it may be to hold the election, to open a poll in said proposed independent consolidated graded and high school district, at the next regular State, county or district election to be held therein, or on any other date fixed by said judge in said order, not in any case earlier than forty days from the date of said order, for the purpose of taking the sense of the legal voters in the said proposed independent consolidated graded and high school dis-

trict, upon the proposition whether or not they will vote an annual tax in any sum named in the said order, not exceeding one hundred cents (100c) on each one hundred dollars (\$100.00) worth of property assessed in said proposed independent consolidated graded and high school district, belonging to the said white voters or corporations, or a poll tax in any sum not exceeding one dollar and fifty cents (\$1.50) per capita on each white male inhabitant over twenty-one years of age residing in the said independent consolidated graded and high school district, or both ad valorem and poll tax, if so stated in the order, for the purpose of maintaining a graded and high school in said independent consolidated graded and high school district, and for erecting, purchasing or repairing suitable buildings thereto; and for purchasing, repairing or equipping conveyances for children to and from the school building in said independent consolidated graded and high school district; and for the equipping of school building and the employment of drivers for conveyances and teachers for the schools; Provided, that the proposition to establish any independent consolidated graded and high school district as provided in this section, is approved by the County Board of Education and the County Superintendent of common schools in writing, on the petition to the county judge; and that the boundary may be extended beyond two and one-half miles from the site of the school building, and that suitable conveyance be furnished the pupils in said independent consolidated graded and high school from their homes or from appropriate places near their homes along the main thoroughfares to the school building and that the site of the school building and the boundaries in the said district are set out with exactness in said petition. Such independent consolidated graded and high schools shall further be subject to the rules and regulations governing graded common schools. (March 22, 1920, C. 46, p. 201.)

The enacting clause to this act reads: "Be it enacted by the Senate and House of Representatives of the Commonwealth of Kentucky."—(Ed.)

COUNTY HIGH SCHOOLS

County Board of Education to Establish Separate or Joint High Schools—Powers and Duties Concerning.

Section 85. (§ 4526b-1 Ky. St) **High Schools—Concerning—Duty of the County Board of Education.**—(1) Within two years after the passage and approval of this act, there shall be established by the County Board of Education of each county, one or more county high schools: Provided, There is not already existing in the county a high school of the first class. If such high school already exists, and if the County Board may be able to make such an arrangement with the trustees or Board of Education of said high school as will furnish to the pupils completing the rural school course free tuition in said high school, then said high school may be considered as meeting the purpose of this law without the establishment by the board of another high school. The County Board of Education in the various counties shall have full power and authority to unite with the governing authorities of any city or town in their respective counties for the purpose of establishing a high school for the joint use of the city or town and such county, and to unite with such authorities for the purpose of maintaining such high school if one be already in existence.

(2) For this purpose said county boards are hereby given full power and authority to make such contracts as they may deem necessary or proper for the establishment and maintenance of such high schools for the joint use of the county and such city or town. Said contract shall be in writing and shall contain full and complete stipulations as to employment and compensation of teachers, course of study, payment of expenses of the school and the control and discipline of the pupils: Provided, That the total expense of conducting said high school, including estimate of the six per cent. per annum on all investments in buildings, grounds and equipment, shall be prorated between the two boards of education in proportion to the enrollment respectively of county pupils residing in said town, city graded school district, for the term of the first half of the session and likewise for the term of the second half

of the school session, the entire school session being in no case less than eight school months. (See notes Sec. 136.)

Section 86. (§ 4526b-2 Ky. St.) **Contract—Limited—Where Established—Classes—County Board—City Course of Study—Who May Attend.**—Provided, however, that said contract tuition rate shall in no case exceed the rate charged for other pupils. Provided, further, that the County Board of Education shall be limited in their right to contract for high school instruction with a school under public supervision and control.

The first county high school to be established in the county shall be located at the county seat; provided there is not already existing in the county seat a high school of the required grade.

The county high schools of the Commonwealth shall be of the first, second and third classes.

A first-class high school shall maintain a four years' course of study, which shall be prepared by the State Board of Education. Such course of study may provide for instruction in manual training, domestic science and elementary agriculture.

High schools of the second class shall maintain a course of three years, identical with the first three years of the first class school.

A contract providing for an annual payment of \$3,000.00 for five years must be regarded as creating an indebtedness of \$15,000.00.

It is not necessary under the statute that the high school where a contract is made with the city authorities, shall be under the control of the county board or under the joint control of both boards. County Board, etc. v. Board of Trustees, etc., 154 Ky. 309.

County Board Establishing a High School—White and Colored Children. Prowse & Co. v. Board of Education, etc., 134 Ky. 365.

It is the duty of the board to follow the statute; but if in carrying out the directions of the statute, which is directory only, they fail to comply strictly with its provisions, their acts are not void, but are irregular only. Grant Co., etc. v. Chandler, 144 Ky. 348.

It was the duty of the county board of education either to establish a high school of its own, or to provide one by contract with governing authorities of an existing high school.

County board has no authority to pay tuition for high school pupils to any school unless they have a written contract with the high school signed by all parties and that it is a legally established high school.

One who contracts with a public officer acting under the authority of a statute can contract only in the manner pointed out by the statute; otherwise he has no contract. County Board, etc. v. Dudley, 154 Ky. 426.

OPINIONS OF THE ATTORNEY GENERAL

It is necessary for the county board of education to make some arrangements to establish a county high school but it is not compelled to continue a contract, which in its opinion, is not just to the county.

The county board of education does not have the right to pay the expenses of the high school out of the State school fund.

High schools of the third class shall maintain a course of two years, identical with the first two years of the first-class high school.

(§ 4526b-3 Ky. St.) **Salaries of Teachers—Course of Study—Text-Book—Age Limit.**—When county high schools shall be established, as provided in this act, it shall be the duty of the County Board of Education to employ and fix the salaries of said teachers necessary to the efficient conduct of said high school and prescribe the course of study to be pursued, but said course of study shall not be below the standard fixed by the State Board of Education.

If any person who has enrolled in the high school reaches the age of eighteen years and in good faith desires to continue said high school work each consecutive year, or if any person who becomes eighteen years of age is not enrolled in a high school who is qualified to enter same, it shall be and is hereby made the duty of the County Board to permit said person to enter and continue said high school work under the same terms and conditions as before reaching the age limit for attending school, until said high school work has been completed.

Section 87. (§ 4526b-4 Ky. St.) **Joint High Schools—Maintained by Adjacent Counties.**—That whenever it becomes desirable by and between two or more adjacent counties of this Commonwealth, where the geographical and other conditions are favorable, such counties shall have authority, by and through the County Board of Education of such counties, to enter into a contract for the erection, organization and maintenance of one or more county high schools, which shall be used jointly by said counties. The contract for the erection, organization, operation and maintenance of such county high schools shall be in writing and shall stipulate in full and complete terms the number of years said contract shall run, the arrangement as to the employment of teachers, course of study and general operation of said joint high school. Such a contract may be made for the operation of either white or colored high schools. Whenever there are cities or graded schools operating high schools, the County Board of Education of two

or more counties shall have authority to enter into a contract jointly with such city or graded school to maintain county high schools for the joint use of such city or graded school and the county or counties making such contract. The general school laws for the maintenance and operation of county high schools shall control in the operation of high schools which may be established, operated and maintained under the provisions of this act, except as is otherwise herein provided.

Section 88. (§ 4526b-5 Ky. St.) That where an approved high school already exists that any high school pupil shall have the privilege of attending the school, in the county which is most convenient, and that the county in which he resides shall pay the tuition of said pupil at the same rate as fixed for other high school pupils in said county.

If a school has been designated and created by the county board of education as a county high school, the authority for the employment of teachers in the entire school is with the county board of education, and the trustee of the district in which the high school is created has no authority to appoint or designate teachers in the school, not even for the branches taught in the common school before it was designated as a high school. *Moss, etc. v. Eubank, etc.*, 176 Ky. 739.

Any arrangement or contract between the board of education of the county or other school authority by which a sectarian school is treated as a county high school and common school graduates allowed to attend it for a stipulated tuition fee paid by the board of education is prohibited by the Constitution and void. *Williams, etc. v. Board, etc.*, 171 Ky. 708.

Chapter IX.

SUB-DISTRICT TRUSTEES

Sec. 88a. Election and duties.

Sec. 88b. Census to be taken—bi-
ennially—report.

Sec. 88c. Duty to visit parents and
urge attendance.

Sec. 88c. Power to suspend pupil,
when.

Sec. 88d. May order school closed
in case of epidemic.

Sec. 88e. Reports to be made to
county superintendent.

Sec. 88f. Penalty for neglect of
duty.

Section 88a. (§ 4420a-5 Ky. St.) **Subdistrict Trustees—Election and Duties.**—That on and after the passage of this act sub-district trustees in county rural school districts shall be elected by the qualified voters of such district every two years. The election shall be conducted by two persons possessing the qualifications of electors who reside in the district, to be appointed by the County Board of Education. The election shall be held at the school house in each sub-district on the first Saturday in May between the hours of two o'clock p. m. and 4 o'clock p. m. and shall be viva voce. The officers of the election shall keep a record book in which the name of each person voting is recorded and the candidate for whom he votes, which book shall be properly certified by said officers and turned over to the County Board of Education within five days of the election. The person receiving the highest number of votes cast shall be elected sub-district trustee for a term of two years and until his successor is elected and qualified. Any vacancy that may exist in the trusteeship of any school sub-district shall upon the recommendation of the County Superintendent be filled by appointment by the County Board of Education, and the trustee thus appointed shall hold office until the next regular election for sub-district trustee. It shall be the duty of the sub-district trustee to visit the schools in his sub-district at least once each month while the school is in session, and to report to the County Superintendent from time to time the condition of the school and the needs thereof. He shall under the supervision and direction of the County Superintendent take the census of the pupil children of the sub-district and make such reports thereof as the law requires. It shall further be the duty of the sub-district trustee to meet with the County Board of Education at such times

as it may request him in writing to do so, and to advise with and to give such information as he possesses relating to the qualification and fitness of applicants to teach, and the general needs of the school. It is further made the duty of the sub-district trustee to assist the County Superintendent and teacher in the enforcement of the compulsory attendance law in counties where no attendance officer is employed. The first election to be held under this act shall be held on the first Saturday in May, 1923, and the trustees then elected shall qualify and enter upon the discharge of the duties of their respective offices as soon as the vote can be examined and certified by the County Board of Education. (This is an Act of March, 1922, and the section number has not been assigned in any official publication of the Statutes.)

Section 88b (§ 4434a-3.) **Duties of Trustees—Census—Fees For.**—(1) It shall be the duty of the trustee in each school sub-district, to personally supervise the school or schools in his sub-district, and to report the needs thereof to the division board of his educational division at its regular meeting, together with such recommendations as he may deem necessary for the best interest of said school or schools. All such reports and recommendations shall be in writing.

(2) The division board shall refer such reports to the county board with its recommendations on same.

(3) The trustee of each school sub-district shall, in the month of April biennially, make and return to the County Superintendent a complete census of the children of school age residing in his district, and for the performance of all his duties he shall be allowed and paid the sum of five cents per pupil child reported in such census.

(4) He shall make a complete census of illiterate children of school age, with the names of their parents or guardians with their post office address; also the names of all children of school age who have completed the common school course, together with their ages. He shall make a census of the names of the children who are attending school outside of the district in which they reside. This census and these re-

ports must be made by the sub-district trustee at the time now provided by law for taking the school census.

(5) The County Superintendent of Schools in each county shall make a complete report of said census to the State Superintendent of Public Instruction, whose duty it shall be to have printed biennially and distributed a report of same, giving the number of children in each school district and stating the number who are illiterate and, in addition, the number who have completed the common school course, together with the number who are attending school outside of the district in which they reside. (Sign teachers' report, Secs. 55, 8, 51, See Sec. 121.)

(6) For the years in which no census is required to be taken under this act the Superintendent of Public Instruction shall determine the amount of per capita to be paid over to the County Board of Education in every county by adding annually to the number of children of school age as shown by the next preceding census actually taken, such increase or addition as he may ascertain to be the annual increase of children of school age in the county upon averaging the yearly increase shown by the three actual enumerations next preceding; Provided, however, that the County Board of Education of any county or Superintendent of Public Instruction may elect to take an actual census in any such years, in which case the return of such census shall govern.

(7) The Superintendent of Public Instruction shall, in his biennial report give a statement of the estimated census for any year included in said report, wherein distribution of per capita may have been made upon estimated census, as provided herein, in such manner as to show clearly the actual enumeration upon which such estimates may have been based

OPINION OF THE ATTORNEY GENERAL

Children in any charitable, fraternal or orphans' home not sent to public schools, but taught privately within the institution in whose charge they are placed, should not be taken by the census enumerator, but the children who are sent to the public schools should be included in the census.

An idiot is not capable of receiving instruction, and if a person is so feeble-minded that he can not receive instruction and that it is unnecessary to send him to school, he is in the same class as an idiot. Deaf and dumb children also fall in the same class. Neither should be included in the school census.

and in the manner in which the estimated census has been completed. (As amended March 18, 1916, C. 24, p. 162.)

Section 88c. (§ 4446 Ky. St.) **Trustees to Visit Parents and Urge Attendance of Children—Indigent Children.**—During the two weeks preceding the opening of the school, the sub-district trustee shall visit all the parents of pupil children and urge upon them the necessity of prompt and regular attendance at school. He shall make careful inquiry as to whether any children are unable to purchase the necessary books, and immediately report the names of all such children to the County Superintendent only. During the progress of the school the sub-district trustee shall ascertain the cause of non-attendance of children, and shall remove such causes, if practicable.

(§ 4447 Ky. St.) **Visitation of School—Pupils May be Suspended or Expelled—Dismissal of Teacher.**—(1) The sub-district trustee shall be at the school house on the day of the opening of the school and at the same place at least once a month thereafter during the session of the school. On each visit he shall carefully examine the teacher's register and shall consider: First, the condition of the school house, furniture, apparatus and surroundings; second, the work of the school; third, the attendance and how to increase it; fourth, the needs of the school, such as fuel, brooms, buckets, crayons, desks, blackboards, books, etc.

(2) He shall provide for any deficiency that may exist in any of these respects as provided in section 94 of this act, and see that the regulations for the government of the school are complied with, and that the teacher performs his duty; he shall see that a sufficient supply of good water is furnished within easy access of the school house for the benefit of the schools during the term of the school.

OPINION OF THE ATTORNEY GENERAL

The purpose of this section is that if the county board thinks that there has been an unusual increase it may protect the county, or if the Superintendent of Public Instruction should think that the increase, as ascertained according to this section, was not fair, he may direct a census in the county.

The taking of the census in one subdistrict or in a number of subdistricts less than the whole number would not be a census of the county. Where a census is directed to be taken in such years it should be the entire census of the county, the same as when it is taken in the years in which it is required to be taken.

(3) Upon complaint of the teacher in writing, the trustee shall have power, after investigation, to suspend a pupil or expel him from school.

(4) When the trustee shall ascertain by examining the teacher's register or monthly report that the average daily attendance for twenty consecutive days taught has been less than twenty-five per centum of the total number of pupil children of the district as shown by the last census, he shall report the same to the County Board of Education, which may, upon his recommendation, dismiss the teacher and upon his nomination employ another teacher to complete the session of the school unless the board shall be satisfied that the decreased attendance was due to such natural causes as high water, extremely inclement weather, epidemics or unusual sickness in the district. (See Secs. 5, 190 and notes Sec. 95.)

Section 88d. (§ 4448 Ky. St.) **Infectious Disease—Epidemics—Duty of Trustees—Teacher Not to Lose Time.**—When any family shall have any infectious or contagious disease, no member of such family shall attend any school until the trustees thereof shall allow them to do so; and during the prevalence in the district of dangerous epidemics, the trustee shall order the school closed; but the teacher shall not be required to lose the time of this forced suspension, unless so stipulated in his contract. (See notes Sec. 148.)

(§ 4449 Ky. St.) **Census of Children in District—Penalty for Fraud or Failure.**—It shall be the duty of the trustee of each sub-district, biennially, during the month of April, to take an exact census of all the children that reside in such sub-district on the first day of April, who will be, on the first day of July following, between the ages of six and eighteen years, and on or before the first day of May report a list of the same to the County Superintendent, and a duplicate list to the

Section 119 giving to the trustees power to dismiss a teacher, with the consent of the county superintendent, where her register or monthly report shows that the average daily attendance for twenty consecutive days taught has been less than twenty-five per centum of the total number of pupil children of the district, as shown by last census, unless they shall be satisfied that the decreased attendance was due to such natural causes as high water, extremely inclement weather, epidemics or unusual sickness in the district.

Five days' notice in writing is not necessary before a teacher can be dismissed. Reasonable notice is all that is required. *Wheatley v. Division Board, etc.*, 144 Ky. 783.

clerk of the county court, to be filed in his office, specifying the name, age, sex and names of the parents or guardians of each child, to be entered in a book furnished him by the State, and kept as a part of the records of his office. Should said trustees wilfully add to the list the names of persons not entitled to be placed on same, or otherwise knowingly make a false list, such person thus offending shall, in addition to being liable to punishment for the crime of false swearing, be subject to a fine of not less than fifty dollars; and should any other school officer be a party to such fraudulent list, or in any way aid in the commission of such fraud, he shall be liable to the same punishment.

For a failure to take such census and report the same within the time and in the manner herein required, the trustee shall be liable to a fine of not less than twenty dollars; and said trustee shall not take the census of any children who have recently removed into the district and who have been previously reported in the census of the pupil children for the year in the district from which they have moved, or who had recently removed into the district from another State or county; but any pupil child who may not have been reported in the district in which he resides may attend the common school without payment.

This section shall be printed in the census blanks furnished by the Superintendent of Public Instruction.

Section 88e. (§ 4450 Ky. St.) **Report to County Superintendent Each Year.**—At the termination of each school year the trustee shall make a report to the County Superintendent, showing, in tables of details and aggregates, the length of time taught; the highest, lowest and average number of children at school; the cost of tuition of each child for the session and per month; the number of private schools, academies and colleges taught in the district, and length of sessions of the same; the number of teachers employed, male, female, and total for the common schools; the wages of male or female teachers; the amount of money raised for common school purposes in the district by district tax or otherwise, and for what the same was disbursed; the kind and value of school houses,

and the number of volumes in district library, if any; and any other information required of them by the County Superintendent touching the school. (See Sec. 58.)

(§ 4451 Ky. St.) **Reports to be Signed by Sub-district Trustee—Penalty for Failure to Make.**—The sub-district trustee shall sign all reports made by him, and for a failure to make and such report within thirty days after the same is required by law, shall be subject to a fine of twenty dollars, and besides shall be liable to an action for damages by any person injured thereby.

(§ 4452 Ky. St.) **Penalty for Buying Teacher's Claim or Accepting Bribe.**—No trustee shall be allowed to buy any teacher's claim, directly or indirectly, under the penalty of removal from office by the County Superintendent.

(2) Any teacher who shall offer or give, directly or indirectly, any trustee who shall ask or accept, directly or indirectly, either for himself, for another trustee, for the sub-district, the school, or the school house, any valuable consideration other than the services of the teacher for employing, or for being a party to employing a teacher, shall be deemed guilty of bribery, and upon indictment and conviction thereof, shall be fined as provided by law for the punishment of bribery. (See Sec. 64.)

Section 88f. (§ 4453 Ky. St.) **Penalty for Neglect of Duty of Misfeasance.**—For any neglect of duty or misfeasance or malfeasance in office, the trustee shall, in addition to being fined as aforesaid, be removed from office by the County Superintendent, who, in investigating such matters, as well as the matters set out in Sections 65, 185, 186, 187 and 190 of this act, shall have the same power to issue subpoenas and attachments for witnesses, and to compel their attendance and testimony as is possessed by the judge of the quarterly court in examining trials of persons charged with offenses against the law; and sheriffs, constables and marshals shall be under the same obligations and subject to the same penalties for neglect or refusal to execute the orders of said superintendent as for refusal or neglect to execute the orders of the judge of the quarterly court of the county, and from the decision of the

County Superintendent any party aggrieved may appeal to the Superintendent of Public Instruction.

(§ 4455 Ky. St.) **Penalty for Failure to Perform Duties.**

—If any person who is elected or appointed trustee of a common school, under the provisions of this act, shall wilfully fail or neglect, after having accepted said office, to perform the duties imposed upon him herein, he shall be fined fifty dollars therefor.

(§ 4456 Ky. St.) **Books and Records to be Delivered to Successor—Penalty.**—A trustee, when he resigns, vacates, is removed or goes out of office, shall, within ten days thereafter, deliver to his successor any money, property, books or papers in his custody as trustee; and for failure therein, he may be fined any sum not exceeding fifty dollars; and it shall be the duty of the County Superintendent to report all such defaults to the grand jury.

Chapter X.

COMPULSORY ATTENDANCE

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| Sec. 89. Attendance officers—selection and duties. | Sec. 90a. Applies to municipal schools. |
| Sec. 90. Duty of parents and guardian to enroll and require pupils to attend. | Sec. 90a-1. Duty of teacher to report—court's jurisdiction—penalty. |
| Sec. 90. Children who are exempt. | Sec. 91. Parents of deaf children, duty—transportation, etc. |

Section 89. (§ 4526c-1 Ky. St.) **Attendance Officers—Compensation.**—The County Board of Education of each of the several counties shall appoint with the approval of the County Superintendent, at least one attendance officer, male or female, who shall give his or her entire time to the duties of office; and such additional attendance officers may be appointed as the County Board of Education may deem necessary. The compensation of such attendance officer or officers shall be fixed by the County Board of Education and paid from the county school fund. (March 22, 1920, C. 43, p. 191.*)

Section 90. (§ 4526c-2 Ky. St.) **Parents and Guardians to Send Children to School—Exceptions.**—Every parent, guardian or other person residing within the boundaries of any county school district and having the custody, control or supervision of any child or children (shall cause such child or children*) to be enrolled in and to attend regularly some common, private or parochial school each school year for the full term of such school, provided that in the case of a private or parochial school the term, shall not be for a shorter period in each year than the term of the common school of the district of the child's or children's residence, and that the teacher or teachers

*The title to this act is: "An act repealing subsection one of section 4521a, Ky. Statutes, Carroll's Edition, 1915, being the same as section 213 of Chapter 17 of the common school law 1918, and enacting in lieu thereof new provisions relating to the compulsory attendance of pupil children in the common schools of this State."

Section 4521a of the 1915 edition of the Ky. Statutes was expressly repealed by the act of March 18, 1918, c. 24, p. 162. Similar provisions were re-enacted by that act and were compiled as section 4526c of volume 3 (1918 Supplement) to the 1915 edition. Does the title to the present act authorize the amendment to any part of the act of 1916 compiled as section 4526c or to anything but section 4521a-1 of the 1915 edition? See *South v. Fish*, — Ky. —.

It is also well to note that important words which are essential in stating the duty imposed by this law were omitted from the act, which words are in parentheses in section 4526c-2.

Furthermore section 4526c-4 fails to fix the maximum penalty.—(Ed.)

and the course of study of such private or parochial school shall have been approved by the State Board of Education and that reports of the attendance of all children enrolled in such private or parochial school shall be submitted by such private or parochial school in the same manner as required of common schools; and provided further that the provisions of this section shall not apply to any child who is excused by the County Board of Education upon its being shown to the satisfaction of such board by certificate of the public health officer of the county that such child is not in proper mental or physical condition to attend school; and provided further, that the provisions of this section shall not apply to any child who has satisfactorily completed the full course of instruction offered by the public schools of the district where he resides.

Section 90a. (§ 4526c-3 Ky. St.) **Same—In Cities of First, Second, Third or Fourth Classes.**—Every parent, guardian or other person in any city of the first, second, third or fourth class, having the custody, control or supervision of any child or children between the ages of seven and sixteen years, shall cause such child or children to be enrolled in and to attend regularly some public, private or parochial school each year for the full term of such school, provided that in the case of a private or parochial school the term shall not be for a shorter period in each year than the term of the public school of the city of the child's or children's residence, and that the teacher or teachers and the course of study of such private or parochial school shall have been approved by the State Board of Education, and that reports of the attendance of all children enrolled in such private or parochial school shall be submitted by such private or parochial school in the same manner as required by public schools.

Provided, further, that this section shall not apply to any child who is excused by the board of education or school board of the city in which the parent, guardian or custodian of such

*The words in parentheses were omitted from the original act. See, also, editorial notes to section 4526c-1.

The Court of Appeals in the case of *Commonwealth v. Francis*, 192 Ky. p. 236, held this act to be constitutional and supplied the words shown in parentheses.

child resides, upon its being shown to the satisfaction of the superintendent or chief executive officer of schools by certificate of the public health officer, which certificate shall be filed in the office of the superintendent of schools, that such child is not in proper physical or mental condition to attend school.

Provided, further, that the provisions of this act shall not apply to any child between fourteen and sixteen years of age to whom an employment certificate shall have been issued in accordance with the provisions of the law regulating the employment of children and who is lawfully and steadily employed.

Provided, further, that every child between fourteen and sixteen years of age to whom an employment certificate shall have been issued and who is lawfully and steadily employed and who has not satisfactorily completed the course of study corresponding to the first eight years of the public schools, shall attend a continuation school when established for not less than four nor more than eight hours each week throughout the regular term of the public schools, between the hours of eight a. m. and five p. m., but in no case on Saturday afternoon or on Sunday. (Id., Sec. 3†.)

Section 90a-1. (§ 4526c-4 Ky. St.) **Teachers to Report Absence of Children to Attendance Officer—Investigation—Prosecution of Offenders—Penalty.**—It shall be the duty of the teacher at the end of each week to report the name and the age of each and every child residing in her school sub-district who fails to attend school as herein prescribed to the attendance officer immediately to investigate said case or cases and if it be neglect or refusal on the part of the person who has such child under his control to report said case or cases to the nearest court having jurisdiction of the same, and it shall be the duty of said court immediately to issue his warrant against the person having control of such child who fails or refuses to send said child to school and said court shall proceed to try said case as other criminal cases are tried. Any person who has a child under his control and who fails to comply with any

†See editorial note to section 4526c-1.

of the provisions of this section shall be guilty of a misdemeanor and shall be fined not less than five dollars (\$5.00) for each offense. (Id. Sec. 4.†)

(§ 4526c-5 Ky. St.) **Repealed Laws.**—All acts and parts of acts inconsistent herewith are hereby repealed.

Section 91. (§ 4526c-6 Ky. St.) **Record of Birth and Age of Child.**—A passport, a duly attested transcript, or the certificate of birth of baptism, a certified copy under oath of a record, showing the date and place of birth of such child, shall be produced as proof of age. In case such certificate or record as hereinbefore provided cannot be secured, upon proof of such fact the record of the age stated in the first enrollment to be found shall be considered as evidence thereof. If there be no school enrollment showing such fact, other evidence as to the age of said child shall be considered. (Id., Sec. 6, as amended March 18, 1916, C. 24, p. 162, Sec. 218.)

COMPULSORY EDUCATION OF THE DEAF.

Section 91a. (§ 1. Acts 1918.) **Deaf Child—Parent Required to Send.**—That every parent, guardian, or other person, residing in the Commonwealth of Kentucky, having the custody, control, care or supervision of any deaf child between the ages of seven and sixteen years, inclusive, shall cause said child to attend some public, private or parochial school, in this Commonwealth, wherein deaf children are taught, instructed and educated, for the full term, each year, for at least nine years.

Section 2. (Acts 1918.) **Does Not Apply—When.**—This act shall not apply in any case where the child is being taught in its home by an instructor who is competent and qualified to give instruction to the deaf; nor to any child who through its parents, guardian, or persons having such child in control, shall produce a certificate from the County Board of Health of the residence of the parent, guardian or person having control of such child, to the effect that the child is not in proper mental or physical condition to be sent to any such school as above provided, nor to any deaf child who is successfully pursuing the course of study in some reputable public or private school for the hearing; nor to any child who is regularly en-

rolled as a pupil in a reputable school for the deaf or the hearing outside the Commonwealth of Kentucky.

Section 3. (Acts 1918.) Penalty.—Any parent, guardian, or person having such child under his or her control or supervision, who fails to comply with the provisions of this act, shall upon conviction, in any court of competent jurisdiction, be fined in any sum not less than ten nor more than twenty-five dollars, for the first offense, and upon a conviction of a second or any subsequent offense or offenses, be fined not less than twenty-five or more than fifty dollars, and the costs of the prosecution.

Section 4. (Acts 1918.) Age—False Statement—Penalty.—Any person, proceeded against under this act, for a violation thereof, who, with the intent to evade the provisions of this law, shall make a false statement concerning the age of such child, as described above, or the length of time such child has attended a school for the deaf, shall be deemed guilty of misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding fifty dollars, or be imprisoned in the county jail not to exceed thirty days, or both fined and imprisoned in the discretion of the court.

Section 5. (Acts 1918.) Defense—What.—It shall discharge any person from liability under this act, if it be satisfactorily shown to the court that at the time of the proceeding such school or schools in this Commonwealth as provide instruction and education for the deaf is then taxed to its capacity, and that there is no room or means of taking care of or instructing such child.

Section 6. (Acts 1918.) County Courts' Jurisdiction.—The county courts of this Commonwealth shall have exclusive jurisdiction of all cases wherein this act is violated, and the case shall be prosecuted in the same manner as other cases of misdemeanor are prosecuted therein, and the county attorney of the county wherein the prosecution is had, shall attend and prosecute all violations of this act.

Section 7. (Acts 1918.) Age Proof—How.—A passport, a duly attested transcript of the certificate of birth or baptism, or a certified copy, under oath, of a record in the family Bible

or other religious record, showing the date and place of birth of such child, shall be received as evidence of age. In case that any of the foregoing records cannot be produced, then other evidence of the age of the child may be considered by the court.

Section 8. (Acts 1918.) **Public Institutions Receive—Health—Mentally Deficient—Care—Return Transportation Required.**—It shall be the duty of the trustees, managers, or persons in charge of any public institution in this Commonwealth, whereat the deaf are received for instruction and education, to receive into such institution any deaf child sent to such institution, while in session, unless it can be shown at the time that such institution is taxed to its capacity, and there is no room for, or means of taking care of such child, or that the physical condition of the child is such as to prevent study or to constitute a menace to the health of the other pupils of the institution; or that the child is mentally deficient and incapable of successfully pursuing the prescribed course of study of such institution; or that the habits and practices of the child are such as to constitute a detriment to the welfare of the other pupils of the institution, and when such child is received he or she shall be cared for under the provisions of the statute at the time prevailing, regulating such institutions, and the by-laws prescribed by the trustees or managers for the government of such institutions, and every case where such child is brought to any public institution to be entered as a pupil, the price of return transportation to the home of the child must be deposited with the executive officer of the said institution or guaranteed to him by some responsible party before the institution is obligated to receive the child for the institution.

Chapter XI.

GRADED COMMON SCHOOLS

- Sec. 92. Board of Trustees—number—election and term of office.
- Sec. 92a. Vacancies in board—how filled—members, how removed.
- Sec. 93. Board made a body corporate—powers defined—officers allowed and duties enumerated.
- Sec. 94. Number of pupils required to establish or maintain.
Power of State Board of Education to abolish.
Patrons to abolish, when—duty of board to call an election.
- Sec. 95. Graded schools heretofore organized under special act, except in cities of the first four classes are abolished.
- Sec. 96. Board shall have power to appoint and remove teachers—fix compensation—regulate course of study.
- Sec. 96a. May make contract with county board to establish consolidated school—transportation tax.
- Sec. 96a-1. Power to levy and collect taxes—tax rate fixed—how collected.
- Sec. 96a-2. Bond issue to provide buildings and grounds—provide for—election, etc.
- Sec. 96a-3. General provisions relating to graded schools.

Section 92. (§ 4464 Ky. St.) **Each District Under Control of Trustees.**—Each graded and common school district organized and incorporated at the time this act goes into effect shall be under the management and control of a board of trustees.

Section 92. (§ 4465 Ky. St.) **Board of Trustees—Number of Members—Qualifications—Elections—Vacancies—Number of Trustees—Oath.**—The board of trustees of each graded common school district shall consist of five members, who shall be elected at large from the qualified voters of the graded common school district, as hereinafter provided for terms of three (3) years, beginning with the second Saturday in May following their election, and shall hold office until their successors are elected and qualified. Members of boards of trustees shall qualify by taking the oath prescribed for public offices under section 228 of the Constitution of the State. Failure to qualify within seven (7) days after election shall constitute a vacancy.

Section 92a. (§ 4465a Ky. St.) **Fitness—Time of Election—Vacancies.**—Graded common school trustees shall be chosen solely because of their fitness and shall be eligible for re-election unless otherwise disqualified by the provisions of

this section. No person shall be elected to serve on this board who is in any way subject to its authority, and no member shall enter into business transactions for personal gain with this board. Members of boards of trustees of graded common school districts shall be elected on the first Saturday of May in each year, the number to be elected each year for the full term of three (3) years to be determined by the number of regular vacancies to be filled. If at any time there should be a vacancy in said board, the same shall be filled by election by the remaining members, and the person elected to fill such vacancy shall hold office until the next regular election of trustees when his successor shall be elected to fill out the unexpired term.

(§ 4465b Ky. St.) **Manner of Election.**—All graded common school district elections shall be provided for by the trustees of the district in office at the time of the particular election. The board of trustees shall appoint the officers to hold all elections. These officers shall take an oath to be under the same responsibilities and subject to the same penalties as the officers holding state or county elections, but they shall make returns of poll books and certify the results of the elections to the board of trustees who shall examine and compare the same and issue certificates to the persons found to be elected.

(§ 4465c Ky. St.) **Removal—Compensation.**—On presentation of evidence by the Superintendent of Public Instruction that any member of the board of trustees is not capable of discharging, or is not discharging his duty, or is guilty of immoral or disreputable conduct, the remaining members of the board of trustees shall hear evidence in the case, making known to the defendant in writing the charges against him, and give him an opportunity to be heard in person or by counsel and to present witnesses in his own defense upon not less than ten (10) days' notice. If, after careful investigation, the board of trustees shall find sufficient cause for removal, it shall declare the office of the respective member vacant at once and the vacancy shall be filled as heretofore provided in this section.

Members of boards of trustees shall receive no compensation for their services.

Section 93. (§ 4466 Ky. St.) **Name—Powers in Regard to Property and Contracts.**—The board of trustees of a graded common school district shall be named and styled: "The Board of Trustees of the Graded Common School District," and in that name may sue and be sued, contract and be contracted with, and may acquire and hold by purchase, gift, devise or otherwise, and dispose of and convey, any real or personal estate, goods and chattels, necessary and convenient for the use and purpose of such graded common school district; and the title of all such property shall vest in said board of trustees and their successors in office, to be held sacred for the use and benefit of said graded common school district. The board of trustees of any graded common school district is authorized and empowered to condemn any land deemed necessary by said board for a site for a graded common school, not exceeding ten (10) acres, in the manner now provided by law for condemning land for railroad purposes.

(§ 4467 Ky. St.) **Office of the Board—Meetings—Secretary.**—The office of the board of trustees of each graded common school district shall be in the principal school building of the district unless otherwise adequately provided for. The board of trustees shall hold its annual meeting each year in its office on the second Saturday in May. At this meeting the board shall each year elect one of its members to act as president, one to act as vice president, and one to act as secretary, and shall fix the time and place of its regular meetings which shall be duly advertised. Such special meetings may be called at such times as the duties and business of the board may require. The rules generally adopted by deliberative bodies for their government shall be observed by boards of trustees, but no motion or resolution shall be declared to be adopted without the concurrence of a majority of the whole board.

Power of trustees of graded school to enlarge its boundary or to annex territory under the jurisdiction of the county board of education of another county, reviewed and discussed. Board of Trustees Demossville Graded School v. Board of Education of Kenton County. (Jan. 24, 1922.) 193 Ky. 502.

The secretary of the board shall conduct all correspondence of the board, issue calls for all meetings on the order of the president, prepare a docket or calendar of the same, keep the minutes of the proceedings, preserve in the office of the board all its records, make all reports required of the board, receive all reports required by it, seeing that they are in proper form, complete, and accurate; and shall perform such other secretarial duties as may be imposed by the board or as may hereinafter be imposed by the provisions of this act.

(§ 4468 Ky. St.) **Treasurer's Duties—Audit.**—Each board of trustees shall appoint a treasurer, but said treasurer shall not be a member of the board. Before entering upon his duties, the treasurer shall file with the board a bond to be paid for by the board in amount to be determined by it as surety for the faithful performance of his duties. Said bond shall be guaranteed by a personal security or a surety company authorized to do business in the State, and made payable to the respective board of trustees. The bond shall provide that as treasurer of the respective board he will faithfully perform the duties of his office; receive all moneys to which the respective board is entitled by the constitution of the State, or by statute, or which may in any way come into its possession; hold all such moneys as a separate fund in his hands; and pay over all such moneys to such persons and in such manner as said board may under the provisions of this act direct; and that he will keep full and complete accounts in such manner and make such reports thereon as the State Board of Education and the respective board of trustees shall require; that he will preserve all records relating to the transactions and duties of his office, and turn all public school funds in hand and all accounts and records, after due and proper audit by a competent outside agent, if required by said board, to his successor. The expense of such audit shall be paid by the board of trustees.

The treasurer of the board of trustees shall pay out school funds only on appropriate written orders signed by the president and secretary of the respective board of trustees.

Section 94. (§ 4469 Ky. St.) **Size of District—Failure of Trustees—Reinstatement of District.**—No new graded common school district shall hereafter be created or organized, unless 100 children reside therein. Provided further, that no graded common school district shall hereafter operate independent of the county school system that has a school census of less than seventy-five (75) census pupil children; or that does not maintain an elementary school with a minimum term of eight (8) months, and a high school with a minimum term of eight (8) months which meets State standards as to the number and qualification of teachers; but any graded common school district may elect to pay the tuition of all pupils residing in the graded school district who are eligible and who enter any other public high school which maintains a course of study required by law and which has been approved by the State Board of Education.

When the board of trustees of a graded common school district fails to conduct and manage the schools under its jurisdiction and authority according to the provisions as stated in the preceding paragraph, the State Board of Education, after due notice to the board of trustees of such failure and the lapse of ample time for the board of trustees to make the needed and necessary improvements in said schools, shall declare the given graded common school districts with existing metes and bounds, abolished, and shall create therefrom a sub-district of the given county system to be under the jurisdiction of the County Board of Education of the county in which the given graded common school district is located. Record of such action shall be copied in triplicate; one copy shall become a part of the permanent records of the State Board of Education; one copy shall be sent to the board of trustees of the graded common school district abolished, and filed by said trustees among its permanent records; and one copy shall be sent to the County Board of Education of the county in which the graded common school district abolished is located, and shall be filed among its permanent records.

When a graded common school district is thus abolished and a sub-district of the county system is created there-

from, all property belonging to, possessed and held in the corporate name of the given board of trustees of the graded common school district abolished, shall pass to and be possessed and held in the corporate name of the County Board of Education of the county in which the graded common school district abolished is located. The County Board of Education shall, after due and proper audit, possess all funds on hand or to be collected, and shall assume all responsibilities, financial or otherwise, lawfully entered into by contract, or otherwise, by the board of trustees of the graded common school district abolished.

And provided further, on petition to the graded school board of forty per cent of the legal voters in any graded common school district, asking that their graded school district be made a part of the county school system, it shall be the duty of the graded school board to call a meeting of the board within one week from the time the petition has been received, and to make an order which shall be recorded in the minutes of the board, for holding an election for the purpose of determining whether it is the will of the legal voters in the graded common school district that their common graded district be made a part of the county school system, and shall designate two citizens residing within the graded school district to act as election officers in said election. The election shall be held in exactly the same manner as elections of graded school board members are held, and at the school building; provided that such election may not be held earlier than twenty days from the date of such order. It shall be the duty of the graded school board to advertise at least ten days before said election the date and the place and the purpose of holding such an election by posting notices to this effect in conspicuous places in various portions of the graded school district. The majority of the votes cast shall determine whether or not the graded common school district shall be made a part of the county school system.

Section 95. (§ 4470 Ky. St.) **First Elections—Provisions for Changing.**—All graded common school districts other than those in the cities of the first, second, third and fourth

class, operating under special laws or special charters, shall when this Act goes into effect cease to operate under their respective special laws or special charters and shall thereafter operate under the provisions of this Act. Provided the boards of trustees or other managing authorities in such graded common school districts in office when this Act goes into effect, in other than those in first, second, third and fourth class cities, shall continue to serve until the next regular election of boards of trustees as provided in section 4464 of this Act. Provided further, that at the first election under the provisions of section 4464 of this Act, one trustee shall be elected for one year, two for two years, and two for three years, thereafter regular election shall be for the full term of three years.

All graded common school districts in cities of the first, second, third and fourth class, operating under special charters or special laws, shall when this Act goes into effect cease to operate under their respective laws or special charters, and shall thereafter operate under the general laws governing the management and conduct of the common schools in cities of their respective classes. Provided that the board of trustees or other managing authorities in such graded common school districts shall serve until the next regular election of members of boards of education in first, second, third and fourth class cities. Provided further, that the first election in such graded common school districts under the general school laws governing the management and conduct of common schools in first, second, third and fourth class cities shall conform to the provisions of the respective general city school laws for the first election of members of boards of education.

(§ 4471 Ky. St.) **Rules to Prescribe.**—Board of trustees shall, subject to the provisions of this Act and the rules and regulations of the State Board of Education, prescribe rules and regulations for the control, government and management of the common schools under their jurisdiction.

Section 96. (§ 4472 Ky. St.) **Appointment and Removal of Teachers.**—Boards of trustees shall appoint for the schools under their respective jurisdiction a principal and all teachers, fix their compensation, and dismiss them for immorality, mis-

conduct, incompetency, insubordination, or wilful neglect of duty. Provided, that in each case the charge be made in writing and that the principal or teacher be given opportunity on not less than ten (10) days' notice to be heard in person or by counsel and to present witnesses in defense. Provided further, that no principal or teacher shall be employed who does not hold the kind and grade of certificate required by law and issued by the State Board of Education.

(§ 4473 Ky. St.) **Courses of Study.**—Boards of trustees shall, subject to the provisions of this Act and the rules and regulations of the State Board of Education, prescribe the studies to be taught and the course of study to be used in the schools under their jurisdiction.

(§ 4474 Ky. St.) **Who May Attend.**—All white children of common school age residing in any graded common school district shall have the right to attend the graded common school thereof.

The trustees may admit into said graded common school children who do not reside within the said district, or persons over the common school age, on such terms and conditions, and upon the payment of such tuition and other fees as they may deem proper.

Section 96a. (§ 4475 Ky. St.) **Consolidated Schools—Transportation of Pupils.**—Whenever it becomes desirable on account of geographical or other conditions to establish a consolidated school, composed of a graded common school and other adjoining common school subdistrict or subdistricts, the board of trustees of such graded common school shall have the authority to enter into contract with the County Board of Education of the county in which said graded common school district is located, to establish, operate and maintain such consolidated school. The contract when made shall be in writing, and shall stipulate in full and complete terms, the number of years such contract shall exist, the employment of teachers, the arrangements of the course of study, and all other arrangements necessary to the successful conduct of such consolidated school.

The expense of the transportation of pupils to and from such consolidated school may be provided for jointly by the graded common school and the sub-district annexed or by the sub-districts alone. The tax for the transportation of pupils by the sub-districts concerned shall be voted, levied and collected in the same way and at the same time that other consolidated schools vote, levy and collect a tax for the same purpose.

