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Laws of  
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# PUBLIC SCHOOL LAWS OF TENNESSEE

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TOGETHER WITH LEADING DECISIONS OF THE  
SUPREME COURT, EXPLANATORY NOTES, AND  
AMENDMENTS MADE BY GENERAL ASSEMBLIES  
UP TO THE YEAR 1899. ❁ ❁ ❁ ❁ ❁

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it over to his successor in office



MORGAN C. FITZPATRICK  
STATE SUPERINTENDENT PUBLIC INSTRUCTION  
NASHVILLE, TENNESSEE  
1899



Public School Laws

OF

TENNESSEE

ADDENDA.

Note 2, page 21, and Note 1, page 22, should be  
omitted because they do not state the law correctly.

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MORGAN C. FITZPATRICK  
STATE SUPERINTENDENT PUBLIC INSTRUCTION

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NASHVILLE, TENNESSEE

1899





Public School Laws

OF

TENNESSEE

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NASHVILLE, TENNESSEE

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# The Public School Laws of Tennessee,

TOGETHER WITH

LEADING DECISIONS OF THE SUPREME COURT, AND EXPLANATORY NOTES.

[ALL PARTS OF LAWS PRINTED IN ITALICS HAVE BEEN  
ADDED BY AMENDMENT.]

SECTION 1. There shall be established and maintained in this State a uniform system of public schools. 1873. Chap. 25. System.

NOTE.—*Public schools, county resources.* The public schools of a county may be classed among her “resources,” within the meaning of a statute and the resolution of a County Court, for an exhibit of the county resources at a State exposition. 12 Pickle, 659, 666, 667.

SEC. 2. (1) The public school system shall be administered by the following authorities, to wit: A State Superintendent, County Superintendents, and District Directors. 1873. Chap. 25.

(2) The public schools already established in any of the counties of this State shall continue to be managed and conducted as now prescribed by law until the school officers hereby created shall have been duly elected or appointed and qualified; and the provisions of this act shall not apply to them until a County Superintendent of Public Schools shall have been appointed. 1873. Chap. 25. Sec. 52. Schools established previous to 1873.

## STATE SUPERINTENDENT.

SEC. 3. The State Superintendent *shall be a person of literary and scientific attainments, and of skill and experience in the art of teaching, and who* shall be nominated by the Governor and confirmed by the Senate. 1873. Chap. 25. Qualifications of State Superintendent.

NOTE.—Amended as above, 1879, Chap. 129, Sec. 5.

SEC. 4. (1) He shall hold his office for two years, unless removed as hereinafter provided, and shall have an annual salary of \$2,000, to be paid out of the school money in the State Treasury; and during the term of office he shall devote his entire time and attention to the duties imposed by this act. 1873. Chap. 25. Term of office and compensation.

NOTE.—Amended, 1879, Chap. 44, to \$1,995. The appropriation of \$2,000 per annum was made from 1885 to 1895. From 1895 to 1899 it was \$1,995 per annum. In 1899 it was restored to \$2,000 per annum.

(3)

1891. Chap. 25.  
Member of  
State Board.

(2) The State Superintendent of Public Instruction of Tennessee shall be, *ex officio*, a member of the State Board of Education.

Ex officio.

(3) He shall also be a member, *ex officio*, of all other State educational bodies or associations.

(By Chap. 343, page 788, Acts 1899, the State Superintendent is made Secretary and Treasurer of the State Board of Education, and Treasurer of the Peabody Normal College fund).

1873. Chap. 25.  
How removed.

SEC. 5. He shall be liable to removal from office by the Governor for misconduct or neglect of duty; any vacancy to be supplied by a new appointment for the unexpired term; *provided*, That, in the event of any such removal, the reason for the same shall be communicated, in writing, to the Superintendent thus displaced, and also to the Senate, if in session, and, if not, within ten days after it may next meet.

1873. Chap. 25.  
Office at Capitol.

SEC. 6. The office of the State Superintendent shall be at the capital of the State, and a room in the State Capitol may be provided for that purpose.

#### DUTIES OF STATE SUPERINTENDENT.

1873. Chap. 25.

SEC. 7. The duties of the Superintendent shall be as follows:

Statistics, etc.

(1) To collect and disseminate statistical and other information relating to the public schools.

Inspection.

(2) To make tours of inspection among the public schools throughout the State.

See that laws  
are executed.

(3) To see that the school laws and regulations are faithfully executed.

Distribute  
forms.

(4) To prepare and distribute blank forms for all returns required by law, or deemed by him necessary to be made by teachers, school officers, and County Superintendents of Public Schools, for the use of the several counties.

Distribute  
school laws.

(5) To have printed and distributed to the County Superintendents and other school officers as many copies of the school laws as may be necessary, with appropriate forms and instructions for carrying said laws into execution.

Appoint exam-  
iners.

(6) To appoint, at his discretion, persons in each county to visit and examine all or any of the public schools therein, and report to him touching all such matters as he may indicate respecting their condition and management,

and the means of improving them; but no compensation shall be made for such services.

(7) To require of County Superintendents detailed reports annually, and as much oftener as he may deem proper; and he may require special reports at any time of any officer connected with the school system.

Require reports.

(8) To appoint some one to make the reports required to be made by the County Superintendent when such Superintendent shall fail to make full report at the time designated, and to allow such appointee what he may deem just for his services, which shall be paid by the delinquent County Superintendent; and upon his refusal to do so, the State Superintendent shall stop, in the hands of the County Trustee, that amount of his salary, or bring suit, in his official name, against him in a court of competent jurisdiction, to enforce the payment.

Appoint persons to make reports.

(9) To prescribe the mode of examining and licensing school-teachers, and their necessary qualifications.

License of teachers.

(10) To preserve in his office and conveniently arrange all documents and matters in relation to educational subjects that may come into it.

Preserve documents.

(11) To report to the Comptroller of the State, on the first day of December in each year, the scholastic population of each county.

Report scholastic population.

(12) To annually submit to the Governor, on or before the fifteenth day of September [1897, Chap. —, Sec. 4, Senate Bill No. 58], a detailed report of his official proceedings for the year ending *the thirtieth day of June preceding*, exhibiting a plain statistical account of receipts and expenditures for public schools, and of their condition and progress, showing the number of children, male and female, white and colored, respectively, in the State and in each county, between the ages of six and eighteen years, the total number of pupils enrolled, the average number belonging, and the per cent of attendance during the year, the average paid to teachers, male and female, the amount of each branch of school expenditures, severally, the cost of education per scholar, and whatever else may tend to show the degree of success and usefulness of the system; *Provided, however*, That under the provisions of this act all persons between the ages of eighteen and

Annual report.



twenty-one, inclusive, shall have the benefit of this act for the term of three years from and after the first organization of public schools under this act, in the school district in which such persons may live. (This section has been amended so that the school age is from six to twenty-one years inclusive.)

NOTE 1.—By the act of 1873 the scholastic year ended August 31. It was made to end June 30 of each year by act of 1881. Chap. 103, Sec. 1.

NOTE 2.—The words in above section following the words "*Provided, however,*" were never directly amended, but their effect was extended by the act of 1879, Chap. 6. (See note to Sec. 30.)

1891. Chap. 132,  
Sec. 3.

Distribute  
forms.

(13) It shall be the duty of the State Superintendent to have printed and distributed to the school officers of the State, and to the County Courts of the several counties appropriate forms and instructions for carrying into effect the provisions of this act (Secs. 31 and 32).

NOTE.—The words "this act" apply to Sections 31 and 32, these two sections being part of the act of 1891, Chapter 132.

#### COUNTY SUPERINTENDENTS.

1873. Chap. 25.  
How elected.

Qualifications.

Removal.

SEC. 8. (1) There shall be a County Superintendent for each county, who shall be elected by the County Court at its April or July term, 1873, and after 1874 he shall be elected biennially in January, and no member of the County Court shall be eligible to said office. He shall be a person of literary and scientific attainments, and, when practicable, of skill and experience in the art of teaching; shall hold his office for two years, and shall receive such pay for his services as may be allowed him by the County Court, to be paid upon the order of the Chairman or Judge of the County Court by the County Trustee. He shall be subject to removal from office for misbehavior or inefficiency at any time by the County Court; *Provided*, That the causes for such removal shall be communicated to him in writing.

Examinations,  
etc.

This section is amended so as to read: Said County Superintendent shall be a person of literary and scientific attainments, and of skill in the theory and practice of teaching; *Provided*, That preceding each biennial election, or any election to fill a vacancy for County Superintendent of Schools, each applicant shall file with the Chairman of the County Court a certificate of qualification, given by

the State Board of Education; *Provided*, That on the first Monday in October preceding each biennial election for County Superintendent of Schools, *and at any other date or dates fixed by the State Board of Education*, each applicant for said office shall undergo a public examination at the county site of the county in which he or she is an applicant by and before a commission of three residents of the county, said commission to be previously appointed by the Chairman of the County Court, and to be citizens who, by education and experience, are most eminently qualified to hold said examination, the same to be held under such rules and regulations as may be prescribed by the State Board of Education; *Provided*, That, if qualified as attested by said examination, said applicant shall receive a certificate of qualification by the State Board of Education. 1895, Chap. 54.)

*Provided further, That those who have been previously examined or may hereafter be examined under the regulations of the State Board of Education, and having attained 90 per cent in general average, and not falling below 70 per cent in any study, shall be exempt from said examination so long as they continue in the public school work.*

NOTE.—The decision of County Court fixing salary is final, whether made before or after the services have been rendered. 6 Lea, 501.

RULES.—To carry into effect Chapter 54 of the Acts of 1895, defining the qualifications of County Superintendents, the following rules and regulations are prescribed by the State Board of Education, acting under authority given by said act.

1. The examination shall be written, and shall begin on the first Monday in October preceding each biennial election for County Superintendent of Schools, and may continue two days.

2. The examination, in addition to papers on all the branches in which instruction is now given in the public schools, shall embrace questions on Theory and Practice of Teaching and School Law.

3. The questions for examination will be prepared by the State Board of Education, and sent by said Board to the various commissions appointed by the Chairmen of the County Courts, as provided in the act. The questions will be mailed under seal, and must not be opened until the day of examination, and then in the presence of the commission and applicants.

4. The papers submitted by the applicants shall be carefully graded by the commission, and the papers, with the grades marked thereon, shall be forwarded, within five days from the date of the examination, to the State Superintendent of Public Instruction for final grading by the State Board of Education.

5. Under the provisions of the act, the State Board has no authority to exempt from examination applicants for certificates of qualification for the position of County Superintendent.

NOTE.—Examinations will be held according to the above rules until other regulations are made by the State Board of Education.

1889. Chap. 107.  
Women eligi-  
ble.

(2) *In the election of County Superintendent of Education, women of the age of twenty-one years, and otherwise possessing the necessary qualifications, shall be eligible for said position.*

#### DUTIES OF COUNTY SUPERINTENDENTS.

1873. Chap. 25.

SEC. 9. That the duties of the County Superintendent shall be as follows:

Supervision.

(1) To have supervision of the public schools in the county.

To visit the schools.

(2) To visit the schools of the several districts from time to time, and confer with the teachers and District Directors as to the improvement of schools or the promotion of their interest in any way; to keep himself informed as to the merits of text-books, and to suggest to the District Directors such changes as may from time to time be advisable, with a view to securing uniformity in the course of study throughout the county, when it can be done without increased expense to the parent.

Text books.

Directors' reports.

(3) To see that the District Directors make their reports on all matters required of them; and when they fail to make full reports, or to make them in time, the County Superintendent may appoint some other person to perform these duties.

To examine and issue certificates.

(4) To perform such duties in relation to the examination of teachers, and issuing to them certificates of qualification, as may be required of him by the State Superintendent.

To report to Trustee.

(5) To report to the County Trustee, as soon as ascertained, the scholastic population of each school district on the last day of June.