Section 96a-1. (§ 4476 Ky. St.) **Power to Levy Taxes—Collector and Treasurer.**—Boards of trustees of graded common school districts are hereby authorized and empowered to levy each year not later than the last Saturday in June, a tax for establishing, maintaining and operating the common schools of their respective districts, at a rate not less than twenty-five cents (25c) and not to exceed one dollar and twenty-five cents (\$1.25) upon each one hundred dollars (\$100.00) of taxable property within the district and owned by white persons; and also, a poll tax on each white male inhabitant within the district over twenty-one (21) years of age, not exceeding two dollars (\$2.00); and shall, also levy a sufficient amount to provide for the payment of interest and sinking fund purposes for the next fiscal year, and the tax accruing from so much of said levy as is made for the payment of interest and sinking fund purposes shall be by said board of trustees at once irrevocably set aside and used for these purposes and not otherwise; and said interest and the sinking fund provisions as above provided shall include the interest and the sinking fund for the entire outstanding bonded indebtedness of said board.

The tax so imposed shall be collected on the assessed value of the property in the district as ascertained by the assessment for State and county purposes next preceding the collection of the tax. Said board of trustees shall elect a collector of taxes, who shall give good and sufficient bond to said board and who shall be allowed a fee not in excess of 4 per cent. on all funds collected. Provided, however, that if the said board of education selects the sheriff as the collector, at same fees as above provided. Before entering upon his

duties as collector, the treasurer which shall be elected by the board shall give to each board of trustees a bond, in amount agreeable to the respective board of trustees and guaranteed by some surety company authorized to do business in the State, or good personal security, for the faithful performance of his duties. Said bond shall be paid for by the respective board of trustees. The treasurer as collecting officer shall settle his accounts with the board of trustees on or before the first Monday of January each year, and boards of trustees may require him to settle his accounts monthly.

Section 96a-2. (§ 4477 Ky. St.) **How to Augment Funds—Election for Bonds—Disposing of Bonds.**—If the tax levied under the provisions of section 4476 of this act is not sufficient to provide suitable grounds, buildings and equipment, boards of trustees are hereby authorized and empowered to order an election and submit to the voters of their respective graded common school districts the question whether or not the trustees thereof shall issue bonds of their respective graded common school districts, in any amount not exceeding the limit provided by sections 157 and 158 of the present constitution of this state, for the purpose of providing suitable grounds, school buildings, furniture and apparatus for their respective graded common school districts; Provided, that due notice of said election shall be given by the trustees of their respective districts, by written or printed posters not less than one foot square, signed by the trustees of their respective districts, stating the time, place, and hours of the said election, posted at not less than six public and conspicuous places in the district for ten days previous to the day of election, and by one insertion thereof in the newspaper, if any, published in said district.

The board shall appoint two judges, a clerk and a sheriff to hold such election, who shall be first duly sworn before acting and shall be housekeepers and taxpayers, resident in the district for which they are appointed, and one of the judges shall ask of each voter: "Are you in favor of the issue of bonds by the trustees of the graded common schools of this district, for the purpose of providing suitable grounds, school

buildings, furniture and apparatus for this district?" and the clerk shall record the answer "Yes" or "No" as given by the voter. If two-thirds of the voters voting at said election vote in favor of the issue of the bonds, then the trustees of such graded common school may issue the bonds of said district for an amount not exceeding the constitutional limit and in conformity with the constitution of the State.

For the payment of the interest on such bonds and for creating a sinking fund for the payment of the principal thereof, the board of trustees of their respective districts are authorized and empowered to levy annually the needed tax as provided for in section 4476 of this act. Said bonds may be of any denomination, in even hundreds, not exceeding one thousand dollars each, running not exceeding thirty years and bearing interest not exceeding six per cent per annum, payable annually or semi-annually as expressed in said bonds payable to bearer with interest coupons attached. Said bonds shall be signed by the president of the board of trustees and attested by the secretary thereof, shall pass by delivery, and shall be redeemable at the option of said board. Said bonds shall be sold by the trustees or their authorized agent, for the highest price obtainable, but for not less than their face par value and accrued interest, and the proceeds turned over to the treasurer and applied to the uses and purposes for which they were issued.

Section 96a-3. (§ 4478 Ky. St.) **State and County Funds.**—The Superintendent of Public Instruction shall pay to the treasurer of each graded common school district the pro rata portion of the State and county school funds due the district according to the number of pupil children therein.

(§ 4479 Ky. St.) **Attendance Officer.**—Each board of trustees may employ not less than one attendance officer who shall hold an attendance officer's certificate issued by the State Board of Education. Provided that boards of trustees may enter into contract with County Boards of Education for the employment of an attendance officer or officers who shall serve both the county and the graded common school district, the expense of such attendance officer or officers

being pro rated according to the number of pupil children in the graded common school district.

(§ 4480 Ky. St.) **School Attendance.**—School attendance of children of school age in graded common school districts shall be subject to the same requirements and provisions as of children of school age in county school districts as provided by law.

(§ 4481 Ky. St.) **Budget.**—Each board of trustees shall each year not later than the last Saturday in May prepare an annual school budget on forms and blanks prepared by the State Board of Education and shall submit same to the State Board of Education for approval.

(§ 4482 Ky. St.) **Audit.**—Each board of trustees shall as soon after June 30, each year, as possible have made a complete audit of its accounts and business transactions of the preceding school year either by the Auditor of Public Accounts or by a competent outside auditor and shall publish the results of this audit.

(§ 4483 Ky. St.) **Reports.**—Boards of trustees shall make such reports as may be required by the State Board of Education and on such forms and blanks as may be prescribed by the State Board of Education.

(§ 4484 Ky. St.) **Provisions for White and Colored Graded Common Schools.**—No new graded common school district shall hereafter be created or organized nor shall the boundaries of any colored graded common school district hereafter be changed except as heretofore provided in this act. Such colored graded common school districts as are organized and established at the time this act goes into effect shall hereafter operate under the conditions and provisions of this act. Provided that no white person shall vote at any election held in a colored graded school district under the provisions of this act; nor shall the property of any white person be taxed to maintain any graded common school for colored children; nor shall the property of any colored person be taxed for the benefit of any graded common school for white children; nor shall any white child attend any graded common school for

colored children organized under the provisions of this act; nor shall any colored child attend any graded common school for white children.

All laws and parts of laws in conflict with this act are hereby repealed.

Sections 4485 to 4500, repealed by Act March 18, 1922.

Chapter XII.

MUNICIPAL SCHOOLS—PUBLIC SCHOOLS IN CITIES OF THE FIRST CLASS

- Sec. 97. City shall compose one district—powers and duties of board. (See also Sec. 104.)
- Sec. 98. Election—term—qualifications and compensation of.
- Sec. 99. Organization of board—officers—vacancies—adoption of by-laws.
- Sec. 100. Superintendent, principals and teachers and other employees—selection of.
- Sec. 101. Business director may be employed—duties and compensation.
- Sec. 102. Purchase of supplies—sealed bids required—notice to be given.
- Sec. 102a. Secretary and treasurer—election—term and bond. Depositories to be selected—power to apportion revenue and borrow money.
- Sec. 102a-1. Tax levy—supplemented by State fund and escheat property. Duty of officer to collect taxes.
- Sec. 103. Books to be audited annually—power to establish kindergarten—separate schools for white and colored required.
- Sec. 104. Tuition may be charged, when—census to be taken—report, etc.
- Sec. 105. Power to issue "School Improvement Bonds"—election, how called and held, etc.
- Sec. 106. Teachers annuity fund established—duty of board concerning. General provisions relating to powers and duties of board.
- Sec. 107. Power of board to make rules and by-laws, etc.

Section 97. (§ 2978a-1 Ky. St.) **Board of Education Election.**—Every city in this State of the first class shall be and constitute a single school district, and the supervision and government of common schools, kindergarten, high schools, manual training schools and normal schools and all such school property therein shall be vested in a board of five members to be known as the "Board of Education of..... Kentucky," (in which title the name of such city shall be inserted). Such board of education shall be a body corporate and shall, by and in said name, sue and be sued, purchase, receive, hold and sell property, do all things necessary to accomplish the purpose for which such school district is organized, and succeed to all the property rights and privileges granted to and belonging to any previous school board of such city: Provided, that all pending suits in which any such previous school board is a party, may be prosecuted to an end in the name of such party.

(§ 2978a-2 Ky. St.) **Powers and Duties.**—Every such board of education shall have exclusive control of the common schools, including kindergartens, high schools, manual train-

ing schools and normal schools as hereinafter provided, and of common school property in such city; shall exercise generally all powers in the administration of the common school system therein, appoint such officers, agents and employes as it may deem necessary and proper and fix their compensation; and shall have power to fix the time of its meetings, to make, amend and repeal rules and by-laws for its meetings and proceedings, for the government, regulation and management of the common schools and school property in such city, for the transaction of its business, and for the examination, qualification and employment of teachers, which rules and by-laws shall be binding on such board of education and all parties dealing with it until formally repealed by an affirmative vote of four members of said board. To provide for special and standing committees, and to certify to the General Council the amount of money necessary for the maintenance and improvement of the schools as hereinafter provided, and to purchase and hold all property, real and personal, necessary for the purposes of public education, to build and construct improvements for such purposes, and to hold or sell the same.

(§ 2978a-3 Ky. St.) **Real Estate—Power to Purchase or Condemn.**—It shall also have power, when unable to contract with the owner of any real estate necessary to the proper accomplishment of the purpose for which said board is created, to institute condemnation proceedings in accordance with the law governing railroad corporations incorporated under the laws of this Commonwealth; and to have in such proceedings the same rights, powers, privileges and restrictions as are now granted to or conferred upon such railroad corporations. Such board of education shall have all the powers of other school districts under the laws of this State, except as herein provided.

Section 98. (§ 2978a-4.) **Eligibility of Members of Board.**—No person shall be eligible to the office of member of the board of education who has not attained the age of thirty years and one who is not a housekeeper or is not the owner of real estate in said city, and who is not a citizen of and a bona fide resident of this Commonwealth and of the

city for which he is elected for three years next preceding the election; or who holds or discharges any office, deputyship or agency under the city, or any district or county, or under the State of Kentucky, or any department thereof, or under the United States or any foreign government, except that of notary public or militia officer of Kentucky. No person shall be eligible to this office who, at the time of his election, is directly or indirectly interested in any contract with the board, or who holds any office of trust or agency of or draws a salary from any corporation which holds any contract with the board, or whose father, son, brother, wife, daughter or sister is employed as teacher, or in any other capacity by such board, or in any of the public schools, or who is, directly or indirectly, interested in the sale to the board of books, stationery, or other property. If he shall, after election, become a candidate for any office or agency or for the nomination thereto, the holding and discharging of which would have rendered him ineligible before election, or if he shall remove out of the city for which he was chosen, or if he shall do or incur anything which would have rendered him ineligible for election, or if any of his relatives above specified be employed by the board, his office shall, without further action, be vacant and it shall be filed as directed.

(§ 2978a-5 Ky. St.) **Compensation of Members.**—No compensation shall be paid to the members of the board, but they shall be exempt from jury duty and from service as election officers during their term of office.

(§ 2978a-6 Ky. St.) **Term of Office.**—The members of said board of education shall be elected, except as specified in section 253 of this act, for the term of four years by the qualified voters of such city. They shall be elected from the city at large, and such election shall be held under the provisions of the general laws governing city elections, so far as they are not inconsistent with the provisions of this act.

(§ 2978a-7 Ky. St.) **Election by Secret Ballot—General Election Law to Control.**—All elections for members of the board of education shall be by secret ballot, and the ballot shall be on a separate sheet from all other ballots to be used

in any election. It shall be the duty of the County Clerk of any county in which a city of the first class is situated, to cause to be printed on said ballot the names of all candidates for membership of the board of education of such a city, in whose behalf he may be petitioned so to do in writing by not less than four hundred electors of said city. The petitions must be filed in the office of the County Clerk not more than sixty days nor less than fifteen days before the day of election, and each petition must be signed by the requisite number of qualified persons, and shall show the place of residence of each person signing it, and no person shall sign more petitions than the number of offices to be filled. If the nomination is to fill a vacancy, the petition shall so state. Where the same person shall be nominated for a full term, and to fill a vacancy, he shall be accepted as a candidate for the full term. Said ballot shall be in the form prescribed for ballots by the general election law of the State, except that no party or other emblem or distinguishing mark shall be placed upon said ballot, save the words, "School Ticket" at the head thereof; and that the names of all candidates for membership in the board of education shall be printed on said ballot in a single column. The names shall be printed on the first one hundred ballots as arranged in order by lot. On each of the succeeding one hundred ballots the names shall be printed in the same order, save that the last name on the preceding one hundred ballots shall be shifted to the first place; and so on thereafter throughout, a like change being made in the printed order of names for every one hundred ballots. As many additional lines shall be left blank as there are members to be elected. The provisions of the general election law of the State of Kentucky as to the duties of County Clerks and other public officers in the matter of printing and distributing ballots, of the issuing them to voters, of receiving and depositing them in the ballot boxes, and of counting and preserving them, and in all other particulars, except as otherwise provided herein, shall be applicable in all respects to the election of members of the board of education: Provided, that it shall be the duty of the sheriff of each county in which a city of the first class

is situated, to provide for each precinct in said city a separate box for the reception of the ballots used in the election of members of the board of education. And provided, further, that it shall be the duty of the judge of election of the opposite political party to the clerk of the election in each precinct to issue the school ballots in the same manner as other ballots are issued by the clerk of election by writing the name and the residence of the voter upon the primary stub, and his registered number upon the secondary stub of the school ballot, and by observing, as to these ballots, such other regulations for the issue and deposit of ballots as may be prescribed for elections generally. It shall be unlawful for an election officer or other person within the election booth to tell or to indicate by word of mouth or otherwise to a voter what may be the political affiliations of any candidate, and a violation of this provision shall be a misdemeanor punishable by fine not exceeding two hundred dollars.

(§ 2978a-8 Ky. St.) **Members to be Voted For.**—Each voter may vote for as many of said candidates as there are members to be elected by marking a cross in the square opposite the name of each candidate for whom he wishes to vote. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected. If at any election a member is to be chosen to fill a vacancy and to serve out an unexpired term, candidates may be chosen as above provided, but they shall, in all cases, be designated on the ballots as candidates to fill a vacancy, and the date of the unexpired term shall be stated.

Section 99. (§ 2978a-9 Ky. St.) **Organization of Board.**—At the general election occurring in the month of November, 1910, five members of the board of education shall be elected as herein provided. After having qualified by taking the oath as prescribed by law, they shall assume office on the first day of January, 1911, and shall meet at the offices of the present school board of said city at twelve o'clock noon, and shall proceed to organize by electing one of their number president, and another vice president. Within one week after the organization of said board it shall meet to divide its members

by lot in such manner as they shall determine into two classes, as follows: The first class, consisting of two members, shall hold office through the 31st day of December, 1912, the second class, consisting of three members, shall hold office through the 31st day of December, 1914. Thereafter at each regular election held in November of each even numbered year, members shall be elected as hereinbefore provided, to take the place of those whose terms will next expire, and the members so chosen shall hold office for four years, or until their successors are elected and qualified.

(§ 2978a-10 Ky. St.) **President and Vice President to be Elected.**—At its first regular meeting after the 1st day of January, in each year, following its original organization, said board of education shall reorganize by electing one of its members president, and another vice president.

(§ 2978a-11 Ky. St.) **Vacancies—How Filled.**—Any vacancy in said board, from whatever cause occurring, shall be temporarily filled by the other members of the board as soon as practicable after such vacancy occurs. The member so chosen shall hold office until his successor is elected and qualified, subject to the provisions of section 152 of the Constitution of Kentucky.

(§ 2978a-12 Ky. St.) **Board of Education to Surrender School Property.**—When members of the board of education shall have been elected, shall have qualified, and shall have been organized as hereinbefore provided, thereupon it shall become the duty of the existing school board and all officers, agents and employes thereof to surrender their places and to deliver to said board of education all the common school property, both real and personal, of every kind whatsoever, and the control and management of the common school affairs of such city: Provided, that until such board of education shall be organized, the administration of the common schools and the management of school property in such city shall remain in the control of the existing school board in the same manner and with the same powers as existed prior to the passage of this act. All rules and by-laws made by any existing school board at such time vested in such city with the management

of the common schools shall continue in force, so far as consistent with this act until repealed or altered by a majority of such board of education. Provided, further, that the first board of education may continue the employment and service of any existing officer, teachers, agents or other employes, in their several capacities in connection with the administration of school affairs, until such time as they effect the change of administrative system applicable to the common schools as contemplated in this act; and said board of education may thereafter retain or remove any agent, teachers, janitors, engineers or other employes then rendering service in connection with the public schools of said city.

(§ 2978a-13 Ky. St.) **Rules and By-laws.**—It shall be the duty of said board of education, within sixty days after its organization, to adopt rules and by-laws for its meetings and proceedings, and for the government, regulation and management of the schools and school property, and for the examination, qualification and employment of teachers. And such rules or by-laws may be changed, altered, or set aside, only upon an affirmative vote of four (4) members of the board.

(§ 2978a-14 Ky. St.) **Appointment of Officers.**—It shall be the duty of said board of education, as soon as practicable after its organization, to appoint a superintendent of schools, a business director, a secretary and treasurer, and such other officers and agents as it may deem proper. Provided, that no such officer, employe or agent shall be a member of said board.

Section 100. (§ 2978a-15 Ky. St.) **Superintendent of Schools Appointed for One Year—Powers and Duties.**—The board of education shall appoint a superintendent of schools who shall serve for a term of one year, but whenever a superintendent who shall have served one year shall be re-elected, his re-election shall be for a term of four years. His compensation shall not be changed during the term for which he is elected. He may be removed at any time by a vote of three-fifths of the entire board. The board of education may, on the nomination of the superintendent of schools, appoint as many assistant superintendents as it may deem necessary,

whose compensation shall be fixed by the board, and who may be removed by the superintendent with the approval of the board. The superintendent of schools shall qualify by taking the oath prescribed by law. He shall have general supervision, subject to the control of the board, of the course of instruction, discipline and conduct of the schools, text books and studies; and all appointments, promotions and transfers of teachers and truant officers, and introduction and changes of text books and apparatus shall be made only upon the recommendation of the superintendent and the approval of the board. The superintendent shall have the power to suspend any teacher or truant officer for cause deemed by him sufficient, and the board of education shall take such action upon the restoration or removal of such person as it may deem proper. All appointments and promotions of teachers shall be made upon the basis of merit, to be ascertained as far as practicable, in cases of appointments, by examination, and in cases of promotion, by length and character of service. Examination for appointment shall be conducted by the superintendent in accordance with the State law for the certification of teachers, and under such other regulations as may be made by the board. The superintendent of schools shall devote himself exclusively to the duties of his office, and shall have power to appoint clerks, whose number and salaries shall be fixed by the board, and shall have power to remove the same; shall exercise a general supervision over the schools of the city, examine their condition and progress and shall keep himself informed as to the progress of education in other cities. He shall advise himself of the need of extension of the school system of the city, shall make reports from time to time as may be fixed by the rules or directed by the board, and shall be responsible to the board for the condition of the instruction and discipline of the schools. The term "teachers," as used herein, shall include supervisors, supervising principals and principals.

Section 101. (§ 2978a-16 Ky. St.) **Business Director—Compensation—Duty.**—The board shall appoint a business director, who shall serve for a term of one year, but whenever

a business director who shall have served one year shall be re-elected, his re-election shall be for a term of four years, but he may be removed at any time by a vote of three-fifths of the entire board. His compensation shall not be changed during the term for which he is elected. The business director shall qualify by taking the prescribed oath, and shall be the executive officer of the board. He shall execute for the board in the name of the board its contracts and obligations; he shall see that all contracts made by or with said board are fully and faithfully performed; he shall have the care and custody of all property of the board of education, real and personal, except moneys; he shall oversee the construction of buildings in process of erection and repairs of buildings owned or controlled by the board; shall advertise for bids, and shall purchase all supplies and equipments authorized by the board; and, generally, shall execute and carry into effect all matters and things authority for which shall have been granted by the board, as herein provided.

(§ 2978a-17 Ky. St.) **Bond to be Given by Business Director.**—The business director shall devote his entire time to the duties of his office, and shall receive an annual salary to be fixed by the board at the beginning of each term, and payable monthly out of the school fund of the city. Before entering upon the discharge of the duties of his office he shall give a bond for the faithful performance thereof in the sum of ten thousand dollars, with a surety company, to be approved by the board, which bond shall be paid for by the board and be deposited with the secretary and treasurer within twenty days from date of election, and preserved by him.

(§ 2978a-18 Ky. St.) **Janitors and Engineers to be Appointed by Business Director.**—Subject to the approval of the board of education as to the number and salaries, the business director shall have power to appoint, with the approval of the board of education, as many engineers, janitors and other employes and agents as may be necessary for the proper performance of the duties of his department, for whom he shall be responsible, and whom he shall have power to remove; but the board of education may provide for a competitive

examination for the positions of janitors and engineers; and when such provision shall have been made, the business director shall be required by the board to appoint janitors and engineers from the list obtained by such examination. He shall appoint such assistants and deputies as may be authorized by the board, whose compensation shall be fixed by the board, and one of said assistants shall be a trained and educated mechanical engineer, qualified to design the heating, ventilating and sanitary machinery and apparatus connected with the school buildings. Such assistants and deputies shall be subject to removal by the business director, who shall be responsible for the proper performance of their duties. He shall perform such other duties as may be required of him by the board.

(§ 2978a-19 Ky. St.) **Business Director to Estimate Cost of Work—How Arrange For—When Done—By Director or Contractor—Lowest and Best Bid—Emergency Work—Board May Restrict Authority.**—(a) The business director shall make a careful estimate of the cost of any such work. If the estimate exceeds \$100.00 in amount he shall submit it in writing to the board of education, and the work must in such case be done by contract let by the board, unless the board shall order it done directly by the business director and shall state in its order the amount of the estimate and the board's reasons for ordering it to be done directly. If such order be entered the business director shall proceed with the work. If no such order is entered and the work is to be done, the necessary plans and specifications shall be prepared, bids shall be solicited by such advertisement as the board may provide, and the contract shall be made by the board after public letting to the lowest responsible bidder, but the board may reject all bids.

(b) Where the business director's estimate of the cost of any work of construction, alteration or repair does not exceed \$100.00, he shall preserve such estimate in his office, and he may proceed to do such work directly or by contract, and in the latter case the contract may be made for the board by him. Before making any such contract he shall prepare plans and specifications if necessary, shall solicit bids in such man-

ner as the board shall provide, and he shall make the contract with the lowest responsible bidder, but he may reject all bids.

(c) An exception to the foregoing rules is allowed where in the opinion of the business director an emergency exists and his estimate of the cost of the work does not exceed \$250.00. In such case the business director may proceed, without action by the board, to do such work directly, or by contract made for the board by him. If in such case he proceed by contract he may award the contract without plans or specifications and without solicitation of bids. In every case coming under this paragraph (c) the business director must report in writing his action to the next regular meeting of the board, and he must state in the writing the cost of the work and his reasons for considering that an emergency existed.

(d) Where work is to be done by contract no bid shall be entertained which does not comply with the specifications and with the terms of the letting.

(e) The board may withdraw or restrict to such extent as it deems proper any authority by this section conferred upon the business director to do work either by contract or directly.

Section 102. (§ 2978a-20 Ky. St.) **Advertisement for Supplies.**—The board shall, at or prior to the beginning of each fiscal year, cause advertisements to be made under such regulations as it may provide for proposals for furnishing the supplies required in the schools and by the board in the ensuing year; and every contract therefor shall be awarded to the lowest responsible bidder complying with the terms of the letting; provided, however, that said board shall have and reserve the right to reject all bids. If other supplies are required during the year, they shall be furnished under contracts awarded in like manner; but the board may authorize the purchase of supplies not exceeding one hundred dollars in amount without letting or contract. The board shall make distribution of supplies through such agencies and in such manner as it deems proper.

Section 102a. (§ 2978a-21 Ky. St.) **Secretary and Treasurer to be Appointed.**—The board shall appoint an officer, who shall be secretary and treasurer, and shall serve for a term of one year, but whenever a secretary and treasurer shall have served one year and be re-elected, his election shall be for a term of four years, but he may be removed at any time by a vote of three-fifths of the entire board. He shall give bond in such sum as the board may require, which shall not be less than \$50,000.00, with a surety company to be approved by the board, such bond to be paid for by the board and be deposited with the president of the board within twenty days from date of election and preserved by him. The compensation of such officer shall be fixed by the board of education, before his election, and shall not be changed during the term for which he is elected. He shall exercise, subject to the control of the board, general supervision over the fiscal affairs of the public school of the city, the collection and payment of funds to the school depositaries, and the disbursement of all revenue and moneys belonging to the board.

He shall record the proceedings of the board in such manner as may be directed by the board, and shall deposit daily in the designated depository of the board all moneys collected or received by him for the board. He shall furnish to the board at the beginning of each month a statement of receipts and disbursements of the preceding month; and at the end of the fiscal year he shall make to the board a full and comprehensive report of its financial affairs for the preceding year. He shall be the custodian of all securities, documents, title papers, books of record and other papers belonging to the board, under such conditions as the board may direct. It shall be his duty to see that no liability is incurred or expenditure made without due authority of law, that appropriations are not overdrawn and that all expenditures are charged to the appropriations for which they are made. Subject to the approval of the board, he shall have power to appoint assistants, for whom he shall be responsible and whom he may remove. He shall perform such other duties as may be required of him by the board.

(§ 2978a-22 Ky. St.) **Depositaries to be Selected.**—The board shall, in the month of June of each year, advertise for bids from the banks and trust companies in such city for the current deposits of such board, to be secured by bond with surety to be approved by the board in an amount to be fixed by the board, and said bids shall specify the rate of interest to be allowed to said board on such deposits and the nature of the security offered; and such deposits shall be annually awarded to the two institutions, banks or trust companies that offer, with the required security, the highest rates of interest therefor; and the board shall cause contracts for the ensuing year to be made with such banks or trust companies so receiving the award of such deposits. All moneys due the board, from any source whatsoever, shall be paid to the secretary and treasurer, who shall thereupon cause all funds received to be paid into such designated depositaries, the balance in each to be kept as nearly equal as practicable. The fiscal year of the board shall end on the 30th day of June of each year, and the annual contract shall be made in the month of June of each year for the deposits of the succeeding fiscal year. The funds of the board deposited in bank shall be withdrawn only on the order of the board, evidenced by check on its secretary and treasurer, countersigned by the president of the board, or, in his absence or disability, by the vice-president.

(§ 2978a-23 Ky. St.) **Apportionment of Revenues.**—It shall be the duty of the board at the beginning of each fiscal year to apportion the revenues available for that year to the different departments, for expenditures in support of the schools for that year, and no report or resolution shall be adopted by the board calling for the expenditure of money unless it states specifically the fund from which the appropriation is to be made, and is accompanied by the certificate of the secretary and treasurer showing sufficient balance in such fund available for such expenditure.

(§ 2978a-24 Ky. St.) **Money May Be Borrowed.**—The board shall have power to borrow money on the credit of the board in anticipation of the revenue from school taxes for the fiscal year in which the same is borrowed and to pledge said

school taxes for the payment of the principal and interest of said loan: Provided, that the interest paid shall in no case exceed six per cent. per annum and the principal shall in no case exceed fifty per cent. of the anticipated revenue.

Section 102a-1. (§ 2978a-25 Ky. St.) **Tax Levy.**—To raise money for the maintenance of the schools the general council shall annually cause to be levied and collected a tax of not less than thirty-six cents (.36) on each one hundred (\$100.00) dollars of property assessed for taxation for city purposes. Upon the completion of the assessment of property for taxation, the amount levied as above shall annually be passed to the credit of the school fund, upon the books of the city, and the said amount, as collected, shall be paid over to the board by the treasurer of the city, in regular monthly installments, the first payment to be made within one week after the collection of said amount shall have been commenced and the other payments to be made weekly thereafter in current money by the said treasurer as collected.

(§ 2978a-26 Ky. St.) **School Fund.**—For the maintenance of the schools there shall be appropriated the sum or sums which may be received from year to year as the city's portion of the school fund of this Commonwealth.

(§ 2978a-27 Ky. St.) **Property to Escheat.**—So much real or mixed property in the city, when from alienage, defect of heirs, failure of kindred or other cause, shall escheat to the Commonwealth of Kentucky shall vest in the board for the use and benefit of the common schools. Said board may, in the name of the Commonwealth, for the use and benefit of the common schools of the city, by its president or other officer to be designated by it, enter upon and take possession of said property or sue for and recover the same by an action at law or in equity, and without office found. The board may sell and convey any of such property by warranty, deed or otherwise.

(§ 2978a-28 Ky. St.) **Duty of Officers as to Collection of Taxes.**—All officers of any city of the first class, and of the State, concerned with the assessment and collection of taxes, fines and penalties shall perform such duties in relation to the

levying and collection of school taxes and the collection of such fines and penalties, and the payment thereof to said board for school purposes, as are now imposed by the existing laws upon such officers in relation to the levy and collection of school taxes and the collection of fines and penalties payable to the school funds; and nothing in this act, unless inconsistent therewith, shall be construed as repealing any existing law providing for the assessment and collection of school taxes in such city; and all powers and duties conferred by existing law upon any board in relation thereto shall be continued in the board created by this act.

Section 103. (§ 2978a-29 Ky. St.) **Books to be Audited by Expert Accountant.**—At the close of each fiscal school year the mayor of such city shall appoint one or more expert accountants, who shall examine the books, accounts and vouchers of the secretary and treasurer, business director, and all other departments of expenditures of the boards, and shall make due report thereof to the mayor and board of education of such city. All the officers and employes of the board shall produce and submit to such accountants for examination of all books, papers, documents, vouchers and accounts in their office belonging to the same or thereto pertaining, and shall in every way assist said accountants in their work. In the report to be made by said accountants they may make any recommendations they deem proper as to the business methods of such officers and employes. A reasonable compensation for such services shall be paid by the board.

(§ 2978a-30 Ky. St.) **Kindergartens—Powers to Establish.**—The board shall have the power to establish and maintain kindergartens for children from four to six years of age, high schools, manual training schools and a normal school and normal training classes for the purpose of training teachers to fill positions in the schools of the city, and to this end it may prescribe rules and regulations for the government of such schools, and as in other cases it may employ the principals and other teachers necessary for their efficient management.

(§ 2978a-31 Ky. St.) **Separate Schools for White and Colored Children.**—The board shall provide, maintain and

support separate schools wherein all colored children, who are bona fide residents of said city, between the ages of six and eighteen years, may be taught in like manner as herein provided for white children. Said schools for colored children shall be entitled to the same benefits, be governed by the same rules and regulations, and be subject to the same restrictions as the schools herein provided for white children.

(§ 2978a-32 Ky. St.) **Qualifications of Pupils Fixed by Board.**—The board shall prescribe the necessary qualifications and mode of examination for applicants for admission to the various schools, and may furnish text books and necessary school supplies to pupils free of charge under such rules and regulations as it may adopt.

(§ 2978a-33 Ky. St.) **Religious Dogmas.**—No formula of religious belief shall be taught or inculcated, nor shall any class or any text book be used which reflects or any religious denomination.

Section 104. (§ 2978a-34 Ky. St.) **Pupils Admitted From Beyond City.**—The board shall have power to admit to the school pupils from beyond the city limits, and shall collect from all persons so admitted tuition fees for the benefit of the school fund of the city, but may make equitable allowance or reduction for taxes paid for schools by such children or their parents on property in the city. Children of persons residing outside of the city limits shall not be admitted as pupils into any of the public schools, except upon payment of such tuition as the board may require as aforesaid.

(§ 2978a-35 Ky. St.) **Reports to be Made—Census to be Taken.**—A city of the first class being deemed one school district for taxation purposes and entitled to its proportion of the common school fund of the Commonwealth, the board of education of such city shall make detailed reports annually and special reports as required to the State Superintendent of Public Instruction. The board shall also, in the year 1911, and every third year thereafter, take the census of children of school age and make returns thereof to the Superintendent of Public Instruction, at the same time other school officers are required to make returns; and for the neglect of this duty

the members of the board shall be liable to the same penalties. This census shall be taken under regulations approved by the State Board of Education.

For the years in which no census is required to be taken, the Superintendent of Public Instruction shall determine the amount per capita to be paid over to the board of education of such cities by adding annually to the number of children of school age, as shown by the next preceding census actually taken, such increase or addition as he may ascertain to be the annual increase of children of school age in the district upon averaging the yearly increase shown by the three actual enumerations next preceding: Provided, however, that the board of education of any such city or the Superintendent of Public Instruction may elect to take an actual census in any of such years, in which case the return of such census shall govern.

(§ 2978a-36 Ky. St.) **Report of Business Director and Treasurer.**—The board shall, at the end of each scholastic year, prepare and publish, for the information of the public, a report which shall include the annual reports made to the board by the superintendent, business director and secretary and treasurer, together with such other information as may be proper and necessary to an understanding of the general condition and educational progress of the schools during the preceding year.

(§ 2978a-37 Ky. St.) **Penalty.**—Any member, officer, or employe of such board who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction shall, unless otherwise herein provided, be punished by a fine of not more than five hundred dollars or imprisonment not exceeding one year, or by both fine and imprisonment, in the discretion of the jury. But nothing herein contained shall be construed as suspending the general criminal laws of the State so far as applicable.

(§ 2978a-38 Ky. St.) **Repealing Clause.**—The general school laws of this State and all laws and parts of laws applicable to the general system of common schools in a city of the

first class and not inconsistent herewith, shall be in full force and effect in such city.

Section 105. (§ 2978b-1 Ky. St.) Board May Purchase Site and Erect Buildings—Submit to Vote—Bonds and Tax.— In cities of the first class whenever the board of education shall deem it necessary for the proper accommodation of the schools of such city to purchase a site or sites or to erect school houses for the high schools or for the other schools, or to purchase land for the enlargement of existing school yards, or for any other or all these purposes, and the annual funds raised from other sources are not sufficient to accomplish said purpose or purposes, and it shall deem a bond issue to be necessary therefor, said board shall make a careful estimate of the probable amount of money required for such purpose or purposes and it shall certify to the general council of said city the fact that an election for an issue of bonds for school improvements should be held, together with the amount of money for which bonds shall be issued and the purpose or purposes to which the proceeds thereof shall be applied. It shall thereupon be the duty of the general council to adopt an ordinance submitting to the qualified voters of the city at the next regular municipal election the question whether bonds of the city to the amount specified shall be issued for school improvement purposes. The bonds so issued shall be designated as "School Improvement Bonds," and the ordinance shall provide the date and maturity of such bonds, the rate of interest they shall bear, and the total amount to be issued; and the ordinance shall also contain the necessary details in reference to the execution and delivery of said bonds, their denominations, coupons to be annexed, tax to be levied to pay the interest and a sinking fund to retire such bonds at maturity. No bond issue shall ever be for an amount exceeding the sum of one million dollars. The question to be submitted shall be so framed that the voter may by his vote answer for or against the issue of bonds.

Territory was annexed to a city of the first class. The title to common school property in that territory passed to the city board of education. Board of Education of City of Louisville, 182 Ky. 544.

It shall be the duty of the mayor of the city to see to it that all proper steps are taken to secure a vote of the people upon the question, conforming, as far as applicable, to the proceedings in case of an election for members of the board of education in cities of the first class. If the voters of the city shall determine that such bonds shall be issued, they shall, when so issued, be placed under the control of the board of education, who shall determine when and at what price and how they shall be sold:

Provided, That no such bonds shall be sold for less than par: And, Provided further, That any premium which may be obtained from said bonds shall constitute a part of the sinking fund for their ultimate retirement. As the bonds are sold, their proceeds shall be placed to the credit of the board in the same depositories which are selected for its other funds but shall be kept in a separate account and shall be used only for the purpose for which the bonds were issued.

It shall be the duty of the General Council to levy annually in its tax levy a rate that will raise a sum that shall be sufficient to pay the interest and create a sinking fund for the payment of bonds at maturity. The said bonds, principal and interest, shall be a charge upon the sinking fund of said city, and it shall be entitled to have the annual tax that shall be levied as aforesaid.

Section 106. (§ 2978d-1 Ky. St.) **Teachers' Annuity Fund—Board of Trustees—Manner of Appointment.**—In every city of the first class in the State of Kentucky there shall be, and is hereby created, a teachers' annuity fund, which shall be governed and managed by a board of trustees, which shall be a body corporate under the name of Trustees of Teachers' Annuity Fund of Louisville, with power to contract and to sue and be sued, and to adopt and alter its seal, and which shall be composed of seven members, as follows: One member of the board of education of such city, to be selected or appointed annually by such board, the superintendent of public schools, one principal and four teachers regularly em-

Secs. 2978c-1 to 2978c-2, Ky. Stats., relate to compulsory education in cities of the first, second, third and fourth class; and may be found in this compilation as sections 4526c-3 to 4526c-6.

ployed in the public schools of such city. Said principal and teachers of such city shall be selected at a meeting of the public school teachers of such city on the third Saturday of May, 1912, in such manner and at such place or places as shall be determined and designated by the board of education of such city; and thereafter there shall be selected on the third Saturday of May of each year one principal and three teachers as members of such board of trustees. The trustees shall hold their offices until their successors shall be selected or elected as above set forth. In the event of a vacancy upon said board occasioned by the death, resignation or disability of either of said principal or teachers, then the public school teachers of said city shall, within a reasonable time, upon the call of the president of said board of trustees, hold a special meeting and elect a successor or successors. A majority of said trustees shall constitute a quorum for the transaction of business pertaining to said annuity fund. Said trustees shall receive no pay for their services as such, except the secretary, who may be paid such sum for services as may be fixed by the board of trustees: Provided, however, That if any one shall act as such secretary who shall receive any of the benefits of said pension fund, as hereinafter provided, the amount of the salary so received by such secretary shall be deducted from the amount for which he or she would otherwise be entitled as a beneficiary under said fund.

(§ 2978d-2 Ky. St.) **Officers of Board—Powers and Duties.**—Said board of trustees shall elect from among its number a president, vice-president and secretary. The president shall preside at the meeting of the board and perform all other duties usual to such office. The vice-president shall perform duties of the president in his or her absence. It shall be the duty of the secretary to keep a true and accurate account of the proceedings of such board of trustees and of the teachers of such city, when acting upon matters with relation to said fund, and to turn over to his or her successor all books and papers pertaining to such office. The superintendent of schools of such city shall act as assistant treasurer, and it shall be his duty to keep a true and accurate statement of the ac-

count of each member with said annuity fund, to collect and turn over to the treasurer of said board all moneys belonging to said fund, and to render to the board a monthly account of his doings. He shall furnish bond in such amount as shall be determined and required by said board of trustees. He shall receive no compensation for attending to the duties of his office as assistant treasurer of said board, but the trustees may allow to him annually for the employment of clerical assistance a sum not to exceed two hundred dollars, for the expenditures of which he shall account by full statement, with vouchers which shall be filed with his annual report hereinafter mentioned. The treasurer of the board of education shall be ex-officio the treasurer of said board of trustees, and he shall receive and hold all moneys belonging to such teachers' annuity fund; he shall have the custody of all notes, bonds and other securities belonging to said fund, and shall collect the principal and interest of the same and shall be liable on his bond as treasurer of the board of education for the performance of all duties imposed upon him by this act and for the faithful accounting of all moneys and securities, including both principal and interest, which may come into his hands and which shall belong to such annuity fund. And he shall keep a separate account which shall show at all times the true condition of such fund. Said treasurer shall, upon the expiration of his term of office, account to said board for all moneys, notes, bonds and other securities coming into his hands, and for the interest, income, profits, rentals and proceeds of and from the same, and he shall turn over to his successor all moneys, notes, bonds and other securities belonging to said fund. The secretary, treasurer and assistant treasurer shall each make a full, true and accurate report of their offices and trusts at each annual meeting of such teachers in May of each year. Their books shall at all times be open to inspection or examination by any member of said board of trustees.

(§ 2978d-3 Ky. St.) **Revenue—Board to Make Rules to Govern Same.**—Such board of trustees shall have full charge and control of the teachers' annuity fund of such city with

power to adopt and enforce all needful regulations governing the same, not inconsistent with this act. Said fund shall be derived from the following sources:

First, All money that may be given to said board of trustees or to said fund or to the board of education of such city, for the use of said board of trustees of teachers' annuity fund, by any person or persons. Such board of trustees may take by gift, grant, devise or bequest, any money, choses in action, personal property, real estate, or any interest therein, and any such gift, grant, devise or bequest may be absolute, or upon the condition that only the rent, profits and income arising from the same shall be applied to the uses and purposes of said fund. Such board of trustees shall be authorized to take such gift, grant, devise or bequest under and by the style of the board of trustees of the teachers' annuity fund, of such city, and to hold the same, or assign, transfer or sell the same, whenever proper and necessary, under and by such name.

Second, Every teacher shall be assessed upon his or her salary as follows: One per centum per annum (but not more than \$10) upon the salary of every teacher who shall not have taught in excess of fifteen (15) years; and two per centum per annum (but not to exceed \$20) upon the salary of every teacher who shall have taught longer than fifteen (15) years: Provided, however, That such assessment shall not be made prior to the first day of September, 1912. And the assistant treasurer of such board of trustees shall prepare a roll of each of said assessments and place opposite the name of every teacher the amount of assessment against him or her, and shall furnish a copy of such roll to the treasurer, and the treasurer of said board shall, in November and April of each school year, deduct and retain out of the salary going to such teacher the amount of such assessment, and shall give him or her credit for the same and place the same to the credit of said teachers' annuity fund. Every teacher of such city receiving a salary of four hundred and fifty dollars (\$450) a year or more shall pay such assessment, and in becoming a teacher he or she shall be conclusively deemed to undertake and agree to pay

the same, and to have such assessment deducted from his or her salary as hereinbefore provided.

(§ 2978d-4 Ky. St.) **Revenue—Manner of Investment.**—The board of trustees of such teachers' annuity fund shall determine what part of said fund may be safely invested, and how much shall be retained for the immediate needs, demands and exigencies of said fund. Such investment shall be made: (1) In interest-bearing bonds of the United States, or in any bond lawfully issued by the State, county, city or other municipal corporation; (2) loans secured by mortgage upon real estate within the county wherein such city is located, which loans shall not be in excess of fifty per centum of the appraised value of such real estate; (3) in interest-bearing deposits at not less than three per cent. with banks or trust companies of Louisville, said deposits to be secured to their full amount with interest, by securities mentioned in classes (1) and (2) of this section. All bonds, mortgages and other securities shall be deposited with and remain in custody of the treasurer of said board, who shall collect all interest due thereon and all the income therefrom, as the same shall become due and payable.

(§ 2978d-5 Ky. St.) **Sinking Fund to be Provided.**—The board of trustees of such teachers' annuity fund shall establish a sinking fund, to the credit of which shall be put and deposited all gifts, grants, devises and bequests, and the unexpended balance remaining at the expiration of each fiscal year. And such sinking fund shall be and remain a permanent fund, and no part thereof shall be expended except the interest and income thereof and therefrom; provided, however, that one-half of the amount added to such sinking fund during any year may be used, if necessary, during the year immediately following.

(§ 2978d-6 Ky. St.) **Annuity Fund—Manner of Distribution.**—Said teachers' annuity fund shall be used and devoted in the manner and for the purposes following:

First. The maximum annuity to be paid any teacher shall be four hundred dollars (\$400) per annum, which amount shall be based upon a service of forty (40) years as such teach-

er, and every annuitant and beneficiary of said fund shall be entitled to and shall receive such percentage of said sum of four hundred dollars (\$400) as the number of years' teaching of said pensioner and beneficiary shall bear to the term of forty years, subject, however, to all the provisions of the act.

Second. Any aged, infirm, diseased or disabled teacher, who is now or hereafter may be, teaching in the public schools of such city, having served in the schools of said city as such teacher for not less than twenty (20) years and who shall have been relieved from service as such teacher by the board of education upon the ground of his or her infirmity, disease or disability, shall be entitled to receive a disability annuity; provided said board of trustees shall find that he or she is entitled to the same by reason of such age, disease, infirmity or disability, and after such applicant for an annuity shall have been examined by a physician selected for such purpose by said board of trustees, the examination fee or charge of such physician to be paid by the applicant.

Third. Any teacher who is now or hereafter may be teaching in the public schools of such city, and shall have taught for not less than thirty (30) years may be granted an annuity upon application to said board of trustees, or may be granted an annuity by such board without such application and shall thereafter receive an annuity during the remainder of his or her life, subject, however, to all the conditions in this act: Provided, however, that such annuitants shall have paid into said fund, by way of assessment or otherwise, not less than the whole of the amount to which he or she shall be entitled per annum as an annuitant. And in order to make up such amount, the board of trustees may order the treasurer to deduct one-fifth therefrom in each of the first five years from the amount of such annuity. If at any time there should not be sufficient money in or to the credit of said teachers' annuity fund to pay all claims against it in full, then in such event, an equal percentage shall be paid upon all such claims to the full extent of the funds on hand, until such annuity fund shall be sufficient to pay all claims against it in full.

(§ 2978d-7 Ky. St.) **Teachers Entitled to Annuity Fund.**

—In computing years of service as provided in this act, the board of trustees shall not include service as a public school teacher rendered outside of such city; provided, however, that any teacher may be given a leave of absence for study, professional improvement or temporary disability, not exceeding one year at any one time, and shall be regarded as a teacher and entitled to the benefits of this act: Provided, that during such absence he or she continues to pay into such fund the amount of assessment payable by such teacher the last year preceding such leave of absence.

(§ 2978d-8 Ky. St.) **Annuity Fund May Be Discontinued.**—After any teacher shall have been granted an annuity by reason of injury, disability or disease, the board of trustees shall have the right at any time to cause such teacher again to be brought before such board and examined by its physician, and also to examine other witnesses, for the purpose of ascertaining whether said injury, disability or disease shall continue, and whether such teacher shall remain on the roll as an annuitant. Such teacher shall be entitled to notice and to be present at the hearing of any such evidence; shall be permitted to propound any question pertinent or relevant to such matter, and shall also have the right to introduce evidence upon his or her own behalf. Such teacher and all witnesses shall be examined under oath and any member of such board of trustees is hereby authorized and empowered to administer such oath. The decision of such board of trustees shall be final and conclusive, and no appeal shall be allowed therefrom, nor shall the same be reviewable by any court or other authority; provided, however, that every teacher receiving annuity shall report to the superintendent of public schools of such city whenever required so to do. And said superintendent may assign such teacher to such service or employment as may be within his or her power to perform, in the judgment of such superintendent of public schools and of the examining physician employed by the said board of trustees. And during the time of such employment such teacher shall receive the regular salary therefor, which shall be credited to

and deducted from the amount payable to such teacher from said annuity fund. And should any teacher who is receiving an annuity recover from his or her injury, disease or disability, and again be fit for regular duty, then said teacher may again be regularly employed, and during the time of such employment, he or she shall cease to be entitled to any payment out of said annuity fund because of the injury, disease or disability on account of which such teacher was originally retired.

(§ 2978b-9 Ky. St.) **Teacher May Retire on Length of Service Without Examination.**—Any teacher applying for an annuity by reason of length of time of service as in this act provided, shall be granted an annuity and retired without any medical examination, nor need he or she be under any physical disability, and from the time of such granting of annuity and retirement such teacher shall not be required to render further services as such teacher, nor shall he or she be deprived of the benefits herein provided, except for any cause contained in a previous section of this act.

(§ 2978b-10.) **Service Before Passage of Act May be Counted.**—In computing time under the provisions of this act, such time shall include services rendered before, as well as after the taking effect of this act.

Section 107. (§ 2978b-11 Ky. St.) **Trustees—Power to Make Rules and By-Laws.**—The board of trustees shall have power and authority to make all necessary by-laws providing for the manner of the election of such trustees, to be elected as in this act provided, the counting and canvassing of the votes for the same, their meetings, for the collection of all moneys and other property coming or belonging to said fund, and all other matters connected with the care, preservation and disbursement of the same, and the proper execution of the purposes and provisions of this act. And any annuity authorized by the board under this law shall be subject to reduction by said board of trustees whenever in its judgment the condition of the annuity fund, the financial or other conditions of the annuitant or any other circumstances render such reduction advisable, proper or necessary, and any annuity so

reduced may thereafter be restored or increased, as such board may deem best.

(§ 2978b-12 Ky. St.) **Annuity Fund—One-half May be Returned if Teacher Ceases to Teach.**—Any teacher who shall cease to teach in the public schools of such city before receiving any benefit from the fund, shall be entitled to the return of one-half of the amount, without interest, which shall have been paid into said annuity fund by such teacher; provided, however, should such teacher thereafter again teach in the public school of such city, he or she shall refund to said annuity fund the amount so returned to such teacher within one year from the date of his or her return to service in the schools. And should any teacher die before receiving any of the benefits of pensions by this act provided, the board of trustees shall pay to such teacher's heirs or estate, or either or any of them, as it shall see fit, one-half the amount, without interest, which shall have been paid into said annuity fund by said teacher.

(§ 2978b-13 Ky. St.) **Annuities to be Paid by Treasurer—Time of Payment.**—All annuities herein provided for shall be paid to the treasurer of the board of education at his office at such times and in such installments as the trustees may determine, provided that not less than one-third of each annuity or percentage thereof shall be paid before December 15th, and the balance not later than June 1st of each scholastic year. Provided, further, that no annuity of any kind whatsoever provided for in this act shall be payable prior to October 1, 1915; but simple interest at six per cent per annum shall, until said date, run on any annuity beginning with the 1st of June of the scholastic year in which the right there-to may accrue.

(§ 2978d-14 Ky. St.) **Annuities Not Subject to Debt.**—All annuities granted and payable out of said teachers' annuity fund shall be and are exempt from seizure or levy upon attachment, execution, supplemental process, and all other process, whether mesne or final; and such annuities or any payment of the same shall not be subject to sale, assignment

or transfer by any beneficiary, and such transfer shall be absolutely void.

(§ 2978d-15 Ky. St.) **Annuity Fund May be Discontinued for Certain Causes.**—Whenever any person who shall have received any benefit from said fund shall be convicted of any felony, or of any misdemeanor or for which he or she shall be adjudged to be imprisoned, or shall fail to report for examination for duty as required herein, unless excused by the board of trustees of such city, or shall disobey the requirements of said board of trustees in respect to said examination for duty, or shall fail to perform such duty as may be required of him or her if found able to perform such duty, then such board shall order that the annuity allowed and paid to him or her shall cease, until the further order of such board.

(§ 2978d-16 Ky. St.) **Teacher—Definition of Term.**—The term teacher as used in this act shall mean and include any principal, assistant principal, supervisor, assistant supervisor, person in charge of any special department of instruction, and any teacher or instructor regularly employed as such by the board of education of such city.

(§ 2978d-17 Ky. St.) **Date When Annuity May be Applied For.**—Annuities may be applied for under this act on or after December 1, 1912, by any teacher who, after the approval of this act, shall be in the employ of said board of education and be entitled to an annuity under the terms of this act.

(§ 2978d-18 Ky. St.) **Repealing Clause.**—The general schools laws of this State, and all laws and parts of laws applicable to the general system of common schools in a city of the first class and not inconsistent herewith, shall be in full force and effect in such city.

Chapter XII.—Continued.

MUNICIPAL SCHOOLS—PUBLIC SCHOOLS IN CITIES OF THE SECOND CLASS

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| <p>Sec. 107. Election and qualifications of board members.</p> <p style="padding-left: 20px;">a. Powers and duties of board.</p> <p>Sec. 108. Powers of board to condemn land.</p> <p style="padding-left: 20px;">a. Qualification of members—oath of office—no compensation allowed.</p> <p style="padding-left: 20px;">b. Election by secret ballot—how nominated—duty of clerk in printing ballot—time of election.</p> <p>Sec. 109. Vacancies, how filled—rules and by-laws.</p> <p style="padding-left: 20px;">a. Superintendent, principals, teachers and other employees to be appointed.</p> <p>Sec. 110. Business director may be employed—duty, salary and bond.</p> <p>Sec. 110a. Contracts for buildings and additions thereto, how let—supplies, how purchased.</p> | <p>Sec. 111. Secretary and treasurer, how selected—business director may act as secretary or other selection may be made.</p> <p>Sec. 112. Apportionment of revenue—power to borrow money.</p> <p>Sec. 113. Tax rate—power to levy—annual budget—city to collect and pay over taxes to treasurer.</p> <p style="padding-left: 20px;">a. Power to issue bonds.</p> <p>Sec. 114. School fund shall consist of—books to be audited annually.</p> <p>Sec. 115. General provisions.</p> <p>Sec. 116. Reports to be made.</p> <p>Sec. 117. Teachers' annuity fund established—board created—duties.</p> <p>Sec. 118. Medical examiners to be appointed in connection with—powers and duties.</p> |
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Section 107. (§ 3235a-1 Ky. St.) Board of Education Created.—Each city in this State of the second class, together with the territory now within its limits, or which may, in the future, be included by any change in these limits, shall be and constitute a single school district, and the supervision and government of common schools and common school property therein shall be vested in a board of five trustees to be called and known as the "Board of Education of....., Kentucky," (in which title the name of such city shall be inserted.) Such board of education shall be a body corporate and shall have power, by and in said name, to sue and be sued, contract and be contracted with, purchase, receive, hold and sell property, do all things necessary to accomplish the purpose for the attainment of which such school district is organized, and succeed to all the property, property rights and privileges, of whatever kind or nature, granted and belonging to any previous corporation, board of education or school district in such city, or officers thereof, authorized or empowered by any enactment of the General Assembly of the State to do anything in reference to public education. Provided, that all pending suits to which any such previous corporation, board of education or

school district or officer thereof, is a party, may be prosecuted to an end in the name of such party. All titles to property previously granted to such city by the United States, or this State for common school purposes, and the title to all school lands and other property of every kind, shall be vested in the board of education established by this act.

(§ 3235a-2 Ky. St.) **Powers and Duties of Board.**—Every such board of education shall have general and supervising control, government and management of the public schools, including kindergartens, night and normal schools and high schools as hereinafter provided, and public school property in such city, with the right to use said property to promote public education in such ways as it may deem necessary and proper; shall exercise generally all powers in the administration of the public school system therein, appoint such officers, agents and employes as it may deem necessary and proper and fix their compensation and term of office; shall have power to fix the time of its meetings, to make, amend, and repeal rules and by-laws for its meetings and proceedings, for the government, regulation and management of the public schools and school property in such city, for the transaction of its business, and for the examination, qualification and employment of teachers, which rules and by-laws, when not inconsistent with the general laws of the State, shall be binding on such board of education and all parties dealing with it until formally repealed by an affirmative vote of four members of said board; to provide for special and standing committees; to provide for the appointment of a medical inspector for the schools and to take such other steps as may be proper and necessary to secure and maintain the physical welfare of the pupils therein; to certify to the general council or the board of commissioners the amount of money necessary for the maintenance and improvement of the schools as hereinafter provided, and to purchase and hold all property, real and personal, deemed by it necessary for the pur-

Section 2525a-1. Bonds issued by the board of education of a city of the second class under the authority of the Acts of 1912, Chapter 137, were not to be considered in determining whether the city had reached its maximum constitutional debt limit. (Subsection 28.) *Coppin and the City of Covington v. Board of Education of Covington*, 155 Ky. 387.

The forty cents tax limit provided for in subsection 26 of this act does not include taxation for sinking fund purposes. *City of Newport v. Board of Education*, 159 Ky. 379.

poses of public education, or for the investment of the public school funds, to build and construct improvements for such purposes, and to hold or sell the same. To aid in the purchase of real estate for school purposes, the board may acquire said property by deed with purchase money lien retained, or it may mortgage the property so purchased to secure a balance of purchase money or to raise funds with which to effect the purchase and may refund, renew or extend any encumbrance on school property by executing a new mortgage on the same property for a less amount.

Section 108. (§ 3235a-3 Ky. St.) **Real Estate—Power to Purchase and Condemn.**—It shall also have power, when unable to contract with the owner of any real estate necessary to the proper accomplishment of the purpose for which said board is created, to institute condemnation proceedings in accordance with the law governing railroad corporations operated or incorporated under the existing laws of this Commonwealth, or under laws which may hereafter be enacted; and to have in such proceedings the same rights, powers, privileges and restrictions as are now granted to or conferred upon such railroad corporations. Such board of education shall have all the powers of other school districts under the laws of this State, except as herein provided.

(§ 3235a-4 Ky. St.) **Qualification of Members.**—No person shall be eligible to the office of member of the board of education who has not attained the age of twenty-four (24) years, and who is not a citizen of the United States, and who has not been such citizen for at least three years preceding his election, and a resident of the city for which he is elected, or who holds or discharges any office, deputyship or agency under the city or county of his residence; except that any member of said board, or any existing board, shall be eligible for re-election; no person shall be eligible to this office who at the time of his election is directly or indirectly interested in any contract with or claim against said board, or who is directly or indirectly, interested in the sale to the board of books, stationery or other property. If, at any time, after the election of any member of said board, he shall become interested in any such

contract with or claim against said board, or if he shall, after election, become a candidate for any office or agency or for the nomination thereto, the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he shall move his residence from the city for which he was chosen, or if he shall do or incur anything which would have rendered him ineligible for election, his office shall without further action be vacant, and it shall be filled as herein directed. Provided, That no member of said board shall vote regarding the appointment or employment in any capacity of any person related to said member as father, mother, brother, sister, husband, wife, son or daughter, nor shall any member of said board hold any office or position of emolument under appointment of said board.

(§ 3235a-5 Ky. St. **Oath of Office.**—Every member of said board shall, before assuming the duties of his office, qualify by taking the following oath, which shall be kept on record in such board:

STATE OF KENTUCKY,
COUNTY OF.....

....., being duly sworn, says that he is eligible under the law to serve as a member of the board of education, and that he will not, while serving as a member of such board, become interested directly or indirectly in any contract with or claim against said board, and that he will not be influenced during his term of office by any consideration except that of merit or fitness in the appointment of officers or engagement of employees, and that he will support the Constitution of the United States and of this State and faithfully perform the duties of his office.

Sworn to and subscribed before me this.....
day of.....

(§ 3235a-6 Ky. St.) **Compensation—Manner of Election.**
—No compensation shall be paid to the members of the board, but they shall be exempt from jury duty and from service as election officers during their term of office.

(§ 3235a-7 Ky. St.) **Manner of Election.**—The members of said board of education shall be elected from the city at large for the term of four years, except as specified in sections 485 and 487 herein, by the legal voters of such city. They shall be elected from the city at large without reference to wards or other territorial sub-divisions, and such election shall be held under the provisions of the general laws governing city elections, so far as they are not inconsistent with the provisions of this act.

(§ 3235a-8 Ky. St.) **Election by Secret Ballot—Petition to Nominate.**—All elections for members of the board of education shall be by secret ballot. Said ballot shall be on a separate sheet from all other ballots to be used in any election. It shall be the duty of the county clerk of any county, in which a city of the second class is situated, to cause to be printed on said ballot the names of all candidates for membership of the board of education of such city, in whose behalf he may be petitioned so to do in writing, by not less than one hundred legal voters of such city. The petition must be filed in the office of the county clerk not more than sixty and not less than fifteen days before the day of election, and each petition must be signed by the requisite number of qualified persons and shall show the place of residence of each person signing it, and no person shall sign more petitions than the number of offices to be filled. If the nomination is to fill a vacancy, the petition shall so state. When the same person shall be nominated for a full term and to fill a vacancy, he shall be accepted as a candidate for the full term.

Said ballot shall be in the form prescribed for ballots by the general election law of the State, except that no party emblem or other emblem or distinguishing mark shall be placed upon said ballot, save the words "SCHOOL TICKET" at the head thereof; and that the names of all candidates for membership in the board of education shall be printed on said ballot in a single column. The names shall be printed on the first fifty ballots as arranged in alphabetical list. On each of the succeeding fifty ballots the names shall be printed in the same order, save that the last name on

the preceding fifty ballots shall be shifted to the first place; and so on thereafter throughout, a like change being made in the printed order of names for every fifty ballots and such ballots shall be so bound that in the book of ballots for each voting precinct each candidate's name will appear first on approximately the same number of ballots as that of every other candidate. As many additional lines shall be left blank as there are members to be elected.

The provisions of the general election law of the State of Kentucky as to the duties of county clerks and other public officers in the matter of printing and distributing ballots, of issuing them to voters, of receiving and depositing them in ballot boxes and of counting and preserving them, and in other particulars except as otherwise provided herein, shall be applicable in all respects to the election of members of the board of education: Provided, That it shall be the duty of the sheriff of each county in which a city of the second class is situated, to provide for each precinct in said city a separate box for the reception of the ballots used in the election of members of the board of education. And provided, further, that it shall be the duty of the judge of election of the opposite political faith to the clerk of election in each precinct to issue the school ballots in the same manner as other ballots are issued by the clerk of election, by writing the name and residence of the voter upon the primary stub, and his registered number upon the secondary stub of the school ballot, and by observing, as to these ballots, such other regulations for the issue and deposit of ballots as may be prescribed for elections generally. It shall be unlawful for an election officer or other person within the election booth to tell or to indicate by word of mouth or otherwise to a voter what may be the political affiliations of any candidate, and a violation of this provision shall be a misdemeanor punishable by a fine not exceeding two hundred dollars. And provided, further, that upon the filing with the county judge of the county wherein a city of the second class is situated of a petition signed by a number of legal voters equal to twenty per cent or more of the total number of votes cast in said city at the last preceding election at which

presidential electors were voted for, requesting that the election of members of the board of education in said city be held on a day other than the day for holding the general election therein, said county judge shall make an order designating some day for the election of members of the board of education in said city, which day shall be not less than ninety nor more than one hundred and twenty days after the date whereon said orders shall have been entered. Whenever such order shall have been entered by said court, the day so designated by him shall thereafter continue, unless changed by order of the court as herein provided, to be the day for the holding elections for members of the board of education, and all the provisions of this act and of the general law regulating elections in this Commonwealth, when not otherwise inconsistent, shall apply to and govern said elections, except that it shall be the duty of the clerk of said election to issue said ballots in said separate elections in the same manner as other ballots are issued by him in general elections. Said petition to be filed with the county court, as aforesaid, shall be filed not later than the 1st day of September of the regular year or years for holding said elections, beginning with the year 1912, and shall show the place of residence of each person signing it, and the order of the county judge in reference thereto shall be entered within fifteen days after the filing of same. The expense of holding said separate elections, if ordered, as aforesaid, shall be paid for by the city wherein same shall be held out of its general funds.

(§ 3235a-9 Ky. St.) **Number of Candidates to be Voted for.**—Each voter may vote for as many of said candidates as there are members to be elected, by making a cross in the square opposite the name of each candidate for whom he wishes to vote. The candidates, in number equal to the number to be chosen, who have the highest number of votes, shall be declared elected. If at any election a member is to be chosen to fill a vacancy and to serve out an unexpired term, candidates may be chosen as above provided, but they shall, in all cases, be designated on the ballot as candidates to fill a vacancy, and the date of the unexpired term shall be stated.

(§ 3235a-10 Ky. St.) **Time of Election.**—At the election occurring in the month of November, 1912, or on such date as may be fixed in 1912 by order of the county court according to the provisions of section 485 of this law, five members of the board of education shall be elected as herein provided. After having qualified by taking the oath prescribed by law, they shall assume office on the first Monday in January, 1913, and shall meet at the office of the present board of education of said city on said day and shall proceed to organize by electing one of their number president, and another vice-president. Within one week after the organization of said board, it shall meet to divide its members by lot in such manner as they shall determine into two classes, as follows: The first class consisting of two members shall hold office through the 31st day of December, 1914; the second class, consisting of three members, shall hold office through the 31st day of December, 1916. At the election of 1914, and at each regular election held in each even numbered year thereafter, members shall be elected as hereinbefore provided to take the place of those whose terms will next expire, and the members so chosen shall hold office for four years, or until their successors are elected and qualified. At its first regular meeting after the first day of January in each year following said regular election, said board of education shall organize by electing one of its members president and another vice-president. The board shall hold meetings regularly at least once a month, and shall keep a correct record of its proceedings in a book provided for that purpose, which shall be a public record open to inspection by any officer or citizen of the city.

Section 109. (§ 3235a-11 Ky. St.) **Members—Failure to Attend Meetings of Board.**—Any member failing to attend the meetings of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated his seat.

(§ 3235a-12 Ky. St.) **Vacancy—How Filled.**—Any vacancy in said board, from whatever cause occurring, shall be temporarily filled by the other members of the board as soon as practicable after such vacancy occurs. The member so

chosen shall hold office until his successor is elected and qualified subject to the provisions of section 152 of the Constitution of Kentucky.

(§ 3235a-13 Ky. St.) **Old Board to Surrender Office.**—

When members of the board of education shall have been elected, shall have qualified, and shall have organized as hereinbefore provided, thereupon it shall become the duty of any then existing corporations, or board of education, or officers of the school districts of such city to surrender their offices, and to deliver to said board of education, or to its officers, agents or employees, all the public school property, both real and personal, of every kind whatsoever, and the control and management of the public school affairs of such city. Provided, that until such board of education shall be organized, the administration of the public schools and the management of school property in such city shall remain in the control of any such existing corporation, board of education or officers of the school district, in the same manner and with the same power as existed prior to the passage of this act; and the board of education elected under this act shall continue, subject to removal for cause, the employment and service of any existing officers, teachers, agents or other employees, in their several capacities in connection with the administration of school affairs, until the close of the term for which they have been elected; and said board of education may thereafter retain without examination, or remove any agents, teachers, janitors, engineers, or other employees then rendering service in connection with the public schools of said city for cause to be stated in writing.

All rules and by-laws made by any existing corporation, board of education or officers of the school district, at such time vested in such city with the management of the public schools shall continue in force, so far as consistent with this act, until repealed or altered by such board of education.

(§ 3235a-14 Ky. St.) **Rules and By-Laws May be Adopted.**—It shall be the duty of said board of education, within sixty days after its organization, to adopt rules and by-laws for its meetings and proceedings, and for the government,

regulation and management of the schools and school property, and for the examination, qualification and employment of teachers. And such rules or by-laws may be changed, altered or set aside, only upon an affirmative vote of four (4) members of the board.

(§ 3235a-15 Ky. St.) **Superintendent—Power to Appoint—Qualifications.**—The board of education shall appoint a superintendent of schools, whose term of office shall begin on July 1st, following his appointment and who shall serve for a term of two years, but whenever a superintendent who shall have served two years after the appointment which is to be made under this law shall be appointed to succeed himself, his reappointment shall be for a term of four years. He may be removed by three (3) members of the board for cause, or at and time by (4) members of the board and the vacancy thus created shall be filled by the board only until the first day of July following, when the temporary incumbent or some other person shall be appointed for a first term of two years as hereinbefore provided. The board of education may, on the nomination of the superintendent of schools, appoint as many assistant superintendents as it may deem necessary, whose compensation shall be fixed by the board, and who may be removed for cause by the superintendent with the approval of the board.

The superintendent of schools shall qualify by taking the oath prescribed by law, and shall have general supervision, subject to the control of the board, of the course of instruction, discipline and conduct of the schools, text books and studies; and all appointments, promotions and transfers of teachers and truant officers, and introduction and changes of text books and apparatus, shall be made only upon the recommendation of the superintendent and the approval of the board. The superintendent shall have power to suspend any teacher or truant officer for cause deemed by him sufficient, and the board of education shall take such action upon the restoration or removal of such person as it may deem proper. All appointments and promotions of teachers shall be made upon the basis of merit, to be ascertained as far as practicable,

in cases of appointment, by examination, and in cases of promotion, by length and character of service. Examination for appointment shall be conducted by the superintendent in accordance with the State law for the certification of teachers and under such other regulations as may be made by the board. The superintendent of schools shall devote himself exclusively to the duties of his office, and shall have power to appoint clerks, whose number and salary shall be fixed by the board, and shall have power to remove the same; shall exercise a general supervision over the schools of the city, examine their conditions and progress, and shall keep himself informed of the progress of education in other cities. He shall advise himself of the need of extension of the school system of the city, shall make report from time to time as may be fixed by the rules or directed by the board and shall be responsible to the board for the condition of the instruction and discipline of the schools. The term "teachers" as used therein shall include supervisors, supervising principals and principals.

Section 110. (§ 3235a-16 Ky. St.) **Business Director—Powers and Duties.**—The board of education may appoint a business director whose term of office shall begin on July 1st following his appointment, and who shall serve for a term of one year; but whenever a business director who shall have served for one year after the appointment which is to be made under this law, shall be re-appointed to succeed himself, his re-appointment shall be for a term of four years. He may be removed for cause by a vote of three members of the board, or at any time by a vote of four members of the board. His compensation shall not be changed during the term for which he is elected. The business director shall qualify by taking the prescribed oath, and shall be the executive officer of the board. He shall execute for the board of education, in the name of the board, its contracts and obligations, except that bonds issued shall be signed by the president of the board and attested by the business director; he shall see that all contracts made by or with said board are fully and faithfully performed; he shall have the care and custody of all property of the board of education, real and personal, except moneys; he shall

oversee the construction of buildings in process of erection and repairs of buildings owned or controlled by the board; shall advertise for bids, and shall purchase all supplies and equipments authorized by the board; and generally, shall execute and carry into effect all matters and things, authority for which shall have been granted by the board, as herein provided.

(§ 3235a-17 Ky. St.) **Business Director—Salary—Bond.**—The business director shall devote his entire time to the duties of his office, and shall receive an annual salary to be fixed by the board and payable monthly out of the school fund of the city. Before entering upon the discharge of the duties of his office he shall give a bond for the faithful performance thereof in a sum to be fixed by the board, with a bonding company as surety, to be approved by the board, which bond shall be paid for by the board and deposited with the treasurer within ten days from date of election, to be preserved by him.

(§ 3235a-18 Ky. St.) **Employees—To be Employed by Business Director.**—Subject to the approval of the board of education as to the number and salaries, the business director shall have power to appoint such engineers, janitors and other employees and agents, as may be necessary for the proper performance of the duties of his department, for whom he shall be responsible, and whom he shall have power to remove. He shall appoint such assistants and deputies as may be authorized by the board of education, whose compensation shall be fixed by the board. Such assistants and deputies shall be subject to removal by the business director, who shall be responsible for the proper performance of their duties. He shall perform such other duties as may be required of him by the board.

Section 110a. (§ 3235a-19 Ky. St.) **Contracts for Buildings—Bids to be Received.**—All contracts for the erection of school buildings and additions thereto shall be made by said board of education, after public letting, to the lowest and best responsible bidder complying with the terms of the letting, but it may reject all bids. The necessary specifications and drawings shall be prepared for all such work, and bids there-

for shall be solicited by such advertisement as the board of education may provide. All work of repairs, alterations and construction, other than said original erections and additions, in and upon school buildings and the grounds adjacent thereto, shall be done directly by the business director, subject to the approval and control of the board, and whenever directed to do so by said board, he shall solicit bids and prepare or secure drawings and specifications therefor.

No bids shall be entertained by the business director which are not made in accordance with the specifications furnished by him, and all contracts shall be let to the lowest and best responsible bidder complying with the terms of the letting: Provided, however, that the said business director shall have the right to reject any and all bids.

(§ 3235a-20 Ky. St.) **Supplies—Contract to be Awarded Lowest Bidder.**—The board of education shall, at or prior to the beginning of each fiscal year, cause advertisements to be made under such regulations as it may provide, for proposals for furnishing the supplies, required in the schools and by the board for the ensuing year; and every contract therefor shall be awarded to the lowest and best responsible bidder complying with the terms of the letting: Provided, however, that said board shall have the right to reject any and all bids. If other supplies are required during the year they shall be furnished under contract awarded in like manner; but the board may authorize the purchase of supplies not exceeding fifty dollars in amount without letting a contract. The board shall make distribution of supplies through such agencies and in such manner as it deems proper, and the board may contract for text books or school apparatus for such term of years as it deems proper, provided this term does not exceed four years.

Section 111. (§ 3235a-21 Ky. St.) **Business Director to Act as Secretary—Custodian of Funds.**—The business director shall also act as secretary of the board, and as such, he shall, subject to the control of the board, inspect regularly the fiscal affairs of the public schools of the city, and shall have charge of the collection and payment of funds to the bank and trust

company selected as the treasurer of the board, and the disbursement of all revenues and moneys belonging to the board. He shall have supervision under the direction of the board, of any permanent school fund of the city, and the investment thereof, and all invested property of the board. He shall record the proceedings of the board in such manner as may be directed by the board and shall deposit daily in the designated depository of the board all money collected or received by him for the board. He shall furnish, at the beginning of each month, a statement of receipts and disbursements of the preceding month; and at the end of the fiscal year he shall make to the board a full and comprehensive report of its financial affairs for the preceding year. He shall be the custodian of all securities, documents, title papers, books of record and other papers belonging to the board, under such conditions as the board may direct. It shall be his duty to see that no liability is incurred or expenditure made without due authority of law, and that appropriations are not overdrawn, and that all expenditures are charged to the appropriations from which they should come.

(§ 3235a-22 Ky. St.) The board may, if it prefer, contract with the city within which it operates, to act as its treasurer for such time not exceeding four years and upon such terms as said board and the governing authorities of said city may agree.

If the board of education desires a bank or trust company to act as its treasurer, it may by resolution fix the term, which shall be not less than one nor longer than four years, for which it shall so act, and may then advertise for bids from the banks and trust companies for the best terms upon which they will act as treasurer, and receive and safely keep the deposits of the board. The bids shall specify the rate of interest, if any, to be allowed the board upon its deposits and the terms, if any, upon which same will be allowed, and the rate of interest, if any, to be charged for loans, and the terms upon which same will be made, and the nature of the security offered by the bidder on its bond.

That bids shall be accepted from which the board will realize the most money, considering the interest to be allowed on deposits and to be paid on loans, if the bid is otherwise satisfactory, and the board shall have power to reject any and all bids.

The board shall then enter into a contract and bond with the successful bidder to act as treasurer for the term so fixed, the amount of said bond to be fixed and the surety approved by the board.

In letting and contracting for its treasurership, it may do so jointly with the city within which it operates, or separately, as it prefers.

All moneys due the board shall be paid to the business director and by him deposited daily with the treasurer so designated.

(§ 3235a-23 Ky. St.) **Funds—How Expended.**—The funds of the board deposited in bank shall be withdrawn only on the order of the board evidenced by the check of its business director, countersigned by the president of the board, or, in his absence or disability, by the vice-president.

Section 112. (§ 3235a-24 Ky. St.) **Apportionment of Revenues.**—It shall be the duty of such board of education, at the beginning of each fiscal year, to apportion the revenue available for that year to the different departments (including the current expense funds, the insurance or restoration fund and the site and building fund), for expenditure in support of the schools for that year and no report or resolution shall be adopted by the board calling for the expenditure of money unless it states specifically the fund from which the appropriation is to be made, and is accompanied by the certificate of the business director that there is a balance in such fund available for such expenditure. If in any of the current expense funds (not including special funds such as sinking funds, trust funds, insurance or restoration funds, and site and building funds, and those realized from the sale of bonds), there remain at the end of any fiscal year a surplus apportioned, but not used or needed for the purpose for which it may have been set apart, the same may be carried

into and set apart as a portion of the permanent "Site and Building" fund and accumulated and used solely for the purchase of sites or the erection, remodeling, rebuilding or improvement of school buildings, or put into and set apart as a portion of the insurance or restoration fund to be used solely in restoring or replacing buildings and equipment injured or destroyed by fire or casualty.

(§ 3235a-25 Ky. St.) **Power to Borrow Money.**—The board of education shall have the power to borrow money on the credit of the board in anticipation of the revenue from school taxes for the fiscal half year in which the same is borrowed and pledge said school taxes for the payment of the principal and interest of said loan: Provided, That the interest paid shall in no case exceed six per cent. per annum and the principal shall in no case exceed fifty per cent. of the anticipated revenue for the fiscal half year in which the same is borrowed.

Section 113. (§ 3235a-26 Ky. St.) **Board to Estimate Annual Expenses and to Impose and Levy a Tax—Sinking Fund—Certified to City Legislative Department and Included in Tax Bills—Collection of—City Treasurer to Pay Over School Taxes—Bonded Indebtedness.**—Said board of education shall annually, in the month of January, approximately ascertain the amount of money, which will be necessary to be used to defray the expenses of maintaining the schools, including sinking fund, repairs and improvements of buildings and liquidation of liabilities falling due during the current fiscal year, and shall enter the same at large together with the estimated approximate amount to be received from the common school fund of the State of Kentucky for the year upon the minute book of the board, and power and authority is hereby conferred upon such board of education to impose and levy ad valorem taxes upon all real and personal property in such city subject to and assessed for taxation for city purposes, not exceeding a rate of 75c upon each \$100.00 of taxable property, and shall also levy a sufficient amount to provide for sinking fund purposes for the fiscal year, and the taxes accruing from so much of said levy as is made for sinking fund

purposes shall be by said board of education at once irrevocably set aside for that purpose and not otherwise, and said sinking fund as above provided for shall include the sinking fund for the entire outstanding indebtedness of said board whether created before or after 1912. Not later than the month of March annually, the board of education shall adopt a resolution imposing and levying an ad valorem tax upon all the real and personal property subject to taxation and assessed by said city for general purposes at such rate not exceeding 75c on the \$100.00 valuation of said property, as shall, in the opinion of said board, be necessary to produce in that year the total estimated sum necessary to be raised to support and maintain the public schools of the city, less the estimated sum to be received from the State Common School Fund, and shall also levy a tax for sinking fund purposes, and said resolution shall be forthwith certified under the seal of said board of education to the general council or board of commissioners to said city, and said levy at the rate so fixed and certified shall be by said general council or board of commissioners added to and included in the regular tax bills of the city, containing the ordinary levy, and shall be collected with the same, by the same officers and in the same manner and at the same time, as the ordinary taxes for said city are collected by the collecting officers of the city, and all powers and duties conferred upon and required of officers in collecting the ordinary city taxes are hereby conferred upon and required of them in collecting the taxes levied by the board of education, and such collecting officer or officers, and his or their securities, shall be severally liable under their official bonds for any failure in the performance of their duties on which bond or bonds suit or suits may be brought for the use of said board and recovery had for such amount or amounts as shall be found due from such officer or officers. As and when said taxes are collected the city treasurer, or other collecting officer, of said city, shall promptly pay the same to the treasurer of the board of education taking the receipts of said treasurer for the sum so paid, which shall be the full acquittance of said treasurer therefor, and said board of educa-

tion shall, under its seal certify to the general council or board of commissioners, the name and location of its treasurer and of any change in said name or location: Provided, however, that the limitation hereinbefore prescribed of the tax that may be levied for school purposes shall not apply where a bonded indebtedness has been incurred for public school purposes, and when such an indebtedness has been incurred that there may be levied in addition to the tax hereinbefore authorized, an annual ad valorem tax sufficient to pay the interest on said indebtedness and also to constitute a sinking fund for the payment of the principal thereof.

The provisions hereof shall apply to any bonded indebtedness whether heretofore or hereafter created.

(§ 3235a-27 Ky. St.) **Treasurer to Collect Taxes and Pay Over to Board.**—Repealed March, 1918, C. 167, p. 673. See new section 3235a-26.

(§ 3235a-28 Ky. St.) **Power to Purchase Site—Issue of Bonds to be Submitted to the People—Provisions Concerning Bonds.**—Whenever the board of education shall deem it necessary for the proper accommodation of the schools of such city to acquire or enlarge sites for school buildings, to erect, improve, remodel, rebuild or restore buildings for high schools or for any other school purpose, or for any or all these purposes, and the annual funds raised from other sources are not sufficient to accomplish said purpose or purposes, said board shall make a careful estimate of the probable amount of money required for such purpose or purposes and it shall certify to the General Council or Board of Commissioners of said city the fact that an election for an issue of bonds for school improvement shall be held, together with the amount of money for which bonds shall be issued and the purpose or purposes to which the proceeds thereof shall be applied. It shall thereupon be the duty of the General Council or Board of Commissioners to adopt an ordinance submitting to the qualified

Section 3235a-26. While the commissioners must, under this section levy a sufficient tax to produce the amount requested by the board of education, such board may be required to include in its estimate revenues from other sources. Board of Education of Newport v. City of Newport, 171 Ky. 234, 188 S. W. 360.

voters of the city at the next regular election the question whether bonds of the city shall be issued for the purpose or purposes aforesaid. The bonds so issued shall be designated as "School Improvement Bonds," and the ordinance shall fix the time the bonds shall run, and if a serial issue, then the amount to mature at each time, and limit the rate of interest which will be permitted on said bonds, and the total amount of bonds to be issued, and provide for the levy of a tax to pay the interest and to either redeem the bonds as they mature, or provide for the accumulation of a sinking fund to retire them at their maturity.

No submission of the question of issuing bonds hereunder shall be had prior to the regular election in November, 1913, and the total outstanding issue of bonds for school purposes, including bonds already issued, shall never exceed two (2) per centum of the value of the taxable property of the city to be estimated by the assessment next before the last assessment previous to the incurring of the indebtedness. The question to be submitted shall be so framed that the voter may by his vote answer FOR or AGAINST.

If the voters of the city shall determine by a two-thirds majority of those voting that such bonds shall be issued, they shall, when so issued, be placed under the control of the board of education, who shall determine when and at what price and how they shall be sold, and the date, number of bonds, denomination, whether coupon or registered, the rate of interest and frequency of payment thereof, place of payment of principal and interest and other details it desires embodied in the bonds or in the ordinance providing for their issue and shall certify same to the governing body of said city, who shall at once adopt an ordinance in conformity therewith and cause the bonds to at once be properly prepared and executed and turned over to the board of education for sale and delivery. Provided, That no such bonds shall be sold for less than par; and provided, further, That any premium which may be obtained from said bonds shall constitute a part of the sinking fund for their ultimate retirement. As the bonds are sold their proceeds shall be placed to the credit of the board in the same

depository which is selected for its other funds, but shall be kept in a separate account and shall be used only for the purposes for which the bonds were issued.

It shall be the duty of the General Council or of the Board of Commissioners, in addition to the levy made for the maintenance of the schools as hereinbefore provided, to levy annually in its tax levy a rate that will raise a sum that shall be sufficient to pay the interest and create a sinking fund for the payment of the bonds at maturity. The said bonds, principal and interest shall be a charge upon the sinking fund of said city, and it shall be entitled to have the annual tax that shall be levied as aforesaid.

Section 114. (§ 3235a-29 Ky. St.) **Funds for Maintenance of Schools.**—For the maintenance of the schools there shall be appropriated the sum or sums which may be received from year to year as the city's portion of the school fund of this Commonwealth.

(§ 3235a-30 Ky. St.) **Escheated Lands.**—So much property in the city, as, from any cause shall escheat to the Commonwealth of Kentucky, shall vest in the board for the use and benefit of the public schools of the city. Said board may, in the name of the Commonwealth, for the use and benefit of the said schools, by its president or other officer to or designated by it, enter upon and take possession of said property, or sue for and recover the same by action at law or in equity, and without office found. The board may sell and convey any of such property by warranty deed or otherwise.

(§ 3235a-31 Ky. St.) **Duty of Officer as to Collection of Taxes.**—All officers of any city of the second class, and of the State, concerned with the assessment and collection of taxes, fines and penalties, shall perform such duties in relation to the levying and collection of school taxes and the collection of such fines and penalties, and the payment thereof to said board for school purposes, as are now imposed by the existing laws upon such officers in relation to the levy and collection of school taxes and the collection of fines and penalties payable to the school funds; and nothing in this act, unless inconsistent therewith, shall be construed as repealing any existing law

providing for the assessment and collection of school taxes in such city; and all powers and duties conferred by existing laws upon any board in relation thereto shall be continued in the board created by this act.

(§ 3235a-32 Ky. St.) **Expert Accountant to be Employed.**

—At the close of each fiscal year of said board, the Board of Commissioners or the General Council of such city shall appoint one or more expert accountants, who shall examine the books, accounts and vouchers of the business director and secretary, the treasurer and all other departments of expenditures of the board, and shall make due report thereof to the Mayor and board of education of such city. All the officers and employees of the board shall produce and submit to such accountants for examination all books, papers, documents, vouchers and accounts in their office belonging to the same or thereto pertaining, and shall in every way assist said accountants in their work. In the report to be made by said accountants they may make any recommendation they deem proper as to the business methods of such officers and employees. A reasonable compensation for such services shall be paid by the board.

Section 115. (§ 3235a-33 Ky. St.) **Kindergarten—Power to Establish.**—The board of education shall have power to establish and maintain kindergartens for children from four to six years of age, high schools, night schools for all residents of the city, and normal training classes for the purpose of training teachers to fill positions in the schools of the city, and to this end it may prescribe rules and regulations for government of such schools and employ the principals and other teachers necessary for their efficient management.

(§ 3235a-34 Ky. St.) **Schools for Colored Children.**—The board of education shall provide, maintain and support separate schools wherein all colored children, who are bona fide residents of said city, between the ages of six and eighteen years, may be taught in like manner as herein provided for white children. Said colored schools shall be entitled to the same benefits, be governed by the same rules and regulations, and be subject to the same restrictions as the schools herein

provided for the white children. Provided any colored person over eighteen years of age shall have right to attend and receive instruction in such colored school.

(§ 3235a-35 Ky. St.) **Examination of Teachers.**—The board shall prescribe the necessary qualifications and mode of examination for applicants for admission to the various schools.

The said board shall have authority to make rules and regulations under which the superintendent may furnish text books and other school supplies to children who are not otherwise able to obtain them.

(§ 3235a-36 Ky. St.) **Religious Dogmas.**—No catechism or other formula of religious belief shall be taught or inculcated, nor shall any class-book be used which reflects on any religious denomination.

(§ 3235a-37 Ky. St.) **Pupils—Who May Attend.**—The board shall have the power to admit to any schools pupils from beyond the city limits and to collect for these pupils tuition fees for the benefit of the school fund of the city. Children or persons residing outside of the city limits shall not be admitted as pupils into any of the public schools, except upon payment of such tuition as the board may require as aforesaid.

Section 116. (§ 2335a-38 Ky. St.) **Reports to be Made.**—A city of the second class being deemed one school district for taxation purposes and entitled to its proportion of the public school fund of the Commonwealth, the Board of Education of such city shall make detailed reports annually and special reports as required to the State Superintendent of Public Instruction. The board shall also in the year 1913, and every third year thereafter, cause to be taken the census of children of school age and make returns thereof to the Superintendent of Public Instruction, and at the same time other school officers are required to make returns; and for neglect of duty the members of the board shall be liable to the same penalties. This census shall be taken under regulations approved by the State Board of Education.

For the years in which no census is required to be taken, the Superintendent of Public Instruction shall determine the amount per capita to be paid over to the Board of Education of such cities, by adding annually to the number of children of school age as shown by the next preceding census actually taken, such increase or addition as he may ascertain to be the annual increase of children of school age in the district upon averaging the yearly increase shown by the three actual enumerations next preceding: Provided, however, that the Board of Education of any such city or the Superintendent of Public Instruction may elect to take an actual census in any of such years, in which case the return of such census shall govern.

(§ 3235a-39 Ky. St.) **Report to be Published.**—The Board of Education shall, at the end of each scholastic year, prepare and publish, for the information of the public, a report which shall include the annual reports made to the board by the superintendent, business director and secretary and the treasurer, together with such other information as may be proper and necessary to an understanding of the general condition and educational progress of the schools during the preceding year.

(§ 3235a-40 Ky. St.) **Violations—Penalties.**—Any member, officer, or employee of such board who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine of not more than five hundred dollars or imprisonment not exceeding one year, or by both fine and imprisonment, in the discretion of the jury.

(§ 3235a-41 Ky. St.) **Testimony to be Under Oath.**—All testimony taken upon any investigation made by the board or in any proceedings before the board for the removal of any officer or employee of the board, or in any investigation made by any committee of the board, shall be under oath, which oath may be administered by the secretary or any officer authorized to administer oaths.