To observe directions of State Superintendent. When to report.

(6) To observe such directions and regulations as the State Superintendent of Schools may from time to time prescribe; to make special reports to that officer whenever required; and, on or before the first day of August [1897, Chap. —, Sec. 3; Senate Bill No. 58], annually to make to him a report for the year ending the *thirtieth day of June*



*preceding*, in such form and containing all such particulars as shall be prescribed and called for, a copy of said report to be furnished to the County Court of his county at its quarterly session on the first Monday in January.

NOTE.—The words in italics in Subsection 6 were changed to conform to the amendment of 1881, Chapter 103, Section 1, by which the scholastic year was made to end June 30, instead of August 31.

(7) To keep a record of all his official acts in a book to be provided for that purpose, and to keep a record of the numbers and boundaries of the school districts of his county, and the changes that may be made therein from time to time.

To keep record of official acts.

(8) In all cases where the District Directors of the public schools issue warrants upon the County Trustee for school apparatus, maps, charts, globes, school furniture, and all other expenditures of the public school funds, except for teachers' salaries, the warrants drawn by said Directors shall be countersigned by the County Superintendent before the same shall be paid by the County Trustee, *and all warrants issued by said Directors for any claim shall be written and signed in ink.* (1897, Chap. —, Sec. 1; House Bill No. 126.)

Warrants to be countersigned by Superintendent.

NOTE.—The words above in italics were added by Act 1899.

(9) It shall be the duty of the County Superintendent to keep a well-bound book, in which he shall enter a memorandum of all warrants countersigned, as provided in the last subsection, showing the amount and date of each warrant, to whom issued, for what purpose, and from which district, and said County Superintendent shall include in his annual report to the County Court a full, clear, and succinct statement of all warrants so countersigned by him. (*Id.*, Sec. 2.)

Superintendent to keep record book.

SEC. 9a. (1) County Superintendents of Public Instruction are prohibited from teaching any public school, either as principal or assistant, during their official terms, nor take [for "nor take" should have been used "and from taking"] any contract for building or repairing public school property, nor become [for "nor become" should have been used "and from becoming"] the owner of school warrant other than allowed him for his services as County Superintendent; *Provided*, That this act shall only

County Superintendent not to teach, nor to contract as to school property, nor to buy school warrant in counties of over 30,000.

apply to counties of 30,000 inhabitants and over. (1895, Chap. 155, Sec. 1.)

Teaching.  
Misdemeanor  
in office, and  
fine.

(2) It shall be a misdemeanor in office for any County Superintendent to teach any public school, as principal or assistant, during his office [official] term. In addition to the punishment prescribed by statute for misdemeanors in office, such Superintendents shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense committed, and all fines arising from such causes shall be paid into the public school fund of the county where such offense is committed. (*Id.*, Sec. 2.)

NOTE—For further duties of County Superintendent, see Secs. 44a, 44b, 44c, 44e, 44f, 44g.

#### DISTRICT SCHOOL DIRECTORS.

1889. Chap. 247.  
Election of  
directors.

SEC. 10. (1) *There shall be elected at the August election, in the year 1890, two School Directors, and at the regular August election every two years thereafter there shall be elected three School Directors for each school district.*

(2) *There shall be no election of School Directors in the years 1889, 1891, or other odd years, but the terms of Directors expiring under the present law in 1889 shall be extended until 1892, both until the election of their successors, as provided in SECTION 1 OF THIS ACT.*

NOTE 1.—The words in small capitals apply to Section 10, Subsection 1.

NOTE 2.—Section 10, as above given, is the act of 1889, Chap. 247. Sections 10 and 12 of Chap. 25, 1873, repealed so far as in conflict, are as follows:

“There shall be three Directors for each school district—one to be elected for one year, one for two years, and one for three years—and, after the expiration of their first term of office, their successors shall be elected for three years.

“The Directors shall be elected annually, on the first Thursday in August, by the qualified voters in the district.”

1873. Chap. 25.  
Eligibility.

SEC. 11. Any person shall be eligible to the office of Director *who is qualified, by being able to read intelligently and write legibly, to perform the duties required, and who is a resident of the district; if he shall cease to be a resident thereof, his office shall be deemed vacant.*

NOTE—The words in italics were added by amendment, 1891, Chap. 146, Sec 1.



SEC. 12. The Directors shall be elected on the first Thursday in August, by the qualified voters of the district. 1873. Chap. 25.

NOTE.—In the act of 1873 the word “annually” follows the word “elected.” It is omitted above so as to make the section conform to the act of 1889, Chap. 247, Sec. 3, repealing so much of Section 12 as was in conflict with said act.

SEC. 13. The election shall be held by the Sheriff, under the same laws by which he is governed in holding other elections. 1873. Chap. 25. Election, how held.

SEC. 14. The person receiving the highest number of votes shall be declared elected, and the person holding the election shall certify the result to the County Superintendent and County Court Clerk, and shall give notice of the same to the Directors elected. 1873. Chap. 25. Result, how declared.

NOTE.—County Court is judge of contested elections. 12 Lea, 30.

SEC. 15. All district School Commissioners now in office shall hold their offices until the election herein provided for shall be held and their successors elected or appointed and qualified. 1873. Chap. 25. Successors.

NOTE.—This section relates to the Commissioners in office under laws previous to 1873.

SEC. 16. If, from any cause, Directors shall not be elected on the first Thursday in August, the County Superintendent shall appoint them in districts failing to elect. 1873. Chap. 25. County Superintendent to appoint.

SEC. 17. *When a vacancy occurs among the Directors in any district during their term of office, the County Superintendent shall fill the same by appointment, upon being notified of such vacancy by the remaining Directors.* 1891. Chap. 146, Sec. 2. Vacancy.

NOTE 1.—The above amends Acts of 1873, Chap. 25, Sec. 17, which reads as follows:

“When a vacancy occurs among the Directors in any district during their term of office, the remaining Directors shall fill the same by appointment, of which they shall give notice to the County Superintendent and County Court Clerk.”

NOTE 2.—The County Superintendents should make appointments in writing, and should give notice to the remaining Directors and to the County Court Clerk.

SEC. 18. The School Directors of each district shall hold their first meeting within thirty days after their election, and shall appoint one of their number Chairman, and another Clerk and Treasurer, and their appointment shall be made annually thereafter. 1873. Chap. 25. Meeting of Directors.



*Acts 1899, Chapter 218, page 471: It shall be the duty of the commissioners or other officers of elections in the various counties of this state to open and hold elections in the various school districts in this state on the fourth Saturday in May, 1900, and biennially thereafter, for the purpose of electing three school directors for each school district; Provided, That this act shall not apply to any county in this state where school districts and civil districts are co-extensive, or may hereafter be made so; Provided, This act shall not apply to incorporated towns which have a school system of their own; Provided, This act shall also include districts composed of portions of different counties.*

*Said election shall be held and governed by and under the laws now governing general elections, except that these elections shall be held at the school houses in the various school districts, or such other places as said election officer may direct, and that the polls shall be opened at one o'clock, p.m., and shall be closed at five o'clock p.m., and the officers holding said elections shall not receive any compensation therefor.*

NOTE 1.—The Constitution, Art. 7, Sec. 5, and the Acts of 1870, Chap. 23, Sec. 7, fix September 1 as the time for Directors elected in August to enter upon office. The new Board may meet and organize at any time within thirty days after election, but can not enter upon office or do any official act until September 1.

NOTE 2.—The Attorney-general has given the following opinion:

"The Board of School Directors may employ a teacher of the public schools to begin after their term of office expires. If contract is fraudulent, or entered into for purpose of defeating the jurisdiction of the succeeding Board, and the Board of Directors and the teachers are both parties to that fraud, the contract might be invalid and set aside."

NOTE 3.—Directors must take oath of office, in writing, before Clerk of County Court or some acting Justice of the Peace. Acts 1870, second session, Chap. 46, Sec. 28. Also see Constitution, Art. 10, Sec. 1. For payment of costs of suit against Directors out of school money, see same chapter, Sec. 36. Also see Secs. 32, 33, 34 of same chapter for penalties, etc. These laws have never been repealed, and are still in force, and apply to Directors. See, also, M. & V. Code, notes to Sec. 1193.

NOTE 4.—Misdemeanor to enter on office without taking oath. T. & S. Code, 759.

1873. Chap. 25.  
Directors not to  
teach, contract,  
or to own war-  
rant.

SEC. 19. No Director shall be a teacher in the public schools of his district, nor take any contract for building a schoolhouse in his district, nor any contract which this

Board is competent to make, nor become the owner of a school warrant.

NOTE.—A violation of this section is a misdemeanor. 9 Bax., 559.

#### DUTIES OF DISTRICT DIRECTORS.

SEC. 20. The duties of School Directors shall be as follows: 1873. Chap. 25.

- (1) To explain and enforce the school laws and regulations, and themselves to observe them. To enforce school laws.
- (2) To visit the public schools within the district from time to time, and see that they are conducted according to law and with efficiency. To visit schools
- (3) To employ teachers, and to dismiss them for incompetency, improper conduct, or inattention to duty. To employ and dismiss teachers.

NOTE 1.—The right of the Board of Directors to employ a teacher only exists in the case of a vacancy. 5 Lea, 692.

NOTE 2.—A valid contract for teaching can not be made without the approval of the Board of Directors in office at the time the contract is signed by the teachers. 10 Lea, 344. But the Board of Directors in office may make a valid contract with a teacher for a reasonable period of time extending beyond their term of office. 5 Lea, 691; 10 Lea, 219; 11 Pickle, 533. See note 2, Sec. 18.

NOTE 3.—A teacher having made a contract with illegally elected School Directors can not sue the legally elected School Directors on the contract. 12 Lea, 486.

NOTE 4.—*Dismissal.* The Board of Directors have authority to dismiss a teacher for incompetency, improper conduct, or inattention to duties, upon notice to him of the specific charges, and proof of the charges by the testimony of sworn witnesses. 5 Lea, 701; 10 Lea, 219; 11 Pickle, 536, 537; 13 Pickle, 494. But a notice to the teacher that at a given time and place the Board would inquire into his fitness to be continued as a teacher would be insufficient. 10 Lea, 219.

NOTE 5.—The length of time each year during which the schools shall be kept open is left to the discretion of the Board of Directors, acting in good faith and for sufficient cause. . . . The teacher is only entitled to payment on contract for each month of services while school is kept open. 10 Lea, 219. It is the duty of Directors to run all schools the same number of days in their respective districts. Pupils are entitled to days, and not dollars, in school, and Directors should make no exception to this rule.

NOTE 6.—Minors may be employed to teach. Directors are not prohibited from employing minor son or daughter. 12 Lea, 30.

NOTE 7.—*Power of Directors to close school.* Where the contract authorizes the Directors to close the school whenever the average attendance shall fall below a designated number or the funds for the support of the school shall be exhausted, they can not, before the end of the school year, close it except upon the happening of the contin-

gencies provided in the contract of employment, where it does not specify the duration of the term, and no customary term is shown. 11 Pickle, 533, 534, 537.

NOTE 8.—*Power of Directors to discharge teacher.* Where, by the contract, the school is to begin at a fixed date, but no definite term is stipulated, the following sentence, "The Directors reserve the right to annul all contracts every fourth month," stamped across the writing, is not authorized by law, and is void, and does not authorize the School Directors, at the end of the fourth month, to dismiss the teacher arbitrarily, without cause or trial, and to employ another teacher to succeed him. 13 Pickle, 490-494.

To suspend and dismiss pupils.

(4) To suspend or dismiss pupils when the prosperity or efficiency of the school makes it necessary.

NOTE.—The Board of Directors has power to take cognizance of offenses committed by pupils on the way to and from school. For power of teacher or Directors to suspend and punish pupils, see 3 Lea, 455; 5 Lea, 526; 3 Leg. Rep., 19. Also see Section 29 and note to same.

To use school fund to best interest of school.

(5) To use the school fund apportioned to their district, derived from donations or other sources, in such manner as will promote the interest of public schools in their respective districts.

NOTE.—Directors can purchase school property, build schoolhouses and furnish the same, buy apparatus, books for indigent pupils, fuel, and such other supplies as may be necessary.

To take census.

(6) To see that the census of the children, required by Section 7 of this act, is taken in the proper time and manner prescribed by this act.

To hold meetings.

(7) To hold regular meetings as prescribed by them, and special meetings when called by the Chairman or by any one of the members.

NOTE.—Individual acts of Directors not valid. Must be assembled as a board to do official acts. 3 Tenn. Chy. Rep., 177, *State v. Leonard*.

To call meetings of people.

(8) To call meetings of the people of the district for consultation in regard to the school interests thereof.

Separate schools for colored children.

(9) To keep separate and apart schools for white and colored children.

1879. Chap. 129, Sec. 1.  
Warrants on Trustee.

(10) *It shall be the duty of the District Directors to draw upon the County Trustee, in favor of the teachers of their districts, for any school money due such teachers in the hands of the Trustee for distribution in their districts, and they shall also draw their warrants upon the Trustees for any other school money expended properly under the*



*law for other purposes, said warrants to be paid by the County Trustee; and hereafter it shall not be lawful for the Trustee to pay any school money over to the Clerks of District Board of Directors, but he shall hold the same, and only pay it out as provided for in this section of this act; and it shall be the duty of the Trustee to make to the County Superintendent, on or before the fifteenth day of July of each year, a full and correct report of the amount of money received by him for school purposes, and the disbursements of the same.*

NOTE.—The above subsection is a substitute for Subsection 10, Sec. 20, Chap. 25, Acts 1873, which was as follows:

“(10) To draw upon the County Trustee, in favor of the Treasurer of the District, for any school money in the hands of the Trustee for distribution in his district.”

In the original amendment of 1879, the words, “to be approved by the County Superintendent before the same shall,” followed the word “warrants,” in the seventh line. These words were stricken out by the act of 1881, Chap. 91, Sec. 1. So the law now stands as above given. Subsection 11 of Sec. 20, Chap. 25, Acts 1873, was in the following words: “To draw upon the Treasurer of the District for the pay of teachers and school expenses authorized by law; such accounts to be paid in the order in which they are allowed, the Treasurer to record the date of auditing each.” This subsection is construed to be repealed, by implication, by the above act of 1879, Chap. 129.

(11) To take care of, manage, and control public school property of the district.

To manage  
school prop-  
erty.

NOTE.—*Powers of Directors; teacher not enjoined.* This provision does not give the Directors the right to wrongfully dispossess the teacher, and to install another in his place. A teacher will not be enjoined from teaching in a schoolhouse after the Directors have wrongfully and ineffectually attempted to dismiss him arbitrarily. 13 Pickle, 494, 495.

(12) To report any special matter required by the County Superintendent of Schools, and report to him annually, by the fifteenth day of July [1897, Chap. —, Sec. 2; Senate Bill No. 58], down to the *thirtieth day of June*, on all subjects indicated in the blank forms supplied for the purpose; and, until that report be delivered, the Clerk shall not be allowed to draw the last installment of pay for his services.

To report to  
County Super-  
intendent,  
when.

## CLERKS.

1873. Chap. 25.

SEC. 21. The duties of the Clerk of the District shall be as follows:

To take census  
and gather  
statistics.

(1) Within thirty days after his appointment, and annually thereafter, in the month of July, to take a census of all persons residing in the school district between the ages of six and twenty-one years, and to gather the statistics relating to education, according to forms furnished by the Superintendent of Public Instruction.

NOTE 1.—The words “within thirty days after his appointment,” refer to the first clerk, elected in 1873, and apply only to the inauguration of the school system. Since 1873, the school census can be taken only in the month of July.

NOTE 2.—If the census is not taken in July, in any year, it can not be legally taken for that year. In such case, the census of the previous year must be reported by the County Superintendent, and used for all purposes.

To keep record

(2) To keep an accurate record of all proceedings of the Board of Directors, and especially of the purpose and amount of accounts ordered to be paid, and of the date of their being audited.

NOTE.—The following Subsection 3, Sec. 21. Chap. 25, Acts 1873, is construed to be repealed, by implication, by the act of 1879, Chap. 129:

“To act as Treasurer of the school district, and, as such, to give bond, with security, to be approved by the Board of District School Directors, in such sums as they may designate, conditioned for the safe-keeping and proper disbursements of all moneys that come into his hands as Treasurer, the accounts to be paid in the order in which they may be audited.”

To act as secretary  
and keep  
record.

(3) To act as secretary of all school meetings of the district; to keep in a bound volume a cash account and a record of his own official acts; and to keep on file vouchers, contracts, and other official papers, all of which shall be open to the inspection of the County Superintendent of Schools, and of every citizen of the district, and shall be subject to such periodical examinations as shall be prescribed by the County Superintendent.

Other duties.

(4) To discharge such other duties in connection with the school business of the district as may be required of him.

1879, Chap. 129,  
Sec. 3.

(5) The Clerk of the District Directors shall not receive more than two per cent per capita for his services in

taking the census of the children in his district between the ages of six and twenty-one years, and for making his report thereof, "and other reports" to the County Superintendent and County Trustee, which sum shall be paid by the County Trustee out of the funds due said district; *Provided*, That the County Superintendent shall not draw any order in favor of any District Clerk who fails to make his report of the scholastic population of his district within the time prescribed by law; and said two cents per capita shall be in full compensation for all his services as such clerk for one year.

Fee of District  
Clerk.

NOTE 1.—This enactment originally contained the words, "upon the order of the County Superintendent," following the word "Trustee," in the sixth line. These words were stricken out by amendment, 1881, Chap. 91, Sec. 1.

NOTE 2.—Compare the words "two per cent," in line two, with the words "two cents" in line eleven. The compensation of the clerk is two cents per capita of the children enrolled.

#### SCHOOL DISTRICTS.

SEC. 22. (1) The school districts shall be as they now are, or as they may be hereafter established under the provisions of this act. They shall be numbered by the County Superintendent, and designated as "School District No. —, in the county of —," by which name it may sue and be sued, contract and be contracted with, and take, hold, and convey property.

1873. Chap. 25.  
School districts

(2) The several County Courts of this State be, and they are hereby, authorized and empowered to lay off and create new school districts in their respective counties whenever the same shall be necessary, and to change or establish the lines between existing districts whenever the same shall be to the interest of the public schools of the county; *Provided*, The same shall be done only at the July term of the court, written notice of the same having been read at some previous term of the quarterly court. (1897, Chap. —; House Bill 57.)

1891. Chap. 166.

NOTE 1.—Before this act the County Courts possessed no power to change school district lines or to create new school districts. 90 Tenn., 65.

NOTE 2. The school district was originally the civil district, and under this law the County Court is not authorized to subdivide it, unless it is absolutely necessary, on account of rivers or other



physical causes, and when such subdivision is in the interest of the public schools of the county. As a matter of fact, the subdivision of school districts is never in the interest of the public schools of the county, except in very few cases, on account of peculiar physical conditions. Where the law has been violated in this respect, as it has in many counties, the schools can never prosper until the mistake has been rectified. It is the duty of the County Courts to correct their error, and unless they do so they should be proceeded against according to law.

1879. Chap. 129,  
Sec. 6.

(3) The District Directors are hereby authorized to subdivide school districts.

NOTE.—A subdistrict is not a new or independent district. It is merely a division of the school district. All the subdistricts of a school district are equally under control of the three Directors. No subdistrict, as such, can make contract or do any official act.

1879. Chap. 77.  
Joint school  
districts.

(4) Persons living on each side of a county line, and not convenient to a public school in their respective districts or counties, may form themselves into a school district jointly, the children of each county drawing their respective pro rata of public school money; *Provided*, That the School Directors of the school districts adjoining said county line may agree as to the number of scholars taken from each county to form said district.

NOTE 1.—In special cases, children residing in different districts of the same county may be educated in school under such regulations as may be prescribed by the Directors of the districts interested. See Sec. 30.

NOTE 2.—The act of 1873, Chap. 25, attempted to incorporate the school districts and confer on them the power of levying taxes for school purposes. This was found to be unconstitutional, and was repealed by the next Legislature. The sections repealed were Secs. 45, 46, 47, 48, 49, Chap. 25, 1873. The act repealing them was Sec. 2, Chap. 138, Acts 1875.

(4a) That school districts adjacent to incorporated towns are authorized to purchase property inside the corporate limits of such town and erect thereon school houses, which shall be under the exclusive control of the directors of such school district, for the use and convenience of the school children in such school district.

#### GENERAL RULES FOR OFFICERS OF SCHOOLS.

1873. Chap. 25.  
School teachers  
and officers  
shall not be  
agents.

SEC. 23. No State nor County Superintendent of Schools, nor School Directors, nor any other officer, nor any teacher of the public schools, shall have any pecuniary interest,

directly or indirectly, in supplying books, maps, school furniture and apparatus to the public schools of the State, nor shall act as agent for any author, publisher, book-seller, or dealer in any such school furniture or apparatus, or, directly or indirectly, receive any gift, emolument, reward or promise of reward, for his influence in recommending or procuring the use of any book, map, or school apparatus, or furniture of any kind, in any public school of this State; and any school officer or teacher who shall violate this provision, besides being removed from his post, shall be subject to a penalty of not less than two hundred, nor more than five hundred dollars, and shall be guilty of misdemeanor. *Provided, That nothing in this section shall be construed so as to include authors of books and maps* (Acts 1899).

Penalty.

SEC. 24. All school officers going out of office shall deliver to their successors the records and all official papers belonging to the office. In case of the refusal of any officer to do so, on demand of his successor, he shall forfeit not less than twenty-five nor more than one hundred dollars therefor; and a like penalty for each month during which he shall persist in withholding the same, and shall be guilty of a misdemeanor.

1873. Chap. 25.  
To deliver records to successors; penalty or neglect.

SEC. 25. All penalties and forfeitures imposed by this act upon a County Superintendent of Schools shall be for the benefit of the public schools of the county; and all penalties imposed upon School Directors or other district school officers, or upon teachers, shall be for the benefit of the public schools of the district where the offense is committed. The suit for such penalties shall be in the official name of the State Superintendent. And if prosecuted in a court of record, it shall be the duty of the District Attorney to conduct the same. It shall also be the duty of the District Attorney, and any school officer of the county, or of any school district, as the case may be, to set such prosecution on foot; *Provided, That if a penalty shall be inflicted for any such offense, in pursuance of this act, the party shall not be a second time subject to a penalty therefor.*

1873. Chap. 25.  
Penalties and forfeitures; by whom prosecuted.

## SCHOOL TEACHERS.

1873. Chap. 25.  
Teacher must  
have certificate  
before em-  
ployed.

SEC. 26. No teacher of public schools shall be employed, or receive any pay from the public funds, unless he or she have a certificate of qualification given to him or her by the County Superintendent for the county within which he or she is employed. No such payment shall be allowed, if made, and any officer who shall make or sanction it shall also be subject to a penalty of not less than five nor more than fifty dollars; and for like services of male and female teachers, like salaries shall be paid.

1873. Chap. 25.  
Teacher to  
keep register  
and deliver to  
clerk.

SEC. 27. Every teacher in a public school shall keep a daily register of facts pertaining to his or her school, in such form as the school regulations shall require, and shall be responsible for the safe-keeping and delivery of the same to the clerk of the school district at the close of the school term, or of the period of his or her services, whichever shall first happen.

NOTE.—The school forms require certificate that all reports have been made, before warrant can be issued for payment.