Said board, or any duly constituted committee thereof, shall have the power in any investigation or proceedings before it concerning a matter which may be a proper subject of

inquiry by it, to summon witnesses by subpoena and to enforce the compulsory attendance of said witnesses. Should any person so summoned refuse to attend or to produce a paper to be used as evidence in said investigation, or proceedings, or, being present, refuse to testify concerning any matter which may be a proper subject of inquiry, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not less than ten and not more than fifty dollars.

(§ 3235a-42 Ky. St.) **Repealing Clause.**—The general school laws of this State and all laws and parts of laws applicable to the general system of public schools in a city of the second class and not inconsistent herewith, shall be in full force and effect in such city.

Section 117. (§ 3235e-1 Ky. St.) **Persons to Have Charge of Annuity Fund—Treasurer—Members of the Board—How Chosen.**—The general care and management of the insurance and annuity fund of the public school teachers of the cities of the second class shall be vested in the treasurer of the Board of Education, or, if a bank be the treasurer, in the president thereof, the Superintendent of the Public Schools, the president of the Board of Education, and four members of the teaching staff, the last named to be chosen by ballot at a meeting of the teachers called by the Superintendent of Public Schools on the second Saturday of May in each year. At this meeting any vacancy in the membership of the Board of Insurance and Annuity to be filled from among the teachers, shall be filled by ballot. The length of service of the four members, from among the teachers chosen at the first election, shall be determined by lot; one member shall serve for four years, one member shall serve for three years, one member shall serve for two years, and the remaining member shall serve for one year, and thereafter one member shall be elected each year. Said board shall establish, from time to time, such rules and regulations for administration of said fund as it may deem best, and said board shall make payments from the said fund of annuities granted in pursuance of this act. The members of this board, with the exception of the treasurer, shall serve without remuneration.

The treasurer of the board of education of the city of the second class shall receive and hold all moneys belonging to said funds, and may invest the same, by direction of said board of insurance and annuity, in national, state, county or municipal bonds, or bonds accompanied by first mortgages on improved real estate, or in such investments as are deemed legal for insurance companies in the State of Kentucky, to an extent not to exceed fifty per cent. of the value thereof. Said treasurer shall make payments from said fund only when directed by said board of insurance and annuity. Said treasurer shall report in detail to said board of insurance and annuity, annually, on the second Saturday of May, or oftener if required by said board, the condition of said fund and the items of the receipts and disbursements of the same. Said treasurer shall give bond for the faithful performance of his duties in an amount, and in such manner as prescribed by the board of insurance and annuity, and the cost of such bond shall be defrayed from the funds of the board of insurance and annuity. From said funds shall also be paid to the treasurer, annually, an amount decided upon by the board of insurance and annuity, as remuneration for his services.

(§ 3235e-2 Ky. St.) **Sources of Fund—Beneficiaries.**—

The insurance and annuity fund shall consist of the following, with interest, income, and profits thereof:

1. The sum of one thousand (\$1,000) dollars or more yearly may be provided by the board of education of a city of the second class, out of the funds coming to its hands for maintenance of schools.

2. A fund may be provided by the Board of City Commissioners which shall be raised by a yearly levy of one cent on every hundred dollars' worth of taxable property in said city.

3. After the board of education of a city of the second class has provided for the payment of \$1,000 yearly or more, and the Board of Commissioners of said city of the second class has levied a tax of one cent on every hundred dollars' worth of taxable property of such city for the maintenance of an insurance and annuity fund for the teachers in the public

schools of said city; then, one per centum of the salaries of all teachers of the public schools of such city who have been engaged in teaching in said public school for ten years or under, and two per centum of the salaries of all teachers who have been engaged in teaching more than ten years, shall be withheld and added to the fund, provided that no payment shall exceed forty (\$40) dollars per annum. The treasurer of the board of education of such city shall deduct, monthly, from the salary of every teacher the amount provided for in said schedule, which amount shall be turned monthly into said insurance and annuity fund.

After the passage and adoption of this act, each contract made with teachers by the board of education of such city shall specify that the sums in this paragraph provided shall be deducted from each and every teacher's salary. Any teacher who shall retire, or who shall be retired from service as teacher, and who shall not be in receipt of or entitled to an annuity under this act, shall have refunded to him or her three-fourths of the amount, without interest, which he or she has contributed to the insurance and annuity fund. If such teacher shall again teach in public schools and shall, within a time specified by the board of insurance and annuity, repay to said fund the amount so returned to such teacher, together with simple interest on said amount (not to exceed four per centum per annum), such teacher shall, upon returning to regular school work, receive credit for past years of service. In the event of the death of any teacher entitled to the provisions of this act, before such teacher has been retired upon an annuity, then, and in that case the heirs or legatees of such deceased teacher shall be entitled to a sum out of said fund equal to three-fourths of the sum, without interest, paid by such teacher into said fund.

4. Moneys received from donations, legacies, bequests, gifts, devises, or otherwise may be used to augment this fund, and the amount or amounts so received, together with ten per centum of all other receipts, shall constitute a sinking fund, and such sinking fund shall be and remain a permanent fund, and no part thereof shall be expended except the interest and

income thereof and therefrom, provided that one-half of the amount added to such sinking fund may be used during the year immediately following its addition, if its use be deemed necessary by the board of insurance and annuity.

5. All such other increment as may be duly and legally devised for the increase of said fund.

Section 118. (§ 3235e-3 Ky. St.) **Medical Examiners—Conditions of Retirement.**—The board of insurance and annuity shall annually appoint three surgeons or physicians of at least ten years' active practice, who shall be known as the board of medical examiners, who shall serve without pay, and who shall, upon request of the board of education or the board of insurance and annuity, make examinations and report their findings in writing to the board making such request.

2. On recommendation of a majority vote of said board of education, said board of insurance and annuity shall place on the disability list any teacher of the public schools of such city who has been engaged in the work of teaching for a period aggregating fifteen years in the public schools of the State of Kentucky, the last ten years of which shall have been in the public schools of the city granting the annuity, and who is found by said board of medical examiners to be mentally and physically incapacitated for the further performance of duty as a teacher.

3. Any teacher of the public schools of such city who has been engaged in teaching in the public schools of the State of Kentucky for a period aggregating fifteen years, the last ten of which shall have been in the public schools of the city granting the annuity, shall have the right to apply to the board of insurance and annuity to be placed on the disability list, on the ground that he or she is physically and mentally incapacitated for further performance of duty as a teacher. Any applicant for retirement on said ground of disability shall submit to a proper examination by said board of medical examiners before his or her application shall be considered.

4. Nothing in this act shall be construed as prohibiting the board of insurance and annuity, by a majority vote, from recommending to the board of education that the disability of

a teacher retired under this section shall be ended. Said board of education may, on the recommendation of said board of insurance and annuity, declare ended the disability of a teacher retired under the terms of this section, and, upon its delivery to said teacher of a contract of re-appointment to a position as teacher, the payment of the annuity of such teacher under this disability clause shall be discontinued. In no case, however, shall disability provided in this section be declared ended or finished until an examination of such teacher has been made by said board of medical examiners.

5. The provisions of this section shall not apply to ordinary cases of temporary disability.

6. Upon retirement under the disability act, such teacher shall be entitled to receive, during the period of disability, a retirement annuity, payable in monthly installments, which shall be the same fraction of the maximum retirement annuity as said teacher's time of service is of thirty-five years, provided that application for such retirement annuity shall be made not later than two years after the termination of the last month of employment. The payment of said annuity shall date from the time of the granting thereof by said board of insurance annuity.

(§ 3235e-4 Ky. St.) **Amount of Annuity—Manner of Payment.**—Upon the recommendation of the board of education, the board of insurance and annuity shall place on the retired list any teacher who has taught in the public schools for a period aggregating twenty-five years, twenty years of which shall have been in the public schools of the State of Kentucky, and the last fifteen years in the public schools of the city wherein said teacher is employed at the time of retirement.

2. Any teacher of the public schools of such city who has taught for a period aggregating not less than twenty-five years, twenty years of which shall have been in the public schools of the State of Kentucky and the last fifteen years in the public schools of the city granting the annuity, shall have the right, upon application to the board of insurance annuity, to be placed on the retired list.

3. The annuity of any teacher retired under the provisions of this act, after twenty-five years of employment, shall be thirty per centum of his or her average contractual salary for the last five years before retirement, and two per centum of his or her average contractual salary for the last five years before retirement for each and every year of employment in excess of twenty-five years; provided, however, that unless otherwise specified no annuity shall be more than fifty per centum of a teacher's average contractual salary for the past five years before retirement, and provided, further, that no annuities granted under the provisions of this act shall be more than six hundred dollars.

4. No annuities shall be paid, under the provisions of this act, unless the retiring teacher shall have first paid into the insurance and annuity fund such sum or sums as shall make his or her total payments equal to the amount of the annuity paid for the first year; but should such retiring teacher be unable to pay the full amount of said sum before receiving the annuity, the board of insurance and annuity shall, in paying the annuity of such teacher, withhold from each monthly payment twenty per centum thereof until the full amount hereinbefore provided for shall have been contributed to the fund.

5. If said insurance and annuity fund shall, at any time, be found insufficient to carry out the provisions of this act, the amount in said fund shall, during the continuance of such insufficiency, be distributed, pro rata, among the persons entitled thereto, and such distribution shall be in full of all annuities then due.

6. Any teacher may be given a leave of absence for study, professional improvement, or disability, and shall be regarded as a teacher and entitled to the full benefits of this act, provided that the payment of such funds shall be continued during said leave of absence and shall equal the assessment paid by such teacher for the next year preceding the period or periods of absence, respectively.

7. In computing time, under the provisions of this act, such time shall include the period of service rendered both before and after the taking effect of this act. Credit shall be

given for time spent as a regular and salaried substitute teacher.

8. The payment of said annuity shall be suspended whenever the person to whom said annuity has been granted resumes work as a regular salaried teacher in any public school.

9. Unless otherwise determined by each respective board of insurance and annuity in a city of the second class of the State of Kentucky, no annuities shall be paid out of said fund for the first three years after the passage and adoption of this act.

(§ 3235e-5 Ky. St.) **Powers of the Board to Make By-Laws.**—The board of insurance and annuity shall have power to make definite by-laws and regulations for the holding of meetings, the collection and disbursement of money, and the care and preservation of the same, and the proper execution of the provisions and purposes of this act.

(§ 3235e-6 Ky. St.) **Annuity Not Subject to Attachment.**—All annuities granted and payable under the provisions of this act shall be and are exempt from seizure or levy upon attachment, execution, or any other process of law, or in equity, whether mesne or final, and such annuities or any payment of the same shall not be subject to sale, assignment, or transfer by any beneficiary, and such transfer shall be absolutely void.

(§ 3235e-7 Ky. St.) **Teacher Defined.** — The term "teachers" as used in this act shall mean and include any superintendent, assistant superintendent, principal, assistant principal, person in charge of any special department of instruction, and any teacher or instructor regularly employed in the public schools or public kindergartens of the cities of the second class in the State of Kentucky.

(§ 3235e-8 Ky. St.) **Board of Education Defined.**—The term "Board of Education," as used in this act, shall mean the bodies now in control and management of the public schools of all cities of the second class in the State of Kentucky, as now created and constituted, or as they may be constituted hereafter, or any boards or bodies of officials who shall have the control and management of the public schools of such cities.

Chapter XII.—Continued.

MUNICIPAL SCHOOLS—PUBLIC SCHOOLS IN CITIES OF THE THIRD CLASS

- Sec. 119. Board to consist of nine members—election, qualification and term—organization—powers and duties.
- Sec. 119a. Superintendent, principals, teachers and other employees to be appointed by board.
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Section 119. (§ 3462 Ky. St.) **Public School System—School Age—“Board of Education”—Election of—Term—Qualifications—Secret Separate Ballot—Candidates—Provision Concerning Ballots—Casting of—Special Election May be Held—Number of Candidates That May Be Voted For—Election, How Decided—Powers of Board—Meetings—Quorum—Place of Meeting—Records Public.**—That there shall be maintained in cities of the third class a system of public schools at which all the children residing in such city between the ages of six and twenty may be taught at public expense. Said schools shall be under control of a board to be styled “the board of education,” consisting of nine members to be elected from the city at large by the qualified voters thereof at the November election in 1921, five of whom shall hold office for four years and four of whom shall hold office for two years. The board first to be elected hereunder shall, at its first meeting determine by lot, which of its members shall serve for two years and which for four years. At the expiration of their respective terms their successor shall be elected for a term of four years. Said trustees shall possess the same qualifications as are required for councilmen or commissioners of said city.

All elections for members of the board of education shall be by secret ballot. Said ballot shall be on a separate sheet from all other ballots to be used in any election. It shall be the duty of the county clerk of any county in which a city of the third class is located to cause to be printed on said ballot

the names of all candidates for membership of the board of education of said city, in whose behalf he may be petitioned so to do in writing by not less than twenty-five legal voters of said city. The petition must be filed in the office of the county clerk not more than sixty and not less than fifteen days before the day of election and each petition must be signed by the requisite number of qualified persons and shall show the place of residence of each person signing it, and no person shall sign more petitions than the number of offices to be filled. If the nomination is to fill a vacancy, the petition shall so state. When the same person shall be nominated for a full term and to fill a vacancy, he shall be accepted as a candidate for the full term.

Said ballots shall be in the form prescribed for ballots by the general election law of the State, except that no party emblem or other emblem or distinguishing mark shall be placed upon said ballot, save the words "School Ticket," at the head thereof; and that the names of all candidates for membership in the board of education shall be printed in a single column. The names shall be printed upon the first fifty ballots as arranged in alphabetical order. On each of the succeeding fifty ballots the names shall be printed in the same order, save that the last names on the preceding fifty ballots shall be shifted to first place; and so thereafter throughout, a like change being made in the printed order of names for every fifty ballots, and these ballots shall be so bound that in the book of ballots for each voting precinct, each candidate's name will appear first on approximately the same number of ballots as that of every other candidate. As many additional lines shall be left blank as there are members to be elected. The provisions of the general election laws of the State of Kentucky as to the duties of county clerks and other public officers in the matter of printing and distributing ballots, of issuing them to voters, of receiving and depositing them in the ballot boxes, and counting and preserving them, and in other particulars except as otherwise provided herein, shall be applicable in all respects to the election of members of the board of education: Provided, that it shall be the duty of the

sheriff in each county in which a city of the third class is situated, to provide for each precinct in the said city a separate box for the reception of the ballots used in the election of the members of the board of education. And provided, further, that it shall be the duty of the judge of the election of the opposite political faith to the clerk of election in each precinct, to issue the ballots in the same manner as other ballots are issued by the clerk of election, by writing the name and address of the voter upon the primary stub, and his registered number upon the secondary stub of the school ballot, and observing as to these ballots such other regulations for the issue and deposit of ballots, as may be prescribed for elections generally. It shall be unlawful for an election officer or other person within the election booth, to tell or indicate, by word of mouth or otherwise, to a voter what may be the political affiliation of any candidate, and a violation of this provision shall be a misdemeanor punishable by a fine not exceeding two hundred dollars. And, provided, further, that upon the filing with the county judge of the county wherein a city of the third class is situated, of a petition signed by a number of legal voters equal to twenty per cent. or more of the total number of votes cast in said city at the last preceding election, in which presidential electors were voted for, requesting that the election of members of the board of education in said city shall be held on a day other than the day for holding the general election therein, said county judge shall make an order, designating some day for the election of members of the board of education in said city, which day shall not be less than ninety nor more than one hundred and twenty days after the day whereon said order shall have been entered. Whenever such order shall have been entered by said court, the day so designated by him shall thereafter continue, unless changed by order of court as herein provided, to be the day for holding elections for members of the board of education, and all provisions of this act and of the law regulating elections in the Commonwealth, when not otherwise inconsistent, shall apply to and govern such elections, except that it shall be the duty of the

clerk of said elections to issue said ballots in said separate elections in the same manner as other ballots are issued by him in general elections. Said petition to be filed with the county court as aforesaid, shall be filed not later than the first day of September of the regular year or years for holding said election and shall show the place of residence of each person signing it, and the order of the county judge with reference thereto shall be entered within fifteen days after the filing of the same. The expense of holding said separate election, if ordered, shall be paid for by the city wherein same shall be held, out of its general fund.

Each voter may vote for as many of said candidates as there are members to be elected, by making a cross in the square opposite the name of each candidate for whom he wishes to vote. The candidates, in number equal to the number of members to be elected, who have the highest number of votes shall be declared elected. If at any election a member is to be chosen to fill a vacancy and to fill out an unexpired term, candidates may be chosen as above provided, but they shall be designated on the ballot as candidates to fill a vacancy, and the date of the unexpired term shall be stated.

Said board of education shall continue, and it is hereby declared, a body politic and corporate, under the name and style of board of education, with perpetual succession, and by that name may contract and be contracted with, sue and be sued, have and use a corporate seal, the same to renew or alter at pleasure; may purchase, receive, hold, lease, sell and dispose of real and personal estate for public schools of the city, and the property and funds thereunto belonging shall be, and is hereby, vested in said board, subject to the provisions of this law. It shall have power to make by-laws and rules, not in conflict herewith, necessary for the discharge of its duties and the government of its proceedings. It shall meet once in each month, or oftener if necessary, and a majority elect of said board shall constitute a quorum for the transaction of business, and the yeas and nays shall be entered on record. The meetings of said board shall be held in some public place, and a correct record of its proceedings shall be

kept in a book provided for that purpose, which shall be a public record.

(§ 3463 Ky. St.) **Board of Education to Determine Qualifications of Members—Filling Vacancies.**—Said board of education shall determine the qualification of its members. It shall have the power to fill until the next general election all vacancies in said board occasioned by death, removal or other cause. (As re-enacted March 22, 1920, C. 53, p. 224, Sec. 2.)

(§ 3464 Ky. St.) **Property Dedicated to Use of Public Schools.**—All property now used for public school purposes in the city, or which may at any time be owned by the board of education, and all the funds or means that are now or may hereafter come under the control of the same, are hereby forever dedicated to the use of public schools of the city, and the title to all property, real and personal, in the city known and used as public school property, is hereby vested in said corporation.

Section 119a. (§ 3465 Ky. St.) **Appointment of Officers and Teachers—Power to Build and Purchase Site.**—Said board of education shall have power to elect or appoint such officers as may be necessary for its own government, and to require covenant with surety from any or all officers for the faithful discharge of their duties; to make by-laws not in conflict with this charter, the Constitution or laws of this State, for the carrying out of the duties of their office, and for the government of its own officers, schools, teachers, pupils and employees; to determine its own rules of proceedings, and to appoint superintendents, teachers and other officers, and employes, and regulate and fix their terms, duties and compensation, and suspend or remove them or any of them for cause.

Section 3462. School Fund.—When the school board estimated the amount of money it would require and the council levied a tax to pay it the school board was not entitled to any surplus remaining after the expenses of board had been paid. Board of Education v. City, 108 Ky. 209.

The board of education of a city of the third class is independent of the mayor and the council. Board of Education of Bowling Green v. Townsend, Mayor, 140 Ky. 248.

When the board of education of a city of the third class demands of the council that it levy a tax sufficient to meet the board's demands, not exceeding the limit prescribed by law, it is the duty of the council to make the levy unless it be shown that the members of the board acted corruptly or in bad faith or embraced in their expenditures items not authorized by law. Board of Education of Bowling Green v. Townsend, Mayor, 140 Ky. 248.

Said board may purchase, build or rent any ground, building or buildings, necessary or convenient for the public school purposes, and may make contract to that end; and any property so leased, purchased or otherwise occupied, may be reserved by terms, deed or lease to the public schools of the city, and if so reserved, shall not be liable for any debt or debts of the city not incurred for public school purposes. Said board may also receive and hold for public school purposes, any gift or devise. Id.

Section 119a. (§ 3466 Ky. St.) **Sale of School Property for Reinvestment.**—The said board of education shall have the power, two-thirds of the trustees in office concurring therein, to be evidenced upon the call of the yeas and nays, and recorded upon the journal of its proceedings, to sell and convey such of said school property for the purpose of reinvesting all the net proceeds of the same in the purchase of other lots, and building thereon other school buildings. And said board of education shall have no power to divert or apply said fund, or any part of it, to any other purpose whatsoever than for the purchase of grounds and the building thereon school buildings for public school purposes, and if it do so, the same shall be malfeasance in office. Id.

(§ 3466a Ky. St.) **Condemnation of Land for School Purposes.**—That said board shall have power when unable to contract with owners of any real estate necessary to the proper accomplishment of the purpose for which the board is created, to institute condemnation proceedings in accordance with the law governing railroad corporations, operated or incorporated under the existing laws of this Commonwealth, or under laws which may hereafter be enacted; and to have in such proceedings the same rights, powers, privileges and restrictions as are now granted to or conferred upon railroad corporations. (March 22, 1920, C. 53, p. 224, Sec. 6.)

(§ 3467 Ky. St.) **Text Books—Adoption—Issue of Certificates.**—Said board of education shall have the power to select text-books for use in said school, and prescribe the course of study, and it shall also have power to hold examinations, determine the qualifications of its superintendent, prin-

cipals, teachers, and issue certificates to same. It may establish high schools and fix the grade of public schools, and prescribe the rules by which pupils may pass from one grade to another, and from the graded school to the high school. It may also establish and maintain kindergartens and manual training schools in connection with the public schools.

(§ 3468 Ky. St.) **Annual Statements.**—Said board shall at the end of each scholastic year prepare and cause to be published a printed statement showing the number of pupils in each school, with the general condition and educational progress made therein, the amount, character and condition of all funds and other property belonging to said schools, together with such information as may be proper or necessary for the benefit of said schools and the general public.

Section 120. (§ 3469 Ky. St.) **Budget—Tax Levy—Maximum.**—Said board shall, within thirty days prior to the time prescribed for the levy to be made in the charter of cities of the third class, approximately ascertain the amount of money necessary to be used to defray the expenses of maintaining the schools, improving or constructing buildings, etc., thereof, and any liquidation of the liabilities during the current fiscal year, and report the same, together with the estimated amount to be received from the common school fund of the State, interest on bonds, endowments, etc., to the city auditor or clerk, who shall thereupon report the same to the general council, and said general council shall make the necessary levy and collect the tax to provide suitable school buildings, and to defray the general expenses necessary for school purposes: Provided, That the levy for any one year shall not exceed fifty cents on each one hundred dollars of value of taxable property in the city as returned by the board of equalization. Said tax shall be paid to the board or authorized agent of same as fast as collected. (Re-enacted March 22, 1920, C. 53, p. 224, Sec. 9.)

(§ 3469a-1 Ky. St.) **Bond Issue for School Purposes—Popular Election—Use of Proceeds—Tax Levy to Pay.**—

Whenever the board of education shall deem it necessary for the proper accommodation of the schools of such city to purchase a site or sites, to erect, remodel, repair or equip school buildings, or for any or all these purposes, and the annual funds raised from other sources are not sufficient to accomplish said purpose or purposes and a bond issue is necessary, said board is hereby authorized and empowered to order an election and submit to the voters of their city the question whether or not the board of education thereof shall issue bonds to any amount it deems sufficient, subject to the limitations provided by sections 157 and 158, of the constitution of this State, for the purpose of providing suitable grounds and school buildings and equipment; provided, that due notice of said election shall be given by advertising in the newspapers of said city for thirty days immediately preceding the election, stating the time, place and hours of said election. The board shall appoint two judges, a sheriff and a clerk to hold said election in each precinct in the city, who shall be duly sworn before acting, and shall be qualified electors and residents of the city from which they are appointed. On the day set apart for the election, the officers so appointed shall open a poll in each precinct of said city and shall ask each voter duly qualified: "Are you in favor of issuing bonds to the amount of \$..... for the purpose of providing suitable grounds, school buildings and equipment for said city?" And the clerk shall record the answer "Yes" or "No." If two-thirds of the voters voting at said election vote in favor of the issue of the bonds, they shall, when so issued, be placed under the control of the board of education, who shall determine when and at what price and how they shall be sold; provided, that no such bonds shall be sold for less than par; nor shall they bear greater interest than six per cent (6%) per annum. As the bonds are sold their proceeds shall be placed to the credit of the board in the same depository which is selected for its other funds but shall be kept in a separate account and shall be used only for the purpose or purposes for which said bonds were issued. The bonds so issued shall be designated "School improvement bonds," and the order shall provide

the date and maturity of such bonds, the rate of interest they shall bear, and the total amount to be issued; and the order shall also contain the necessary details in reference to the execution and delivery of said bonds, their denomination, the coupons to be annexed, a tax to pay the interest, and a sinking fund to retire said bonds at maturity.

It shall be the duty of the general council or the board of commissioners, in addition to the levy made for the maintenance of the schools as hereinbefore provided, to levy annually its city tax levy a rate that will raise a sum that will be sufficient to pay the interest and create a sinking fund for the payment of the bonds at maturity. And the said taxes as collected shall be paid to the board of education or to its authorized agent, which shall create a sinking fund to take care of said bonds and pay the interest thereon. (March 22, 1920, C. 53, p. 224.)

(§ 3469a-2 Ky. St.) **Loans Upon Anticipated Revenue.**—The board of education shall have power to borrow money on the credit of the board in anticipation of the revenue from school taxes for the fiscal half year in which the same is borrowed and pledge said school taxes for the payment of principal and interest of said loan; provided, that interest paid shall in no case exceed six (6%) per cent. and the principal shall in no case exceed fifty per cent (50%) of the anticipated revenues for the fiscal one-half year in which same is borrowed. (Id. Sec. 11.)

Section 120a-3. (§ 3469a-3 Ky. St.) **Tax Levy Not Exceeding One Dollar Per Hundred—Other Taxes—Applicable to All Schools.**—That each city shall raise a revenue from ad

Sec. 3469a-2. School District in Third Class City a Separate Unit for Issuance and Sale of School Bonds.—Boards of education in cities of the third class may, with the approval of two-thirds of the legal voters of such city, issue and sell school bonds in any amount within the limitations imposed by sections 157-158 of the Constitution. *Rogan v. Board of Education* (decided November 15, 1921), 192 Ky. 926.

Such election should be called by the board of education and should be held by officers appointed by the board and on a day other than a regular election day. *Same v. Same*.

Section 3 of Chapter 14, Acts 1920, authorizes boards of education in fourth class cities to condemn land "necessary to the proper accomplishment of the purpose for which said board is created." The board of education is the judge of the character or quantity of land needed, except it would not be allowed to condemn more than is reasonably needed for the purpose. Practice in such cases defined. *Bell's Committee v. Board of Education of Harrodsburg*, 192 Ky. 887.

valorem taxes and a poll tax and license fees, and to that end the common council or commissioners of each city shall provide each year by ordinance for the assessment of all real and personal estate within the corporate limits thereof, subject to taxation for State purposes, and shall levy an ad valorem tax on same, not exceeding the rate and limit prescribed in the constitution; and for school purposes not exceeding one dollar (\$1.00) on each one hundred dollars (\$100.00) of taxable property therein, and such portion of the poll tax or license fees as the council or commissioners shall designate; to levy a poll tax not exceeding one dollar and fifty cents (\$1.50) on each adult male inhabitant thereof, and may impose license fees on stock for breeding purposes, on franchises, trades, occupations, and professions, and provide for the collection thereof. All taxes and license fees shall be levied or imposed by ordinance, and the purpose or purposes for which the same are levied or imposed shall be specified therein, and the revenue therefrom shall be expended for no other purpose than that for which it was collected; provided however, that the limitation hereinbefore prescribed of the tax that may be levied for school purposes shall not apply where a bonded indebtedness has been incurred for the construction, improvement or acquisition of school buildings or property, and when such an indebtedness has been incurred that there may be levied, in addition to the tax hereinbefore authorized, an annual ad valorem tax sufficient to pay the interest on said indebtedness and also to constitute a sinking fund for the payment of the principal thereof. The provisions hereof shall apply to any bonded indebtedness whether heretofore or hereafter created. The provisions of this section shall be applicable to and for the benefit of the schools in all cities of the third class whether such school system be established and maintained under any special act or amendment thereto, heretofore passed or under the general laws of the state. (Id. Sec. 12.)

Section 121. (§ 3470 Ky. St.) **Buildings, Teachers and Employes—Separation of White and Colored Children.**—Said board of education shall provide and maintain, out of the

funds levied or otherwise provided for the purpose, suitable buildings, teachers and other employes, sufficient for the education of all children of the city between six and eighteen years of age, and shall provide separate buildings and schools for education of white and black pupils; and no white child shall be allowed to attend any colored school, nor shall any colored child be allowed to attend any white school.

(§ 3471 Ky. St.) **Oath of Trustee.**—The trustees shall, before entering upon the duties of their office, take the oath, or make affirmation, as prescribed by law.

(§ 3472 Ky. St.) **Trustees Not to be Interested in School Contracts—No Salary.**—No member of the board of education shall be or become, directly or indirectly, interested in any contract, agreement or trade, touching the building of school houses, repairing of school property, selection of text books or other thing, or use his official position to secure the patronage of the teachers or employes of the schools. No member of the board of education shall receive any salary for his services as such.

(§ 3473 Ky. St.) **Treasurer—Power—Duties.**—Said board of education shall elect its own treasurer and fix bond of same, who shall keep a distinct account of all moneys belonging unto, or which may hereafter be dedicated to, or set apart for, public schools, and shall only pay out or deliver any of said funds, upon the warrant of the board of education, countersigned by the secretary, and approved by the president of the board of education, and shall perform such other duties as may be prescribed by said board.

(§ 3474 Ky. St.) **Board to Have Exclusive Control of School Funds.**—Said board of education shall have exclusive control of all funds of the city from whatever source the same may be derived, including the pro rata of the city from the common school fund of the State. It shall have the right to receive all fines, forfeitures and taxes that may inure to the benefit of the public schools of the city. It shall have power to expend all moneys in the interest of public schools of the city, and the warrants of the board of education, countersigned by the secretary and approved by the president of the

board, shall be honored by the treasurer to the amount of the school funds in his custody.

(§ 3475 Ky. St.) **Prior Indebtedness and Contracts Provided For.**—All indebtedness, bonded or otherwise, and all liabilities and contracts of the school board, existing at the time this law takes effect, and all taxes, funds, sinking funds, or other resources that have been pledged or set apart for the payment of the principal and interest thereof, shall continue unimpaired and remain of the same force and effect as though the same had been authorized and contracted by the express provision of this law.

(§ 3476 Ky. St.) **Funds—Paid on Order of Board.**—No money shall be drawn from the funds, unless the same shall have been appropriated by order of the board of education, and no appropriation of money shall be made to be paid out of said school funds, unless the money shall actually be in the treasury to meet the draft.

Section 122. (§ 3476a Ky. St.) **Reports to State Superintendent—School Census—Allowance From State Fund.**—That a city of the third class, being one school district for taxing purposes and entitled to its portion of the school funds of the Commonwealth, the board of education shall make detailed reports annually and special reports as required by the State Superintendent of Public Instruction. The board shall also in the year 1920, and every second year thereafter, or annually if they so desire, cause to be taken the census of school children of school age, and make returns thereof direct to the State Superintendent of Public Instruction at the same time other officers are required to make returns. They shall make two complete copies of such census by school districts and shall file one copy in the office of the board of education of the city and the other in the office of the county superintendent of schools.

For the year in which no census is required to be taken, the State Superintendent of Public Instruction shall determine the amount per capita to be paid over to the board of education of such cities, by adding annually to the numbers of children of school age as shown by the next preceding cen-

sus actually taken such increase or addition as he may ascertain to be the annual increase of children of the district, upon averaging the yearly increase shown by three actual enumerations next preceding; providing, however, that the board of education of any such city may elect to take an actual census in any of such years, in which case the return of such census shall govern. (March 22, 1920, C. 53, p. 224.)

(§ 3477 Ky. St.) **President of Board—Secretary—Salary and Duties.**—Said board of education shall elect from its own number a president, for the term of two years, and may prescribe who shall preside in his absence, and make all necessary rules, prescribing the duties of the presiding officer and the government of itself; and said board shall also elect a secretary, at a salary to be fixed by the board, whose duties it shall be to keep a record of the proceedings of all regular and special meetings, countersign all warrants and contracts, and whose term of office shall be two years.

(§ 3478 Ky. St.) **Library—Right to Establish.**—Said board of education shall have the power and right to establish and maintain a public school library, out of any funds coming into its hands, except that received by taxation, or from the State funds, and also to purchase text books for indigent children of the city, and to otherwise expend such moneys in the interest of the public schools. Said board of education shall have the power and right to make rules and regulations governing said school library.

(§ 3479 Ky. St.) **Non-Resident Pupils—Tuition.**—Said board shall have power to admit to said school pupils from beyond the limits of the city, and may collect therefrom tuition fees for the benefit of the schools of the city, making deduction of taxes for school purposes on property in said city paid by parents of said children; and on children of persons residing beyond said limits shall be admitted as pupils of any of said schools except on payment of such tuition fees as said board may require.

(§ 3480 Ky. St.) **Repealed Laws—Existing General and Special Laws Consistent Herewith to be in Force.**—That all laws and parts of laws in conflict herewith are hereby repealed

but the general school laws of the State and all laws and parts of laws applicable to the general system of public schools in a city of the third class and not inconsistent herewith shall be in full force and effect in such city. No section of this act shall be so construed as to repeal or modify in any wise any special act or amendment thereto passed heretofore for any city for the establishment, maintenance or carrying on of a public school system, except such modifications as are specifically set forth in this act. (Id., Sec. as re-enacted March 22, 1920, C. 53, p. 224, Sec. 24.)

Chapter XII.—Continued.

MUNICIPAL SCHOOLS—PUBLIC SCHOOLS IN CITIES OF THE FOURTH CLASS

- Sec. 123. City constitutes one district board a body corporate.
- Sec. 124. Powers and duties of board defined—to purchase and condemn school site.
- Sec. 125. Qualifications of board members—oath of office—no compensation allowed—exempt from jury service—election—organization.
- Sec. 126. Superintendent, principals, teachers and other employees appointed by.
- Sec. 127. Power to borrow money in anticipation of revenues—to construct buildings—purchase supplies—separate schools to be maintained.
- Sec. 128. Tax levy—budget system provided—collection of tax—duty of officers.
- a. White and colored schools may be maintained under separate boards.
- b. Budget requirements.
- c. Power to issue bonds.
- Sec. 129. School fund—escheated property, etc.
- Sec. 129a. Reports to be made annually—penalty for failure to make.

Section 123. (§ 3587a-1 Ky. St.) **Board of Education Created—Succeeds to Rights of Previous Governing Boards.**—Each city of the fourth class in this State, together with the territory now within its limits, including any territory which has heretofore been added for school purposes outside the limits of said city and any territory which may in the future be included by any change in the limits of such cities, or such territory, as may be added in the manner hereinafter set out in 3587a-31, shall be and constitute a single school district, and the supervision and government of common schools and common school property therein shall be vested in a board of six trustees to be called and known as the “Board of Education of....., Kentucky.” (In which place the name of such city shall be inserted). Such board of education shall be a body corporate and shall have power, by and in said name, to sue and be sued, contract and be contracted with, purchase, receive, hold and sell property, issue its bonds, and do all things necessary to accomplish the purpose for the attainment of which said school district is organized, and succeed to all the property, property rights and privileges of whatever kind or nature granted and belonging to any previous corporation, board of education, or school district in said city or in which said city was embraced,

or officers thereof authorized or empowered by any enactment of the general assembly of the State to do anything in reference to the public education; provided that all pending suits to which any previous corporation, board of education, or school district or officers thereof, is a party may be prosecuted to the end in the name of such party. The titles to property previously granted to such city by the United States or this State for common school purposes and the title to all school lands and other property of every kind shall be vested in the board of education created by this act. (March 13, 1920, C. 14, p. 32, Sec. 1.)*

Section 124. (§ 3587a-2 Ky. St.) **Powers and Duties.**— Every such board of education shall have general and supervising control, government and management of the public schools, including kindergartens, night and normal schools, vocational and high schools as hereinafter provided, and public school property in such city, with the right to use said property to promote public education in such ways as it may deem necessary and proper; shall exercise generally all powers in the administration of the public school system therein, appoint such officers, agents and employees as it may deem necessary and proper and fix their compensation and term of office; shall have power to fix the time of its meetings, to make, amend, and repeal rules and by-laws for its meetings and proceedings, for the government, regulation and management of the public schools and school property of such city, for the transaction of its business, and for the examination, qualifications and employment of teachers, which rules and by-laws,

*This act is entitled: "An act defining boundaries for school districts embracing cities of the fourth class and providing systems of schools for such districts, and creating boards of education for such districts, providing for the election thereof, defining their powers and duties, and repealing all laws in conflict therewith." Inasmuch as this act "provides systems of schools" in fourth class cities, it is believed that the act of March 23, 1916, c. 59, p. 544, quite similar in its provisions is repealed, inasmuch as its application to such cities was left to the option of the voters at a special election thereon. The act of 1920 is therefore substituted for the repealed act and assigned the same section number.

Section 3587a-1. The school trustees had a right to dismiss the superintendent of the Elizabethtown graded schools without notice or cause. Sec. 3588, Sec. 3587 and Sec. 3791 do not affect this right. *Maxey v. Board of Trustees, Elizabethtown District*, 187 Ky. 729.

The city of Madisonville and the graded school districts of which it is a part are not an exception in section 18 of chapter 14 of the Acts of 1920, now section 3587a-1. *Shadrack v. Board of Trustees of Madisonville School District*, 188 Ky. 345.

when not inconsistent with the general law of the State, shall be binding on such board of education and all parties dealing with it until formally repealed by an affirmative vote of four members of said board; to provide for special and standing committees; to provide for the appointment of a medical inspector for the school, and to take such other steps as may be proper and necessary to secure and maintain the physical welfare of the pupils therein; to certify to the general council or the board of commissioners the amount of moneys necessary for the maintenance and improvement of the schools as hereinafter provided; and to purchase and hold all property, real and personal, deemed by it necessary for the purposes of public education, or for the investment of the public school funds; to build and construct improvements for such purposes and to hold or sell the same. (Id., Sec. 2.)

(§ 3587a-3 Ky. St.) **Real Estate—Power to Purchase and Condemn.**—It shall also have power, when unable to contract with the owner of any real estate necessary to the proper accomplishment of the purpose for which said board is created, to institute condemnation proceedings in accordance with the law governing railroad corporations operated or incorporated under the existing laws of this Commonwealth, under laws which may hereafter be enacted; and to have in such proceedings the same rights, powers, privileges and restrictions, as are now granted to or conferred upon such railroad corporations. Such board of education shall have all the powers of other school districts under the laws of this State, except as hereinafter provided. (Id., Sec. 3.)

Section 125. (§ 3587a-4 Ky. St.) **Qualifications of Members—Relatives Not to Be Voted For Employment.**—No person shall be eligible to the office of member of the board of education who has not attained the age of twenty-four years, and who is not a citizen of the United States, and who has not been such citizen for at least three years preceding his election and a resident of the city or district for which he is elected, or who holds or discharges any office, deputyship or agency under the city or county of his residence; except that any member of said board or any existing board, shall be eligible for re-

election; no person shall be eligible to this office who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery, or other property. If, at any time after the election of any member of said board, he shall become interested in any such contract with or claim against said board, or if he shall after election, become a candidate for any office or agency or for the nomination thereto, the holding and the discharging of the duties of which would have rendered him ineligible before his election, or if he shall move his residence from the city for which he was chosen, or if he shall do or incur anything which would have rendered him ineligible for election, his office shall, without further action, be vacant, and it shall, be filled as herein directed. Provided, that no member of said board shall vote regarding the appointment or employment in any capacity of any person related to said member as father, mother, brother, sister, husband, wife, son or daughter, nephew or niece. (Id., Sec. 4.)

(§ 3587a-5 Ky. St.) **Oath of Office.**—Every member of said board shall, before assuming the duties of his office, qualify by taking the following oath, which shall be kept on record in such board:

“State of Kentucky,

“County of being duly sworn, says that he is eligible under the law to serve as a member of the board of education, and that he will not, while serving as a member of such board, become interested, directly or indirectly, in any contract with or claim against said board, and that he will not be influenced during his term of office by any consideration except that of merit or fitness in the appointment of officers or engagement of employees, and that he will support the constitution of the United States and of this State, and faithfully perform the duties of his office.

“..... Sworn to and subscribed before me this.....day of.....”

(Id., Sec. 5.)

(§ 3587a-6 Ky. St.) **Compensation—Manner of Election.**—No compensation shall be paid to the members of the board except as herein provided, but they shall be exempt from jury

duty and from service as election officers during their term of office. The members of said board of education shall be elected from the city or district at large for the term of four years by the regular voters of such city or district. They shall be elected from the city or district at large without reference to wards or other territorial subdivisions, and such elections shall be held under the provisions of the general laws governing city elections so far as they are not inconsistent with the provisions of this act. (Id. Sec. 6.)

Section 125. (§ 3587a-7 Ky. St.) **Election by Secret Ballot—Nominating Petition—Ballots—General Election Law Applicable—Proceeds.**—All elections for members of the board of education shall be by secret ballot. Said ballot shall be on a separate sheet from all other ballots to be used in any election. It shall be the duty of the county clerk of any county in which a city of the fourth class is situated, to cause to be printed on said ballot the names of all candidates for membership on said board of education, in whose behalf he shall be petitioned so to do in writing by not less than fifty legal voters of such district. The petition must be filed in the office of the county clerk not more than sixty and not less than fifteen days the day before the day of election, and each petition must be signed by the requisite number of qualified persons and shall show the place of residence of each person signing it, and no person shall sign more petitions than the number of offices to be filled.

Said ballot shall be in the form prescribed for ballots by the general election law of the State, except that no party emblem or other emblem of distinguishing mark shall be placed upon said ballot, save the words, "school ticket," at the head thereof; and that the names of all candidates for membership in the board of education shall be printed on said ballot in a single column in the order the petitions are filed. As many additional lines shall be left blank as there are members to be elected.

The provisions of the general election law of the State of Kentucky as to the duties of the county clerks and other public officers in the matter of printing and distributing ballots,

of issuing them to voters, of receiving and depositing them in the ballot boxes and of counting and preserving them, and in other particulars except as otherwise provided herein, shall be applicable in all respects to the election of members of the board of education. Provided, that it shall be the duty of the sheriff of each county in which a city of the fourth class is situated to provide for each precinct in said city or district a separate box for the reception of the ballots used in the election of members of the board of education.

And provided further, that it shall be the duty of the judge of the opposite political faith to the clerk of election in each precinct to issue the school ballots in the manner as other ballots are issued by the clerk of election, by writing the name and residence of the voter upon the primary stub, and his registered number upon the secondary stub of the school ballot, and by observing, as to these ballots, such other regulations for the issue and deposit of ballots as may be prescribed for elections generally. It shall be unlawful for an election officer or other person within the election booth to tell or indicate by word of mouth or otherwise to a voter what may be the political affiliation of any candidate, and a violation of this provision shall be a misdemeanor punishable by fine not exceeding two hundred dollars. (Id., Sec. 7.)

(§ 3587a-8 Ky. St.) **Number of Candidates to be Voted For.**—Each voter may vote for as many of said candidates as there are members to be elected, by making a cross opposite the name of each candidate for whom he wishes to vote. The candidates, equal in number to the number of members to be chosen, who have the highest number of votes, shall be declared elected. (Id., Sec. 8.)