1873. Chap. 25.  
Written con-  
tracts.

SEC. 28. Written contracts shall be made with all public school teachers, at fixed rates per month, before they enter upon their duties, in a form prescribed by the school regulations; such contracts shall be signed in duplicate, each party holding a copy.

NOTE.—See Section 20, Subsection 3, and notes following same.

1873. Chap. 25.  
May suspend  
pupils.

SEC. 29. Any teacher of a public school may, for sufficient cause, suspend pupils from attendance on the school until the case is decided by the Board of School Directors, which shall be with as little delay as possible.

NOTE 1.—See 3 Head, 455, *Anderson v. State*; 5 Lea, 526, *Parker v. School District*; 3 Leg. Rep., 19, *State v. Von Stranz*.

NOTE 2.—The teacher has power to punish pupils for offenses committed on the way to and from school.

## SCHOOLS, AND PUPILS WHO MAY ATTEND SCHOOLS.

1873. Chap. 25.  
School attend-  
ance.

SEC. 30. The public schools shall be free to all persons between the ages of six and *twenty-one* years residing within the school district, and in special cases those children residing in different districts may be educated in school under such regulations as may be prescribed by the Directors of the district interested; *Provided*, That white



and colored persons shall not be taught in the same school, but in separate schools, under the same general regulations as to management, usefulness, and efficiency.

NOTE.—In the act of 1873, the school age was from six to eighteen. The Acts of 1879, Chapter 6, amended the law so as to read as above, “twenty-one,” instead of eighteen, before the word “years.”

SEC. 31. (1) There shall be two classes of district public schools, designated respectively primary schools and secondary schools.

1891. Chap. 132,  
Sec. 1.  
Two classes of  
schools.

(2) The Directors of each school district shall establish and maintain therein as many primary schools as may be necessary to teach the children of the district; but they shall have due regard to increasing the length of the school term for the benefit of the district by limiting the number of schools, and they shall not waste the school funds by unnecessary multiplication of schools. In every primary school shall be taught Orthography, Reading, Writing, Arithmetic, Grammar, Geography, History of Tennessee, (*containing*) the *Constitution of Tennessee* (Acts 1899), and History of the United States, containing the Constitution of the United States. Vocal Music and Elocution, or the art of public speaking, may be taught therein, and no other branches shall be introduced, except those added in (4) below.

Primary  
schools.

NOTE.—The law contemplates and requires a five months term in every school each year, and Directors have violated the law if they have increased the number of schools in the district so as to reduce the length of the school term below five months.

(3) The Directors of each school district, whenever the interests of the district shall require it, may establish and maintain therein one or more secondary schools. Every secondary school shall consist of a Principal, and, when necessary, an assistant or assistants may be employed. In every secondary school shall be taught the following branches: Orthography, Reading, Writing, Arithmetic, Grammar, Geography, History of Tennessee, (*containing*) the *Constitution of Tennessee* (Acts 1899), History of the United States, containing the Constitution of the United States, Elementary Geology of Tennessee, Elementary Principles of Agriculture, Elements of Algebra, Elements of Plane Geometry, Elements of Natural Philosophy, Bookkeeping, Elementary Physiology and Hygiene,

Secondary  
schools.

Elements of Civil Government, and Rhetoric or Higher English. Practice shall be given in Elocution, or the art of public speaking. Vocal Music may be taught, and no other branches shall be introduced, except those included in (4) following.

NOTE.—It is absolutely necessary that there shall be more than one teacher in every secondary school. Therefore, it is illegal to establish a secondary school without a Principal and at least one assistant, and unless, with these teachers, the school can continue at least five months per annum.

Physiology and hygiene, effects of alcoholic drinks, narcotics and cigarette smoking be taught.

(4) Amendment taking effect January 1, 1896 (Acts 1895, Chap. 180): In addition to the branches in which instruction is now given in the public schools of this State, Physiology and Hygiene, with a special reference to the nature of alcoholic drinks and narcotics, and smoking cigarettes, and their effects upon the human system, shall also be taught as thoroughly as other required branches, and shall be made a regular course of study for all pupils in all schools supported entirely or in part by public money. (Secs. 1 and 2.)

Teachers required to have a knowledge of such branches.

(5) No certificate shall be granted to any person to teach in the public schools of this State after the first of January, 1896, who has not passed a satisfactory examination in Physiology and Hygiene, with special reference to the effects of alcoholic drinks and narcotics, and cigarette smoking upon the human system. (Sec. 3.)

NOTE 1.—These five subsections of Section 31 are a substitute for Sec. 31 of Chap. 25, Acts of 1873, which was as follows:

“In every public school shall be taught Orthography, Reading, Writing, Arithmetic, Grammar, Geography, Elementary Geology of Tennessee, and History of the United States (*Elementary Principles of Agriculture*); and Vocal Music may be taught therein; and other branches shall not be introduced except as provided for by local taxation, or shall be allowed by special regulations, upon the payment of such rates of tuition as may be prescribed. The funds derived from this source to go into the school fund for the support of the respective schools in which it may be collected.”

NOTE 2.—The study of *Elementary Principles of Agriculture* was added by amendment, 1879, Chap. 187. This study was retained in the amendment of 1891, but was limited to the secondary schools, as seen above.

1879. Chap. 187, Sec. 2. Commissioners for text-books.

(6) The Superintendent of Public Instruction of this State, and Commissioner of Agriculture, shall be constituted a commission to procure the preparation of, or the

designation of, a work on the "Elementary Principles of Agriculture," which shall be taught in the public schools of the State, as are the other studies prescribed in the 21st (31st) section of the public school law; *Provided*, No moneys are to be paid by the State, or out of the school fund, for the preparation of the necessary book.

NOTE.—Under this provision, a text-book was prepared by Prof. Lupton, and approved by the commission.

SEC. 32. (1) The course of study in the public schools of each county shall be graded, and the system of promoting pupils through the several grades shall be prescribed by the County Superintendent thereof, in accordance with the general regulations of the State Superintendent. The course of study in the primary schools shall consist of five grades, and the course of study in the secondary schools shall consist of eight grades, the first five grades in each being identical.

1891. Chap. 132,  
Sec. 2.  
Schools graded  
by County Su-  
perintendent.

(2) Pupils completing the first five grades, and attaining proficiency therein, shall receive a certificate from the State Superintendent, certifying that the holder has completed the primary school course, which shall be countersigned by the County Superintendent and District Directors, and the teacher or the teachers of the school, and shall entitle the holder to enter the sixth grade of the secondary school of any school district, or of the high school of any high school district, which is now, or may hereafter be established, and in which the holder resides.

Certificates to  
pupils com-  
pleting prima-  
ry schools.

(3) Pupils completing the eighth grade in the course of the secondary schools, and obtaining proficiency therein, shall receive a diploma from the State Superintendent, which shall be countersigned by the County Superintendent and by the District Directors and by the teachers of the school, and which shall entitle the holder to enter the ninth grade of the high school of any high school district which is now or may hereafter be established, and in which the holder resides.

Diplomas to  
pupils com-  
pleting second-  
ary schools.

NOTE 1.—This section is a substitute for Sec. 32 of Chap. 25, Acts 1873, which is as follows:

"In all the localities where the number of the children is sufficient, preference shall be given, under suitable regulations, to graded schools—that is to say, to schools in which the pupils are taught in the same building, but in different rooms and [by] teachers, according to



advancement, the studies being the same as in schools which have but one teacher."

NOTE 2.—Sections 31 and 32 constitute what is known as the secondary school law.

1873. Chap. 25.  
Consolidated  
schools.

SEC. 33. The District Directors shall have the power, and they are hereby authorized, to make contracts of consolidation with the trustees, teachers, or other authorities of academies, seminaries, colleges, or private schools, by which the public schools may be taught in such institutions; *Provided*, That the branches of study designated in the thirty-first section of this act shall be taught free of any charge in such consolidated schools; *And provided further*, That the authority of the County Superintendent, District Directors, and other school officers, over those studying such branches, shall be as full and ample as in the ordinary public schools. (See County High School Bill.)

NOTE.—In making contracts of consolidation, the Directors should clearly designate in the written contract whether the school is consolidated as a primary school or a secondary school. . If consolidated as a primary school, the primary branches must be taught free of charge; if consolidated as a secondary school, the secondary branches must be taught free of charge; if consolidated without designation, it will be assumed, *prima facie*, to be consolidated as a primary school.

#### SCHOOL FUNDS AND THEIR DISTRIBUTION.

1873. Chap. 25.  
School fund.

SEC. 34. The permanent school fund of the State shall be the one million five hundred thousand dollars, ascertained and declared by Section 946 of the Code, and recognized by the Constitution of the State to be the permanent school fund. To this shall be added the interest which has accrued on the same, and not been paid by the State, amounting, on the first of January, 1873, to \$1,012,500, making this entire permanent State school fund \$2,512,500. For this \$2,512,500 a certificate of indebtedness shall be issued, signed by the Governor, under the great seal of the State, and deposited with the Comptroller of the Treasury, and which, on its face, shall show the purpose for which it was issued; and shall provide for the payment of the interest thereon at the rate of six per centum, payable semi-annually on the first day of July and the first day of January in each year, commencing on the first day of July, 1873. To the permanent State fund may be added,

Escheats.

from time to time, the proceeds of all escheated property, of all property accruing to the State by forfeiture, of all lands sold and bought in for taxes, of the personal effects of intestates having no kindred entitled thereto by the laws of distribution, and donations made to the State for the support of the public schools, unless otherwise directed by the donors. The principal of the said fund shall always remain unimpaired and entire, and the annual income arising therefrom shall be, and is hereby, dedicated to the support and maintenance of the public schools of the State.

SEC. 35. The State school fund for the annual support of public schools shall be the annual proceeds of the permanent State school fund—any money that may come into the State treasury for the purpose under the present or future laws of the State, and any money that may come into the State treasury for the purpose from any source whatever.

1873. Chap. 25.  
Fund.

SEC. 36. Every male inhabitant in the State subject thereto shall pay a poll-tax of one dollar for the support of the public schools, *which shall be collected as other taxes are, and paid over to the County Trustee in the county where collected, and distributed therein to each school district according to scholastic population.*

1873. Chap. 25.  
Poll tax.

NOTE.—The words in italics were added by amendment, 1875, Chap. 138, Sec. 1.

SEC. 37. The State school tax shall be collected in the same manner as other State taxes, but when the collectors pay over to the Treasurer of the State the money collected by them, they shall designate what part of the same is the proceeds of the school tax.

1873. Chap. 25.  
School tax;  
how collected.

SEC. 38. A tax of *one and one half mills* on the dollar shall be, and is hereby, annually assessed upon all property subject to taxation for the support of the public schools, which shall be collected as other taxes are, and paid over to the County Trustee in the county where collected, and distributed therein to each school district according to scholastic population.

1873. Chap. 25.  
One and one-  
half mills tax.

NOTE.—The tax for school purposes levied by the act of 1873 was one mill on the dollar. The Revenue Act of 1887, Chap. 1, Sec. 1, and all subsequent revenue acts, levied fifteen cents on the hundred

dollars, or one and one half mills on the dollar. These acts amend the original law.

1873. Chap. 25.  
School term of  
five months.

SEC. 39. When the money derived from the school fund and taxes imposed by the State on the counties shall not be sufficient to keep up a public school for five months in the year in the school districts in the county, the County Court shall levy an additional tax sufficient for this purpose, or shall submit the proposition to a vote of the people, and may levy a tax to prolong the schools beyond the five months, said tax to be levied on all property, polls, and privileges liable to taxation, but shall not exceed the entire State tax.

County Court  
to levy tax and  
complete term  
of five months.

NOTE.—The County Court may levy a tax for schools equal to forty-five cents on the one hundred dollars, but it must levy a tax sufficient to run the schools of the county at least five months every year, and it is the duty of the County Superintendent to see that this is done.

1873. Chap. 25.  
Taxes, how col-  
lected and how  
distributed.

SEC. 40. Taxes so levied by the county shall be collected in the same manner as other county taxes, and shall be paid over to the County Trustee for distribution among the school districts of the county according to their scholastic population.

1873. Chap. 25.  
School money  
kept separate  
from other  
money.

SEC. 41. All school money coming into the hands of the State Treasurer or County Trustee shall be kept separate and apart from any State or county funds in their hands.

1873. Chap. 25,  
Sec. 50.  
Surplus.

SEC. 42. All sums of money derived from State or county funds, which are unexpended in any year in any public school district, *shall not go into the hands of the County Trustee for redivision the next year, but shall be credited to such district, and be added to the amount next apportioned to such district.*

NOTE.—The section is given as changed by amendment, 1875, Chap. 138. Sec. 4. The original enactment in 1873 was as follows:

“All sums of money derived from State or county funds which are unexpended in any year in any public school district, shall go into the hands of the County Trustee for redivision the next year; but no sums derived from district assessment shall be subject to redivision outside of the district.”

1875. Chap. 138,  
Sec. 3.  
Bank of Ten-  
nessee issue.

SEC. 43. In all cases where school money has been collected in issues of the Bank of Tennessee, and burned, it shall be the duty of the Comptroller to issue his separate warrant for each year to the County Trustee of each county for the amount of school money belonging to such county



for each year so burned, or burned as aforesaid; and the proceeds of said warrants, together with all other school funds now in the hands of County Trustees, Superintendents, or other officers, belonging to each year, shall be applied, under the direction of the County Judge or Chairman of the County Court, first, in payment of all just claims accruing in said year, and the balance, if any, applied in payment of just claims next in time of accruing.

SEC. 44. All money in the treasury of the State for the annual support of her schools on the first Monday of October and April of every year, shall be apportioned by the Comptroller among the several counties, according to their scholastic population, as reported to him by the State Superintendent. He shall give immediate notice of such apportionment to the County Trustee of each county, and shall give notice in some newspaper at the seat of government of the amount apportioned to each county. He shall issue his warrant on the Treasurer in favor of the County Trustee of each county for the amount apportioned to such county, and transmit the warrant to such Trustee.

1873. Chap. 25  
School money  
how apportioned.

SEC. 44a. The County Trustee of each county shall make quarterly settlements with the County Judge or Chairman of the County Court of all school funds arising from State or county levies, or from any other source for school purposes; and shall also make with said County Judge or Chairman of the County Court quarterly distribution of the school moneys in his hands, and shall report the same to the County Superintendent and to the Directors of the several school districts, and the County Superintendent of Public Instruction for the county shall be present at each quarterly settlement and distribution of the school fund, and shall have supervision thereof. (1897, Chap. 1, Sec. 1; House Bill, 66.)

Trustees' quarterly settlements and distributions.

SEC. 44b. Said County Trustee shall also make annual settlements of the school fund with said County Judge or Chairman of the County Court before July 15th of each year, for the school year ending June 30th previous; and in said settlement said Trustee shall be charged with all tax aggregates, picked up taxes, and with all funds which have come or ought to come into his hands for the school purposes, and shall be credited with all releases granted by the County Court, with his lawful commissions [see

Trustees' annual settlements.

Sec. 46, and notes], and with all amounts lawfully disbursed; and the County Superintendent of Instruction shall be present at such annual settlement, and shall have supervision thereof. (*Id.*, Sec. 2.)

Quarterly reports of County Superintendents.

SEC. 44c. It shall be the duty of the County Superintendent to make quarterly reports to the State Superintendent on or before the 15th day of January, April, July, and October of each year, setting forth an account of the school funds derived from all sources, in accordance with the forms or on the blanks provided by the State Superintendent. (*Id.*, Sec. 3.)

Trustees' annual report to County Superintendents.

SEC. 44d. The County Trustee shall, on or before July 15th of each year, make annual reports to the County Superintendent for the school year ending June 30th previous in accordance with the forms or on the blanks provided by the State Superintendent; and said annual report shall set forth an account for all moneys received during the school year, under the heads of "Amount on hand at beginning of school year," "Gross amount received," "From State, County, from school districts and from all other sources," and an account of all moneys expended during said school year, under the heads of "Salaries of teachers," "School sites, buildings, and repairs," "Furniture and fixtures," "Libraries, maps, charts, and apparatus," "Paid District Clerks," "Paid County Superintendents," "Retained as fees of Trustee," "All other expenses," and "The balance on hand at the end of school year." (*Id.*, Sec. 4.)

Protection of fund against loss.

SEC. 44e. Whenever it shall appear to the County Superintendent that any portion of the school fund has been or is in danger of being lost, misappropriated, or in any way illegally disposed of or not collected, it shall be the duty of said County Superintendent to report the same to the County Court, and also to report the same to the State Superintendent. (*Id.*, Sec. 5.)

Same.

SEC. 44f. Whenever it shall appear to the State Superintendent, from the report of County Superintendent or from other information, that any portion of the school fund has been lost, misappropriated, or in any way illegally disposed of or not collected, it shall be the duty of the State Superintendent, and he shall have power, to employ a resident attorney to look after the recovery and collec-



tion of such fund; and for his services may retain, out of moneys actually recovered and collected by him, not exceeding ten per cent thereof; and in no case shall said attorney receive any pay for said services except his commission as aforesaid, retained out of moneys actually collected, accounted for, and paid over by him to the officer lawfully entitled to receive the same. (*Id.*, Sec. 6.)

SEC. 44g. It shall be a misdemeanor in office, punishable by fine, for any County Superintendent or County Trustee to fail or refuse to make any of the reports provided for in this act, and, in the event of such failure or refusal, it shall be the duty of the officer to whom such report is due, unless said report is made within thirty days after the date fixed by law, and to certify said failure or refusal to the Attorney-general for the county in or from which said failure or refusal shall have occurred. (*Id.*, Sec. 7.)

Violation of law, misdemeanor.

SEC. 44h. *It shall be the duty of the Comptroller of the Treasury to certify to the Chairman or County Judge of each county in the State the date of issuance and amount of each warrant transmitted to the County Trustee of such county in the semi-annual disbursement of the public school fund (Acts 1899).*

Comptroller to report warrants to County Judge.

#### COUNTY TRUSTEE'S DUTY.

SEC. 45. The County Trustee shall keep separate accounts of the State funds and the county funds, showing whence and on what account the moneys were severally derived, and by what order, and on what account, and to whom they were distributed; and, as soon as said moneys are received, he shall report the same to the County Superintendent and to the Directors of each school district.

1873. Chap. 25. Duties of Trustees as to receipt and distribution of money.

NOTE.—He is also required to make an annual report to the County Superintendent on or before July 15 of each year. (See Sec. 20, Subsection 10; and Acts 1897, Chap. —, Sec. 2; Senate Bill No. 58.)

SEC. 46. He shall give bond for the faithful performance of his duties, with surety, to be approved by the County Court of his county, in double the amount of the money that may come into his hands, and his compensation for receiving and paying over to the rightful authorities all moneys received by him shall be six *per centum* (6 per cent) on all sums up to ten thousand dollars (\$10,000), and four *per centum* (4 per cent) on all sums above ten

1873. Chap. 25. Trustee's bond.



thousand dollars (\$10,000) and up to twenty thousand dollars (\$20,000), and a commission of two *per centum* (2 per cent) on all sums above twenty thousand dollars (\$20,000); *Provided*, That in computing the compensation of Trustees—all funds—State, county, school, special, and municipal—shall be taken and estimated as one, and each shall pay its respective portion of the above commissions on all sums of money received by said Trustee for said State, county, and municipality, respectively; and, *Provided, further*, That at the time of the settlement with the proper officers of the State, county, and municipality, and the computation of his commission on collections, said Trustee shall furnish said officers, respectively, with a certified statement from the Judge or Chairman of the County Court showing the amount actually collected by him and paid over by him to the proper State, county, or municipal authorities, respectively, as heretofore provided; *Provided, further*, That the Trustee shall not be entitled to any commission on money turned over to him by his predecessor in office, or on money borrowed for the use of the county or municipality; and, *Provided, further*, That in no case shall his compensation exceed four thousand dollars (\$4,000) for the collection of State, county, and municipal taxes. (Assessment Act of 1899).

NOTE—The act of 1873 made the Trustee's compensation one-half of one per cent. The act of 1879, Chap. 129, provided as follows:

"SEC. 2. The County Trustee shall be allowed five per cent on all school money collected by him from the taxpayers of his county, and paid out by him upon the orders of School Directors, and to a commission of one per cent on all school money received by him from the State Treasurer, or other sources, and paid out according to law."

In 1881, Chap. 106, the following amendment was adopted: That Section 2 of an act, entitled "An act to amend an act, entitled 'An act to establish and maintain a uniform system of public schools,' passed March 14, 1879, and approved March 22, 1879, Chap. 129 of Acts of 1879," be, and the same is hereby, amended by striking out five per cent and inserting one and a half per cent in said Section 2.

In 1887 and 1889 the assessment acts, providing for the compensation of the Trustee, were claimed as amendments to the act of 1881. The Supreme Court, in the case of *Monroe County v. Hudson*, 6 Pickle, 741, decided that the assessment acts did not amend the law, and that the Trustee was entitled to only one and one-half per cent. The permanent law now stands as given above, viz.: one and one-half per cent. The act of 1891 (ex. ses.), Chap. 26, Sec. 19, being an amendment to the act of 1889, Chap. 96, was repealed by the act of 1895, Chap. 120,



Sec. 117, p. 246, thereby leaving the Trustee's commission on all sums collected from taxpayers at one and one-half per cent, and from other sources at one per cent, when paid out according to law, until the passage of assessment bill of 1897.

SEC. 47. It shall be the duty of County Trustees to keep separate and apart from other funds the tax levied and collected for public school purposes in their county; and any Trustee who converts any such school money to the discharge of any account charged against them by the State or county, shall be guilty of a misdemeanor, and shall be subject to a fine of not less than \$100, and imprisonment at the discretion of the courts, and shall forfeit his office.

1881. Chap. 129  
Sec. 1.  
School money  
separate; mis-  
demeanor to  
appropriate.

Penalty.

NOTE 1.—For further duties of the Trustee, see Sections 44a, 44b, 44d.

NOTE 2.—For liability of Trustee, etc., see 5 Lea, 265; 6 Lea, 276; 9 Lea, 168; 14 Lea, 536. Also see Section 20, Subsections 3 and 10, and notes.

NOTE 3.—*Trustee not insurer of funds.* The County Trustee is not an insurer of the funds in his hands, and he is not liable for same when deposited in a bank of undoubted standing and reputation which subsequently fails, and the funds are lost. He is not a debtor for such funds nor does he hold them strictly as a special bailee. 12 Pickle, 296.

#### SCHOOLS OF MUNICIPAL CORPORATIONS.

SEC. 48. None of the provisions of this act shall be construed so as to interfere with the schools or school systems already established in cities and incorporated towns, or conflict with the chartered rights by virtue of which funds for their support are being received, raised, and distributed, or to limit them as to the power to extend the course of study, it being intended to encourage the establishment of public high schools, when the population justifies it, as a means of perfecting the grading and elevating the standard of scholarship. But all such schools shall receive their pro rata share of moneys received under the provisions of this act, according to their scholastic population.

1873. Chap. 25,  
Sec. 51.  
Not to interfere  
with cities and  
towns.

SEC. 49. That all the rights and privileges reserved and given to cities and incorporated towns by Section 51 of said act (1873, Chap. 25), be, and the same are hereby, extended to schools and school systems that have been established by cities or incorporated towns since the

1881. Chap. 103,  
Sec. 2.  
Rights of cities  
and towns.

passage of said act, or that may hereafter be established by them.