(§ 3587a-9 Ky. St.) **Old Boards to Reorganize—New Boards Elected—Terms of Members—Officers—Regular Meetings—Records Public.**—Upon this law going into effect where systems of public schools have been maintained embracing cities of the fourth class under laws in force in the State of Kentucky, whether by special charters or general laws, such schools shall automatically come under the provisions of this law, and the qualified and acting boards of education or trus-

tees of such schools shall, at once, organize under this law and be and become entitled to all of its powers, rights and benefits, and shall serve as a board of education for such district until the 31st day of December, 1920. At the election occurring in the month of November, 1920, a new board of education, consisting of six members, shall be elected as herein provided, and such board shall, after having qualified by taking the oath prescribed by law, assume office on the first Monday in January, 1921, and shall meet at the office of the board of education in said district on said day and proceed to organize by electing one of their number president and another vice-president. Provided that in cities where boards of education were elected at the 1919 November election for a term of two years or more, the method of selecting the board members as herein provided shall not be put into operation until the election occurring in the month of November, 1921, said members assuming office on the last Monday of January, 1922. Within one week after the organization of said board, it shall meet to divide its members by lot in such manner as they shall determine, into two classes, as follows: The first class, consisting of three members, shall hold office through the 31st day of December, 1922, and the second class, through the 31st day of December, 1924. At the election every two years thereafter an election shall be held to fill the term of the members of the board of education whose terms will expire on December 31st following, and the members so chosen shall hold office for four years, or until their successors are elected and qualified. At its first regular meeting after the 1st of January in each year following said regular elections, said board of education shall organize by electing one of its members president and another vice-president. The board shall hold meetings regularly at least once a month, and shall keep a correct record of its proceedings in a book provided for that purpose, which shall be a public record open to inspection of any officer or citizen of the city or district.

Until the qualification of the new board as herein provided, administration of the public schools and the management of school property in such district shall remain in the

control of the existing board of education as hereinbefore provided, with all the powers and rights given by this act and as existing prior to the passage of this act not in conflict therewith; and the board of education elected at the November election, 1920 shall continue the employment and service of any existing officers, teachers, agents or other employes, subject to removal for cause, in their several capacities in connection with the administration of school affairs, until the close of the term for which they have been elected. (Id., Sec. 9.)

(§ 3587a-10 Ky. St.) **Member Failing to Attend Meeting of Board.**—Any member failing to attend the meeting of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated his seat. (Id., Sec. 10.)

(§ 3587a-11 Ky. St.) **Vacancies—How Filled.**—Any vacancy in said board, from whatever cause occurring, shall be filled by the other members of the board as soon as practicable after such vacancy occurs. The member so chosen shall hold office for the remaining part of the term of his predecessor, and until his successor is elected and qualified, subject to the provisions of section 152 of the Constitution of Kentucky. (Id., Sec. 11.)

(§ 3587a-12 Ky. St.) **Rules and By-Laws for Government of Schools.**—All rules and by-laws heretofore made by the boards of education, trustees or controlling officers of such district shall continue in force so far as consistent with this act until repealed or altered by such board of education; and the said board of education may make any rules or by-laws it deems proper for the government, regulation, and management of the schools and school property and for the examination, qualification and employment of teachers. (Id., Sec. 12.)

Section 126. (§ 3587a-13 Ky. St.) **Superintendent—Appointment—Term—Removal—Powers and Duties—Assistant Superintendents—Appointment of Teachers.**—The board of education shall appoint a superintendent of schools whose term of office shall begin on July 1st following his appointment, and who shall serve for a term of one year. He may be removed by four members of the board for cause, and the

vacancy thus created shall be filled by the board only until the 1st day of July following, when the temporary incumbent, or some other person, shall be appointed for a first term of one year as hereinbefore provided. The board of education may, on the nomination of the superintendent of schools, appoint as many assistant superintendents as it may deem necessary, whose compensation shall be fixed by the board and who may be removed for cause by the superintendent, with the approval of four members of the board.

The superintendent of schools shall qualify by taking the oath prescribed by law, and shall have general supervision, subject to the control of the board, of the course of instruction, discipline and conduct of the schools, text books and studies; and all appointments, promotions, dismissals and transfers of teachers and truant officers, and introduction and change of text books and apparatus shall be made only upon the recommendation of the superintendent and the approval of the board. The superintendent shall have power to suspend any teacher, pupil or truant officer for cause deemed by him sufficient, and the board of education shall take such action upon the restoration or removal of such person as it may deem proper. All appointments and promotions of teachers shall be made upon the basis of merit, to be ascertained, as far as practicable, in cases of appointment by examination and in case of promotion by length and character of service. The board of education shall provide for the examination of teachers and issue certificates to them. It may recognize State diplomas, State certificates or State University and Normal School certificates which are valid under the general school laws. The superintendent of schools shall devote himself exclusively to the duties of his office, and shall have power to appoint clerks, whose number and salary shall be fixed by the board, and shall have power to remove the same; shall exercise general supervision over the schools of the city, examine their condition and progress, and shall keep himself informed of the progress of education in other cities. He shall advise himself of the need of extension of the school system of the city, shall make report from time to time as may be fixed by the rules or directed by the board, and shall be responsible to the board for

the condition of the instruction and discipline of the school. The term "teacher," as used herein, shall include supervisors, supervising principals and principals. (Id., Sec. 13.)

(§ 3587a-14 Ky. St.) **Secretary—Appointment—Salary—Duties and Powers.**—The board of education may appoint a secretary, who may or may not be a member of the board, who shall receive a reasonable salary to be fixed by the board of education. He shall keep the records of the board of education, and perform such other duties as may be imposed upon him by said board. The orders of the board shall be valid when countersigned by the president and secretary of said board. All checks issued by said board shall be given in the name of the board of education and signed by the secretary of said board. All checks issued by said board shall be given in the name of the board of education and signed by the secretary and countersigned by the president. The secretary shall be custodian of all securities, documents, title papers, books of record, and other papers belonging to the board, under such conditions as the board may direct. (Id., Sec. 14.)

(§ 3587a-15 Ky. St.) **Treasurer—Term—Bond—Duties.**—Said board of education shall elect annually its own treasurer whose term of office shall begin on the first day of July, and fix bond of same, who shall keep a distinct account of all moneys belonging unto or which may hereafter be dedicated to or set apart for public schools, and shall only pay out or deliver any of said funds upon the warrant of the board of education signed by the secretary and countersigned by the president of the board of education, and shall perform such other duties as may be prescribed by said board. (Id., Sec. 15.)

Section 127. (§ 3587a-16 Ky. St.) **Power to Borrow Money—Employment of Architect—Other Employees and Agents.**—The board of education shall have the power to borrow money on the credit of the board in anticipation of the revenue from school taxes for the fiscal half year in which the same is borrowed and pledge said school taxes for the payment of the principal and interest of said loan; provided that the interest paid shall in no case exceed six per centum per an-

num and the principal shall in no case exceed fifty per cent of the anticipated revenue for the fiscal half year in which the same is borrowed.

Said board of education shall also have authority to employ an architect when necessary, and to fix his compensation. The board of education shall also have power to appoint such other engineers, janitors and other employes and agents as may be necessary for the proper conduct of the schools. (Id., Sec. 1.)

(§ 3587a-17 Ky. St.) **Contracts for New Buildings, Improvements and Repairs—Purchase of Supplies.**—The contract for the erection of school buildings and additions thereto shall be made by said board of education after public letting to the lowest and best responsible bidder complying with the terms of letting, but it may reject all bids. The necessary specifications and drawings shall be prepared for all such work, and bids therefor shall be solicited by such advertisement as the board of education may provide. All work or repairs, alterations and construction, other than such original erections and additions, shall be ordered by the board of education. Bids may be solicited for said work when desired. The board shall also have the right to purchase all supplies, and may ask for bids when the amount of the purchase exceeds fifty dollars. (Id., Sec. 17.)

Sec. 128b. (§ 3587a-18 Ky. St.) **Schools for Colored Children.**—The board of education, shall provide, maintain and support separate schools, and provide for the education of all colored children who are bona fide residents of said district and entitled to free tuition in the common school. Said colored schools or children shall be entitled to the same benefits, be governed and controlled by the same rules and regulations and be subject to the same restrictions as the schools herein provided for white children; provided, however, that where any city of the fourth class has heretofore organized a system of free graded schools for the education of both white and colored children of said cities under and by virtue of the charter of cities of the fourth class, and managed and controlled by the board of edu-

education, and has, by ordinance, passed by its general council, separated said systems of graded free schools into graded, free, white common school for the white people of said district and into a graded, free, colored common school for the colored people of said district; or where such separate schools have existed under the general laws of the State of Kentucky or special acts under separate boards, or where the board of council of any district embracing a fourth class city shall, by ordinance, provide for a separate system of schools under this law under different boards said schools shall be governed and controlled—the white schools by a white board of education and the colored schools by a colored board of education, to be elected on separate ballots as provided under Section 7 of this act. But where such provision is not made by ordinance of the board of council, or where such separate boards have not heretofore existed, both of said systems of schools shall be under one board of education.

In cities or districts coming under the provisions of this act, where two boards of education, white and colored, have been maintained, the board of council of the city embraced in such districts may by ordinance abolish one of said boards and by its ordinance provide for one board of education, to be elected and qualified as is herein provided, and in that event there shall be but one board of education in such district. (Id., Sec. 18.)

Section 128b. (§ 3587a-19 Ky. St.) Before making any tax levy it shall be the duty of said board of education to make a careful estimate of the amount of money necessary to be raised (over and above the amount due or to become due to it from the State as provided in Section 21 of the Acts to which this is an amendment) for purposes as follows:

- a. For maintaining the schools.
- b. For repair and improvement of buildings.
- c. For sinking fund purposes.
- d. For paying incidental expenses and any other law claims against the school district.

Said estimate shall be entered in full upon the minute book of the Board. The failure to make such estimate, however, shall not invalidate the levy.

At least thirty days prior to the time prescribed in the charter of cities of the fourth class for the tax levy to be made for city purposes, it shall be the duty of said Board of Education, in districts where the boundary thereof is identical with the boundary of a city of the fourth class to levy an ad valorem tax for school purposes upon all property of every kind in the city assessed or subject to taxation for city purposes. Said tax shall be at such a rate as will produce in that year the sum estimated by the Board as necessary to be raised for the aforesaid purposes. The Board shall also levy a poll tax on each person assessed for poll tax by said city, but the ad valorem taxes for all school purposes exclusive of sinking fund shall not exceed \$1.50 on each \$100.00 of assessed value and the poll tax shall not exceed \$2.00 for each poll. The assessment for the school district. Said levy shall be certified by the Board of Education to the General Council or Board of Commissioners of the city and said General Council or Board of Commissioners shall cause the taxes accruing thereunder to be added to and included in the regular tax bills rendered by the city for city purposes and shall cause said tax to be collected by the same officers and in the same manner and at the same time as taxes are collected for city purposes.

All powers and duties conferred upon and required of officers in collecting taxes for city purposes are hereby conferred upon and required of them in collecting the taxes levied by the Board of Education. The Board shall pay to the officer collecting the tax a reasonable compensation but not exceeding 2% on the amount collected.

At least thirty days prior to the time when the Fiscal Court of the county is required to make its levy for county purposes, it shall be the duty of the Board of Education in districts where the boundary includes a city of the fourth class together with other territory, to levy an ad valorem tax for school purposes upon all property of every kind in the district assessed for county purposes. Said tax shall be at such a rate as will produce in that year the sum estimated by the board as necessary to be raised for school purposes in the district. The Board shall also levy a poll tax on each person assessed for

poll tax by the county, but the ad valorem tax (for all school purposes exclusive of sinking fund) shall not exceed \$1.50 on each \$100.00 of assessed value and the poll tax shall not exceed \$2.00 for each poll. The assessment made for the county shall be the assessment for each school district. Said levy shall be certified by the Board of Education to the Fiscal Court of the county and said Fiscal Court shall require the County Court Clerk to cause the taxes accruing thereon to be added to and included in the regular tax bill rendered by the county for county purposes and cause same to be collected by the same officers and in the same manner and at the same time as the taxes are collected for county purposes.

All powers and duties conferred upon and required of officers in collecting taxes for county purposes are hereby conferred upon and required of them in collecting taxes levied by the Board of Education. The Board shall pay to the officer for collecting the taxes a reasonable compensation not exceeding 25% on the amount collected.

The officer collecting the school tax and the sureties upon his bond shall severally be liable under his official bond or bonds for any failure in the performance of his duties. Within ten days after the close of each calendar month the collecting officer of said city or county shall promptly pay to the treasurer of the Board of Education all sums collected by him during the preceding month less his commissions and upon his failure to do so the Board of Education shall have the right to institute suit against him and his bondsmen upon his official bond for all sums collected and unpaid by him. The Board of Education shall certify to the General Council or Board of Commissioners of the city or to the Fiscal Court of the county (as the case may be) the name and address of its treasurer and of any change in said name or address.

The limitation hereinbefore prescribed upon the rate of tax that may be levied for school purposes shall not apply where a bonded indebtedness has been incurred for public school purposes and when such indebtedness has been incurred there may be levied in addition to the tax heretofore authorized an ad valorem tax sufficient to pay the interest on said

indebtedness and also to constitute a sinking fund for the payment of the principal thereof. The provision hereof shall apply to any bonded indebtedness whether heretofore or hereafter created.

The failure of the Board of Education by inadvertence or otherwise to make a levy within the time prescribed shall not invalidate any levy made thereafter. (Acts of March, 1922.)

Section 128c. (§ 3587a-20 Ky. St.) **Improvement Bonds for Building Sites—Improvements, Etc.—Popular Election—Territory District Outside City—Tax to Pay Bonds.—**

Whenever the board of education shall deem it necessary for the proper accommodation of the schools of such district to acquire or enlarge sites for school buildings, to erect, improve, remodel, rebuild or restore buildings for high schools or for any other purposes or for the equipment of the same or for any or all these purposes, and the annual funds raised from other sources are not sufficient to accomplish said purpose or purposes, said board shall make a careful estimate of the amount of money required for such purpose or purposes, and it shall certify to the general council or the board of commissioners of said city the fact that an election for an issue of bonds for school improvement shall be held together with the amount of money for which bonds shall be issued and the purpose or purposes to which the proceeds thereof shall be applied. It shall, thereupon, be the duty of the general council or the board of commissioners to adopt an ordinance, submitting to the qualified voters of the city at a time to be fixed in said ordinance not less than fifteen nor more than thirty days from the time such certificate is filed with it, the question whether bonds shall so issue for the purpose or purposes aforesaid. The bonds so issued shall be designated as "school improvement bonds," and the ordinance shall fix the time the bonds shall run, and if a serial issue, then the amount to mature at each time, and limit the rate of interest which shall be permitted on said bonds, which shall not be exceeding six per cent, and the total amount of bonds to be issued and to provide for the levy of a tax to pay the interest and to either redeem the bonds as they mature or to provide

for the accumulation of a sinking fund to retire them at their maturity.

Whenever the boundary of the school district does not coincide with the boundary of the city and it is necessary to take a vote on the bond issue, it shall be the duty of the county judge of the county in which said city is located to call an election for such bond issue on the day set apart for said election in the ordinance so adopted by the said board of council for such outside territory. In that event it shall be the duty of the county judge of the county or counties where such city is located to perform all the duties imposed upon the board of council as set out in this section.

The bond issue herein provided for shall not exceed two per centum of the value of the taxable property of the district to be estimated by the assessment next before the last assessment previous to the incurring of the indebtedness. The question to be submitted shall be so framed that the voter may, by his vote, answer "for" or "against." If the voters of the district shall determine, by a two-thirds majority of those voting, that such bonds shall be issued, they shall, when so issued, be placed under the control of the board of education, who shall determine when and at what price and how they shall be sold and at the date, number of bonds, denomination, whether coupon or registered, the rate of interest and frequency of payment thereof, place of payment of principal and interest, and other details as desired embodied in the bonds or in the ordinance providing for their issue, and shall certify the same to the governing body of said city as also to the fiscal court of said county where territory outside of said city is embraced in said district, and it shall be the duty of said board of council at once to adopt an ordinance in conformity therewith and cause the bonds to be at once properly prepared and executed and turned over to the board of education for sale and delivery, which ordinance shall be certified to the fiscal court of said county. Said bonds shall be signed by the president and secretary of the board of education and shall not be sold for less than par and accrued interest. As the bonds are sold, their proceeds shall be placed

to the credit of the board of education in the same depository which is selected for its other funds, but shall be kept in a separate account and shall be used only for the purposes for which bonds were issued. It shall be the duty of the general council or the board of commissioners, in addition to the levy made for the maintenance of the schools as hereinbefore provided, to levy annually in its tax levy rate that will raise a sum that shall be sufficient to pay the interest and create a sinking fund for the payment of the bonds at maturity. The said bonds, principal and interest, shall be a charge upon the sinking fund of said city and shall be entitled to have the annual tax that shall be levied as aforesaid.

It shall also be the duty of the fiscal court of the county in which such school district is located, if it embraces any territory outside of said city, to make the necessary levy of the property in such district outside of the boundary of the city in order to liquidate the said bonded indebtedness. The same rate of taxation for liquidating said bonded indebtedness shall apply in the city and in the territory in such district beyond the city. (Words in parentheses repealed by Act of March, 1922.)

(§ 3587a-20 Ky. St.) The said election shall be conducted and carried out in such districts in all respects as is required by law for elections in the State of Kentucky, notice thereof to be given and held by the same officers and in all other respects as is required by the general election laws of the State of Kentucky.

Section 128. (§ 3587a-21 Ky. St.) **Payment From State Funds.**—Each of said systems of schools shall also be entitled to and receive from year to year the pro rata share of the State school funds due to such district, as constituted under this law, which shall be paid by the State Superintendent of Public Instruction direct to the treasurer of the said boards of education, which fund shall be taken into consideration by the board of education in making its estimate of amount of money necessary, as is provided for in Section 19 of this law. (Id., Sec. 21.)

Section 129. (§ 3587a-22 Ky. St. **Escheated Property—Acceptance of Gifts and Devises.**—So much property in the

school district as from any cause escheat to the Commonwealth of Kentucky, shall vest in the board for the use and benefits of the public schools in said district. Said board may, in the name of the Commonwealth, for the use and benefit of the said schools, by its president or other officer to be designated by it, enter upon and take possession of said property, or sue for and recover the same by action at law or in equity, and without office found. The board may sell and convey any of such property by warranty deed or otherwise. The board shall also have authority to accept for the use and benefit of the schools any gift or devise which may be made to said schools.

(§ 3587a-23 Ky. St.) **Existing Taxation Laws Continued in Force.**—All officers of any city of the fourth class, and of the State, concerned with the assessment and collection of taxes, fines and penalties, shall perform such duties in relation to the levying and collection of school taxes and the collection of such fines and penalties, and the payment thereof to said board for school purposes, as are now imposed by the existing laws upon such officers in relation to the levy and collection of school taxes and the collection of fines and penalties payable to the school funds; and nothing in this act, unless inconsistent therewith, shall be construed as repealing any existing law providing for the assessment and collection of school taxes in such city; and all powers and duties conferred by existing laws upon any board in relation thereto shall be continued in the board created by this act. (Id., Sec. 23.)

(§ 3587a-24. Ky. St.) **Kindergartens—Power to Establish.**—The board of education shall have power to establish and maintain kindergartens for children from four to six years of age, high schools, night schools for all residents of the city, and normal training classes for the purpose of training teachers to fill positions in the schools of the city, and to this end it may prescribe rules and regulations for the government of such schools and employ the principals and other teachers necessary for their efficient management. (Id., Sec. 24.)

(§ 3587a-25 Ky. St.) **Admission of Non-Resident Children.**—The board shall have the power to admit to any school pupils from beyond the limits of the school district, and shall

collect for these pupils tuition fees for the benefit of the school fund of the school district. Children or persons residing outside of the limits of the school district shall not be admitted as pupils into any of the public schools except upon payment of such tuition as the board may require, as aforesaid. (Id., Sec. 25.)

Section 129a. (§ 3587a-26 Ky. St.) **Reports to State Superintendent—School Census.**—A city of the fourth class and territory added, being deemed one district for taxation purposes, and entitled to its proportion of the public school fund of the Commonwealth, the board of education of such city shall make detailed reports annually, and special reports as required to the State Superintendent of Public Instruction. The board shall also cause a census of the children of school age in such district to be taken during the month of April as required by law and the returns made according to the general school law. (Id., Sec. 26.)

(§ 3587a-27 Ky. St.) **Publication of Annual Report.**—The board of education shall, at the end of each scholastic year, prepare and publish for the information of the public, a report which shall include the annual reports made to the board by the superintendent and secretary, together with such other information as may be proper and necessary to an understanding of the general condition and educational progress of the schools during the preceding year. (Id., Sec. 27.)

(§ 3587a-28 Ky. St.) **Penalties for Violation of This Law.**—Any member, officer or employe of such board who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the jury. (Id., Sec. 28.)

(§ 3587a-29 Ky. St.) **Testimony in Investigation to be Under Oath.**—All testimony taken upon any investigation made by the board, or in any proceedings before the board for the removal of any officer or employe of the board, or in any investigation made by any committee of the board, shall be un-

der oath, which oath may be administered by the secretary or any officer authorized to administer oaths.

(§ 3587a-30 Ky. St.) **Investigations—Power to Summon Witnesses—Penalty for Failure.**—Said board, or any duly constituted committee thereof, shall have the power in any investigation or proceedings before it concerning a matter which may be a proper subject of inquiry by it, to **summon** witnesses by subpoena and to enforce the compulsory attendance of said witnesses. Should any person so summoned refuse to attend or to produce a paper to be used as evidence in said investigation or proceedings, or, being present, refuse to testify concerning any matter which may be a proper subject of inquiry, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than ten and not more than fifty dollars. (Id., Sec. 30.)

(§ 3587a-31 Ky. St.) **Adding Suburban Territory.**—Whenever it becomes desirable for a city of the fourth class to extend the boundary for school purposes beyond the city limits, the qualified voters in such territory shall prepare a petition in duplicate, setting forth the names of all parties to be changed, and defining the proposed change in the boundary of the said school districts. Said petition shall be signed by a majority of the voters in said territory, and a copy shall be filed with the board of education of such city, and also with the county board of education of the county in which said city is located. Upon the approval of said petition by the board of education of such city and by the county board of education of such county, each board shall make an order on its record book providing for the change, and the change shall become effective at once.

(If at any time the boundary of a school district extends beyond the boundary of said city, the board of education shall file a copy of the estimate of the amount of money necessary to conduct the schools with the fiscal court of the county in which said city is located, and shall estimate the amount of money which may be received from the city and from the territory beyond the limits of said city which is included in the school district, and the fiscal court of said county shall make

a levy to cover its proportional part of said taxes on the property in said school district which is located outside of the city limits. The rate of taxation by the general council or board of commissioners and by the fiscal court in such school district shall be the same in all cases).

(§ 3587a-32 Ky. St.) **Laws Not Inconsistent Remain in Effect—Others Repealed.**—The general school laws of this State and all laws and parts of laws applicable to the general system of public schools in cities of the fourth class not inconsistent herewith shall be and remain in full force and effect in such city or district, and all laws in conflict with the provisions of this act are hereby repealed. (Id., Sec. 32.)

(§ 3587a-33 Ky. St.) **Effective Date.**—Whereas, in many fourth class cities in this State coming under the provisions of this act, the present means of revenue are insufficient to maintain the schools upon an efficient basis, as also adequate buildings which cannot be met under the present school law, and that in order that this law may be in force in time to meet these necessities for the present year in the schools in this State, an emergency is hereby declared to exist, and this law shall be and become in full force and effect upon its passage. (Id., Sec. 33.)

Chapter XIII.

STATE NORMAL SCHOOLS

- Sec. 130. Two Normal School districts provided for—object of school—Board of Regents created—term of office, etc.
- Sec. 131. Powers and duties of Board of Regents—organization of board.
- Sec. 132. President, professors and teachers shall be appointed by Board of Regents—power to remove and to regulate duties.
- Sec. 133. President shall report to Regents—duty of treasurer and secretary—funds to be applied only to use intended.
- Sec. 133a. Pupils that each county may send—how selected—model practice school may be maintained—commission to locate first Normal Schools.
- Sec. 134. Additional appropriations—Regents may purchase and sell real estate when same is necessary for betterment of school.
- Sec. 134a. Examination of students touching their qualification to teach—limitation on power to contract—miscellaneous appropriations.
- Sec. 134a-1. Commission to locate two sites—two Normal Schools provided—duties.

Section 130. (§ 4535a-1 Ky. St.) **Two Normal School Districts—Style of.**—That the State of Kentucky be divided into two State Normal School Districts, and that they be called the Eastern Kentucky State Normal School District, and the Western Kentucky State Normal School District, and there be established and maintained two State Normal Schools in this State, as follows: The Eastern Kentucky State Normal school, located in the Eastern Normal School District, at Richmond, Kentucky, and the Western Kentucky State Normal School, located in the Western Normal School District, at Bowling Green, Kentucky, the boundaries of which two Normal School Districts shall be fixed the year following, and on the basis of every federal census, by a commission consisting of the State Superintendent of Public Instruction and the president of the Eastern and Western Kentucky State Normal

(March 21, 1906, c. 102, p. 203, sec. 1, as amended March 24, 1908, c. 82, p. 157, sec. 1.)

Validity of this act upheld in *Marsee v. Hagar*, 125 Ky. 445.

The State University has not lost its identity as a public corporation in the matter of appropriations. The appropriation of 1908 did not contravene Constitution, sections 49 and 50. *James v. State University*, 131 Ky. 156.

By act of March 11, 1912 (S. A., p. 148), it is made illegal for persons connected with the Normal Schools or State University to contract debts under certain circumstances under heavy penalty. The title of this act is rather complicated.

By act of March 15, 1912 (S. A., p. 287), real estate of the Western Normal School is transferred to "The Board of Regents for Normal School District No. 2," and power is given the corporation to sell and convey and to borrow money on a mortgage.

Schools, and which districts shall always be as near equal as may be in white population.

(§ 4535a-1-a Ky. St.) **Name Changed.**—That the name of the Eastern Kentucky State Normal School be and the same is hereby changed from “Eastern Kentucky State Normal School” to Eastern Kentucky State Normal School and Teachers’ College. (Act of March, 1922.)

(§ 4535a-1-b Ky. St.) **Name Changed.**—That the name of the Western Kentucky State Normal School be and the same is hereby changed from “Western Kentucky State Normal School” to Western Kentucky State Normal School and Teachers’ College. (Act of March, 1922.)

(§ 4535a-2 Ky. St.) **Objects of Schools.**—The object of said State Normal Schools shall be to more fully carry into effect the provisions of section one hundred and eighty-three of the Constitution of Kentucky, by giving to the teachers of the Commonwealth such training in the common school branches in the science and art of teaching, and in such other branches as may be deemed necessary by the Normal Executive Council, hereinafter created, as will enable them to make the schools throughout the State efficient. (Id., Sec. 2.)

(§ 4535a-3 Ky. St.) **Boards of Regents Created—Powers.**—There is hereby created a Board of Regents for each of said Normal Schools, to be known, respectively, as “The Board of Regents for Normal School District No. 1,” and the “Board of Regents for Normal District No. 2.” Said board shall have perpetual succession, with power to contract and be contracted with, to sue and be sued, to plead and be impleaded, to receive by any legal mode of conveyance property of any description, and to have and to hold and enjoy the same; also to make and use a corporate seal with power to alter the same; to adopt by-laws, rules and regulations for the government of their members, official agents and employes: Provided, such by-laws shall not conflict with the Constitution of the United States or with the Constitution of the State of Kentucky. (Id., Sec. 3.)

(§ 4535a-4 Ky. St.) **Members of Regents—Superintendent of Public Instruction One of.**—The Board of Regents for

each of said schools shall be composed of five members, including the Superintendent of Public Instruction, who shall be a member and chairman of each of said boards. (Id. 4.)

(§ 4535a-5 Ky. St.) **Appointment and Terms of Board of Regents—Residence, Party Affiliation.**—Within thirty days after the selection of the normal school sites, as hereinafter provided, the Governor shall appoint four regents for each of said normal schools, two of which shall serve for two years and two for four years, and until their successors are appointed and qualified; and two members shall be appointed in like manner every two years thereafter to serve for a term of four years each; and, whenever a vacancy or vacancies occur in either of said boards by death, resignation, removal from the district or by the operation of this law, or otherwise, the Governor shall, in like manner, immediately appoint some competent person or persons to fill such vacancy or vacancies. The person or persons so appointed shall hold office for the unexpired term: Provided, that no two members of either of said boards shall be residents of any one county, and that not more than three members of any of the said boards, including the Superintendent of Public Instruction, shall belong to the same political party. (Id. 5.)

(§ 4535a-6 Ky. St.) **Term of First Regents.**—Said regents shall hold their office for a term of four years from the first day of April next preceding their appointment and until their successors are duly appointed and qualified, except such as may be appointed to fill vacancies, who shall hold office for the unexpired term only. (Id. 6.)

(§ 4535a-7 Ky. St.) **Meetings—Secretary—Treasurer.**—Each of said Board of Regents shall hold its first meeting within thirty days after its appointment, the time and the place of the meeting to be designated by the Superintendent of Public Instruction, who shall administer the oath of office to each member. At this meeting there shall be selected a vice president and a secretary for each of said boards. Said board shall also appoint a treasurer and such officers as it may deem necessary, but no member of either of said boards shall be selected as treasurer. (Id. 7.)

(§ 4535a-8 Ky. St.) **Regular Meetings—Quarterly.**—Each board shall meet quarterly at such time and places as may be agreed upon and, until the buildings are arranged for and completed, and as much oftener as may be necessary, but thereafter the regular meetings of each of said boards shall be held at its respective normal school buildings. (See Sec. 254, Id. 8.)

(§ 4535a-9 Ky. St.) **Quorum.**—A majority of the members of said board shall constitute a quorum for the transaction of business, but no appropriation of money, nor any contract which shall require any appropriation or disbursement of money shall be made, nor teacher employed or dismissed, unless a majority of all the members of the board shall vote for the same. (Id. 9.)

Section 131. (§ 4535a-10 Ky. St.) **Powers Generally of Regents.**—Each Board of Regents shall have general control and management of its Normal School; shall possess full power and authority to adopt all needful rules and regulations for the guidance and supervision of the conduct of the students of any department thereof; to enforce obedience to such rules, to invest the faculty with the power to suspend or expel any pupil for disobedience to such rules, or, for any other contumacy, insubordination or immoral conduct, and have authority to appoint or dismiss all officers and teachers, to require such reports from officers and instructors as it may deem necessary, to appoint a treasurer for such school and to determine the amount of his bond, which amount shall not be less than ten thousand dollars. (Id. 10.)

(§ 4535a-11 Ky. St.) **Normal Executive Council.**—The Superintendent of Public Instruction, together with the president or head executive officer of each State Normal School, herein created, shall constitute a Normal Executive Council whose duty it shall be to prescribe the course of study to be taught in each State Normal School and the educational qualifications for admission to and graduation from the same. (Id. 11.)

(§ 4535a-12 Ky. St.) **Vice President—Secretary—President.**—At the first meeting of the Normal Executive Council,

which shall occur within one month after the election of the president of the said Normal School herein created, there shall be elected from said council a vice president and a secretary; the Superintendent of Public Instruction shall be ex-officio president of the council. (Id. 12.)

(§ 4535a-13 Ky. St.) **Meetings of Council.**—This council shall hold its meetings annually or as much oftener as may be deemed necessary, at the State Capitol, or at one of the Normal School buildings, the place of the meeting to be determined by the Superintendent of Public Instruction, and a majority of the members shall constitute a quorum. (Id. 13.)

(§ 4535a-14 Ky. St.) **Certificates May be Conferred—Privilege Conferred by—Revocation.**—Each Board of Regents shall have full power and authority, subject to the approval of the State Superintendent of Public Instruction, to confer, under its corporate seal, upon students of said schools the following certificates, viz.: An "Elementary Certificate," an "Intermediate Certificate" and an "Advanced Certificate." (Id. 14.)

The elementary certificate shall be conferred upon the completion of not less than one year's work, and shall entitle the holder thereof to teach in any public school in this State for the period of two years from the date thereof without further examination. The intermediate certificate shall be conferred upon the completion of not less than two years' work, and shall entitle the holder thereof to teach in any public school in this State for a period of four years from the date thereof without further examination. The advanced certificate shall be conferred upon the completion of not less than three years' work, and shall entitle the holder thereof to teach in any public school in this State for a period of three years from date thereof without further examination, and if, at the end of the three years, a teacher holding an advanced certificate shall present to the Board of Regents which granted the same, satisfactory evidence of successful teaching during said period, and of good moral character, then the advanced certificate may be extended for life, or good behavior, by said board, subject, however, to the approval of the State Superintendent

of Public Instruction; and it shall be so endorsed by the said board, and the holder thereof shall be entitled to teach in any public school in this State during good behavior without further examination.

Whenever the Normal Executive Board shall have prepared a course of study covering four years' work above high school, and either or both of the two Boards of Regents shall have put into operation the said course, any student completing such course shall be entitled to receive an appropriate degree, with the approval of the State Superintendent of Public Instruction.

The official endorsement of the State Superintendent of Public Instruction shall be necessary to validate any certificate, or extension thereof above named. Any certificate may be revoked for cause by the Board of Regents of the school granting the same, or by the State Superintendent of Public Instruction. Any County Superintendent may, for cause, revoke for his county, any certificate, of which revocation immediate notice shall be given to the State Superintendent of Public Instruction, and he shall have power to approve or reverse such revocation.

The secretary of the Board of Regents shall annually on or before the first day of August, transmit to the State Superintendent of Public Instruction the names of those receiving such certificates, their date of issue, and the place of residence of each holder, and the State Superintendent shall annually, not later than August 15th, forward to each County School Superintendent a printed list of persons holding State certificates then in force, and those authorized to teach under the provisions of this section, giving names, residences, dates of qualification, and by whom conferred and the date on which each normal certificate shall expire; and the holder of such certificate shall, before commencing to teach a public school in any county in this State, notify the County Superintendent thereof, of such fact, give date of qualification and by whom conferred, and the County School Superintendent shall verify same by examination of the list sent him by the State Super-

intendent and if found correct, shall duly record the said teacher as eligible to teach in such county.

Section 132. (§ 4535a-15 Ky. St.) **Teachers and Compensation.**—The Board of Regents shall have power to appoint and to remove the president, professors and teachers of the Normal Schools, to fix their compensation, the commencement and the termination of their respective terms of office, not to exceed two years for any one term. (Id. 15.)

(§ 4535a-16 Ky. St.) **Removal of Officers and Teachers—Causes for.**—No president, professor, or teacher shall be removed except for incompetency, neglect or refusal to perform his duty or for immoral conduct; nor shall such president, professor or teacher be removed until after ten days' notice in writing, stating the nature of the charges preferred; and such person shall have an opportunity to make a defense before the board by counsel or otherwise, and shall be allowed to introduce testimony, which shall be heard and determined by the board. In every case of the suspension or expulsion of a student by the faculty, the person so suspended or expelled shall be allowed to appeal from the decision of the faculty to the Board of Regents, and it shall be the duty of the Board of Regents to prescribe the manner and mode of proceeding in the matter of such appeal, but the decision of the Board of Regents shall be final. (Id. 16.)

(§ 4535a-17 Ky. St.) **Special Meetings of Regents.**—Upon the written request of any two members of the Board of Regents, or at the request of the faculty and signed by the president and certified by the secretary thereof, the chairman of the Board of Regents may call a special meeting, stating the object or objects thereof, and no other business shall be transacted at such a meeting unless all the members of the board are present and consent thereto. (Id. 17.)

(§ 4535a-18 Ky. St.) **Expenses of Regents Paid.**—No member of the Board of Regents nor member of the Normal Executive Council, shall draw any salary for services as such,

(Id. Sec. 14; March 24, 1908, c. 62, p. 157, sec. 2 as amended March —, 1916, c. 110, p. 664. The paragraph beginning: "Whenever the Normal Executive Board," and ending "State Superintendent of Public Instruction," is an amendment of March —, 1922.)

but shall receive six cents per mile for every mile necessary to travel in going to and from each meeting of the board and other legitimate expenses, to be paid out of the contingent fund of the school. (Id. 18.)

§ 4535a-19 Ky. St. **Interest in School Contracts Forbidden.**—No president, professor, teacher, regent, member of the Normal Executive Council or other officer or employee shall keep for sale or be interested, directly or indirectly, in any contract or purchase for the building or repairing any structure or for fencing or ornamenting the grounds, or furnishing any supplies or material for the use of said Normal School. (Id. 19.)

Section 133. (§ 4535a-20 Ky. St.) **Reports of Presidents to Regents.**—The president of each Normal School shall make to his Board of Regents written reports in duplicate, during the month of August of each year, which shall contain a full account of all receipts of moneys from appropriations, tuitions, fees and all other sources, and the disbursement thereof, and for what purpose and the condition of the said Normal School; shall also report a list of the names and places of residence of all students that may have been taught in the Normal School during the preceding year, the number of terms enrolled, the number of days each has taught and the amount of tuition and incidental fees paid; one of which reports shall be filed in the office of the secretary of the Board of Regents and the other transmitted to and filed in the office of the Superintendent of Public Instruction, at Frankfort, Kentucky. (Id., Sec. 20, as amended March 24, 1908, C. 62, p. 157, Sec. 3.)

(§ 4535a-21 Ky. St.) **Treasurer and Bond.**—The treasurer of the respective Board of Regents, before he enters upon the duties of his office, shall enter into a bond to the Commonwealth of Kentucky, with not less than two solvent sureties or a guarantee company authorized to do business in Kentucky, in a sum of not less than ten thousand dollars, to be approved by the board, conditioned that he will faithfully perform all the duties required of him by law as such treasurer, which bond shall be filed with the secretary of the board. (Id. 21.)

(§ 4535a-22 Ky. St.) **Duties, Compensation of Treasurer—Reports by.**—It shall be the duty of the treasurer of the board to receive and disburse all moneys under the control of the Board of Regents and perform all such acts as pertain to his office, under the direction of the Board of Regents and to make a report of the same to the board at its quarterly meetings. In the month of August of each year, the treasurer of said board shall also make and furnish to the Board of Regents to be by it transmitted to the State Superintendent of Public Instruction, an abstract of which shall contain full accounts of all moneys received and disbursed by the school during the preceding year, stating from what source received and on what account paid out and the amount paid to each professor, teacher or other officer of the school, and on or before the second Monday in January, one thousand nine hundred and eight, and every two years thereafter said treasurer shall also report to the Board of Regents, to be by it transmitted to the General Assembly an itemized statement of all receipts and expenditures for the two calendar years preceding, showing minutely all disbursements of moneys received from the State or other sources. The compensation of the treasurer shall be fixed by the Board of Regents. (Id. 22.)

(§ 4535a-23 Ky. St.) **Secretary and Duties—Compensation.**—It shall be the duty of the secretary of the board to keep and preserve all records, books and papers, belonging to the board. He shall keep a journal of the proceedings of the board, in which, if requested by any member of the Board of Regents, the yeas and nays on all questions shall be entered. He shall prepare, under the direction of the board, all reports, estimates and to execute all such matters as belong to his office. His compensation shall be fixed by the board. (Id. 23.)

(§ 4535a-24 Ky. St.) **Payment of Debts.**—The respective Board of Regents shall, at their regular meetings, provide for the payment of any indebtedness of the school, and for that purpose they shall set apart all moneys which may be derived from tuition or other fees paid by students to the payment of: First, the incidental expenses of such school; and, Second, the payment of such indebtedness; and until such indebtedness

shall be fully paid off, no part of the fund derived from tuition or other incidental fees shall be used for the payment of professors, teachers or other officers or employees of such school, nor shall the board, until such indebtedness be fully paid, make any contract for the hire, employment or payment of professors, teachers or other officials, or employees of such schools that will be a greater sum of money for the annual payment thereof than the amount of the appropriation by the State for the support of said school for that year. (Id. 24.)

(§ 4535a-25 Ky. St.) **Funds to be Applied to Use Intended for Them.**—All appropriations made by the General Assembly for the support of Normal Schools, or for the benefit thereof, and all grants, gifts, bequests or donations by any individual or corporation for specified use, shall be applied to such use or uses and no other. (Id. 25.)

Section 133a. (§ 4535a-26 Ky. St.) **Pupils That Each County May Send—How Selected.**—Each county in the State shall be the unit of appointment and each county shall be entitled annually to the appointment to free tuition in the Normal School of the district in which it is located, of one white pupil for every five hundred, and fraction thereof, over two hundred and fifty, of white school children, based on the last official school census preceding the appointment. Said pupils so appointed shall be chosen as follows: The Superintendent of Schools in each county shall receive and register the names of all applicants for admission to said schools and shall examine such applicants at such time and in such manner as the Normal Executive Council may direct, and the applicants found to possess the highest qualifications, and who are of good character, shall be accepted as the pupils to which said county is entitled. Said appointment shall be for the full term of the prescribed course of study in the school, and any vacancy in any county may be filled in the same manner as provided for regular appointments. Should the number of appointees in attendance during any term not reach the number allowed for the county, said county may during any other term appoint alternates, so that the average for any whole year from any county may equal the number to which it is entitled under

the provisions of this section. The Board of Regents shall have power, in case any pupil so appointed shall refuse to sign and file with the secretary of said board a declaration that he or she will, if engagement can be secured by reasonable effort, teach in the public schools of this State not fewer than two years upon an elementary certificate; not fewer than three years upon an intermediate or advanced certificate, to require such pupil to pay such fees and tuitions as the board may prescribe. (Id., Sec. 26 as amended March 24, 1908, C. 62, p. 157, Sec. 4.)

(§ 4535a-27 Ky. St.) **Observation and Practice Work.**—The Board of Regents of each school may maintain in connection with the said Normal Schools, a model and practice school, under the supervision of thoroughly trained teachers, for the purpose of giving observation and practice work to the student teachers. (Id. 27.)

(§ 4535a-28 Ky. St.) **Location of Schools.**—The Governor shall, within thirty days after this act becomes a law, appoint a commission composed of seven persons, one from each appellate district of the State, who shall, within thirty days after their appointment, meet at Frankfort, Kentucky, on a date fixed by the Governor, and organize and arrange to receive from those localities in Kentucky desiring to secure the location of said schools, proposals for donation of suitable sites and other valuable considerations, and shall, within ninety days after their appointment, locate the said schools in said Normal School Districts at the place making the most advantageous offers, all things considered. All proposals for sites or locations for the schools shall be in writing, and shall be entered at large on the records of the commission, and the findings of the commission fixing the locations shall be in writing and entered at large on the records of the said commission. Provided, that no town or city shall be selected for the location of said school which does not have facilities for a good water supply and other conveniences necessary for the institution. (Id. 28.)

Section 134. (§ 4535a-29 Ky. St.) **Appropriation.**—In order to enable the Board of Regents to carry into effect the provisions of this act there is hereby appropriated the sum of

ten thousand dollars (\$10,000.00) to be divided equally between the two Normal Schools herein provided for, for the purpose of equipping suitable buildings, improving grounds, etc., [and the sum of forty thousand dollars (\$40,000.00) annually] to be divided equally between the two schools to defray the salaries of teachers and other current expenses; provided that the latter appropriation shall not become effective for any school until the buildings have been equipped and the school regularly opened. (Id., Sec. 29.) The words in brackets are repealed by an act of March 5, 1918, C. 4, p. 11, by the substitution of an annual tax levy for the said annual appropriation. See Sec. 4019.

(§ 4535a-30 Ky. St.) **Payment of Appropriation.**—The money hereby appropriated for equipment shall be available immediately for each of the said normal schools upon the delivery of a good general warranty deed conveying to the commonwealth the property to be donated as above provided and its acceptance by the locating commission. The money appropriated under this act for equipment and maintenance of the schools shall be disbursed as follows, viz.:

The chairman and secretary of the Board of Regents shall draw their warrants for the equipment and maintenance of each school provided for under this act on the auditor of public accounts, payable to the treasurer of each normal school, and upon receipt of said draft by the auditor he shall draw his warrant for the proper amount upon the treasurer of the State, the money authorized to be paid out of the general funds not otherwise appropriated. (Id. 30.)