1881. Chap. 103,  
Sec. 3.  
Tax for graded  
schools.

SEC. 50. That cities and incorporated towns in which have been established, or may hereafter establish, such higher graded schools, be, and the same are hereby, authorized and empowered to supplement the school fund derived from State and county tax, by an additional municipal tax or levy, for the support of said schools; *Provided, however,* That no incorporated town or municipality shall exceed its lawful limit of taxation in making such additional levy.

1885. Extra Ses-  
sion, Chap. 19.  
Towns may  
establish com-  
mon schools of  
a high grade.

SEC. 51. (1) The several incorporated cities and towns within this State may, through their Boards of Mayor and Aldermen, establish and maintain, within their respective corporate limits, a system of high graded common schools.

Erect school-  
houses.

(2) For this purpose, the said Board of Mayor and Aldermen of any municipal corporation within this State may procure a suitable schoolhouse or houses, either by erection or purchase, and, in making such erection or purchase of such house or houses, and furnishing the same, may apply the common school fund to which their respective scholastic populations are entitled by law.

Levy addi-  
tional tax.

(3) For the purpose of erecting, or causing to be erected, or purchasing such school buildings or houses, and furnishing the same, and for the purpose of establishing and maintaining such high graded common public schools, said Board of Mayor and Aldermen may levy and collect an additional tax to that imposed by or under the general provisions of the school law upon all taxable polls, privileges, and property within the corporate limits; *Provided,* That the special tax levied under this section, and the municipal taxes for municipal purposes, shall in no case exceed the rate of taxation for general purposes fixed by charter limitation.

Board of  
Education.

(4) The Board of Mayor and Aldermen of any such municipal corporation so establishing public schools may, and they shall, have full power to appoint a Board of Education, consisting of not exceeding six qualified citizens residing within their corporate limits, which Board, when so appointed, shall have full power as trustees or directors to manage and control such schools, to elect or employ well-qualified teachers, and to prescribe all needful

rules and regulations; and said Board shall hold its office as follows: Two for three years, two for two years, two for one year, and, after the first year, two Commissioners shall be elected each year, subject to removal for good cause by the said Board of Mayor and Aldermen.

(5) Nothing in this act shall be so construed as to allow or permit mixed schools of the white and colored population, but such schools shall be taught separately, as now provided by law.

Mixed schools  
not permitted.

NOTE.—*Additional provision for Pulaski.* The act of 1885, Chap. 37, providing for a system of public schools for the town of Pulaski, does not repeal the system provided for all municipal corporations in Secs. 48-51 above, even as to said town, and it may avail itself of either provision. 15 Lea, 638, 639.

SEC. 52. The Board of Commissioners (of taxing districts of the second class) shall have power, by ordinance, within the district, . . . to establish and maintain a public school or public schools; or said Commissioners may join with the Public School Commissioners of the civil district in which said taxing district is located, in maintaining the public schools located within the limits of said taxing district.

Extracts from  
Acts 1885, Chap.  
82, Sec. 2.  
Schools in tax-  
ing districts.

NOTE 1.—The following opinion has been given officially by Attorney-general Pickle:

“My opinion is that taxing districts of the second class are not embraced by Chap. 19, Acts 1885 (extra session), and are not, therefore, authorized by that act to elect the Board of Education therein provided for.

“That act applies to that class of corporations having Boards of Mayor and Aldermen; taxing districts are not of that class of municipal corporations. But I am of further opinion that, under the express power conferred upon taxing districts of the second class by Acts of 1885, Chap. 82, to establish and maintain a public school or schools, the Commissioners of such taxing district possess such implied powers as are usual and necessary for the accomplishment of the general purpose of the law.

“The Commissioners may employ such means, methods, and agents as are usual, necessary, and proper to effectuate the object proposed—the establishment and maintenance of a public school.

“If a Board of Education is a means usual and appropriate for that purpose, I see no reason why the Commissioners have not implied authority to create one, although it may not be of that precise kind of Board authorized by Acts 1885, Chap. 19.

“The Board, of course, would be mere agents of the taxing district, not independent officers; but its acts, authorized and approved by the



Commissioners, would be treated as the acts of the Commissioners themselves, and, therefore, valid."

NOTE 2.—Taxing districts of second class were created by Acts 1881, Chap. 127; amended by Acts 1885, Chap. 82. The provisions in reference to public schools is on page 164 of said acts. (See 10 Lea, 478.) Taxing districts are municipal corporations.

#### BOARD OF EDUCATION AND NORMAL SCHOOLS.

1875. Chap. 90.  
Normal schools

SEC. 54. (1) The establishment of a normal school or schools is hereby authorized to be effected by the Board of Education hereinafter provided for. The said normal school or schools shall be made in every respect first-class institutions for the professional education of teachers, and the most approved method of instruction shall be adopted, and none but teachers experienced and skilled shall be employed to take charge of them.

Board of  
Education.

(2) Said Board of Education shall, at as early date as may in their judgment be practicable, locate and make arrangements for opening such normal school or schools, furnishing them, adopting a course of study, employing teachers and other officers.

Location of  
schools.

(3) In the location of said normal school or schools, the State Board of Education shall give preference to such locality, accessible to all parts of the State, as shall offer gratuitously the most suitable grounds and buildings for the establishment of the same.

NOTE.—By Sec. 1, Chap. 154, Acts 1881, the following words, which formed the conclusion of the above subsection, were repealed:

"*Provided*, That nothing in this act shall be so construed as to authorize the expenditure of money from the State treasury or school funds of the State."

Donations.

(4) Said Board of Education may receive contributions of money from the Trustees of the Peabody Educational Fund, or donations of property or funds from any other source, for the benefit of this enterprise, which they shall in good faith dispose of and disburse in accordance with the conditions of the donations.

Trustees of  
colleges.

(5) The trustees of colleges, universities, or educational institutions shall have the power to give the use of their property to the State Board of Education for the benefit of normal schools.

Admission of  
pupils.

(6) No pupil shall be admitted into said schools who is under sixteen or over thirty years of age, and who shall



not have undergone, satisfactorily, such examination as may be prescribed by the State Board of Education. Those already engaged in teaching may enter said normal school or schools as pupils upon conditions fixed by the State Board of Education.

NOTE.—Sec. 3, Chap. 154, Acts 1881, amended this subsection so as to entitle one pupil from each senatorial district, to a scholarship of \$100 per annum, to be paid out of the funds of the college.

This amendment was repealed by Sec. 1, Chap. 255, Acts 1883.

(7) Pupils of the public schools may be recommended for admission into said normal school or schools by the County Superintendent, on consultation with the Directors of the school districts of his county, and in cities by the Superintendent of Public Schools; and such pupils so recommended, and who pass a satisfactory examination, shall have precedence over all other applicants. Eligibility.

(8) Diplomas shall be granted to those who honorably complete the course of study prescribed in said schools; and possession of such diploma shall exempt the holder thereof from the examination prescribed as a condition precedent to employment in the public schools of the State, any such graduate being eligible as a teacher in any county of the State. Diplomas.

NOTE.—Such graduate is eligible in any county, and a certificate from the County Superintendent is not necessary. It is better, however, in order to avoid any controversy, that the County Superintendent should issue a first-grade secondary certificate without examination.

(9) The same registers, records, and reports which are prescribed in the State school law for the public schools, or which may be ordered by the State Superintendent of Public Instruction, shall be kept by the officers and teachers of said normal schools, and regular reports shall be made directly to the State Superintendent, at the times and in the manner required by law for other public schools; or at such other time as he may require. Registers and reports.

(10) The State Board of Education shall keep such normal schools as may be established for white and colored pupils entirely distinct and separate; *Provided*, That the provisions therein for training and improvement shall be impartially proportioned to the demands of each. White and colored pupils distinct.

(11) The salaries of principals, teachers, and other Salaries.

officers of said normal schools, and all other expenditures, shall be determined by the State Board of Education, and the disbursements shall be made by the Treasurer of the Board, upon its order.

Secretary and  
Treasurer.

(12) *The State Superintendent of Public Instruction shall be Secretary and Treasurer of the State Board of Education, and as such shall have charge and general supervision of the disbursement of all moneys hereafter appropriated for the Peabody Normal College, and for all normal colleges and institute funds. He shall keep in his office at the State Capitol a record of all money appropriated for said normal school or schools, and its distribution, and before any such money so appropriated shall be drawn from the Treasury, he shall pass upon and certify to the correctness of all vouchers, to be filed with the Comptroller prior to the issuance of his warrant.*

SEC. 2. *The State Superintendent of Public Instruction, as the Secretary and Treasurer of the State Board of Education, shall give a bond in the sum of ten thousand dollars, payable to the State of Tennessee, for the faithful performance of his duty as such Treasurer, which bond shall be approved by the Governor and Attorney-General. (Acts 1899).*

State Board of  
Education.

(13) The Governor of the State shall appoint a State Board of Education, to consist of six members, two of whom shall be appointed for six years, two for four years, and two for two years; and, after the expiration of their first terms of office, their successors shall be appointed for six years. The Governor of the State shall be *ex officio* a member and President of said board.

NOTE.—By Chap. 35, Acts 1891, the State Superintendent of Public Instruction is made *ex officio* a member.

1881. Chap. 154,  
Sec. 2.

(14) *The said Board of Education be, and the same is hereby, authorized to expend annually for the support of said Normal College, at Nashville, exclusively, twenty thousand dollars (\$20,000) out of any funds in the State treasury not otherwise appropriated, to be paid upon the order of said Board of Education upon the warrant of the Comptroller, issued in favor of the President of said State Normal College; Provided, That the Peabody Board of Trustees shall allow to the State thirty-three scholarships*

\$15,000 appro-  
priated.

Scholarships.

*of one hundred dollars (\$100) each and traveling expenses, one of whom shall be appointed from each senatorial district in the State, upon and after such competitive examinations as may be prescribed by the State Board of Education' to be held in the several counties of the State.*

NOTE 1.—The words in italics were placed by amendment, 1891. Chap. 177. The act of 1881, previous to the amendment, appropriated \$10,000 per annum, and did not contain the proviso.

NOTE 2.—Section 2, Chap. 177, Acts 1891, repealing all acts in conflict with this Subsection 14, by implication repeals the following, Sec. 2, Chap. 255, Acts 1883:

"The \$10,000, as annually appropriated in Section 2 of said act, approved April 6, 1881, shall be used by the State Board of Education to support said Normal College, at Nashville, exclusively; *Provided*, That the General Agent of the Peabody Board of Trustees shall allow to this State Peabody scholarships on the same condition as those granted other States."

Twenty thousand dollars were appropriated by the General Assembly in 1895, which amount was continued in 1897 and 1899.

(15) *Three thousand three hundred dollars, or so much thereof as may be deemed necessary, shall be intrusted to the State Board of Education for the higher and normal education of the children of Tennessee of African descent, and upon the order of said Board of Education, the Comptroller shall issue his warrant for the same to the president or financial manager of approved institutions of learning for scholarships for the benefit of such of the aforesaid children as may apply therefor, under such regulations as may be prescribed by said Board of Education, which amount shall be appropriated out of the State treasury over and above the \$20,000, as annually to be used by the said State Normal College; it being intended that this shall be a separate fund, to be used by said State Board of Education to defray the expense of two colored pupils from each senatorial district of the State in approved institutions of learning.*

1881. Chap. 154,  
Sec. 4.  
Colored  
scholarships.

NOTE.—The words in italics constitute the amendment made by Sec. 4, Chap. 255, Acts 1883, the appropriation previous to said amendment being \$2,500 per annum.

(16) It shall be the duty of said Board of Education to report, through the Superintendent, to the regular meeting of the General Assembly the operations of the board, the condition and progress of the normal schools,

1875. Chap. 90,  
Sec. 14.  
Report.



with such suggestions as they may deem advisable for the improvement of normal and public schools.

1883. Chap. 255,  
Sec. 3.  
Report of  
Board of Edu-  
cation.

(17) The State Board of Education shall, at proper times, inspect the management of the State Normal College, and audit the accounts for the disbursement of the funds, and make a biennial statement, through the Governor, to the Legislature, showing its condition and progress, and otherwise guard the State's interest in the same.

#### APPOINTMENT OF CADETS TO UNIVERSITY OF TENNESSEE.

1879. Chap. 155.  
Public exam-  
ination of  
candidates.

SEC. 55. (1) In order to secure more regularity in the appointment of State cadets in the University of Tennessee by Senators and Representatives, as now provided by law, and to secure the greater usefulness of their appointment to the State at large, it shall be the duty of the State Superintendent, in the month of May in each year, to issue notice to the County and City Superintendents of Schools throughout the State, requiring them to hold public examinations of candidates for such appointments in their respective counties or cities, and giving full and uniform directions with reference to the subject and method of such examinations.

Duties of  
County and  
City Superin-  
tendents.

(2) It shall be the duty of the County and City Superintendents, on the receipt of such directions, to give due public notice thereof for not less than ten days, and in the month of June he shall proceed to hold such examination or examinations as may be necessary in his county or city, engaging, if necessary, the assistance of suitable persons, but without cost to the State, and on the conclusion of such examination, or within ten days thereafter, he shall transmit a list of the qualified candidates in their order of merit, as determined by the examination, to the State Superintendent of Public Instruction, who shall keep a roll of the names, by counties and cities, in his office.

Duty of State  
Superintendent.

(3) It shall be the duty of the State Superintendent, on the receipt of such list from any County or City Superintendent, to communicate the same to the Senators or Representatives thereof, with the number of vacancies in such appointments actually existing for the said county or city, which shall be ascertained from the roll of the university, and the said Senators and Representatives may



then proceed to make their appointments from the said lists, certifying the same to the State Superintendent, who shall keep a roll thereof in his office, and communicate the same to the president of the university.

(4) If in any county or city the list of qualified candidates should not be sufficient for, the appointment as now authorized by law, any Senator or Representative may make his appointment from any other county or city in which there may be a surplus of qualified candidates, after the Senator or Representative, or Senators and Representatives thereof, shall have completed their appointments.

Surplus candidates.

(5) If, by the tenth day of August, there shall still remain vacancies unfilled by Senators or Representatives, the president of the university shall be authorized to fill the same from the list of qualified candidates up to the number authorized by law; *Provided*, That such appointments by the president shall be for one year only, and that in making the same, preference shall be given to counties and cities whose quota has not been filled, and in the several counties and cities to those persons who stood highest in the order of merit.

President to fill vacancies.

(6) In the event of a vacancy occurring in any of the aforesaid appointments in any county or city in which the list of the qualified candidates has been exhausted, it shall be the duty of the County or City Superintendent, on the written request of any Senator or Representative of the said county or city, to hold such examination as is herein provided for such applicant or applicants as may be recommended by the said Senator or Representative, and to proceed therewith in the form and manner herein provided; *Provided*, That nothing in this bill shall be construed to limit or abridge the right of appointment by Senators or Representatives as now authorized by law.

To hold examinations.

#### AN ACT TO ENCOURAGE TREE PLANTING.

SEC. 56. It shall be the duty of the County Superintendent of Public Schools of each county to set apart some day in November in each year as "Arbor Day" in all the public schools of the county, that trees may be planted around the buildings, that the grounds around such build-

1887. Chap. 172.

ings may be improved and beautified; such planting to be attended with appropriate and attractive ceremonies, that the day may be one of pleasure as well as of instruction for the young; all to be under the supervision and direction of the teacher, who shall see that the trees are properly selected and set.

## County High School Law.

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SECTION 1. Whenever it shall appear to the County Court of any county that the public interest requires it, said Court shall have power to provide for establishing and maintaining one or more county high schools for the instruction of the children of the county; the said high school or schools to be managed as hereinafter provided.

County high schools may be established.

SEC. 2. The said Court for the purpose aforesaid shall have power to levy special taxes, in addition to other taxes, for school purposes, not to exceed fifteen cents on the one hundred dollars on all taxable property, to be levied and collected as other county taxes; and the said court shall also have power, for the purpose aforesaid, to make appropriations out of any county funds not otherwise appropriated, except out of the public schools funds; and the funds arising from the taxes levied for the purpose, and for the appropriation made for the purpose, shall constitute a special fund to be known as the County High School Fund, which shall be kept by the County Trustee separate and apart from all other funds, and applied exclusively to the purpose aforesaid.

Tax.

SEC. 3. The management and control of the county high school or schools shall be vested in the County Board of Education, which shall consist of seven members, six of whom shall be elected by the County Court as soon as the Court shall have decided to provide for establishing a county high school or schools, two of whom shall be elected to serve until the following January term of the Court, two to serve until the second January term following their election, and two to serve until the third January following their election; at the expiration of the terms of the several members, their successors shall be elected at the respective January terms of the Court to serve three years. Not more than one member of the board shall be elected from the same school district, and the members shall be distributed through the different localities

County board of education.



of the county as the Court shall deem equitable. The Court shall fill all vacancies for unexpired terms at the quarterly term of the Court after the vacancy occurs, or as soon thereafter as possible. The County Superintendent shall be ex-officio a member of the Board of Education, and Secretary thereof, and may receive such compensation for his services as Secretary as the Board shall allow, in addition to his salary as County Superintendent.

Branches  
taught; grades.

SEC. 4. In every county high school shall be taught all the branches of study now required or permitted by law to be taught in the secondary schools, excepting and excluding the branches named to be taught in the five grades of the primary schools; and in addition such other high school branches may be taught as the Board of Education may prescribe as necessary to prepare pupils for college or for business. The county high schools shall be graded by the Board of Education under the general regulations of the State Superintendent and the supervision of the County Superintendent, beginning with the sixth grade, which sixth grade shall be adjusted for the admission of pupils who have completed the five grades of the primary schools.

Three teachers.

SEC. 5. In order to secure efficient instruction for the extensive course of study, the Board shall employ in every county high school not less than three teachers.

Pupils.

SEC. 6. The county high school or schools shall be open to all the children of the county of lawful age who shall be otherwise qualified, and who have completed the primary school course, or its equivalent, as tested by examination or such regulations as may be provided by the Board for the admission of pupils; *Provided*, That the county high schools shall be separate for white and colored pupils, as provided by law for all public schools.

Board to locate,  
manage,  
etc.

SEC. 7. The Board of Education shall have power to locate, establish, and manage the county high school or schools, to make contracts with teachers, draw warrants on the County Trustee on account of the high school fund, and shall perform such duties and exercise such powers with respect to the control and management of the county high school or schools as are now vested by law in the District Directors with respect to the control and management of the district schools.

SEC. 8. The County Board of Education shall have power to make contracts of consolidation with the proper authorities of seminaries, academies, or colleges, or with city Boards of Education, or District Directors, whereby the county high school may be taught in said seminaries, academies, or colleges, or city or district schools; *Provided*; That the high school branches be taught free of charge to all pupils of the county entitled thereto; *And provided further*, That the authority of the State Superintendent, the County Superintendent, the Board of Education, and all school officers shall be as full and ample in such consolidated school as in other county high schools; *And provided further*, That no teacher shall be employed in teaching the said high school branches unless said teacher shall have a teacher's certificate of such grade as may be prescribed for such service, the County Superintendent under the general regulations, and unless the employment of said teacher shall be approved by the Board of Education.

May consolidate with other schools.

SEC. 9. The county high schools shall be under the general supervision of the County Superintendent and of the State Superintendent, as provided for other public schools, and it shall be the duty of the State Superintendent to provide such special blanks and forms, and general regulations, as may be needed for the examination of high school teachers, for warrants of the County Board of Education, for grading high schools and other purposes, and to make such changes in the form of reports as may be necessary to adapt them to the use of the high schools, and it shall be the duty of the teachers of the county high schools, and of consolidated county high schools, and of County Boards of Education, to make reports on the prescribed blanks and forms at the time provided by law for the reports of other public schools, and in accordance with the regulations of State and County Superintendents.

Under county and state superintendents; reports.

SEC. 10. The County Board of Education shall have power to admit as pupils in the county high school or schools, persons over the school age, or non-residents of the county, upon the payment of such reasonable rates of tuition, and under such regulations as may be prescribed

Non-residents or over school age.

by the Board for persons not entitled to admission in said schools free of charge.

County trustee  
to pay out  
fund, etc.

SEC. 11. It shall be the duty of the County Trustee to pay all warrants legally drawn by said Board of Education on account of the county high school fund, to keep an accurate account of said fund, and to render report of same to the said Board of Education, and to the proper officers as now provided by law with respect to other school funds.



## Text-Book Law.

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SECTION 1. The governor and state superintendent of public instruction, together with three members of the state board of education to be named by the governor, shall be, and are hereby, constituted a state text-book commission, whose duty it is to select and adopt a uniform series or system of text-books for use in the primary and secondary public schools in the State of Tennessee, and for use in the incorporated cities or towns in the high graded common schools. Said commission is hereby authorized, empowered, and directed to select and adopt a uniform system or series of text-books for use in the public schools in this state, as above indicated, and when so selected and adopted, the text-books shall be used for a period of five years, in all the public schools of this state, and it shall not be lawful for any school officer, director, or teacher to use any other books upon the same branches, other than those adopted by said state text-book commission. Said uniform series shall include the following branches of study, to wit: Orthography, reading, writing, arithmetic, geography, grammar, language lessons, history of Tennessee, containing the constitution of the state, history of the United States, containing the constitution of the United States, physiology, and hygiene, elementary geology of Tennessee, elementary principles of agriculture, elements of algebra, elements of plain geometry, elements of natural philosophy, bookkeeping, elements of civil government, rhetoric, and higher English, and such other branches of study in addition to the foregoing as said commission may select and designate for use in the high graded common schools in the incorporated cities and towns of this state; Provided, That none of said text-books shall contain anything of a partisan or sectarian character. It shall be the duty of said commission to appoint a subcommission of five, to be selected from among the teachers, city or county superintendents

Commission created.

Commission directed to adopt uniform text books.

Branches of study.

Sub-commission  
authorized.

Duties of sub-  
commission.

actually engaged in the school business in this state, provided that not more than one of these shall be taken from any congressional district, to whom shall be referred all books sent to the state text-book commission as specimen copies, or samples, upon which bids are to be based, and it shall be the duty of said subcommission, in executive session, to examine and report upon the merits of the books, irrespective of the price, taking into consideration the subject-matter of the books, their printing, their material and mechanical qualities, and their general suitability and desirability for the purposes for which they are desired and intended. It shall further be the duty of said subcommission to report to the commission at such time as said commission shall direct, arranging each book in its class or division, and reporting them in the order of their merit, pointing out the merits and demerits of each book, and indicating what book they recommend for adoption first; what book is their second choice; what their third choice, and so on, pursuing this plan with the books submitted upon each branch of study. And if said subcommission shall consider different books upon the same subject, or of the same class or division, of approximately equal merit, all things being considered, they shall so report, and if they consider that any of the books offered are of such class as to make them inferior and not worthy of adoption, they shall, in their report, so designate such books, and in said report they shall make such recommendations and suggestions to the commission as they shall deem advisable and proper to make. Said report shall be kept secret and sealed up and delivered to the secretary of the commission, and said report shall not be opened by any member of the commission until the commission shall meet in executive session to open and consider the bids or proposals of publishers, or others, desiring to have books adopted by said commission. Each member of said subcommission, before entering upon the discharge of his duties, shall take and subscribe to an oath to act honestly, conscientiously, and faithfully, and that he is not directly or indirectly, in any manner interested in any of the proposed contracts, nor in any book, or publishing concern publishing any books of the kind or character contemplated for use in the public schools of



this or any other state, and that he will examine all books submitted carefully and faithfully and make true report thereon, as herein directed and prescribed. Said oath shall be filed in the office of the secretary of state. Said text-book commission shall hear and consider said report in its selection and adoption of the uniform series of text-books, and shall also themselves consider the merits of the books, taking into consideration their subject-matter, the printing, binding, material and mechanical qualities, and their general suitability and desirability for the purposes intended, and the price of said books, and they shall give due consideration and great weight to the report and recommendations of said subcommission; *Provided*, That no text-book the subject matter of which is of inferior quality, shall be adopted by the text-book commission. Said commission shall select and adopt such books as will, in their best judgment, accomplish the ends desired, and they are hereby authorized and directed, in case any book or books are deemed by them suitable for adoption, and more desirable than other book or books of the same class or division submitted, and they further consider the price at which such book or books are offered to be unreasonably high, and that it should be offered at a smaller price, to immediately notify the publisher or offerer of such book or books of their decision, and request such reduction in price as they deem reasonable or just, and if they and such publisher shall agree on a price, they may adopt this book or books, but if not, they shall use their own sound judgment and discretion whether they will adopt that, or the book or books deemed by them next best in the list submitted. And when said text-book commission shall have finished with the report of said subcommission, the said report shall be filed and preserved in the office of the state superintendent of public instruction, and shall be opened at all times for public inspection.