(§ 4535a-31 Ky. St.) **Regents May Purchase and Sell Real Estate.**—The Board of Regents of each of said Normal Schools is vested with power to purchase additional real estate when in its judgment the same is necessary for the purposes of the school. If the Board of Regents be unable to agree with the owner or owners of such real estate as to its value, or to purchase the same, it may proceed in its own name, in any court having jurisdiction, to condemn such real estate in the same manner as provided by law in the condemnation of lands for railroad purposes. Real estate acquired by purchase or condemnation shall be paid out of moneys appropriated to

said school. Each Board of Regents may, on such terms as it may regard best for the school, lease or donate a lot of land for the purpose of securing the erection of a library thereon; each board may also erect or lease from another for a term of years any necessary buildings or grounds. Each Board of Regents may, when it regards the same to be best for its school, sell and convey any real estate or buildings now owned by it, but the proceeds arising from such sale must be reinvested in other real estate and buildings for the use of said school. (March 24, 1908, C. 62, p. 157, Sec. 5).*

Section 134a. (§ 4535a-32 Ky. St.) **Certificates to Teach—Examination of Students—Fee—Examination of Papers.**—That students while in good faith attending a State Normal School may be examined for county teachers' certificate by a board of examiners to be selected and appointed by the superintendent of the county in which such Normal School is located, said board to have the same qualifications as the regular county examiner, and on the dates provided in the common school law for examination of teachers. If such Normal students are of age and character required by law in the case of other candidates for county certificates, the County Superintendent of the county in which the Normal School they are attending is located shall admit them to examination and shall collect from each the legal fee of \$1.00 and in addition thereto \$1.00, which latter is to be used in defraying the expenses of holding the examination and in transmitting the examination papers as herein provided.

At the close of the examination the County Superintendent shall transmit by registered mail or express the examination papers of each student candidate, together with the legal fee, (to the County Superintendent of the county from which said candidate desires his certificate issued.

The County Board of Examiners shall canvass the papers sent to them as above provided, and shall issue county certi-

*Section 4535a-31 is section 5 of an act of March 24, 1908, c. 62, p. 157, the title of which reads, "An act to amend an act approved March 21, 1916, entitled 'An act to establish, etc.'" Section 5 provides "That the following is enacted as an amendment to said act approved March 21, 1906, and as an additional section thereto, viz."

Is this section enacted in compliance with section 51 of the Constitution. See Board of Penitentiary Commissioners v. Spencer, 159 Ky. 255.

ficates upon them, upon the same terms and conditions as in case of candidates appearing in person for examination, and as is now or may hereafter be provided by law.)

Section 134a. (§ 4535a-32 (2), 4535a-33, 4535a-34 Ky. St.)—(These sections respectively appropriated one hundred and fifty thousand dollars (\$150,000.00) each for the Eastern and Western Normal Schools for the erection of improvements. As no annual or continuing appropriations were therein provided for, said sections are deemed to have been for a special purpose and not of such a general or permanent nature as to require retention in the public and permanent general statutes. Said sections were 2 and 3 of an act of March 16, 1908, C. 5, p. 22. The only permanent feature was that requiring the title to additional lands purchased for said improvements "be made to and held by the Commonwealth of Kentucky for the use and benefit of said school." See further Sec. 4535c.)

(§ 4535a-35 Ky. St.) **Twenty Thousand Dollars (\$20,000) Annual Appropriation for Eastern Normal School.**—(This section was repealed March 5, 1918, C. 4, by the substitution of an annual tax levy for the annual appropriation. See Sec. 4019. This section was formerly an act of March 16, 1908, C. 5, p. 2, Sec. 4.)

(§ 4535a-36 Ky. St.) **Thirty Thousand Dollars Appropriation for Western Normal School.**—(This section was likewise repealed by the law cited under the foregoing section.)

(§ 4535b-1 Ky. St.) **Additional Annual Appropriation for Normal Schools and State University.**—(This section was an act of March 11, 1912, C. 32, p. 148, Sec. 1, and provided additional annual appropriations of fifty thousand dollars (\$50,000) for the State university; thirty-five thousand dollars (\$35,000) for the Eastern Normal School, and twenty-five thousand dollars (\$25,000) for the Western Normal School, and provided for the manner of the use and payment thereof. By an act of March 5, 1918, C. 4 (now Sec. 4019), an annual tax levy was substituted for these annual appropriations and

The words included in parentheses are superseded by Acts 1920. Papers are now sent to State Superintendent. Section 4535a-32 is subject to the same criticism as 4535a-31.

provision as to how same shall be "paid" and "used" is made, fully covering the former provisions of this section.)

(§ 4535b-2 Ky. St.) **Penalty for Creating Debt When No Funds in Treasury for Payment.**—That it shall be illegal for any officer, trustees or any person in any way connected with the Eastern Kentucky State Normal School, the Western Kentucky State Normal School or the State University of Lexington, Kentucky, to contract any obligation for or on behalf of said institution, when there is no money, or sufficient money, in their respective treasuries or has been no money appropriated for the purpose for which said contract or obligation was made, and that any of the said persons who fail to comply with this law, shall be fined in each case, not less than two hundred and fifty dollars, nor more than two thousand dollars, or confined not less than ten days in jail nor more than six months, or both so fined and imprisoned.

(§ 4535c Ky. St.)—Originally an act of March 15, 1912, C. 100, p. 287, being an appropriation of a temporary character to pay certain obligations (which were paid by same) is not deemed necessary for inclusion here.

Section 134a-1. (§431a-1c Ky. St.) **New Normal School Commission.**—That a commission is hereby created to be known as the State Normal School Commission, consisting of eight members who are citizens of the State of Kentucky and over the age of twenty-one years, to be appointed as follows: Five by the Speaker of the House of Representatives and three by the President of the Senate, which is hereby authorized and empowered to establish two new Normal Schools for the training of white elementary teachers, one to be located in the western part of the State and one to be located in the eastern part of the State. The said Commission is hereby authorized to receive gifts of land, buildings or money for the establish-

The act of 1910 (S. A., p. 36), providing that the right to operate an industrial school was dependent upon an election by the people is unconstitutional under sections 1, 2, 26 and 60 of the Constitution. *Columbia Trust Co. v. Lincoln Institute*, Ky. 129.

By act of 1910 (S. A., p. 38), it is provided that the operation of certain industrial schools shall depend upon a popular vote at an election.

By act of March 13, 1912 (S. A., p. 218), the act of establishing a common school for the aid of the colored people of Catlettsburg is repealed.

By act of March 13, 1912 (S. A., p. 223), the charter of the Adairville public school district is repealed.

ment of these two normal schools for white elementary teachers.

The management and control of these two normal schools, when established, shall be and is hereby vested in the State Board of Education.

There is hereby appropriated, out of the general funds of the State, to each of these two normal schools for maintenance and operation, the sum of thirty thousand dollars annually. The Auditor of the Commonwealth is directed to draw his warrants for said sums, above appropriated, upon requisitions signed by the chairman and secretary of the State Board of Education.

Provided, that the above appropriation for maintenance and operation shall not become available for said normal schools until the said Commission has received for each of said schools gifts of land suitable to the purposes of each school, and also, gifts of buildings or money, or both, equivalent in value to at least one hundred thousand dollars.

Provided further, that if gifts and donations are made, sufficient to establish one of said schools, then the sum of thirty thousand dollars shall be available for the maintenance and operation of said school. (Act of March, 1922.)

Chapter XIII.—Continued.

KENTUCKY NORMAL AND INDUSTRIAL INSTITUTE FOR COLORED PERSONS

Sec. 135. Board—powers — duties—
expenses—name and title.
Sec. 136. Agriculture and mechan-
ical arts—funds—tuition
—reports.

Sec. 137. Appropriations—how paid
—certification of teach-
ers.

Sec. 137a. Board empowered to is-
sue certificates and
diplomas.

Section 135. (§ 4527 Ky. St.) **Trustees—Appoint-
ment—Term of Office—Powers—Vacancies—Treasurer.**—The
State Normal School for Colored Persons, established by an
act of the General Assembly, approved May eighteenth, one
thousand eight hundred and eighty-six, shall hereafter be un-
der the control and supervision of a board of trustees, compos-
ed of the Superintendent of Public Instruction, who shall be
ex-officio chairman of the board, and three intelligent and dis-
creet persons, to be appointed by the Governor subject to the
approval of the Senate who are hereby constituted a body cor-
porate, with power to sue and be sued, plead and be implead-
ed, and to hold in trust all funds and property now owned by
said school, or which may hereafter be provided for it, and
shall be known and designated as “The Board of Trustees of
the Kentucky State Normal School for Colored Persons,” pro-
vided that no two appointive members of said board shall be
residents of any one county.

The term of office for the three members appointed by the
Governor shall begin on the first day of July, one thousand
nine hundred and eighteen, and one member thereof shall re-
tire as may be determined by lot, at the end of one year there-
after; one in two years and the other in three years; their suc-
cessor shall be appointed by the Governor, for a term of three
years; they shall be subject to removal by the Governor for
cause, and he is authorized to fill all vacancies occurring by
death, resignation or otherwise, provided that the board as
now constituted shall continue in office for their respective
terms.

Said board shall adopt such rules for the government of
said school, not inconsistent with law, as they deem proper,
and shall supervise all its interests, provide for all its wants,

confer weekly with the faculty and require formal reports of the actual condition of the school in every regard. They shall biennially, beginning on the first day of July, 1918, elect some suitable person outside of their own number as treasurer, who, before entering on his duty shall give in bond such a sum as they may prescribe, and they shall agree with him as to compensation: Provided, that in no case shall such compensation exceed one hundred dollars per annum; Provided, that no member of the board of trustees of the State Normal School for Colored Persons shall draw any salary for their services as such, but shall be paid their necessary traveling expenses and hotel bills in going to and from each meeting of the board and other legitimate expenses to be paid out of any money now appropriated by the State of Kentucky for said Normal School for Colored Persons, said expenses to be paid after an itemized account is filed as is now required by law for similar expenses against the State. (Act of March, 1920, C. 162, p. 691.)

(§ 4527a Ky. St.) **Name of School—President and Powers.**—The name of the State Normal School for Colored Persons is hereby changed to that of "The Kentucky Normal and Industrial Institute for Colored Persons," and its board and trustees shall be known as "The Board of Trustees of the Kentucky Normal and Industrial Institute for Colored Persons." The presiding officer of the institute, who shall be selected by the board of trustees, shall be styled the "President of the Institute," and shall be the chief administrative officer of the institution under the control of the board of trustees, and be ex-officio a member of the board of trustees, and hold his office indefinitely, at the will of the said board, but the superintendent shall have no vote in his own election or retention in office. (March 18, 1902, C. 33, p. 71.)

Section 136. (§ 4528 Ky. St.) **Department of Agriculture and Mechanics—Fund for.**—There shall be maintained in said institution a department for the education of colored

Mandamus rightly issued against the State Superintendent, who was ex-officio chairman of the board of trustees of the Kentucky Normal Institute, to compel him to sign in his official capacity a diploma awarded by the board of trustees at a session which he refused to attend without valid excuse. The duty to sign the same was independent of the fact that the certificate would have been good without his signature. Hamlett, State Superintendent v. Reid, 165 Ky. 613.

students in agriculture and the mechanical arts, and for said purposes said board shall be entitled to receive an equitable division of the moneys arising from the sale of public lands, and appropriated to the State of Kentucky by an act of Congress, approved August 30, 1890, entitled "An Act to apply a portion of the proceeds of public lands to the more complete endowment and support of the college for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress." (May 22, 1893, C. 211, p. 963, Sec. 2.)

(§ 4529 Ky. St.) **Trustees—Powers Concerning Studies—Instructors and Teachers.**—Said board shall prescribe the course of study for the said Normal School; shall select the instructors and fix their salaries, and shall determine the conditions, subject to the limitations hereinafter specified, on which pupils shall be admitted to the privileges of the school. (May 22, 1893, C. 211, Sec. 3.)

(§ 4530 Ky. St.) **Pupils—Terms of Admission.**—Any pupil to gain admission to the privileges of instruction in said Normal School shall be at least sixteen years of age, possess good health, satisfactory evidence of good moral character, and sign a written pledge, to be filed with the principal, that said applicant will, as far as practicable, teach in the common schools of Kentucky a period equal to twice the time spent as a pupil in said Normal School, together with such other conditions as the board may from time to time impose, but no such pledge shall be required of the pupils who matriculate in the departments of agriculture or mechanics. (May 22, 1893, C. 211, p. 963, Sec. 4.)

(§ 4531 Ky. St.) **Tuition—When Free to Pupils.**—Tuition in said Normal School shall be free to all colored residents of Kentucky who fulfill the conditions as set forth in the preceding section, and such other conditions as the board may require. The board shall fix the rate of tuition and the conditions on which pupils, who are not residents of Kentucky, may be admitted to the privileges of said Normal School. (May 22, 1893, Sec. 5.)

(§ 4532 Ky. St.) **Sectarian Teaching Forbidden.**—No religious tenets shall be taught in said Normal School, but a

high standard of Christian morality shall be observed in its management, and, so far as practicable, shall be inculcated in the minds of the pupils. (May 22, 1893, C. 211, Sec. 6.)

(§ 4533 Ky. St.) **Trustees to Visit School—Reports by—To Legislature.**—The board shall, in a body or by a majority of their number, visit said Normal School once during each session, witness the exercises, and otherwise inspect the condition of said school, and they shall make a biennial report to the legislature, setting forth the financial and scholastic condition of said Normal School, making such suggestions as in their opinion would improve the same, and in the years in which there is no session of the legislature, they shall make their report to the Governor.

Section 137. (§ 4534a Ky St.) **Miscellaneous Appropriations—\$5,000.00 Appropriation for Support.**—The further sum of five thousand dollars annually is hereby appropriated for the support and conduct of said institution, to be paid by the Auditor of Public Accounts out of any money in the treasury not otherwise appropriated, on the written order of the chairman of the board of trustees at the same time the other annual appropriation is paid.

Section 289. (Ky. School Laws of 1918) appropriated \$6,800 for specific purposes, the latter part of section carried an annual appropriation as follows:

Whereas, there are now valuable buildings, equipment and other property without any maintenance fund for the care, growth and development of the institution, the sum of three thousand dollars (\$3,000.00) is hereby annually appropriated for this purpose.

(§ 4534b Ky. St.) **Appropriation of \$17,500.00 for Kentucky Normal and Industrial Institute.**—That the sum of seventeen thousand and five hundred dollars (\$17,500.00) be appropriated to the Kentucky Normal and Industrial Institute for Colored Persons from any funds in the State Treasury not otherwise appropriated for the purpose of settling an indebt-

Sec. 4534a. This section appropriated \$15,000.00 for a girls' dormitory; Sec. 4534a appropriated \$20,000.00 for further permanent improvements (287 of Ky. School Laws, 1918); \$40,000.00 was appropriated to pay outstanding indebtedness, improvements and equipment. In Sec. 4534b, \$17,500 was appropriated for heating plant, laundry and indebtedness.

edness of five thousand dollars (\$5,000.00) ; providing a central heating plant, eight thousand dollars (\$8,000.00) ; a laundry, twenty-five hundred dollars (\$2,500.00.)

(§ 4534b Ky. St.) **Annual Appropriation of \$2,000.00.**—That the sum of two thousand dollars (\$2,000.00) annually be appropriated for the equipment and maintenance of the training of students in such useful trades as the board of trustees in its wisdom may direct. (March 20, 1902, C. 41, p. 79, Sec 2.)

(§ 4534c Ky. St.) That the sum of five thousand two hundred and fifty (\$5,250.00) dollars be, and the same is hereby appropriated for this fiscal year, and for each succeeding year, out of any money not otherwise appropriated, for the benefit of the Kentucky Normal and Industrial Institute for Colored Persons, Frankfort, Kentucky, and the same is directed to be paid by the Treasurer of the State to the treasurer of the said Kentucky Normal and Industrial Institute for Colored Persons upon warrant or warrants issued by the Auditor of Public Accounts, who is hereby directed to draw and issue said warrant or warrants for the purpose aforesaid. (March 24, 1916, C. 78, p. 608.)

Section 137a. (§ 4515 Ky. St.) **Certificates and Diplomas May be Granted by the Board.**—The board is authorized to grant, from time to time, certificates of proficiency to such pupils as shall have completed the prescribed course of study in any department of the institution, and whose moral character and disciplinary relations to said school shall be satisfactory. And such teachers as shall have completed the prescribed course of study in the Normal department, and exhibited satisfactory evidence of ability to instruct and manage a school, shall be entitled to diplomas appropriate to such degrees as the board shall confer upon them, which diplomas shall entitle them to teach in any of the colored common schools of this State. (May 22, 1893, C. 211, p. 963, Sec. 9.)

DECISION OF THE COURT OF APPEALS

The fact that a pupil may hold a valid diploma will not justify the superintendent in refusing to sign it, for he owes that duty. He is a member of the governing board, and is bound by the action of a majority of its members. *State Superintendent v. Reid*, 165 Ky. 613.

Chapter XIII.—Continued.

QUASI NORMAL SCHOOLS

Sec. 138. State Board of Education may designate any university, college or normal school, not conducted for private gain—when.

Sec. 138a. Power of such institutions to certificate teachers.

Sec. 139. Board of Regents for Normal School inspection created—standards required.

Sec. 139a. Institutions receiving State aid are not subject to the provisions of the act.

Sec. 140. Expenses of inspection—how borne.

Section 138. (§ 4535c-1 Ky. St.) **Quasi-Public Normal Schools Having Course Equivalent to State Normal Schools—Faculty and Equipment—Graduates May be Given Teachers' Certificates.**—Whenever any university, college or normal school in this State that is not conducted for private gain, shall have a course of study equal in extent and equivalent in the same sense that the course of study of the two State Normal Schools are equivalent in subjects to either the elementary course or the intermediate course or the advanced course of the State Normal Schools, and shall have full and ample equipment and a faculty of competent instructors actually giving approved instruction in the branches contained in said course and equivalent to that given in the State Normal Schools, a student who shall have completed any of these courses may be granted by the State Board of Education an elementary certificate, or an intermediate certificate or an advanced certificate of the same tenor and effect as the certificate to teach issued to the students who have completed the elementary course or the intermediate course or the advanced course, respectively, of the State Normal Schools.

Provided, that the completion of such a course shall have been certified by the institution in which the student has completed the course.

Provided, further, that no certificate shall, under the provisions of this act, be issued to any applicant who has not completed the equivalent of the 10th grade of the public schools. (Act March, 1819.)

Section 139. (§ 4535c-2 Ky. St.) **Board of Regents for Normal School Inspection, Members, Appointment, Term,**

Qualifications, Requirements for Schools to Receive Benefits of This Law.—The determination of the question as to what institutions are entitled to the privileges set forth in the preceding section of this act shall be in the hands of a board to be known as the Board of Regents for Normal School Inspection, to be composed of the State Superintendent of Public Instruction, ex-officio member and chairman, and four members to be appointed by the Governor of the State as follows: One member from the faculty of the Department of Education of the University of Kentucky, one member from the faculty of each State Normal School and one member from the faculty of the Normal School of a city of the first class. Two of the members first appointed to serve for a period of two years and two for a period of four years and thereafter all members to serve for a period of four years.

Provided that not more than two appointive members shall be from the same political party and no two members of the same church.

No institution shall be entitled to the privileges conferred by the preceding section of this act unless the following requirements have been fulfilled.

First. Such institution shall be fully incorporated and the corporation shall have at least \$50,000 invested and available for use in the school.

Second. Such institution shall be a member of the Kentucky Association of Colleges and Universities, or on the list of the accredited secondary schools and junior colleges of the University of Kentucky.

Third.¹ This act shall not apply to any institution supported in whole or in part by State funds.

The State Superintendent of Public Instruction shall, upon request of any institution desiring recognition under section 1 of this act, direct the above named commission to inspect the institution and to report within sixty days upon its application. Each year the State Board of Education shall satisfy itself that the requirements of this act have been met before any certificate shall be granted the students of such institution.

Section 140. (§ 4535c-3 Ky. St.) **Expenses of Inspecting Such Schools—Rules by Board of Regents.**—The expenses of inspection shall be borne by the institution asking for recognition under the provisions of this act. All schools asking privileges under the provisions of this bill shall be subject to the lawful authority and inspection of the State Inspector and Examiner so far as the faithful enforcement of the course of study is concerned.

The Board of Regents provided for in this act shall have power to make all needful rules and regulations to carry into effect the provisions of this act.

Chapter XIV.

THE STATE UNIVERSITY, LEXINGTON, KY.

- Sec. 141. State University established—name changed—all acts relating to A. & M. College continued in force.
- Sec. 141a. Department of law established.
- Sec. 141a-1. Medical and surgical department established.
- Sec. 141a-2. Students county may send—rules governing appointments—free tuition for students preparing for ministry.
- Sec. 141a-3. Board shall be bi-partisan—how selected—members ex-officio—location not be affected by change of name, etc.
- Sec. 142. Teachers — examination of students for—papers sent to State Board for grading—appropriations.
- Sec. 143. Department of Education established—certificates to students.
- Sec. 143a. Agricultural Extension—annual appropriation for.
- Sec. 144. Board of trustees—term—qualifications—appointive members—alumni nomination—vacancies, how filled.
- Sec. 144a. Executive committee of five members to be selected—power, etc.—other committees to be appointed.
- Sec. 144a-1. Powers and duties of board of trustees—president, professors, teachers and officers selected by.
- Sec. 145. Treasurer—bond—accounts and statements—actions against.
- Sec. 145a. Government of college—trustees to establish rules for.
- Sec. 145a-1. Report to be made to General Assembly by trustees—appropriation for dormitory for young women—trustees to appoint board to govern, etc.
- Sec. 146. Course of mining engineering established—appointment of Inspector of Mines, etc.
- Sec. 146a. Agricultural Experiment Station—appropriation—disposition of funds—fiscal courts may aid—Federal act concerning.
- Sec. 147. Federal Smith-Lever act accepted.
- Sec. 147a. Persons engaged in military or naval service during world war entitled to scholarships—conditions and requirements.
- Sec. 147a-1. University empowered to acquire additional lands—annual report required to State Department.

Section 141. (§ 4636a-1 Ky. St.) That the institution founded under the land grant of eighteen hundred and sixty-two by the Congress of the United States and known formerly under the corporate designation and title of "Agricultural and Mechanical College of Kentucky" and afterwards known and designated as "The State University, Lexington, Kentucky," be hereafter known and designated as "University of Kentucky." (March 15, 1916, C. 20, p. 149, Sec. 1.)

(§ 4636a-2 Ky. St.) **Maintained by State.**—That the said State University be maintained by the Commonwealth with such endowments, incomes, buildings and equipments as shall enable it to do work such as is done in other institutions of corresponding rank, both embracing work of instruction as well as in original research.

(§ 4636a-3 Ky. St.) **All Acts relating to the A. and M. College Continued in Force.**—That all the acts of the General Assembly of the Commonwealth of Kentucky, making provision for the establishment, support and maintenance of the Agricultural and Mechanical College of Kentucky, heretofore enacted, viz.: An act appointing a commission for the location of the Agricultural and Mechanical College, approved March 13, 1878; an act locating and establishing the Agricultural and Mechanical College, approved February 6, 1880; an act incorporating the Agricultural and Mechanical College, approved March 4, 1880; an act amending the act of incorporation, approved April 23, 1880; an act of the General Assembly, approved April 29, 1880, and section 184 of the Constitution of Kentucky, guaranteeing the validity of the tax levied for the benefit of the Agricultural and Mechanical College by said act, approved April 29, 1880; an act of incorporation, amending the acts of March 4, 1880, and April 23, 1880, approved May 9, 1893; an act for the maintenance of the girls' dormitory, approved March 21, 1900, and an act making an annual appropriation for the maintenance and support of the said college, which became a law March 26, 1904; and that all the acts of the Congress of the United States, creating and endowing colleges under the land grant of 1862, viz.: The act providing for the establishing of the college for the benefit of agricultural and mechanical arts, approved July 2, 1862; the act establishing experiment stations, as departments of agricultural colleges, approved March 2, 1887; the act for applying a portion of the proceeds of the public lands to the more complete endowment of the colleges established under the act of July 2, 1862, which passed the Senate June 23, 1890; the act known as the "Adams Act," further endowing experiment stations, passed by Congress, March 16, 1906; an act known as the "Nelson Act," for the further endowment of Agricultural and Mechanical Colleges, passed by Congress, March 4, 1907, shall not be affected by this change of name, and the revenue accruing from these and from all other sources, State and Federal, shall continue to be paid over by the State and Federal authorities to the treasurer of the University of Kentucky, Lexington, Kentucky, for its use and maintenance, in accordance with the pro-

visions of said acts of Congress and of the General Assembly of Kentucky.

(§ 4636a-4 Ky. St.) **Acts of Congress to be Carried Out.**—That the requirements of the law of Congress, approved July 2, 1862, for the instruction in those branches of learning relating to agriculture and the mechanic arts and to military tactics, should be carried out fully, and that those branches shall continue to be an integral and indispensable course of instruction in the University of Kentucky; and that, in addition to the other colleges of said university, one of the colleges shall be denominated the Agricultural College, and another the College of Mechanical Arts of the University of Kentucky.

Section 141a. (§ 4636a-5 Ky. St.) **Law Department—Department of Law Established.**—That a department of law, or course of instruction in the science of law leading to the degree of Bachelor of Law, shall be established in said university. The course prescribed leading to said degree shall be of equal dignity and rank to that of other corresponding institutions.

(§ 4636a-6 Ky. St.) **Medical and Surgical Department.**—That a Department of Medicine and Surgery, or course of instruction in the science of medicine and surgery, leading to the usual degrees conferred in such courses, shall be established in said university. The courses prescribed shall be of equal dignity and rank to that of other corresponding institutions, and that a diploma issued from this department shall be accepted throughout this State on equal terms with diplomas issued from other corresponding institutions.

(§ 4636a-7 Ky. St.) **Students Counties May Send—Selection.**—Each county in the State, in consideration of the incomes accruing to said institution, under the present laws for the benefit of said Agricultural and Mechanical College, be entitled to select and send to said university each year one or more properly prepared students, as hereinafter provided for, free from all charges for tuition, matriculation fees, room rent, fuel and lights, and to have all the advantages and privileges of the said university, one white pupil for every three thousand and one for each fraction thereof over fifteen hun-

dred of white school children, based upon the last official census preceding said appointment: Provided, however, that every county shall be entitled to at least one annual appointment. Said students shall be entitled, free of any cost whatever, to the benefits enumerated above for the term of years necessary to complete the course of study in which he or she matriculates for graduation, or during good behavior. All beneficiaries of the State who continue students for one consecutive, collegiate year, or ten months, unless unavoidably prevented, shall also be entitled to their necessary traveling expenses in going to and returning from said college. The selection of the beneficiaries shall be made by the Superintendents of Common Schools in their respective counties, upon competitive examination, on subjects prepared by the faculty of the university and transmitted to said superintendents before the first day of June of each year. Said competitive examinations shall be open to all persons between the ages of fourteen and twenty-four years. Preference shall be given, other things being equal, to those who have passed with credit through the public school, persons of energy and industry, whose means are small, to aid whom in obtaining a good education this provision is intended. Said competitive examination shall be held, and the successful competitor appointed between the first day of June and the first day of August of each year. It shall be the duty of the County Superintendent to make known the benefits of this provision to each common school district under his superintendency, with the time and place, when and where such competitive examination shall be held. He shall for this purpose, appoint a board of examiners, whose duty it shall be to conduct the examination. This shall not interfere with any appointment already made to said college.

(§ 4636a-8 Ky. St.) **Free Tuition for Students for the Ministry.**—That the board of trustees of said university may within their discretion, concede the privilege of free tuition

Sec. 4636a-7 which grants to certain selected students the right to attend the State University free from charges for tuition, matriculation fees, room rent, fuel and lights, and in certain cases to have their traveling expenses in going to and returning from the University paid by the State, violates Section 3 of the Bill of Rights of Kentucky, which prohibits the granting of exclusive, separate public emoluments or privileges to any man or set of men, except in consideration of public service. *Baker, etc. v. Crum, etc.*, 177 Ky. 637.

to students who are preparing for the ministry in connection with any white religious denomination.

(Section 141a-9 Ky. St.) **Board of Trustees to be Bi-Partisan.**—That the board of trustees shall, from and after January 1, 1910, be bi-partisan, and the Governor in making the appointments of trustees shall so make them as to divide the representation upon said board equally between the two leading political parties of this Commonwealth, including the ex-officio members. That the Superintendent of Public Instruction shall be, ex-officio, a member of the board of trustees.

(§ 4636a-10 Ky. St.) **Expenses of Change in Title of Institution.**—That the board of trustees have authority, out of the funds under their control, to expend an amount sufficient to meet the necessary expenses incurred in advertising and other necessary changes incident to the change of the style and title of the said institution.

(§ 4636a-11 Ky. St.) **Location—Lexington.**—That the location of the institution established by the act locating the University of Kentucky, approved February 6, 1880, shall not be affected by this change of name.

(§ 4636a-12 Ky. St.) **Acts and Rules for A. and M. College to Remain in Force.**—That all acts passed by the Legislature of Kentucky, and all the regulations made by the board of trustees in pursuance thereof, for the government of the agricultural and mechanical college, shall continue in effect and apply to the government of the University of Kentucky, Lexington, Kentucky, except to the extent herein specifically set out.

(§ 4636a-13 Ky. St.) **Law and Medical Students—Tuition of.**—That all students attending exclusively the law or medical department of the university shall pay the usual tuition fees.

Section 142. (§ 4636a-14 Ky. St.) **Teachers—Examination of Students for.**—That students, while attending the University of Kentucky, may be examined for county teachers' certificates by the board of examiners of Fayette county, Kentucky, and on the dates provided in the common school law for the examination of teachers. If such students are of the age and character required by law in the case of other can-

didates for county certificates, the County Superintendent of Fayette county shall admit them to examination and shall collect from each the legal fee, with fifty cents additional. At the close of the examination the County Superintendent shall transmit by registered mail the examination papers, together with the examination fee, to the County Superintendent of the county from which said candidate desires his certificate issued. The county board of examiners shall canvass the papers sent to them as above provided, and shall issue county certificates upon them upon the same terms and conditions as in case of candidates appearing in person for examination. (This section is an act of March, 1908, p. 4.) All examination papers are now sent to State Board.

(§ 4636b-1 Ky. St.) **Two Hundred Thousand Dollars (\$200,000.00) Appropriated for Buildings.**—That the sum of two hundred thousand dollars, or as much as may be necessary thereof, be and the same is hereby appropriated for the benefit of the University of Kentucky, Lexington, Kentucky, for the purpose of paying the outstanding indebtedness heretofore incurred for the erection of necessary buildings and equipment of same on the grounds owned by the said institution, and for the erection and equipment of a suitable building for the department of mining engineering, civil and physics; also for the erection and equipment of a necessary addition to the chemical building; also for the erection and equipment of a necessary addition to the mechanical and electrical engineering building; also for the erection and equipment of a new dormitory for the accommodation of the male students of said institution. All of said buildings shall be erected upon the grounds owned by said institution, or upon such ground as may be acquired by purchase by the board of trustees of said institution. If, in the judgment of the said board of trustees, the purchase of additional grounds may be necessary for the accommodation of the new buildings herein contemplated, or for the proper conducting of said institution, they may make such necessary purchase and pay for the same out of the money herein appropriated. The title to such real estate shall be made and held by the Commonwealth of Kentucky for the use and benefit of said institution. The

said board of trustees is vested with a sound discretion as to the order of construction and as to the location of the improvements herein set forth, or in giving preference to such other improvements as will best promote the interests of the institution, provided, that the total expenditure shall not exceed the amount herein appropriated. The said board of trustees shall appoint a competent architect or architects to prepare, under their directions, plans and specifications for the buildings aforesaid, and shall contract with responsible parties for the erection and equipment of same. All contracts under this act for material and labor, or for the erection of any and all buildings and improvements, and for the equipment of the same for the purposes mentioned in this act, shall be let to the lowest and best bidder, after the same is duly advertised by notice for ten consecutive days in a daily newspaper published in the city of Lexington, Kentucky, having the largest circulation, or for four consecutive weeks in the weekly paper published in said city which, in the judgment of the said board of trustees, has the largest circulation. The successful bidder or bidders in each case shall enter into bond to the Commonwealth of Kentucky for the benefit of said university in a sum not less than twenty-five per cent. of the contract sum or price for the completion of the work in the manner and within the time set out in the contract or contracts, and manner and time shall be fully and in detail set out in said contract. The money hereby appropriated shall be paid to the treasurer of said university from time to time, as the improvements contemplated in this act may require, and it shall be the duty of the Auditor of Public Accounts to draw his warrant or warrants upon the Treasurer of the State in favor of the treasurer of said university for an amount or amounts as the said treasurer of said university, countersigned by the president, may certify to him from time to time, is necessary and needed in carrying out the provisions of this act: Provided, however, that one-third of said appropriation shall be due and payable on December 1, 1908; one-third thereof shall be due and payable on July 1, 1909, and one-third thereof shall be due and payable on July 1, 1910. Said board of trustees shall submit to the next regular session of the General Assembly an itemiz-

ed account and statement of the expenditures made for the purpose herein named, which account and statement shall be properly certified and audited, and if any of the funds hereby appropriated remain unexpended after the additions and improvements to said university herein authorized have been made, the same shall be returned to the state treasury by said board of trustees.

Section 143. (§ 4636b-2 Ky. St.) **Department of Education Established—Certificates to Students—Normal—Certificates.**—That the normal department of said university, as it now exists, be eliminated, and there be established instead thereof a department of education in said university, with collegiate rank, leading to the usual degree in pedagogy as maintained in other similar state institutions; that degrees of bachelor of arts in education, and bachelor of science in education conferred in this department shall, with the approval of the State Superintendent of Public Instruction, entitle the holder thereof to the privilege of teaching in the common schools and high schools of the Commonwealth without further examination, during life or good behavior. The diplomas granting degrees may be revoked for cause by the said board of trustees or by the State Superintendent of Public Instruction. The board of trustees shall have power and authority, subject to the approval of the State Superintendent of Public Instruction, to confer, under its corporate seal, upon students of said department, the following certificates:

1st. An elementary certificate upon the completion of one year's work, which shall entitle the holder thereof to teach in any public school of this state for the period of two years from the date thereof, without further examination.

(2nd) An intermediate certificate upon the completion of two years' work, which shall entitle the holder thereof to teach in any public school of this State for a period of four years from the date thereof without further examination.

(3rd) An advanced certificate upon the completion of three years' work, which shall entitle the holder thereof to teach in any public school of this state for a period of three years from date thereof without further examination, and if, at the end of three years, a teacher holding an advanced certi-

ificate shall present to the board of trustees which granted the same, satisfactory evidence of successful teaching during said period, and of good moral character, then the advanced certificate may be extended for life or good behavior by said board, subject, however, to the approval of the State Superintendent of Public Instruction, and it shall so be endorsed by said board, and the holder thereof shall be entitled to teach in any public school in this state during good behavior, without further examination.

The official endorsement of the State Superintendent of Public Instruction shall be necessary to validate any of the said three certificates or extension thereof above named. Any certificate may be revoked for cause by said board of trustees or by the State Superintendent of Public Instruction.

(§ 4636b-3 Ky. St.) **Special Courses.**—That from and after two years from this date all sub-freshman work shall begin to be eliminated as a part of the university curriculum, and such elimination shall progress as rapidly as the educational conditions in Kentucky will justify; Provided, however, special courses may be given in any of the departments of the university, except that no sub-freshman normal instruction shall be given after September 1, 1908, in any department of the university or academy connected therewith.

(§ 4636b-4 Ky. St.) **Twenty Thousand Dollars (\$20,000.00) Annual Appropriation.**—(By an act of March 5, 1918, C. 4, p. 11, Sec. 4019, an annual tax levy was substituted for the annual appropriation provided for in this section, which is therefore omitted. Formerly act of March 16, 1908, C. 5, p. 22, Sec. 4.—Ed.)

(§ 4636b-5 Ky. St.) **One Cent—(1c) Annual Tax Levy.**—(Act of April 29, 1880, C. 1315, p. 137. A substitute levy was made by an act of March 5, 1918, C. 4, p. 11, now Sec. 4019.—Ed.)

(§ 4636b-6 Ky. St.) **Fifteen Thousand Dollar (\$15,000.00) Annual Appropriation.**—(Act of March 26, 1904, C. 120, p. 288. Annual tax levy substituted for this appropriation by act of March 5, 1918, C. 5, p. 15, now Sec. 4019.—Ed.)

Section 143a. (§ 4636b-7 Ky. St.) **Sixty-two Thousand Dollars (\$62,000.00) Annual Appropriation for Agricultural**

Extension Work—Offset Against Funds Necessary to Receive Benefit of Federal Appropriation.—In order to continue agricultural extension work in the State of Kentucky, there is hereby appropriated to the University of Kentucky for the year ending June 30, 1918, sixty-two thousand dollars (\$62,000.00), and a like sum is hereby appropriated annually thereafter, which shall be used by the Agricultural College of the University of Kentucky to offset funds appropriated by an act of Congress, approved May 8, 1914, entitled "An act to provide for co-operative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, and the United States Department of Agriculture." Any portion of the appropriations herein authorized remaining unused at the close of any fiscal year may be used to offset federal funds of any succeeding fiscal year. (March 15, 1916, C. 20, p. 149, Sec. 5, as amended March 29, 1918, C. 127, p. 552, Sec. 2.)

Section 144. (§ 4636c-1 Ky. St.) **Government of the University—Board of Trustees Who Compose—Appointive Members—Term—Qualification—Alumni Nominations—Alumni Votes—Not Public Officers—Vacancies as in Original Appointments.**—The government, administration and control of the University of Kentucky is hereby vested in a Board of Trustees, constituted and appointed as follows: The Governor of Kentucky, who shall be chairman of the Board; the Superintendent of Public Instruction and the Commissioner of Agriculture, Labor and Statistics, who shall be ex-officio members, and twelve citizens of Kentucky discreet, intelligent and prudent, who shall be appointed by the Governor of Kentucky. Four of each shall be appointed each biennium for a term of six years, and until their successors are appointed. One of the four so appointed shall be a member of the State Board of Agriculture, one shall be appointed from among three alumni nominated to the Governor by the alumni of the University, and the other two shall be distinguished citizens of the Commonwealth, one of whom shall be appointed from each of the political parties

Sec. 4636b-7. This statute (Acts 1916, c. 20) has a sufficient title, and the appropriation is for a public purpose. *Carman v. Hickman County*, 185 Ky. 630.

having the right to appoint a member of the State Board of Election Commissioners. With the exception of the members of the Board of Trustees appointed upon the nomination of the alumni of the University, no two members of the Board of Trustees who are appointed by the Governor shall be residents of any one county of Kentucky. All appointments as members of the Board of Trustees by the Governor shall be made during the month of January in the even years. The Board of Trustees of the University shall prescribe the method by which the alumni of the University shall make the nominations to the Governor of the three persons from whom the alumni members of the Board of Trustees shall be appointed. Each alumnus shall be permitted to vote, but no alumnus shall be permitted to vote for the nomination of alumni trustees in the years in which such alumnus has received his or her degree. No member of the Board of Trustees shall be held to be a public officer by reason of his or her membership on said Board; Provided, however, as soon as this Act shall become effective the terms of the present members of the Board of Trustees of the University shall expire, and the Governor shall appoint twelve members of the Board of Trustees, four of whom shall serve until January, 1920, four of whom shall serve until January, 1922, and four of whom shall serve until January, 1924, and until their successors are appointed. In making such appointments the Governor shall appoint for each of said terms one member of the State Board of Agriculture, one alumnus of the institution, and two distinguished citizens, one of whom shall be a member of each of the political parties in the State having the right to name a member of the State Board of Election Commissioners. In case of vacancies by resignation, removal or death, the Governor shall fill such vacancies in the same manner as provided for the appointment of members of the Board.

(§ 4636c-1a Ky. St.) **Member Ex-Officio—Present President Emeritus so Constituted—Term—Powers.**—(1) That the position of member ex-officio of the board of trustees of the University of Kentucky is hereby created. (2) That the pres-

The act of 1918 replaces the act of May 9, 1893, c. 198, p. 901, article 1, and of March 20, 1914, c. 67, p. 174, as amended March 15, 1916, c. 20, p. 149, article 2.

ident emeritus of said university shall, so long as he may live, or so long as he may desire, hold said position and upon his death or resignation the position shall be automatically abolished. (3) That said member shall perform all duties now required of other members of the board of trustees of the University of Kentucky and shall in all respects have the same power and authority now vested in other members of said board. (4) All laws and parts of laws in conflict herewith are hereby repealed. (March 20, 1920, C. 29, p. 132.)

(§ 4636c-2 Ky. St.) **Regular and Special Meetings—Notice—Business at Special Meetings.**—The board of trustees of the University shall meet at least four times a year, as follows:

On the Tuesday preceding the regular annual commencement of the University, on the third Tuesday in September, on the second Tuesday in December and on the first Tuesday in April of each year.

Special meetings of the board, however, may be called by the chairman or by any three members of the board, upon giving ten days' notice of the meeting in writing to each member of the board, but at such special meetings the business to be transacted shall be specified in the notice of the meeting. (March 26, 1918, Sec. 1b.)

(§ 4636c-3 Ky. St.) **Executive Committee—Members—Powers—Review by Board.**—The board of trustees shall annually elect an executive committee of five, which executive committee shall have such powers as may be delegated to it by the board of trustees. The executive committee shall submit to the board of trustees at each meeting, for its consideration and approval, a complete record of its proceedings, provided, however, the authority of the board of trustees to revise the acts of the executive committee shall not extend to the rejection of any valid or any authenticated expenditure of money by said executive committee. (March 26, 1918, Sec. 1c.)

(§ 4636c-4 Ky. St.) **Vice Chairman—Officers—By-Laws.**—The board of trustees shall have power to elect a vice-chairman and such other officers as it may deem wise, and shall have power to make such by-laws, rules and regulations not incon-

sistent herewith, as it may deem proper. (March 26, 1918, Sec. 1d.)

(§ 4636c-5 Ky. St.) **Extension Committee—Members—Agricultural Extension Work.**—The chairman of the board shall appoint at the meeting in June of each year an extension committee consisting of four members of the board of trustees in addition to himself to advise with the Dean of the College of Agriculture and the Director of Extension on matters pertaining to the extension service in the State.

The president of the college shall be ex-officio a member of the board of trustees. (Id. 1c. Sections 4636c-6-4636c-5, repealed.)

(§ 4636c-16 Ky. St.) **Trustees—Powers of—President, Professors and Officers—Appointment and Removal of.**—The board of trustees, when appointed and qualified, shall be a body corporate, under the corporate name of the University of Kentucky, and as a corporation shall have power to sue and be sued, implead and be impleaded, contract and be contracted with, and possess all the immunities, rights, privileges and franchises usually attaching to the governing bodies of educational institutions. They shall have power to receive, hold and administer, on behalf of the institution whose government, administration and control is committed to them, all revenues accruing from all existing or future endowments, appropriations or bequests, by whomsoever made, subject to the conditions attaching thereto; to receive, administer and apply, for and on behalf of said college, all moneys, devises, stocks, bonds, buildings, museums, lands, apparatus, and so forth, under the conditions attaching thereto. Said trustees shall have power to determine, from time to time, the number of departments of study or investigation which the college shall comprise within the scope of the organic act of Congress, or acts supplementary thereto, donating land script for the endowment of agricultural and mechanical colleges; the relation which each department or group of departments shall sustain to each other and to the whole; to devise, allot and arrange the distribution of departments or groups of departments with the designation appropriate to each, and to devise the means required for their effective instruction, administra-

tion and government. They shall have, also, power to appoint presidents, professors, assistants, tutors and other officers, and to determine the salaries, duties and official relations of each; and shall provide for a definite salary in money attached to all positions created and filled by the board of trustees; and there shall be no additions thereto in the form of fees, perquisites or emoluments of any kind whatever. They shall have full power to suspend or remove at will any of the officers, teachers, professors or agents whom they are authorized by law to appoint, and to do all other acts which may be needful for the welfare of the institution. (See further subsec. 30b.)

(§ 4636c-17 Ky. St.) **Degrees May be Granted by Trustees.**—Said board of trustees shall have power to grant degrees to the alumni of the institution; to prescribe conditions upon which post-graduate honors shall be obtained by its alumni and others, and to confer such honorary degrees, upon the recommendation of the faculty of the institution, as they may think proper.

(§ 4636c-18 Ky. St.) **Majority of Board a Quorum.**—A majority of the whole board shall constitute a quorum for the transaction of business.

(§ 4636c-19 Ky. St.) **Preference Not to be Shown to Any Religion.**—In the appointment of president, professors or instructors no preference shall be shown to any religious denomination. (Section 4636c-20 repealed March 26, 1918, C. 42, p. 127, Sec. 3.)

Section 145. (§ 4636c-21 Ky. St.) **Treasurer—Bond—Accounts and Statements—Action Against.**—That the treasurer of said college shall enter into covenant with the Commonwealth of Kentucky, with one or more good sureties bound therein, to be approved by the board of trustees, conditioned for the faithful performance of his duties, and the payment of all money that shall come to his hands to his successors in office, or to such person or persons as may be lawfully entitled to receive the same. Any person or persons, including the board of trustees, injured by any breach of this bond, may maintain in the Fayette Circuit Court appropriate action thereon. The said treasurer shall keep an itemized account of receipts and expenditures, and shall pay out no money ex-

cept on authorization of the board of trustees, given directly or through its executive committee. He shall render to the executive committee monthly statements of receipts and expenditures, and amount on hand, and a full detailed statement, with vouchers, for the information and action of the board of trustees at its regular annual meeting, and at other periods when required. (Sec. 4636c-22 repealed March 26, 1918, C. 42, p. 127, Sec. 3.)

(§ 4636c-23 Ky. St.) **Expenses of Trustees in Attending Meetings Paid.**—All necessary expenses incurred by the trustees in going to, returning from, or while attending the meetings of the board, shall be met and discharged out of the funds of the institution. (Section 4636c-24 repealed March 26, 1918, C. 42, p. 127, Sec. 3.)

Section 145a. (§ 4636c-25 Ky. St.) **Collegiate Period Four Years—Normal Department.**—That the regular collegiate period of the University of Kentucky shall be four years, and only those students who pass through that period and attain the prescribed standard of proficiency in the regular course of studies, or those who, having qualified themselves elsewhere, shall be found, after at least one year's attendance in the college, to have attained the prescribed standard of proficiency in the regular course of studies, shall receive a diploma from the college. But a normal department or course of instruction for irregular periods, designed more particularly, but not exclusively, to qualify teachers for common or other schools, and an academy or preparatory department to prepare students for the regular courses of study in the university, shall be established and maintained in connection with the university, each under a competent principal and assistants, and under the general supervision and control of the faculty thereof.

(§ 4636c-26 Ky. St.) **Government of College—Trustees to Establish Rules for.**—That the board of trustees be, and hereby are, empowered to establish proper regulations for government of the college and physical training, military or otherwise, of the students, and to authorize the suspension and dismissal of students for neglect or violation of the regula-

Note.—This section is a combination of the same in Carroll's 1920 Statutes and Section 4636c-26 in the 1918 Statutes.

tions, and for other conduct prejudicial to the character and welfare of the institution.

Section 145a-1. (§ 4636c-27 Ky. St.) **Report to be Made by Trustees to Each Legislature.**—That the board of trustees shall make to the General Assembly, within the first month of each regular session, a full report of the condition and operation of the college since the date of the preceding report, with such recommendations concerning the college as may be deemed necessary.

(§ 4636e-b.d Ky. St.) (1) **Appropriation.**—That the sum of sixty thousand dollars (\$60,000.00) or so much as may be necessary therefor, be, and the same is hereby, appropriated for the purchase of ground and the erection thereon of a suitable building as a dormitory for young women students of the agricultural and mechanical college of Kentucky, and the equipment and furnishing thereof, which dormitory shall be capable of lodging and boarding comfortably one hundred and twenty-five persons; also for the purpose of erecting and equipping a suitable building for military instruction, physical culture and rooms for Young Men's Christian Association; also, for the erection and equipment of a suitable building for the use of the normal department and for the use of the academy; also for the erection and equipment of a dormitory for young men students of said college; also, for the purpose of erecting and furnishing an annex for the use of the engineering departments of said college. (Act of March 20, 1902, made an additional appropriation of thirty thousand dollars (\$30,000.00); fifteen thousand dollars (\$15,000.00) annually was appropriated by act of 1904, p. 288.)

(2) **Dormitory for Young Women—Title to.**—Thirty thousand dollars (\$30,000.00) of the sum appropriated under section 1 of this act is hereby set apart for the purchase of ground and erection of a dormitory for young women, and for the equipment and furnishing of the same. Said building shall contain the necessary bedrooms, water closets, bathrooms, kitchen, storerooms, hall for physical culture, with

the necessary conveniences which should pertain thereto. Said women's dormitory shall not be situated on any part of the ground known as the college campus. The title to said property shall be vested in the board of trustees of the agricultural and mechanical college of Kentucky.

(3) **Other Buildings.**—The residue of the appropriation made by this act shall be used by the board of trustees of said college in erecting, equipping, furnishing the other building set forth in Sec. 1 of this act, and if the residue of the appropriation be not sufficient therefor, then it shall be expended in erecting and furnishing such of said other buildings as the board of trustees shall think most necessary until said appropriation be exhausted.

(4) **Trustees to Appoint Board of Women to Superintend Dormitory—Term—Meetings—Reports—Duties—Compensation.**—The board of trustees shall appoint three prudent, discreet, intelligent women, members in good standing of one of the religious organizations recognized by the laws of the United States, who shall constitute a board of supervision or control to manage and superintend, under the direction of the board of trustees, the dormitory for young women. The term of service shall be for six years; but the first appointments shall be, one for two years, one for four years and one for six years, respectively, and thereafter, upon the expiration of their terms of service, one shall be appointed at the close of each biennial period to fill the vacancy. Provided however, that the board of trustees shall have power at any time to remove any member of the board of control for reasons which they may deem sufficient and to fill the unexpired term by an interim appointment. Said board of supervision shall meet at convenient intervals for the transaction of business. They shall keep a record of their proceedings and submit the same to the board of trustees at their regular meetings. Their receipts and expenditures shall be embodied in semi-annual reports to the board. They shall, when the dormitory is ready for the reception of students, submit to the board of trustees for their approval or to the executive committee, if the board of trustees be not in session, a body of regulations in relation to their administration of the business of the dormitory, and

in relation to the conduct and discipline of its occupants. The members of the board of supervision or control shall receive no salary; but the necessary expenses, incurred in the discharge of their duties, shall be paid out of the funds set apart for the administration of the women's dormitory. (See further, Sub-sec. 7.)

(5) **Annual Appropriation for Dormitory.**—The sum of two thousand dollars annually is hereby appropriated to defray the running expenses of said women's dormitory, including fuel, lights, servant's hire, janitor, cooks, and the necessary expenses of the board of supervision and control as hereinbefore set forth.

(6) **Rates of Board for Women—Other Fees.**—The rates of board charged young women shall be determined by the cost of provisions and their preparation and service, with no margin or profit. A small monthly fee may, however, be added to cover the wear and tear of kitchen, dining room and bed room furniture.

(7) **Duties of Women's Board.**—The duties of the board of supervisors or control shall be concerned exclusively with the management of the women's dormitory, and shall in no wise relate to the college privileges, duties and relations of the young women nor to the requirements of the faculty regarding their work or the discipline and control of the faculty over them as students.

(8) **Duties of President as to Dormitory.**—The President of the college shall, as the representative of the Board of Trustees, have the same general authority in regard to the women's dormitory which he is expected and required to exercise over the interests all and singular of the college, and any occupant of said dormitory who may feel aggrieved by the act of the board of control or the subordinate appointees shall have the privilege of appeal to the President of the college, whose decision shall be final until the next meeting of the executive committee.

(9) **Assignment of Rooms.**—All rooms shall be assigned by lot three days after the session opens. Like rules and

(9.) Decision of the Court of Appeals in *Parker v. Crum*, 177 Ky. 637, makes void the distinctions of this section in favor of county appointees, except such of section as reads:

preferences shall be observed in regard to dormitory accommodations provided for men students at said college. All rooms shall be assigned by lot three days after the session opens.

(11) **Annual Appropriation—How Paid.**—The annual appropriation made by this act for the benefit of the women's dormitory shall be paid to the treasurer of said college upon warrant of the auditor to be used for the purposes specified. This section is an act of March 21, 1900. The sub-sections are the numbers of the sections of this act. Section 10 and part of section 11 relate to contracts for buildings and report of expenditures, and are omitted.

(§ 4636e-1 Ky. St.) **Geological Survey Collection Removed to State College.***

(§ 4636e-2 Ky. St.) (Impliedly repealed March 25, 1918, C. 25, p. 76.* See now articles 2721a-1, et. seq.)—(Ed.)

Section 146a. (§ 4636f-1 Ky. St.) **Agricultural Experiment Station—Appropriation for.**—There is hereby appropriated to the Agricultural Experiment Station of the University of Kentucky, Lexington, Kentucky, for the current fiscal year and for each succeeding year thereafter, fifty thousand dollars for the purpose of making field experiments in the several sections of the State in order to ascertain by chemical and physical examination of our soils and by direct experiments in laboratory and fields what crops and treatment are best suited to each, whether the present methods are tending to best results and whether to the preservation or reduction of fertility, and what rotation and treatment will be most effective in retaining productive capacities of the soils of the various sections of the State, to discover and demonstrate the best methods of orchard treatment, the culture and marketing of fruits and vegetables, and the most effective remedies for insects and diseases of fruit and vegetables, and to make a systematic study of plant breeding and development by means of crossing and selection of new and improved varieties

*By an act of March 25, 1898, c. 55, p. 144, sec. 1. The geological collections, maps, charts, apparatus, material, etc., of the geological survey were ordered removed to the State University, there to remain until recalled by the General Assembly. By an act of March 7, 1912, c. 12, p. 87, sec. 1 (now 2007e-1) all this property "excepting the State museum" was ordered returned to Frankfort.—(Ed.)

of fruits and vegetables, to enable said station to conduct investigations calculated to develop the beef, pork and mutton producing interestts of the State, and especially to devise and conduct feeding experiments intended to demonstrate the most successful combination of stock foods, and to discover, if possible, the most economical and successful methods of maintaining animals and fitting them for the market, for pathological investigations, and to investigate live stock conditions both at home and abroad, in so far as they affect market values, to enable said station to conduct investigations for the purpose of developing the dairy interests of the State, and including feeding experiments for production of milk and butter, and the rearing of calves, and the study of contagious diseases for the purpose of finding remedies therefor, to enable the said station to conduct investigations for the purpose of developing the horse interests of the State, including the best methods of feeding and breeding, the study of diseases, and through scientific investigations for the benefit of the horse industry of the State; ten thousand dollars (\$10,000.00) for the advancement of the poultry interests of the State, including experiments in breeding for egg production and methods best adapted for hatching and raising of chicks and feeding experiments and other investigations tending to the economical production of poultry and eggs, for providing the necessary equipment and paying the expenses of the extension work of said experiment station in order to bring the scientific knowledge already obtained, and that thereafter obtained, in the lines of agriculture and home economics, direct to the farm and home, by means of personal visitation, correspondence, co-operative demonstrations and experiments and the solution of local problems by station experts visiting the locality and studying the problems on the farm, toward the maintenance of said station, and for the purpose of enlarging the hog cholera serum and serum plant now at said station, and for the production of hog cholera serum and virus to be furnished the farmers of this State at partial cost of production and not to exceed one cent per cubic centimeter and to be distributed through such channels as the director of said experiment sta-

tion may deem advisable for the protection of the swine interests of the State. (March 11, 1912, C. 26, p. 134, Sec. 1.)

(§ 4636f-2 Ky. St.) **Disposition of Appropriation—Payment to be Made Quarterly.**—The sums appropriated under this act are to be payable quarterly to the treasurer of said experiment station out of moneys in the treasury of the Commonwealth of Kentucky, and the Auditor, for the payment of same, is directed to draw his warrant upon the Treasurer as in all other claims against the Commonwealth. The Board of Control of said Experiment Station shall furnish to the Auditor of Public Accounts, yearly, an itemized statement of the money expended under this act. (Id., Sec. 2.)

For the purpose of carrying out the provisions of this act and for the general purposes of said department, including the gathering of statistics, the sum of seventeen thousand dollars per annum, in addition to the amount already appropriated for the benefit of the Bureau of Agriculture, Labor and Statistics, is hereby appropriated out of any money in the treasury not otherwise appropriated for the use of the said Bureau of Agriculture, Labor and Statistics. The clerk of the board shall certify to all expenditures of the board to the chairman, who, in turn, shall certify them to the Governor for his approval, and upon his approval he shall authorize the Auditor of Public Accounts to draw his warrant upon the Treasurer for the amount.

There is hereby appropriated to the University of Kentucky for the present fiscal year, the sum of eighteen thousand dollars, and a like sum is hereby appropriated annually thereafter, which shall be used by the university for the purpose of agricultural extension, and for the use of the college in teaching agriculture.

(§ 4636g-1 Ky. St.) **Co-operative Marketing Bureau.**—The University of Kentucky shall establish in connection with its agricultural extension work a co-operative bureau for fostering marketing. (March 15, 1916, C. 20, p. 149, Sec. 6.)

(§ 4636g-2 Ky. St.) **Fiscal Courts and County Boards of Education May Aid Agricultural Extension Work.**—The various fiscal courts and boards of education of the counties in this State are hereby authorized and empowered to appropri-

ate such sums of money out of their annual funds as in their wisdom is necessary to aid in carrying on extension work in agriculture and home economics in their respective counties, and in connection with the University of Kentucky. (March 15, 1916, Sec. 7.)

(§ 4636h-1 Ky. St.) **Federal Act Concerning Agricultural Extension Work Accepted.**—The Commonwealth of Kentucky accepts and assents to the provision of the Act of Congress entitled, "An act to provide for a co-operative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of Congress approved July two, eighteen hundred and sixty-one, and of the acts supplementary thereto, and the United States Department of Agriculture, which was approved by the President of the United States, May eight, nineteen hundred and fourteen," in all of its terms and conditions, and the University of Kentucky is authorized and empowered to receive the grants of money appropriated under its provisions. (March 15, 1916, Sec. 8.)

The Commissioner of Agriculture, Labor and Statistics shall annually designate some date at least thirty days before the meeting of the State Farmers' Institute, when the farmers of each county shall meet in a convention at the county seat for the purpose of selecting one or more delegates to attend said State institute, and which convention shall at the same time select one or more crop reporters from each magisterial district in the county to serve for one year without pay, whose duty shall be to report to the Commissioner of Agriculture, Labor and Statistics, monthly the acreage and condition of crops and such other information as he, under the law, may ask for. In the event no convention of farmers is held on the date fixed, the said commissioner is authorized and empowered to appoint one or more delegates from such county to attend the said State institute, and to appoint one or more crop reporters in each magisterial district.

Section 146. (§ 4636e-3* Ky. St.) **Course of Mining Engineering Established at State College—Appointment of Inspector of Mines by Trustees.**—That the board of trustees of the State College be and they are hereby authorized to establish a course of study in said college to be known and designat-

ed as the "course of mining engineering," in which shall be taught all the branch of science relating thereto and said board of trustees shall (after the expiration of the terms of service of the present inspector and assistants respectively), select as other professors are selected, a suitable and competent person for dean of the same, with the necessary staff of assistants (and said dean shall, by reason of said selection, be the inspector of mines, with all the powers and privileges now conferred upon the said inspector by law). It shall also be his duty to determine, by chemical analysis or otherwise, the kind and quantity of the mineral products of the State of Kentucky, as may be sent to him for inspection or analysis, and give written opinions thereon (but these latter duties shall not be allowed to interfere with his duties as inspector relative to the safe condition of the coal mines of the state.) (He shall take the oath and give the same bond as now required by said officer.) He and his assistants shall hold office on identically the same conditions with other professors in said college, and shall be subject to removal as they are. Said dean and his assistants, however, inasmuch as their duties consist primarily and principally of work peculiarly public and practical in its relation to the mines and mineral products of the Commonwealth, shall be regarded as public servants in a sense in which the ordinary professors of the college can not be regarded, and shall therefore receive compensation directly from the State and not from the funds of the college, and their compensation as now fixed by law shall be certified to the auditor as heretofore and paid out of the treasury as now paid. (March 15, 1898, C. 55, p. 144, Sec. 3, as amended March 26, 1918, C. 25, p. 76.*)

Section 147. (§ 4636h-2 Ky. St.) **Federal "Smith-Lever Act" Accepted.**—That the State of Kentucky accepts the provisions and terms of the Smith-Lever bill, and the trustees of

*The office of chief inspector of mines is created by the act of March 26, 1918, new sections 2721a-1, et seq., which impliedly repeals so much of the foregoing section as is inclosed in brackets and probably, in addition, so much as requires the payment of the dean's salary from the State Treasury.

It is also, well to know that the title of said act of March 15, 1898, which is here compiled as sections 4636e-1, et seq., reads, "an act to amend c. 89, of the Kentucky Statutes, title mines and mining," and that no part of said chapter so proposed to be amended merely by reference to its title is set forth in full or at all in the amendment act, see note to section 2219a, Ky. Statutes.

the State University of Kentucky, Lexington, Kentucky, are hereby authorized to receive whatever funds accrue to the State of Kentucky under said act and to apply them to the promotion of extension work in agriculture and home economics in this state as by the terms of the national act required, and for no other purpose whatever. (Joint Resolution of March 6, 1916, C. 144, p. 733.)

(§ 4636i Ky. St.) **Fifty Thousand Dollars (\$50,000.00) Additional Annual Appropriation.**—(See sections 4535b-1, et seq., appropriating money and forbidding creation of debts.)

Section 147a. (§ 4636k-1 Ky. St.) **Persons Engaged in the Military or Naval Service During World War Entitled to Scholarship—Privileges Included.**—That every person who was engaged in the military or naval service of the United States of America during the war with Germany and her allies, which war was declared April 6, 1917, and who was at the time of his enlistment a resident of the State of Kentucky, shall be entitled to a free scholarship in either the State University, or the Eastern or Western Kentucky Normal Schools and the Kentucky Normal and Industrial Institute for colored persons as he or she may choose for a period required for the completion of the course of study selected by them. Said scholarship shall include free tuition, matriculation and other fees, room rent, fuel, and light, and the advantages and privileges of the university or either of said normal schools, but same does not include free board. (March 23, 1920, C. 67, p. 281, Sec. 1.)

(§ 4636k-2 Ky. St.) **Persons Entitled to Privilege.**—Military or naval service as used herein shall mean and include all the branches of the service prescribed and classified by the United States War Department as a part of either of said services. (Id., Sec. 2.)

(§ 4636k-3 Ky. St.) **Scholastic Requirements.**—All persons eligible to said scholarship shall meet the scholastic entrance requirements prescribed by the university or normal schools for the course of study chosen by the applicant. (Id., Sec. 3.)

(§ 4636k-4 Ky. St.) **Application.**—The applicant shall file his application for admission at least thirty days prior to

the beginning of the semester of the school year at which he desires to enter, which application shall be accompanied by his certificate of honorable discharge from his or her branch of the service, which shall be returned to him or her upon admittance. (Id., Sec. 4.)

(§ 4636k-5 Ky. St.) **Traveling Expenses.**—All beneficiaries of the scholarship herein granted, who continue their studies for a consecutive school year of ten months, unless unavoidably prevented, shall also be entitled to their actual traveling expenses in going to and returning from the university or the normal schools once each way during said year. (Id., Sec. 5.)

(§ 4636k-6 Ky. St.) **Traveling Expenses—Payment.**—The cost of said traveling expenses shall be paid at the end of the year to said students complying with the requirements herein by the proper authority of the institution attended, who shall at the close of the scholastic year file with the State Auditor an itemized statement of all money so expended, giving the name of the student, and the points of starting and destination, and the auditor shall thereupon, if said statement is correct, draw upon the state treasurer for said amount, which shall be paid out of any funds in the treasury not appropriated. (Id., Sec. 6.)

Section 147a-1. (§ 4636l-1 Ky. St.) Any university or normal school which is maintained wholly or in part by funds appropriated and payable out of the Treasury of the Commonwealth of Kentucky, is hereby vested with the right and power to acquire additional lands, or other property or material for the purpose of expanding its plants and extending its usefulness.

When any such university or normal school is unable to contract or agree with the owner or owners of such land, other property or material necessary for the purposes of such university or normal school, it may proceed to condemn and acquire such land, or other property or material, or so much thereof as may be necessary for the purposes of such university or normal school.

All condemnation proceedings herein provided for shall be conducted in the same manner as provided by law for condemning land for railroad purposes.

Whereas, it is necessary to immediately acquire land, or other property or material for the purposes set out in sections 1 and 2 hereof, an emergency is declared to exist, and this act shall take effect from and after the date of its passage and approval by the Governor. (Act March 18, 1922.)

(§ 4390a Ky. St.) It shall be the duty of all educational institutions and county superintendents receiving aid from the State of Kentucky to make a report to the State Department of Education at the close of each scholastic year, showing in detail all funds received from the State of Kentucky, and from all other sources, during such year, and a detailed statement of all expenditures for the year.

All laws or parts of laws in conflict herewith are hereby repealed. (Act of March, 1922.)

Chapter XV.

STATE TEXT BOOK COMMISSION

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| Sec. 148. Board—organization—term of text books. | Sec. 153. Publishers' agreements forbidden—penalties for bribery—misfeasance—bonds—executive sessions. |
| Sec. 149. Bids—proposals—specimen copies—contracts—contents by books. | Sec. 154. County text book commissions—organization—bids—county high school adoption. |
| Sec. 150. Adoption on merit—cities exempt—notification of bidders. | Sec. 155. Awarding of contracts—appointing of agents—Commission—printed lists. |
| Sec. 151. State Superintendent's contract—certified lists—printed price—exchange—penalties. | Sec. 156. Supplementary—filed copies—penalties—void contracts—bonds—fees—control of prices—city commission's duties and powers identical. |
| Sec. 152. Supplementary books—filed copies—uniformity—legal procedures—compensation. | |

Section 148. (§ 4421a-1 Ky. St.) **Membership of Commission.**—There is hereby created a State Text Book Commission to be composed of the following members:

The Governor, who shall be ex-officio chairman of said commission; the Superintendent of Public Instruction, who shall be ex-officio secretary of said commission, one member of the faculty of each of the State Normal Schools at Richmond and Bowling Green; one member of the faculty of the State University, and one educator of high qualifications, actually engaged in educational work, from each of the appellate court districts. All members except the two ex-officio members shall be appointed by the Governor in the month of January, in the year 1919, and in the month of January every four years thereafter. Said appointive members shall serve for a term of four years from and after their appointment and until their successors are appointed and qualified, and any vacancies on

Validity and construction of act of 1914. *Bowman v. Hamlett*, 159 Ky. 184.

Action on bond of contractor under former statutes. *Com. v. Ginn*, 111 Ky. 110, 23 R. 521; and see *Mills v. Myers*, 24 R. 971, 70 S. W. 412; see further as to action on bond. *Com. v. Ginn & Co.*, 120 Ky. 83, 27 R. 486; *Rand-McNally Co. v. Turner*, 29 R. 696; *Reid v. Com.*, 123 Ky. 240, 20 R. 672; *Graziana v. Com.*, 123 Ky. 799, 30 R. 119; *Graziana v. Burton*, 30 R. 180, 97 S. W. 800.

By act of March 15, 1910 (S. A., p. 46), provision is made for a text book commission in each county, and in cities and towns.

This act is constitutional. It does not in any way affect any laws respecting cities of the first, second, third and fourth classes. In fixing the compensation of the retail dealer the basis is the retail price, but the commission and the parties may fix the compensation of the retail dealer in any amount not exceeding 15% of the retail price. *Bowman v. Hamlett*, 159 Ky. 184.

said commission shall be filled in the same manner as the original membership is determined. (March 10, 1918, C. 110, p. 453.)

(§ 4421a-2 Ky. St.) **Oath of Office.**—Each member of said commission shall qualify by taking and subscribing to an oath faithfully to discharge his duties as required by this law, and the said affidavit shall be filed, in writing, in the office of the Superintendent of Public Instruction. (Acts of March 10, 1918, C. 110, p. 453.)

(§ 4421a-3 Ky. St.) **Meeting of Commission—Notice to Publishers.**—The members of the State Text Book Commission, as thus constituted, shall meet within ten days after their appointment on the call of the chairman, or, on a call signed by a majority of the members, in the office of the chairman, for the purpose of organization, and to provide, as hereinafter stated, for proper notice to the various text book publishers, regarding the adoption of text books for a period of five years, in the State of Kentucky. (March 29, 1918, C. 110, p. 453.)

Section 149. (§ 4421a-4 Ky. St.) **Advertisement for Bids—Proposals Concerning Renewal—Contract Prices.**—At the first meeting of the State Text Book Commission, as herein constituted, it shall advertise in one or more daily newspapers, or by written notifications to all qualified publishers, as hereinafter provided; that said commission will receive sealed bids or proposals from the publishers of school text books, on or before the first day of March preceding the expiration of the present or any future contracts for the adoption of text books, in accordance with the provisions of this law, and such other regulations as the commission may prescribe. The commission will also receive, at the same time, written proposals from publishers who may at that time hold contracts with the State of Kentucky, or with any city of the first, second, third and fourth class, as to whether or not they will furnish and provide such books as are in use at that time, for a period of five years from the date of the expiration of said contract, at the same price or a less price. Such written statement shall be filed with the commission, as stated above, relating to the adoption or the continuation of said books for said period of time in either the State, or in any of the above named cities, provided

that not more than fifty per cent of either the high school or the common school districts, which are then in use in the public or high schools of the State, shall be changed, provided an arrangement may be made with the publishers of said books, whereby the same books may be continued for a period of five years at a price equal to or less than the price at which books are sold at the time, but a continuation of fifty per cent of any portion of books shall not be obligatory on any of such cities. (March 29, 1918, C. 110.)

(§ 4421a-5 Ky. St.) **Bids to Supply Books—Opened in Executive Session—Temporary Extension of Old Contracts—Changes in Text Books.**—Such bids and proposals shall be for furnishing books during a period of five years. The bids shall state specifically the net contract prices at which books are to be furnished to dealers within a county, and the exchange price, and shall be accompanied by a specimen copy of every book proposed to be furnished. Any person, corporation, company or association proposing the bid for a contract to furnish text books under the provisions of this act shall lodge with his or its bid a sample copy of the text book proposed to be furnished, which text book, after the contract is entered into, shall be safely kept in the office of the Superintendent of Public Instruction, and such person, company, corporation or association shall, during the existence of such contract, deliver to the dealer, as provided in this act, text books equal in binding, finishing and material to said sample copy and shall furnish the same under such contract at a price not exceeding the price at which the same or substantially the same book may be furnished or delivered to the dealer, patron or pupil in any other State in the United States. If such person, company, corporation, or association fails, neglects or refuses to furnish text books under such contract as herein provided, a recovery on the bond provided herein may be had in any county in the State, in which such failure, neglect or refusal may occur, in an action by the County Superintendent of such county on said bond. All bids shall be sealed and deposited with the secretary of the commission, to be by him delivered to the commission in executive session, when they shall be opened in the presence of the commission. It shall be the duty

of the secretary of the commission to carefully preserve in his office for comparison, the specimen copy of each of the books adopted, together with the original bid or proposal, and when requested, to return to the publishers the specimen copies of other books submitted at their expense.

Provided, however, that when the present contracts then existing for the furnishing of text books shall have expired by the terms thereof, the commission shall arrange for a continuance of such contracts for a period of five years, on at least fifty per cent of the subjects then in use, provided such contracts may be renewed or continued at the same, or at a less price than that at which they are furnished at that time. The commission shall provide for the making of new contracts and new bonds and the provisions of the text book law as now amended, shall be followed with respect to the books which are continued or the contracts which are renewed, as that on which new books are adopted. At the expiration of any new contract, and every five years thereafter, adoptions and renewals of contracts shall be made according to the provisions of the text book law. If it shall be impossible for the commission to arrange for a continuance of fifty per cent of the books then in use at a price equal to, or less, the commission shall readvertise and proceed with the selection and adoption of such books as in the original manner. However, the commission may select the same books at a higher price providing the publishers will not continue them at the same price. (March 29, 1918, C. 110, p. 453, Sec. 4.)

(§ 4421a-6 Ky. St.) **Commission May Reject Bids.**—The commission shall have and reserve the right to reject any and all bids for reasons satisfactory to a majority of the commission. In case of failure to select, from the bids submitted, a satisfactory text book upon any of the branches prescribed by law, the commission shall re-advertise for sealed bids under

Sec. 4421a-5. The failure to readvertise when required by this section to do, rendered invalid the contracts adopting text books. *State Text Book Commission v. Weathers*, 184 Ky. 748.

The word subjects in this section is to be construed as if the word "text books" were used. *State Text Book Commission v. Weathers*, 184 Ky. 748.

The word "copy" means a completed reproduction of the original. *State Text Book Commission v. Weathers*, 184 Ky. 748.

the same terms and conditions, and proceed with the adoption as in the first instance. (Act of March 29, 1918, C. 110, p. 453, Sec. 6.)

(§ 4421a-7 Ky. St.) **Adoption to be Made—Provisions as to Cities.**—It shall be the duty of the said commission in the years in which existing contracts expire, by a majority vote of the entire commission, to adopt from the authorized State list of books submitted, as hereinafter provided, a uniform series or system of text books for use in the common schools and the high schools of the State, except in cities of the first, second, third and fourth classes, and to arrange for the distribution and sale of such books to dealers at the net contract price. The commission may, from time to time, make any regulations not contrary to the provisions of this act, to secure the prompt and faithful performance of all contracts, and the prompt distribution of the books herein provided for. (Act of March 29, 1918, C. 110, p. 453, Sec. 7.)

(§ 4421a-7a Ky. St.) **Time When Selection of Books for Elementary Schools to be Made.**—In all years in which text books are selected and adopted by the text book commission for the elementary schools of Kentucky, said selection and adoption shall be made not later than the first day of May of the year in which such are made. (March 18, 1916, C. 24, p. 162, Sec. 229, cross reference. See section 4421a-26.)

(§ 4421a-8 Ky. St.) **Not Compulsory on Cities—List of Books to be Submitted to City Boards of Education—Cities May Adopt Books in Uniformity With the State Selections—Application of this Law to Cities.**—The cities in the State of Kentucky, of the first, second, third and fourth classes, shall not be compelled to use the books adopted by the State Text Book Commission. It shall be the duty of the secretary of the State Text Book Commission to submit to the board of education of each of the said cities a certified list of all books filed for adoption with the State Text Book Commission as soon as practical after such bids have been received by the text book commission, and also a list of such books as have been adopted in said cities which may be continued for a period of five years. The board of education of said cities shall adopt a series of books, and contracts with publishers for said books shall be

made by and between the publishers and the said board of education: The five year adoption of text books by the boards of education in the various cities of the first, second, third and fourth classes, shall be made within sixty days after the adoption has been made by the State Text Book Commission for the State of Kentucky, and such adoption in the various cities may be made from the list of books certified by the State Text Book Commission, it being the intention of this act to permit uniformity in the State of Kentucky, and in said cities wherever possible. All the provisions of this section and the bonds required to be given by said publishers, shall be applicable to the sale of text books in such cities. Any city of the first, second, third and fourth classes may require bond to be made in favor of the board of education at the time of the making of the contract between said city and said publisher, or it may relinquish such right, provided the publisher with whom a contract is made has previously filed a bond with the State of Kentucky, guaranteeing the faithful performance of its contract with the State and with said cities. In this event the city may rely for relief on the bond given to the State of Kentucky, should the contract be violated. All five year contracts with the above named cities shall be made within the time specified by this law, and all provisions of this section and penalties of this law, respecting the adoption of books, shall operate and be effective in said cities. Save as in this section 8, provided the provisions of this act shall not apply to the boards of education of cities of the first, second, third and fourth classes, but the act of 1910 regarding cities of the first, second, third and fourth classes, and the act of 1912 regarding cities of the second class shall be and remain in force unaffected by this act. (March 29, 1918, C. 110, p. 453.)

(§ 4421a-9 Ky. St.) **Merits of Books to be Considered.—**

The commission, in the selection and adoption of a uniform series of text books for the State, shall consider the merits of the books, taking into consideration their subject matter, the

Sec. 4421a-8. A resident citizen of a city of the fourth class, being a patron of the common schools, has a right of action for a mandamus against the State Text Book Commission to require it to proceed in conformity with law. *State Text Book Commission v. Weathers*, 134 Ky. 748.

printing, binding, material and mechanical qualities, their general suitability and desirability for the purposes intended, and the price. (March 29, 1918, Sec. 9.)

(§ 4421a-10 Ky. St.) **Branches of Study Included.**—The uniform series of text books to be selected by the commission shall include all branches required or that may hereafter be required by law to be taught in the common, elementary and high schools of the State, except as herein provided; and no text book shall contain anything of a partisan, sectional or sectarian character. (Act March 29, 1918, Sec. 10.)

(§ 4421a-11 Ky. St.) **Contracts to be Awarded.**—After the adoption shall have been made the commission shall award the contracts, and shall, by registered letter, notify the bidders to whom contracts may have been awarded. It shall be stipulated in all contracts that the retail prices shall not exceed the retail prices at which the same book or books are sold in any State, county, township or school district in the United States. (Act March 29, 1918, Sec. 11.)

Section 151. (§ 4421a-12 Ky. St.) **Contract Forms to be Supplied by Superintendent of Public Instruction—Application to Cities.**—It shall be the duty of the State Superintendent of Public Instruction to prepare and have printed a form of contract and a form of bond between the State Text Book Commission and the publishers of school books, and also a form of contract and a form of bond between the various city boards of education and the publishers of school books, such forms of contract to be approved by the Attorney General and no other form of contract shall be used by the State Text Book Commission or any city board of education with the publishers. In carrying out the provisions of this act nothing herein shall prevent any publisher from filing sample copies of books to be adopted with the board of education in said cities. The board of education in the various cities of the first, second, third and fourth classes shall adopt a series of text books for use in such cities, from the list certified to them by the secretary of the State Text Book Commission. (March 29, 1918, C. 110, p. 453.)

(§ 4421a-13 Ky. St.) **State of Kentucky Not Liable on Contract.**—It shall always be a part of the terms and conditions of

every contract made in pursuance of this act, that the Commonwealth of Kentucky shall not be liable to any contractor or book company in any manner whatever, for any sum of money, and all such contractors or book companies shall receive their pay and compensation solely and exclusively from the proceeds of the sale of said books, as provided for in this act. (March 29, 1918, Sec. 13.)

(§ 4421a-14 Ky. St.) **Dealers to be Appointed—Bond of Dealers—Exchange of Books.**—For the distribution and sale of books adopted by the State Text Book Commission to the patrons of the schools of the State, the county board of education, or the city board of education as herein provided, shall appoint one or more responsible merchants or other agents in each educational division in the counties and cities hereinabove mentioned, of good financial rating, in locations selected with reference to the convenience of the patrons of the schools, as dealers of text books, and such dealers shall receive twenty per cent based upon the net contract price at which the books are furnished to the dealers, such dealer shall pay the transportation charges and all other charges on the said books. Such dealer shall be of good financial rating, but no contractor shall have the right to refuse to furnish books to such dealers on the ground that his financial rating is not good in the event such dealers execute a bond, approved by the county superintendent, for the faithful performance of his duties, and that he will well and truly pay over to such contractor all the money coming into his hands belonging to the contractor. Said dealers shall exchange new books for old ones of the same grade displayed by said adoption, at the exchange price herein provided for, during the first year of the life of each and every contract made under the provisions of this act. All bids and proposals shall set out clearly and specifically an exchange price at which such book or books shall be furnished to pupils and patrons who may have old books on the same subject, and which may be exchanged for new books, and the exchange prices shall in all cases be subject to the terms of the contract made between the State and any publishers bidding. Such new books as are held in Kentucky now or at any future adoption by purchase by dealers, and in good condition, shall be

taken by exchange at the original net price by successful bidders from such dealers as held in stock such books. (Act of March 29, 1918, C. 110, p. 453, Sec. 14.)

(§ 4421a-15 Ky. St.) **Price of Books to be Printed on Cover—Penalty for Violation of Selling Price.**—There shall be placed in clear readable type, on the outside cover of the back of every book sold in the State under the terms of this act, the retail price and the exchange price of said book, with the following caution to the public, to-wit.: “The prices printed hereon are fixed by State contract and any higher prices are unlawful; any deviation therefrom should be reported to your county superintendent or to the State Text Book Commission at Frankfort.”

Any agent or dealer, clerk or other person having or selling books adopted under this act, who shall ask or receive for any such book more than the lawful price therefor, as herein defined, or who shall refuse to exchange new books for old at the exchange price herein provided for, during the said exchange period, or who shall refuse to receive from patrons or pupils books owned by them that were adopted under such laws as are now in force in the State of Kentucky prior to this act, and used in common and high schools of this State and to allow to them the exchange value thereof for such old books in exchange for the corresponding new books of the same grade, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than one hundred dollars nor more than one thousand dollars, and such fine shall be covered into the school fund of the county in which same is assessed. And this section shall apply to all future State adoptions of text books in Kentucky, as herein provided under this act. (March 29, 1918, Sec. 15.)

(§ 4412a-16 Ky. St.) **Commission to Make Printed Lists.**—On or before the first day of August of each year it shall be the duty of the State Board of Education to have printed a complete list of all the books adopted under the provisions of this act, stating the net contract price, the exchange and the retail price of each, and to distribute such lists to the county superintendent in such quantity as they may request. It shall be the duty of the county superintendent in each

county to furnish such lists to all dealers and the principal teachers of all schools in the county, and such dealers and teachers shall post the same conspicuously in their sales rooms or school houses. Failure to comply with the provisions of this section by any of the parties herein named shall be punishable by a fine of not less than ten dollars nor more than twenty dollars, and upon conviction said fine shall be covered into the school fund of the county in which such fine is assessed. (Act of March 29, 1918, Sec. 16.)

Section 152. (§4421a-17 Ky. St.) **Text Books Excluded—Supplementary Books May be Used.**—The books adopted by the commission as the uniform system of text books for the State, shall be introduced and used as text books to the exclusion of all others in all the common schools and high schools of the State, except as herein provided, for a period of five years from the date of adoption, and it shall not be lawful for any teacher or other school officer to use or for any board of education to permit to be used, any books upon the same branches other than those adopted by the commission. However, nothing herein shall prevent the use of supplementary text books, but such supplementary books shall not be used to the exclusion of the books prescribed under the provisions of this act. Any member or members of any board of education, any trustee of teacher, violating the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction be punished by a fine of not less than ten dollars nor more than fifty dollars, and all such fines shall be covered into the treasury to the credit of the school fund of the county in which such fine may be assessed. (Act of March 29, 1918, Sec. 17.)

(§ 4421a-18 Ky. St.) **Copies of Text Books to be Filed—Agreement to Reduce Prices.**—Before the publishers of any school text book shall offer or submit bids or proposals to the State Text Book Commission for furnishing books to the common schools of the State, such publisher or publishers shall file a copy of the text book in the office of the State Superintendent of Public Instruction with a sworn statement of the lowest net price at which said book is sold anywhere in the United States. Said publisher shall file with the State Super-

intendent of Public Instruction, as chairman of the State Text Book Commission, a written agreement to furnish said book or books to the dealers in the State, as hereinbefore provided, at the prices so filed, exclusive of transportation charges. Said publisher must further agree to reduce said price in Kentucky if reductions are made elsewhere in the United States, so that at no time may any book be sold in Kentucky by the contractor at a higher net price than is received for the same book elsewhere. Said publisher shall agree further that all books offered for sale in Kentucky shall be equal in quality to those deposited in the office of the State Superintendent of Public Instruction, as regards paper, binding, printing, illustrations and all points that may affect the value of said books. (March 29, 1918, Sec. 18.)

(§ 4421a-19 Ky. St.) **Penalty for Sale of Inferior Books.**
—If any publisher shall furnish to any dealer or agent in this State any book or books inferior in any particular to the samples on file in the office of the State Superintendent of Public Instruction, or shall offer them at higher prices than those listed with the State Superintendent of Public Instruction, it shall become the duty of the State Board of Education of the State of Kentucky to authorize the State Superintendent of Public Instruction to investigate the failure of said publisher to comply with the terms of his contract. The State Superintendent shall thereupon notify the publisher of said non-compliance with the terms of his contract, and if said publisher shall disregard the notification and fail immediately to comply with the terms of his contract with the State through the State Text Book Commission, then the State Superintendent shall institute, through the Attorney General of the State, legal proceedings and prosecutions to recover damages and proper relief on the bond of the said publisher. (March 29, 1918, Sec. 19.)

(§ 4421a-20 Ky. St.) **Filing Fees to be Paid by Publisher—Expenses of Commission to be Paid by Superintendent of Public Instruction.**—When the publisher of any school text book or books shall offer the same for the purpose of submitting bids and proposals to furnish same to the schools of Kentucky, as herein provided, to the State Text Book Commission,

and at the time of filing such text book in the office of the State Superintendent of Public Instruction, said publisher shall pay into the treasury of the State of Kentucky a filing fee of five dollars for each book offered by said publisher; provided, that when a series of books by the same author and upon the same subject is offered for adoption, the publisher may file a fee of five dollars for the first book and one dollar for each additional book in said series, and when such series embrace both common and high school text books, it shall be regarded as two series. The fees thus received shall constitute a fund out of which, upon requisition made by the State Superintendent of Public Instruction, shall be paid the expenses of publishing lists and other information for the use of the State Text Book Commission, clerk hire and other necessary expenses in connection with the filing of all text books submitted for adoption in the State of Kentucky, and further, for defraying the actual necessary traveling expenses of those members of the State Text Book Commission who do not now draw salaries or derive other emoluments as officials of the State. If there should be any balance of such fund remaining upon the first day of January of the fifth year following the completion of the adoption of text books, it shall be placed to the credit of the State school fund. (March 29, 1918, Sec. 20.)

Section 153. (§ 4421a-21 Ky. St.) **Oath Not to Control Prices.**—When any publisher of school text books shall file with the State Superintendent of Public Instruction samples and lists provided for under this act, said publisher at the same time shall be required to file a sworn statement that he has no understanding or agreement of any kind with any other publisher, or interest in the business of any other publisher, with the effect, design or intent to control the prices of such books, or to restrict competition in the adoption or sale thereof. (Id., Sec. 21.)

(§ 4421a-23 Ky. St.) **Penalty for Violation of Oath.**—If at any time a publisher shall enter into any understanding, agreement or combination to control the prices, or to restrict competition in the adoption or sale of school text books, or if the statement required of said publisher in the preceding sections shall be untrue in any respect, then the Attorney Gen-

eral shall institute and prosecute legal proceedings for the forfeiture of the bond of said publisher, and for the revocation of his authority to sell school books in the State of Kentucky, and all contracts made by said publisher under this act shall thereupon become null and void, at the option of the State Board of Education. (March 29, Sec. 24.)

(§ 4421a-23 Ky. St.) **Penalty for Bribery—Money Not to be Contributed.**—Any firm, or corporation publishing text books and qualified to sell text books under this act in the State of Kentucky, under contract made with the State Text Book Commission, who shall directly or indirectly contribute any money or thing of value whatever to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for office in this State, or in any district, city or county thereof, or to the campaign fund of any person who is a candidate for nomination for office in this State, or in any district, county or city thereof, or shall give any money or valuable property whatsoever to any member of the State Text Book Commission, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five thousand dollars nor more than twenty thousand dollars, in the discretion of the jury, and such act on the part of said firm, corporation or publisher, or any agent thereof, shall also be considered a breach of the bond made by said firm, corporation or publisher, with the State, and the venue of the action shall be within any county in the State wherein said act was committed, or in the Franklin Circuit Court, and the State Board of Education or any member of the State Text Book Commission, or any citizen of the State of Kentucky in any county where the offense is committed, shall have the right to prosecute by legal process an action for the breach of said bond, and the amount so recovered for such fines and for such breach shall be turned over to the treasury of Kentucky for the benefit of the State school fund. (4421a-23 cross reference. See Gregory's Criminal Law, Sec. 697.)

(§ 4421a-24 Ky. St.) **Penalty for Member of Commission Who Accepts Bribe.**—Any member of the State Text Book Commission who shall solicit, accept or receive any money, gift or any other property of value, or favor whatsoever, from

any person, firm, corporation or publisher qualified to sell text books in Kentucky, or from any agent thereof, or any other person in any way interested in the sale of text books, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment; and such fine shall be turned over to the treasury of the State of Kentucky for the benefit of the school fund of the State. (Act March 29, 1918, Sec. 24.)

(§ 4421a-25 Ky. St.) **Penalty for Teacher in Bribing Commission.**—Any teacher or educator in the employment of any book company, or publisher of school books, who shall either directly or indirectly use his influence or attempt to influence the State Text Book Commission or any member thereof, for the adoption of any book or books shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars or more than five hundred dollars unless he shall have registered with the chairman of the State Text Book Commission stating whether or not he has been employed by any school book company or publisher of school books, if so with what company and the terms and conditions of his employment. (Id., Sec. 25.)

(§ 4421a-26 Ky. St.) **Commission in Executive Session—Publishers Excluded—Penalty.**—The State Text Book Commission shall have authority, after having examined thoroughly all books submitted for adoption, to go into executive session and exclude all agents of all publishers, after a date set by said commission, from further interviews and representations, and it shall be a misdemeanor, after such date has been declared for the agent of any publisher, or for any person or agent, whatever, representing such publisher, to be present in any such executive session, and upon being found guilty such agent, person or publisher shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment; and all such fines shall be covered into the treasury of Kentucky for the benefit of the State school fund. After such date has been

declared, the text book commission shall continue in executive session, or meet from time to time, and the adoption of text books under this act shall be concluded by said commission not later than May the first, just preceding the expiration of the contract then in force.

(§ 4421a-27 Ky. St.) **Bond to be Filed by Publisher.**—To insure compliance with the aforesaid conditions under which school text books may be sold in the State of Kentucky, the publisher shall file with the State Board of Education of Kentucky a bond of not less than ten thousand dollars nor more than fifty thousand dollars, the amount to be fixed by the State Board of Education upon compliance with the provisions of the preceding sections, and the bond to be approved by the said board. The publisher shall thereupon be qualified to sell books as herein provided in this act, in the State of Kentucky. (Id., Sec. 27.)

(§ 4421a-28 Ky. St.) **Penalty for Failure to Qualify.**—Any publisher who shall offer for adoption to the State Text Book Commission any school text books of any kind, without first qualifying therefor under the provisions of this act, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five hundred dollars nor more than five thousand dollars, and such fine shall be covered into the treasury of the State of Kentucky for the benefit of the State school fund. (Acts March 29, 1918, C. 110, p. 453, Sec. 28.)

Text Book Commission for cities of first, second, third and fourth classes.*

Section 154. (§ 4421b-1 Ky. St.) **County Text Book Commission Created.**—There is hereby created for each county within the State a county text book commission, which shall consist of the county superintendent of schools, two members of the county board of examiners, the principal of a high school in the county, to be appointed by the State Board of Education, and one member of the county board of education elected by said county board; provided, that no person shall serve on said

*In the case of *Bowman v. Hamlett*, 159 Ky. 184, the Court of Appeals held that the act creating the State Text Book Commission is constitutional and repeals all of the act of 1910 except so far as applies to cities of the first, second, third and fourth classes. Said act is sections 4421a-7 4421a-8 and 4421b-30.

commission who is the author of any text book published for use in the common schools, or who has been in the employ as a traveling salesman, or otherwise, of any publisher of school text books within a period of two years prior to the passage of this act.* (March 15, 1910, C. 13, p. 46, Sec. 1.)

(§ 4421b-2 Ky. St.) **Vacancies—How Filled.**—Vacancies on the commission resulting from the disqualification of the county superintendent, principal of the county high school, or members of the board of examiners, shall be filled by the State Board of Education. Vacancies resulting from other causes shall be filled as prescribed by law for original members. (Id., Sec. 2.)

(§ 4421b-3 Ky. St.) **How Members to Qualify.**—Each member of said commission shall qualify by taking and subscribing to an oath faithfully to discharge his duties as required by this law, and the said affidavit shall be filed in the office of the clerk of the county court of the county. (Id., Sec. 3.)

(§ 4421b-4 Ky. St.) **Organization.**—The members of the county text book commission, as thus constituted, shall meet on the call of the county superintendent in his office during the month of April of the years in which existing contracts expire, and shall organize. The county superintendent shall be ex-officio chairman of the commission, and a secretary shall be elected from the membership. The chairman shall preside at all meetings of the commission. The secretary shall keep complete records thereof, and all such records and all contracts shall be signed by the chairman and secretary. (Id., Sec. 4.)

(§ 4421b-5 Ky. St.) **Advertisements for Proposals or Bids.**—Not less than sixty days before the expiration of the contracts now in force for furnishing books to the common schools of the county, the county text book commission shall advertise through one or more county papers or by written notification to all qualified publishers as hereinafter provided, that at a time and place fixed definitely in the advertisement sealed bids or proposals will be received from the publishers of school text books for furnishing books to the common schools of the

*See editorial note preceding this section.

county, in accordance with the provisions of this law and such regulations as the commission shall prescribe. Such advertisement shall reserve to the commission the right to reject any and all bids. (Id., Sec. 5.)

(§ 4421b-6 Ky. St.) **Bids—What to Specify.**—Such bids and proposals shall be for furnishing books during a period of five years and no longer. The bids shall state specifically the net contract prices at which books are to be furnished to agents within the county, and the exchange price to pupils, and shall be accompanied by a specimen copy of every book proposed to be furnished. All bids shall be sealed and deposited with the chairman of the commission, to be by him delivered to the commission in executive session, when they shall be opened in the presence of the commission. It shall be the duty of the chairman of the commission to carefully preserve in his office for compensation the specimen copy of each of the books adopted, together with the original bid or proposal, and, when requested, to return to the publishers the specimen copies of other books submitted at their expense. (Id., Sec.)

(§ 4421b-7 Ky. St.) **Bids May be Rejected.**—The commission shall have and reserve the right to reject any and all bids for reasons satisfactory to a majority of the commission. In case of a failure to select from the bids submitted a satisfactory text book upon any of the branches prescribed by law, the commission shall re-advertise for sealed bids under the same terms as in the first instance. (Id., Sec. 7.)

(§ 4421b-8 Ky. St.) **Uniform Series of Text Books to be Adopted.**—It shall be the duty of the said commission in each county, during the months of June and July of the years in which existing contracts expire, by a majority vote of the entire commission, to adopt from the authorized State list, as hereinafter provided, a uniform series or system of text books for use in the common schools of the county, except in cities of the first, second, third, fourth, fifth and sixth classes, and to arrange for the distribution of such books to agents at the net contract price. The commission may, from time to time, make any regulations not contrary to the provisions of this act to secure the prompt and faithful performance of all contracts,

and the prompt distribution of the books herein provided for. (Id., Sec. 8.)

(§ 4421b-9 Ky. St.) **Commission, How Guided in Selection of Books.**—The commission, in the selection and adoption of a uniform series of text books, shall consider the merits of the books, taking into consideration their subject matter, the printing, binding, material and mechanical qualities, their general suitability and desirability for the purposes intended, and the price. The commission shall select and adopt such books as will, in its judgment, accomplish the ends desired. (Id., Sec. 9.)

(§ 4421b-10 Ky. St.) **Series—What Books to be Included.**—The uniform series of text books to be selected by the commission shall include all the branches required by law to be taught in the common elementary schools of the county, except as herein provided, but no text book shall contain anything of a partisan or sectarian character. (Id., Sec. 10.)

(§ 4421b-11 Ky. St.) **Term of Adoption.**—County high schools having been established since the last adoption of text books, it shall be the duty of each county text book commission, as herein constituted, by or before the 1st of July, 1910, to adopt a uniform series of text books for use in such county high schools and such other high schools as may not be exempt by law from the provisions of this act. Such adoption shall be made in accordance with the provisions of this act, and shall be for a term of five years. (Id., Sec. 11.)

Section 155. (§ 4421b-12 Ky. St.) **Contracts—How Awarded.**—After the adoption shall have been made, the commission shall award the contracts and shall, by registered letter, notify the bidders to whom contracts have been awarded, and shall at the same time notify the State Superintendent of the awards made. It shall be stipulated in all contracts that the net contract prices at which such book or books shall be sold to the commission, or the designated agents of the commission in the county, and the exchange price to pupils shall not exceed the lowest net contract and exchange prices at which the same book or books are sold under contract with any other state, county, township or school district in the

United States under like conditions of sale and distribution. (Id., Sec. 12.)

(§ 4421b-13 Ky. St.) **Form of Contract to be Prepared by State Superintendent.**—It shall be the duty of the State Superintendent of Public Instruction to prepare and have printed a form of contract between county text book commissioners and publishers of school books, said form to be approved by the Attorney General, and to furnish the same, through the county superintendent, to the several county commissioners of the State; and no other form of contract shall be used by such county commissions and publishers in carrying out the provisions of this act. (Id., Sec. 13.)

(§ 4421b-14 Ky. St.) **State Not Liable on Contract.**—It shall always be a part of the terms and conditions of every contract made in pursuance of this act that the State of Kentucky shall not be liable to any contractor in any manner for any sum whatever, but all such contractors shall receive their pay and compensation solely and exclusively from the proceeds of this sale of books, as provided for in this act. (Id., Sec. 14.)

(§ 4421b-15 Ky. St.) **Agents to be Selected to Sell Books—Selection of—Books May be Exchanged.**—For the distribution and sale of adopted books to patrons, the county commission shall arrange with at least two responsible merchants or other agents in the county of good financial rating, in locations selected with reference to the convenience of said patrons, and shall appoint the same as agents, and such agents shall sell the books adopted to the patrons and pupils of the common schools at a price not exceeding fifteen per cent (15%) advance on the net contract price of said books, and out of said excess over the net contract price so charged by such agent, he shall pay the transportation charges on said books. Said agent shall exchange new books for old ones displaced by said adoption at the exchange price herein provided for during the first year of each and every contract made under the provisions of this act. (Id., Sec. 15.)

(§ 4421b-16 Ky. St.) **Patrons May Sell Old Books.**—When any patron or pupil of the common schools owning text books adopted for use in said schools in the county of his resi-

dence shall remove to another county, he may deliver such books to any agent or dealer in the county from which he has removed, and the agent or dealers to whom same shall be delivered shall receive and pay him in money the exchange value of such books; provided that only such old books as are whole and in good serviceable condition shall be so purchased by said dealer. (Id., Sec. 16.)

(§ 4421b-17 Ky. St.) **Books for Indigent Children.**—The county judge in purchasing books for indigent pupils, as required by law, shall purchase books from said dealers said second hand books, so far as same may be suitable for such purpose and furnish same to the county superintendent for the use of said indigent pupils; provided that no agent or dealer of any county commission shall sell any second hand books so purchased or any second hand book to any pupil or patron or to the county judge as herein provided at a price higher than ten per cent (10%) above the cost of such second hand book. (Id., Sec. 17.)

(§ 4421b-18 Ky. St.) **Penalty for Selling or Exchanging Books at Greater Price Than Provided for.**—Any agent or dealer, clerk or other person having or selling books adopted under this act, who shall ask or receive for any such book more than the lawful price therefor, as herein defined, or who shall refuse to receive from patrons or pupils removed to other counties books owned by them and adopted for use in the common schools of the county of such agent or dealer and to pay to them the exchange value for such old books, shall be guilty of a misdemeanor and on conviction shall be fined in a sum not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) (Id., Sec. 18.)

(§ 4421b-19 Ky. St.) **List of Books—State Board to Print—Dealers and Teachers to Post—Penalty.**—It shall be the duty of the State Board of Education by the first of September of each year to have printed a complete list of all the books adopted under the provisions of this act, stating the highest lawful retail and exchange price of each, and to distribute such lists to county superintendents in such quality as they may request. It shall be the duty of the county superintendent to furnish such lists, attested by his signature, to all deal-

ers and to the principal teachers of all schools in the county, and such dealers and teachers shall post the same conspicuously in their sales rooms or school houses. Failure to comply with the provisions of this section by any of the parties herein named shall be punishable by a fine of not less than ten (\$10.00) nor more than twenty dollars (\$20.00). (Id., Sec. 19.)

Section 156. (§ 4421b-20 Ky. St.) **Adopted Books Must be Used—Exceptions—Penalty for Violations.**—The books adopted by the commission as the uniform system of text books shall be introduced and used as text books to the exclusion of all others in all the common schools of the county, except as herein provided, for a period of five years from the date of adoption, and it shall not be lawful for any teacher or other school officer to use, or any board of education to permit to be used, any books upon the same branches other than those adopted by the commission. However, nothing herein shall prevent the use of supplementary books, but such supplementary books shall not be used to the exclusion of the books prescribed under the provisions of this act. Any board of education, trustee or teacher violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. (Id., Sec. 20.)

(§ 4421b-21 Ky. St.) **Oath of Publisher—Agreement of Publisher.**—Before the publisher of any school text book shall offer the same for sale to any county text book commission in Kentucky, said publisher shall file a copy of the text book in the office of the State Superintendent of Public Instruction with a sworn statement of the lowest net price at which said book is sold anywhere in the United States, under State, county, township, district or city contract. Said publisher shall file with the State Board of Education a written agreement to furnish said book or books to the designated agents, as hereinbefore provided, or to any county text book commission in Kentucky at the prices so filed, exclusive of transportation charges. Said publisher must further agree to reduce said prices in Kentucky if reductions are made elsewhere in the county, so that at no time may any book be sold in Kentucky by the contractor at a higher price than is received for

the same book elsewhere under state or county contract. Said publisher shall further agree that all books offered for sale in Kentucky shall be equal in quality to those deposited in the office of the State Superintendent as regards paper, binding, printing, illustrations and all points that may affect the value of said books. (Id., Sec. 21.)

(§ 4421b-22 Ky. St.) **Violation of Agreement by Publisher.**—If any publisher shall furnish to any county books inferior in any particular to the samples on file in the office of the State Superintendent, or shall offer them at higher prices than those listed with the State Superintendent, it shall become the duty of the county text book commission of said county to inform the State Superintendent of the failure of said publisher to comply with the terms of his contract. The State Superintendent shall thereupon notify the publisher of said complaint, and if said publisher shall disregard the notification and fail immediately to comply with the terms of his contract, then the State Superintendent shall institute legal proceedings to recover damages on the bond of said publisher. (Id., Sec. 22.)

(§ 4421b-23 Ky. St.) **Filing Fees to be Paid by the Publisher.**—Before the publisher of any school text book shall offer the same for sale to any county text book commission in the State of Kentucky, and at the time of filing such text-book in the office of the State Superintendent of Public Instruction, said publisher shall pay into the treasury of the State of Kentucky a filing fee of five dollars (\$5.00) for each book offered by said publisher. A series of books by the same author and upon the same subject shall constitute a fund out of which, upon requisition made out by the State Superintendent, shall be paid the expenses of publishing lists and other information for the use of the county text book commission, clerk hire and other necessary expenses in connection with the filing of all text books submitted for adoption in the State of Kentucky. Any balance of such fund remaining upon the first of January of the fifth year following the completion of adoptions shall be placed to the credit of the school fund. (Id., Sec. 23.)

(§ 4421b-24 Ky. St.) **Oath Not to Control Prices.**—When any publisher of school text books shall file with the State Superintendent the samples and lists provided for under this act, said publisher at the same time shall be required to file a sworn statement that he has no understanding or agreement of any kind with any other publisher, or any interest in the business of any other publisher, with the effect, design or intent to control the prices of such books, or to restrict competition in the adoption or sale thereof. (Id., Sec. 24.)

(§ 4421b-25 Ky. St.) **Contracts May Become Void—Penalty For Violation of Oath.**—If, at any time, publisher shall enter into any understanding, agreement or combination to control the prices or to restrict competition in the adoption or sale of school books, or if the statements required of said publisher in the preceding sections shall be untrue in any respect, then the Attorney General shall institute and prosecute legal proceedings for the forfeiture of the bond of said publisher and for the revocation of his authority to sell school books in this state, and all contracts made by said publisher under this act shall thereupon become null and void at the option of the other parties thereto. (Id., Sec. 25.)

(§ 4421b-26 Ky. St.) **Penalty for Bribery—Money Not to be Contributed.**—Any person, firm or corporation qualified to sell school books in Kentucky under the provisions of this act, or any agent thereof who shall, directly or indirectly, contribute any money or thing of value to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for office in this State, or in any district or county thereof, or to the campaign fund of any person who is a candidate for nomination for an office, or who shall give any money or other valuable property whatsoever to any member of any county text book commission, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one thousand dollars (\$1,000.00), nor more than five thousand dollars (\$5,000.00) in the discretion of the jury, and such act on the part of said person, firm or corporation, or the agent thereof, shall also be considered a breach of the bond made by said person, firm or corporation with the State, and the venue of the action shall be within any county in the

State where said act is committed or in the Franklin Circuit Court; and the State Board of Education, or any one of the county text book commissions, or any member thereof in the county where the offense is committed, shall have the right to prosecute an action for the breach of said bond, and the amount recovered for said breach shall be turned over to the treasury of Kentucky for the benefit of the State school fund. (Id., Sec. 26.)

(§ 4421b-27 Ky. St.) **Penalty for Member of Commission Accepting Bribe.**—Any member of any county text book commission who shall solicit, accept or receive any money, gift, or any property or favor whatsoever from any person qualified to sell text books in Kentucky, or any agent thereof, or other person in any way interested in the sale of such text books, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. (Id., Sec. 27.)

(§ 4421b-28 Ky. St.) **Bond to be Filed by Publisher.**—To insure compliance with the aforesaid conditions under which school text books may be sold in the State of Kentucky, the publisher shall file with the State Board of Education a bond of not less than two thousand dollars (\$2,000.00) nor more than ten thousand dollars (\$10,000.00), the amount to be filed by the State Board of Education upon compliance with the provisions of the preceding sections, and the bond to be approved by said board. The publisher shall thereupon be qualified to sell school books in this state. (Id., Sec. 28.)

(§ 4421b-29 Ky. St.) **Penalty for Failure to Qualify.**—Any publisher who shall offer for adoption to any text book commission school text book of any kind without first qualifying therefor under this act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five hundred dollars (\$500.00) nor more than five thousand dollars (\$5,000.00). (Id., Sec. 29.)

(§ 4421b-30 Ky. St.) **Text Book Commission for Cities—Powers—Duties—Penalties.**—The board of education in a city of the first, second, third, fourth, fifth and sixth class shall

constitute the text book commission for such city, and as such its powers, duties, restrictions and penalties shall be identical with those provided by law for county text book commissions; provided, that the members of such board acting as a text book commission shall receive no compensation for their services, and provided further, that if any member of said board shall be or become ineligible to serve as a member of the text book commission, then the other members of the board are hereby empowered to fill the vacancy on the text-book commission to be created. (Id., Sec. 30.)

Chapter XVI.

COLORED SCHOOLS

Sec. 157. Donations and gifts may be made to—funds shall be used for the purpose requested.

Sec. 158. Census of children, how made and reported.

Sec. 159. Summer training schools substituted for county teachers' institute.

Sec. 160. Penalties for failure of trustees—teachers to perform duty.

Sec. 161. White and colored schools not to be taught in same college.

Section 157. (§ 4522 Ky. St.) **Donation or Devise to—By Whom Held.**—All sums arising from any donation, gift, grant or devise by any person whatsoever, wherein the intent is expressed that the same is designed to aid in the education of the colored children in this Commonwealth, or any county or school district therein, shall be held and used for the purposes specified in such donation, gift, grant or devise; and the Superintendent of Public Instruction, County Superintendent of Common Schools of the county, and County Board of Education shall receive such donation, gift, grant or devise for the benefit of the colored schools of the State or particular county or sub-district, respectively, and shall hold and use the same as requested by the donor or devisor.

Section 158. (Acts 1918.) **Census of Pupils—How and When Taken—Designation of Districts.**—The number of colored children in each district, between the ages of six and eighteen years, shall be taken and reported at the same time and in the same manner as required by law for taking the census of white children. All colored districts shall be designated by letters in alphabetical order for each county, as District A, District B and so on.

Section 159. (§ 4525 Ky. St.) **Teachers' Institute—Organization of.**—The colored school officials and teachers shall be organized into teachers' institutes for themselves, in the same manner and to the same extent as provided for in sections 191 to 201, inclusive, of this act. (Institute succeeded by Summer Normal Training Schools, Sec. 34b.)

Section 160. (§ 4526 Ky. St.) **Penalties Prescribed—Enforcement of.**—All duties which are required of any officer under this chapter shall be performed by them under penalties

herein prescribed; and when no penalties are prescribed, then the officer failing to perform the duties imposed shall be guilty of a misdemeanor, and, upon indictment in the circuit court of the county in which said misdemeanor may occur, shall be subject to a fine in any amount, in the discretion of a jury, and the Superintendent of Public Instruction shall give information of all failures or neglect of duty which come to his knowledge to the attorney for the Commonwealth in the county in which the failure to perform or neglect of duty shall occur. The Superintendent of Public Instruction shall issue, as occasion demands, a circular letter to the circuit judges of the State, setting out the methods by which frauds have been committed against the State school funds, and other violations of the school law perpetrated, and request that they call the attention of the grand juries to the same.

Section 161. (§ 4526a Ky. St.) **White and Colored Not to be Taught in Same College—Penalty.**—(1) That it shall be unlawful for any person, corporation or association of persons to maintain or operate any college, school or institution where persons of the white and negro races are both received as pupils for instruction; and any person or corporation who shall operate or maintain any such college, school or institution shall be fined \$1,000.00, and any person or corporation who may be convicted of violating the provisions of this act shall be fined one hundred dollars for each day they may operate said school, college or institution, after such conviction.

(2) That any instructor who shall teach in any school, college or institution where members of said two races are received as pupils for instruction shall be guilty of operating and maintaining same and fined as provided in the first section hereof.

(3) It shall be unlawful for any white person to attend any school or institution where negroes are received as pupils or receive instruction, and it shall be unlawful for any negro or colored person to attend any school or institution where white persons are received as pupils or receive instruction. Any person so offending shall be fined fifty dollars for each day he attends such institution or school: Provided, that the

provision of this law shall not apply to any penal institution or house of reform.

(4) Nothing in this shall be construed to prevent any private school, college or institution of learning from maintaining a separate and distinct branch thereof, in a different locality, not less than twenty-five miles distant, for the education exclusively of one race or color.

Section 161a. (§ 4434a-16 Ky. St.) **Colored Visitors—Election.**—At the same time and place and by the election officers who conduct the election for subdistrict trustees, an election shall be held for the purpose of electing a visitor for the colored school or schools of the subdistrict. Such a visitor shall be nominated and elected in the same manner as the subdistrict trustee, save that the nominating petition shall be signed by colored voters, and that colored voters alone shall be eligible to vote for such visitor. So far as the colored school or schools of the subdistrict are concerned, the duties of the visitor shall be identical with those of the subdistrict trustees, save that such visitor shall not be a member of the division board. (March 18, 1916, C. 24, p. 162.)

Note.—So much of this statute as imposes punishment for operating an institution of learning in which white and colored persons may be taught at the same time and in the same place is valid; so much as prohibits the operation of any institution of learning of separate branches for white and colored persons less than twenty-five miles distant from each other is void. *Berea College v. Com.*, 123 Ky. 209.

Chapter XVII.

VOCATIONAL EDUCATION.

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| Sec. 162. Board first created—appropriation—standards—inspection. | Sec. 165. Board to formulate plan of co-operation. |
| Sec. 163. Acceptance of Federal act—definition of persons disabled. | Sec. 166. Appropriations—how provided—purposes of use. |
| Sec. 164. State Board designated—power to provide facilities—who eligible. | Sec. 167. State Treasurer appointed custodian of moneys. |
| | Sec. 168. Gifts and devises. |

Section 162. (§ 4535k-1 Ky. St.) **Vocational Education.**—The Commonwealth of Kentucky hereby accepts all the provisions of an Act of Congress of United States entitled “An Act to Provide for the Promotion of Vocational Education; to Provide for Co-operation with the States for the promotion of such Education in Agriculture and the Trades and Industries; to Provide for the Co-operation with the States in the Preparing of Teachers of Vocational Subjects; and to Appropriate Money and Regulate its Expenditures,” approved February 23, 1917, and designates a Board to be known as the Vocational Education Board, consisting of the Superintendent of Public Instruction, the President of the University of Kentucky, the Attorney General, the Secretary of State, and two other men, who shall be appointed for terms of two (2) years by the Governor, one of whom is to be a superintendent of schools, and the other engaged in farming or other business, to administer the provisions of said Act in accordance with the provisions thereof, and they shall receive their necessary traveling expenses in attendance upon meetings. (March 6, 1918, C. 7, p. 19.)

(§ 4535k-2 Ky. St.) **Appropriations.**—There is hereby appropriated out of any fund in the State Treasury not otherwise appropriated, the sum of \$12,493.00 for the year ending June 30, 1918, \$17,491.00 for the year 1919, \$22,988.00 for the year 1920, \$24,987.00 for the year 1921, \$24,987.00 annually thereafter for each year ending June 30th. The money so appropriated shall be payable to such institutions and in such amounts as may be designated by the Vocational Education Board to carry on teacher training instruction in the State of Kentucky in accordance with the Federal Act. (Id., Sec. 2.)

(§ 4535k-3 Ky. St.) **Inspection of Schools, by Whom—Duty—Assistance.**—The inspection of schools receiving the benefits of the Act of Congress aforesaid and which have established courses of vocational education in Agriculture, Home Economics and Trade and Industrial Education as provided in said Act, shall be made by and under the direction of the Professor of Secondary Education of the University of Kentucky, and while acting in such capacity, he shall be under the direction and control and responsible to the Vocational Education Board. It shall be his duty to report to the Superintendent of Public Instruction and the Vocational Education Board the results of his inspection. The said Professor of Secondary Education may appoint such assistants as may be necessary, subject to the approval of the Vocational Education Board. (Id., Sec. 3 as amended March 23, 1922, C. 78, p. 357.)

(§ 4535k-4 Ky. St.) **Appropriation for Expenses of Inspection and Supervision.**—There is hereby appropriated the sum of \$2,500.00 for the current fiscal year, and each year thereafter, for the purpose of paying for the inspection and supervision of courses in such schools, as provided in Section 4535k-3 of this Act. (Id., Sec. 5.)

(§ 4535k-5 Ky. St.) **Standards—Who Establish.**—The State Vocational Education Board shall have the authority and power to establish standards for the qualification and certification of teachers employed in the teaching of courses maintained in the schools receiving aid from Federal Funds. (Id., Sec. 5.)

Section 163. (4535k-6 Ky. St.) The State of Kentucky does hereby, through its General Assembly, accept the provisions and benefits of the act of Congress, entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment," approved June 2, 1920, and will observe and comply with all requirements of said act. (Act of March 18, 1922.)

(§ 4535k-7 Ky. St.) **Definition of "Persons Disabled."**—For the purpose of this act the term "persons disabled" shall be construed to mean any person whom by reason of a physical defect or infirmity, whether acquired by accident, injury,

or disease, is, or may be expected to be, totally or partially incapacitated for remunerative occupation; the term "rehabilitation" shall be construed to mean the rendering of a disabled person fit to engage in a remunerative occupation.

Section 164. (§ 4535k-8 Ky. St.) **State Board Designated—Power to Provide Facilities—Who is Eligible.**—That the board designated or created as the State Board for Vocational Education to cooperate with the Federal Board of Vocational Education in the administration of the provisions of the Vocational Education Act, approved February 23, 1917, is hereby designated as the State Board to cooperate with the said Federal Board in carrying out the provisions and the purposes of said Federal Act providing for the vocational rehabilitation of persons disabled in industry or otherwise.

The State Board for Vocational Education shall prescribe and provide such facilities as may be necessary for the vocational rehabilitation of persons disabled in industry or otherwise; appoint such assistance as may be necessary to administer this act and said act of Congress in this State; fix the compensation of such assistants and direct the disbursement and administer the use of all funds provided by the Federal Government and this State for vocational rehabilitation of such persons.

To be eligible to receive vocational rehabilitation from the State Board, disabled persons must have been domiciled within the State for one year or more, or reside in the State at the time of sustaining disability.

Section 165. (§ 4535k-9 Ky. St.) **State Board to Formulate Plan of Cooperation.**—That it shall be the duty of the State Board designated, to cooperate as aforesaid in the administration of the Federal Act, and the Workmen's Compensation Board of Kentucky to formulate a plan of cooperation in accordance with the provisions of this act and said act of Congress, such plan to become effective when approved by the Governor of the State.

Section 166. (§ 4535k-10 Ky. St.) **Appropriation—How Provided—Purposes of Use.**—There is hereby appropriated for the purposes of carrying out the provisions of this act, and for matching Federal funds available to the State of Kentucky,

under such Act of Congress, approved June 30, 1920, the sum of Ten Thousand (\$10,000.00) Dollars for the fiscal year ending June 30, 1922; the sum of Twenty-Two Thousand Nine Hundred and Fifty-Five (\$22,955.00) Dollars for the fiscal year ending June 30, 1923, and the sum of Twenty-Two Thousand Nine Hundred and Fifty-Five (\$22,955.00) Dollars for the fiscal year ending June 30, 1924. Said appropriation shall be paid out of funds collected from the tax on premiums paid to insurance carriers writing compensation insurance in Kentucky, under the provisions of Chapter 37 of the Acts of 1920, in excess of the amount required for the maintenance of the Workmen's Compensation Board under the provisions of said act.

No portion of any appropriations made for the purposes of this act shall be used by any institution for handicapped persons except for the special training of such individuals entitled to the benefits of this act as shall be determined by the State Board.

Section 167. (§ 4535k-11 Ky. St.) **State Treasurer Appointed Custodian.**—That the State Treasurer is hereby designated and appointed custodian of all moneys received by the State from appropriations made by the Congress of the United States for the vocational rehabilitation of persons disabled in industry or otherwise, and is authorized to receive and provide for the proper custody of the same and to make disbursements therefrom upon the requisition of the State Board for Vocational Education.

Section 168. (§ 4535k-12 Ky. St.) **Provisions Regarding Gifts and Devises.**—The State Board designated to cooperate as aforesaid in the administration of the Federal Act, is hereby authorized and empowered to receive such gifts and donations, either from public or private sources, as may be offered unconditionally or under such conditions related to the vocational rehabilitation of persons disabled in industry or otherwise as in the judgment of the State Board are proper and consistent with the provisions of this act. All the moneys received as gifts or donations shall be deposited in the State Treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of disabled

persons. A full report of all gifts and donations offered and accepted, together with the names of the donors and the respective amounts contributed by each, and all disbursements therefrom shall be submitted annually to the Governor of the State by the State Board. (The six paragraphs, 163 to 168, Act of March 18, 1922.)

Chapter XVIII.

BUILDING SCHOOL COMMISSION

- Sec. 169. By whom appointed—qualifications—district—body corporate.
- Sec. 170. Bond—employees—plans to be submitted—contract how let—county board.
- Sec. 171. Bonds voted—sold—depository to be selected—determining price.
- Sec. 172. Expenses borne by commission—disbursements out of proceeds—levy by fiscal court.
- Sec. 173. Title to property—valid claims, payment of.
- Sec. 174. County board to canvass votes—certificate.
- Sec. 175. Tax levy by fiscal court continued—tax on entire district.

Section 169. (4535i-1 Ky. St.) **County Judge to Appoint—Term and Qualification of Members.**—Upon the application, in writing, of 250 householders residing in the district, as hereinafter described, it shall be the duty of the County Judge of a county to appoint four persons, two of whom shall be members of the Democratic Party and two members of the Republican Party, to constitute a Building School Commission. Each appointee shall be at least twenty-five years of age and reside within the district, and be the owner in his own right of real estate. No officer or employe of the State or of any city or county, whether holding a paid or unpaid office, shall be eligible to appointment to said commission. Such appointee shall be subject to the approval of the fiscal court of said county. The term of office shall be four years, and if the work therein provided for is sooner completed such term of office shall expire at such completion. Vacancies shall be filled for an unexpired term in the same manner as the original appointment.

The district for which said commission is appointed and which shall constitute the district as hereinafter mentioned, shall be the whole county, or, where said county contains an incorporated town or towns wherein is maintained a public school which is, in whole or in part, supported by taxation levied alone upon the property in said town, then the balance of said county. (March 18, 1916, C. 24, p. 162, Sec. 224.)

(§ 4535i-2 Ky. St.) **Commission Body Politic—Powers.**—The persons appointed as provided in the first section, and their successors, shall constitute a body corporate under the name of Building Commission of County (the name of the county in which they are appointed

being used to fill the blank), and shall have official capacity to contract and be contracted with, to sue and be sued in that name, and to adopt a seal and alter the same at pleasure. Such commission shall elect a chairman from the appointed members. The appointed members of the commission shall receive no compensation, but shall be allowed their expenses of travel when on business of the commission. It shall have authority to employ such clerical or other assistance as the board may deem necessary. (March 18, 1916, C. 24, p. 162, Sec. 225.)

(§ 4535i-3 Ky. St.) **School Houses to be Built.**—It shall be the duty of the commission to make such careful examination of the method of constructing and furnishing public school houses as may enable it to determine the best plan of erecting and furnishing the same, including ventilation, heating and lighting. The commission shall have the power to employ one or more architects to submit plans for such construction and furnishing, together or separately, and to attend to the carrying out of the same, and pay a reasonable compensation therefor. (March 18, 1916, C. 24, p. 162, Sec. 226.)

Section 170. (§ 4535i-4 Ky. St.) **Bond to be Given by Employes.**—The commission shall exact from its officers and employes such bond, with approved surety, as seems to it discreet, and fix the form of such bond. The premium on such bond shall be paid by the commission. (Id., Sec. 227.)

(§ 4535i-5 Ky. St.) **Plans to be Submitted to County Board.**—When the commission shall have determined upon a plan for the erection and furnishing of a school house or school houses in said district it shall lay said plans before the County Board of Education. If said plans so recommended by the commission be adopted by the County Board of Education, then said commission shall have the right to proceed to acquire, by purchase or condemnation, all property necessary for such school houses and playgrounds, and the erecting and furnishing of said school houses so approved. (Id., Sec. 228.)

(§ 4535i-6 Ky. St.) **Contract—How Let.**—All work to be done or supplies or materials to be purchased in carrying out the purposes of this act and involving an expenditure of \$500 or more shall be by contract awarded to the lowest and best bidder; but the commission, with the consent of all its mem-

bers, may itself do any part of such work under such conditions as it may prescribe, whenever the superintendent of construction shall, in writing, recommend that course. All bids or parts of bids for any work or supplies or materials may be rejected by said commission. This section shall not apply to nor be construed so as to limit the power of the commission in the appointment of architects, clerks or agents. (Id., Sec. 229.)

Section 171. (§ 4535i-7 Ky. St.) **Bonds May be Voted.**—In order to provide money for the acquisition of property for schools sites and the erection and furnishing of school buildings the Fiscal Court of any county may adopt a resolution submitting to the voters of the district, at the November election occurring ninety days after the entry of the order, and succeeding the appointment of the commission, the question whether bonds of the district shall be issued for the purpose of carrying out the work herein provided for. The resolution of the fiscal court shall provide the date and maturity of such bonds, the rate of interest they shall bear and the total amount to be issued, which shall in no event exceed the limit fixed by the Constitution, and the resolution shall also contain the necessary details in reference to the execution and delivery of said bonds, their denomination, coupons to be annexed, tax to be levied to pay the interest and sinking fund to retire such bonds. (March 18, 1916, C. 24, Sec. 230.)

(§ 4535i-8 Ky. St.) **Bonds to be Sold—Depository to be Selected.**—When the voters of the district shall determine that such bonds shall be issued they shall, when so issued, be placed under the control of said commission, who shall determine when and at what price and how they shall be sold; provided that no such bonds shall be sold at less than par, and provided, further, that any premiums which may be obtained from said bonds shall constitute a part of the sinking fund for their ultimate retirement. As the said bonds are sold their proceeds shall go to the credit of the commission in some depository which shall be selected for the deposit by the commission, and shall be withdrawn only upon the checks of the secretary and treasurer of the commission, countersigned, in such manner and accompanied by voucher approved in such manner as may

be prescribed by regulations to be adopted by the commission; provided that the said commission shall exact of said depository bond, with surety, for the faithful accounting for and paying over of such money as may be from time to time drawn upon. (Id., Sec. 231.)

Section 172. (§ 4535i-9 Ky. St.) **Expenses to be Borne by Commission.**—The commission may select its necessary employes prior to the election on the subject of issuing the bonds as provided in section 230 of this act; but no compensation shall be paid to either of such officers for any work done until after the bonds have been voted. All disbursements of the commission, including compensation to its officers, agents and others employed by it, shall come out of the proceeds of the sale of said bonds. The duties prescribed for the commission in sections 226, 227, 228, 229 and 231 of this act, hereof, shall not be performed, until and unless bonds have been voted as prescribed in section 230 of this act. (March 18, 1916, C. 24, p. 162, Sec. 232.)

(§ 4535i-10 Ky St.) **Levy to be Made by Fiscal Court.**—It shall be the duty of the fiscal court of the county to levy annually, upon the property subject to taxation in the said district, a sufficient rate to pay the interest on the said bonds and the sinking fund provided for in the order, and the principal of said bonds when the same shall mature. It shall be the duty of the sheriff of the county to collect such levy and turn over the same to the county treasurer, who shall apply the funds thus collected to the payment of the interest and principal of the bonds. And it shall also be the duty of the county treasurer, under the direction of the County Board of Education, to invest the money derived from the sinking fund in such securities as may be approved by said County Board of Education. (Id., Sec. 233.)

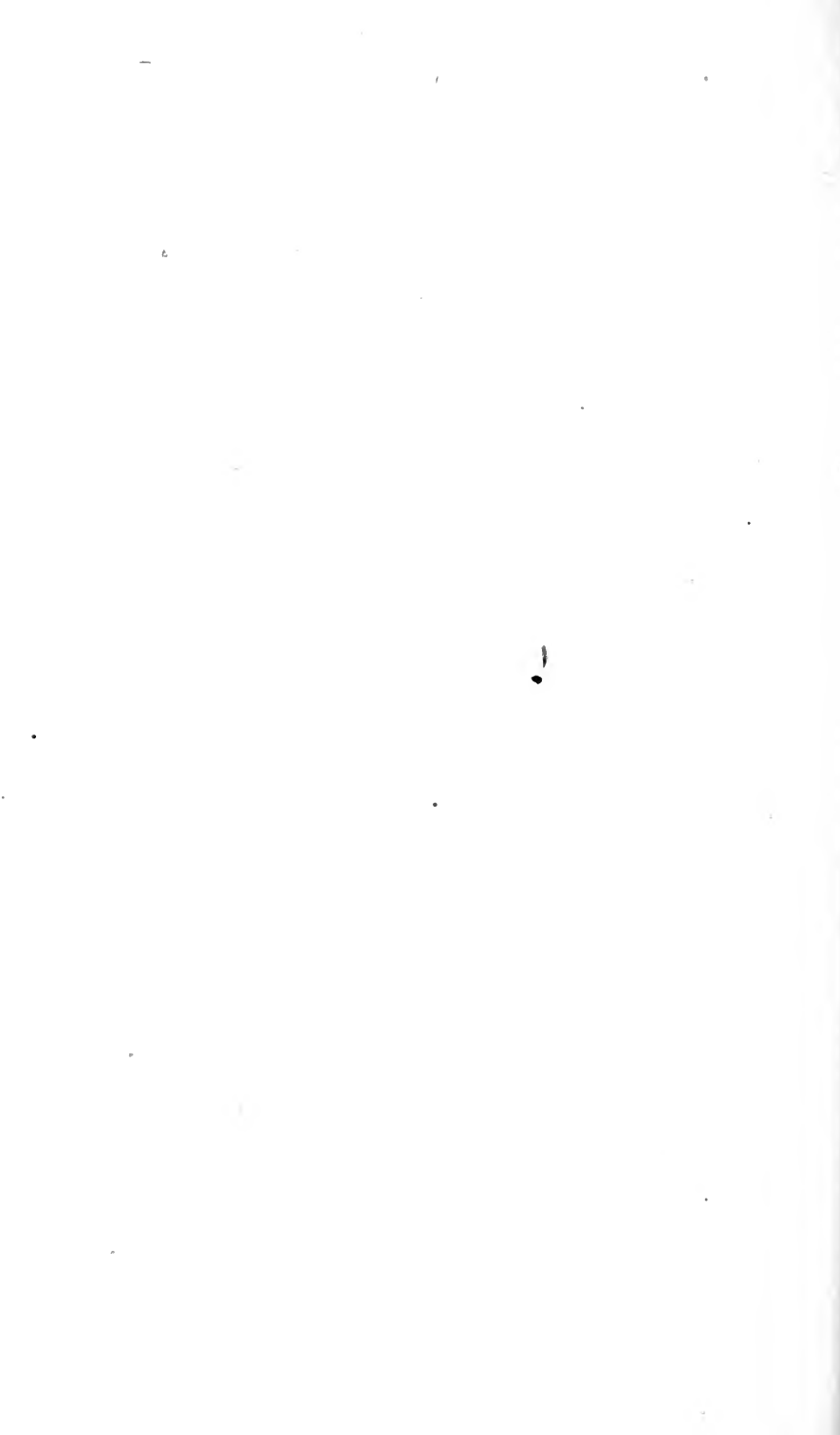
Section 173. (§ 4535i-11 Ky. St.) **Title to Property Vested in County Board of Education.**—The title to all property acquired by said commission shall be taken in the name of the County Board of Education and all money in the hands of the commission after defraying any liabilities which have been incurred by the commission, shall be paid into the hands of the county treasurer, to be used as a sinking fund for the

bonds hereinbefore provided for. The commission shall pay out of the proceeds of the sale of said bonds all valid claims for damages or otherwise which may be preferred against it, and neither the county nor the district shall be liable for any debt which the commission may incur, or any claim for damages which may be asserted or awarded against the commission. (March 18, 1916, Sec. 234.)

(§ 4535i-12 Ky. St.) **County Attorney to Advise Board.**—All legal services or advice which may be required by the commission shall be rendered by the county attorney and his assistants without additional compensation. (Id., Sec. 235.)

Section 174. (§ 4535i-13 Ky. St.) **County Board to Canvass Votes.**—It shall be the duty of the fiscal court to canvass the votes of the election provided for in section 230 hereof, and upon its appearing that two-thirds of the voters in this district voting upon the question shall have voted in favor of the issue of said bonds, shall certify this fact by an order to be entered upon the order book containing the proceedings of the fiscal court. The said bonds shall contain a certificate that they have been duly issued under the provisions of this act, and such certificate shall be conclusive evidence that all steps preliminary to their valid issue have been regularly taken. (Id., Sec. 236.)

Section 175. (§ 4535i-14 Ky. St.) **Tax Levy to be Continued.**—The fiscal court shall have power and authority, and it shall be its duty, to continue to levy said tax on the property of the entire district which voted the said bonds, notwithstanding any part thereof may be subsequently incorporated into any town, city or other municipal subdivision. (March 18, 1916, C. 24, p. 162, Sec. 237.)



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