As to selection  
of books.

SEC. 2. Said text-book commission shall, immediately after the passage of this act, meet and organize, the governor being ex-officio president of the commission, and the commission shall elect its secretary. As soon as practicable, not later than thirty days after its organization, the commission shall advertise, in such manner, and for

How the com-  
mission shall  
be constituted.



Bids to be advertised for.

Requirements of bidders.

such length of time, and at such places, as may be deemed advisable, that at a time and place fixed definitely in said advertisement, sealed bids or proposals will be received from the publishers of school text-books for furnishing books to the public schools in the State of Tennessee, through agencies established by said publishers in the several counties, and places in counties, in the state, as may be provided for in such regulations as said commission may adopt and prescribe. The bids or proposals to be for furnishing the books for a period of five years, and no longer, and that no bid for a longer period would be considered. Said bid or bids shall state specifically and definitely the price at which the book or books will be furnished, and shall be accompanied by one or more specimen copies of each and every book proposed to be furnished, and it shall be required of each bidder to deposit with the treasurer of the state a sum of money such as the commission may require, not less than five hundred (\$500) dollars, nor more than twenty-five hundred (\$2,500) dollars, according to the number of books each bidder may propose to supply, and notice shall further be given in said advertisement that such deposits shall be forfeited absolutely to the state if the bidder making the deposit of any sum shall fail, or refuse, to make and execute such contract and bond as is hereinafter required, within such time as the commission may require, which time shall also be stated in said advertisement. All bids shall be sealed and deposited with the secretary of state to be by him delivered to the commission when they are in executive session, for the purpose of considering the same, when they shall be opened in the presence of the commission.

Procedure of commission.

SEC. 3. It shall be the duty of the said text-book commission to meet at the time and place designated in such notice, or advertisement, and take out the sample or specimen copies submitted, upon which the bids are based, and refer and submit these to the subcommission, as provided for and directed in section 1 of this act, with instructions to said subcommission to report back to them at a time specified, with their report, classification, and recommendations, as provided in section 1. When the said report is submitted it shall be the duty of the said text-

book commission to meet in executive session, to open and examine all sealed proposals submitted and received in pursuance of the notice of advertisement provided for in section 2 of this act. It shall then be the duty of said commission to examine and consider carefully all such bids or proposals, together with the report and recommendations of the subcommission, and determine in the manner provided in section 1 of this act what book or books, upon the branches herein above mentioned, shall be selected for adoption, taking into consideration the size, quality as to subject-matter, material, printing, binding, and the mechanical execution and price, and the general suitability for the purpose desired and intended; *Provided, however,* That all books selected or adopted shall be written or printed in English. After their selection for adoption shall have been made, the said commission shall, by registered letter, notify the publishers, or proposers, to whom the contracts have been awarded, and it shall then be the duty of the attorney-general of the state to prepare the said contract or contracts in accordance with the terms and provisions of this act, and the said contract shall be executed by the governor and secretary of state, with the seal of the state attached upon the part of the State of Tennessee, and the said contract shall be executed in triplicate, one copy to be kept by the contractor, one copy by the secretary of the text-book commission, and copied in full in the minute book of said commission, and one copy to be filed in the office of the secretary of state. At the time of the execution of the contract aforesaid, the contractor shall enter into a bond in the sum of not less than ten thousand dollars, nor more than thirty thousand dollars, payable to the State of Tennessee, the amount of said bond within said limits, to be fixed by said commission, conditioned for the faithful, honest, and exact performance of his contract, and shall further provide for the payment of reasonable attorneys' fees in case of recovery in any suit upon the same, with three or more good and solvent sureties, actual citizens and residents of the State of Tennessee, or any guarantee company authorized to do business in the State of Tennessee may become the surety on the said bond, and it shall be the duty of the attorney-general to prepare and approve said bond;

What shall be considered.

Attorney-General of State to prepare contracts.

Bond to be executed.

Bond may be  
sued on from  
time to time.

*Provided, however,* That said bond shall not be exhausted by a single recovery, but may be sued on from time to time, until the full amount thereof shall be recovered, and the said commission may, at any time, by giving thirty days' notice, require additional security or additional bond within the limits prescribed. And when any persons, firm, or corporation shall have been awarded a contract, and submitted therewith the bond, as required hereunder, the commission, through its secretary, shall so inform the treasurer of the state, and it shall then be the duty of the treasurer to return to such contractor the cash deposit made by him, and the said commission through its secretary, shall inform the treasurer of the names of the unsuccessful bidders or proposers, and the treasurer shall, upon receipt of this notice, return to them the amount deposited in cash by them at the time of the submission of their bids. But should any person, firm, company, or corporation fail or refuse to execute the contract, and submit therewith his bond as required by this act within thirty days of the awarding of the contract to him, and the mailing of the registered letter containing the notice, provided the mailing of the registered letter shall be sufficient evidence that the notice was given and received, the said cash deposit will be deemed, and is hereby declared, forfeited to the State of Tennessee, and it shall be the duty of the treasurer to place said cash deposit in the treasury of the state, to the credit of the school fund; *And provided further,* That any recovery had on any bond, given by any contractor, shall inure to the benefit of the school fund of the state and counties, and when collected shall be placed in the treasury to the credit of the school fund, and be prorated among the several counties of the state.

Forfeiture for  
failure to ob-  
serve contract.

Recoveries to  
go to school  
fund.

Books must  
come up to  
samples.

SEC. 4. The books furnished under any contract shall at all times, during the existence of the contract, be equal to, in all respects, the specimen or sample copies furnished with bids; and it shall be the duty of Secretary of State to carefully preserve in his office, as the standards of quality and excellence to be maintained in such books, during the continuance of such contract, the specimen or sample copies of all books which have been the basis of any contract, together with the original bid or proposal.



It shall be the duty of all contractors to print plainly on the back of each book the contract price as well as the exchange price at which it is agreed to be furnished, but the books submitted as sample or specimen copies with the original bids shall not have the price printed on them before they are submitted to the subcommission. And the said text-book commission shall not, in any case, contract with any person, publisher, or publishers, for the use of any book or books which are to be or shall be sold to patrons for use in any public school in this State, at a price above or in excess of the price at which such book or books are furnished by said person, publisher, or publishers, under contract to any state, county, or school district in the United States, under like conditions prevailing in this State, and under this act. And it shall be stipulated in each contract that the contractor has never furnished, and is not now furnishing under contract, any state, county, or school district, in the United States, where like conditions prevail as are prevailing in this State, and under this act, the same book or books as are embraced in said contract, at a price below or less than the price stipulated in the said contract. And the said commission is hereby authorized and directed, at any time they may find that any book or books have been sold at a lower price under contract to any state, county, or school district aforesaid, to sue upon the bond of said contractor, and recover the difference between the contract price and the lower price at which they find the book or books have been sold. And in case any contractor shall fail to execute specifically the terms and provisions of his contract, said commission is hereby authorized, empowered, and directed to bring suit upon the bond of such contractor, for the recovery of any and all damages, the suit to be in the name of the State of Tennessee, and the recovery for the benefit of the public school fund. But nothing in this act shall be construed so as to prevent said commission and any contractor agreeing thereto, from in any manner changing or altering any contract, provided four members of the commission shall agree to the change and think it advisable and for the best interests of the public schools of this State. In all other matters a majority of said commission shall control.

Prices must not exceed those charged elsewhere under like conditions.

Commission authorized to act if excess price is charged.

Contract may be altered.

State not  
liable.

Books now in  
use may be ex-  
changed.

SEC. 5. It shall be always a part of the terms and conditions of every contract made in pursuance of this act that the State of Tennessee shall not be liable to any contractor, in any manner, for any sum whatever, but all such contractors shall receive their pay or consideration in compensation solely and exclusively derived from the proceeds of the sale of books, as provided for in this act; *Provided further*, That the commission shall stipulate in the contract for the supplying of any book or books as herein provided, that the contractor or contractors shall take up the school books now in use in this State, and receive the same in exchange for new books at a price not less than fifty per cent. of the contract price. And each person or publisher making a bid for the supplying of any book or books hereunder shall state in such bid or proposal the exchange price at which such book or books will be furnished.

Any bid may  
be rejected.

Bids may be  
readvertised  
for.

Manuscript of  
books may be  
considered.

SEC. 6. The text-book commission shall have and reserve the right to reject any and all bids or proposals if they shall be of opinion that any or all should, for any reason, be rejected. And in case they fail, from among the bids or proposals submitted, to select or adopt any book or books, upon any of the branches mentioned in section 1, of this act, they may readvertise for sealed bids or proposals under the same terms and conditions as before, and proceed in their investigation in all respects as they did in the first instance, and as required by the terms and provisions of this act, or they may advertise for sealed bids or proposals from authors or publishers of text-books who have manuscripts of books not yet published, for prices at which they will publish and furnish in book form, such manuscripts, or for prices at which they will sell such manuscripts, together with the copyright of such books, for use in the public schools in Tennessee, proceeding in all respects in like manner as before; *And provided*, That before accepting or rejecting any manuscript, it shall be their duty to take the manuscript and to advertise for sealed bids or proposals for publishing the same in book form, in like manner as hereinbefore provided for, and under the same restrictions and conditions, and the contract may be let for the publication of all such books, or for any one or more separately; *And provided further*,

That the State itself shall not, under any circumstances, enter into any contract binding it to pay for the publication of any book or books, but in the contract with the owner of the manuscript it shall be provided that he shall pay the compensation to the publisher for the publication and putting in book form the manuscript, together with the costs and expense of copyrighting the same; *And provided further*, That in all cases bids or proposals shall be accompanied with the cash deposit of from five hundred dollars to twenty-five hundred dollars, as the commission may direct, and as provided in section 2, of this act. And it is further expressly provided that any person, firm, or corporation now doing business, or proposing to do business, in the State of Tennessee, shall have the right to bid for the contract to be awarded hereunder, in manner as follows: In response to the advertisement, when made as hereinbefore provided, said person, firms, or corporation may submit a written bid or bids to edit or have edited, publish and supply for use in the public schools in this State, any book or books provided for hereunder, provided that instead of filing with said bid or proposal a sample or specimen copy of each book proposed to be furnished, he may exhibit to the commission in manuscript or printed form the matter proposed to be incorporated in any book, together with such a description and illustration of the form and style thereof, as will be fully intelligible and satisfactory to the said commission, or they may submit a book or books, the equal of which, in every way, they propose to furnish, and they shall accompany their bid or proposal with the cash deposit hereinbefore provided for, and shall enter into contract and bond as hereinbefore provided, except that the bond may be, in this instance, increased to fifty thousand dollars; *Provided*, That all books and manuscripts offered shall be examined and reported upon by the subcommission provided for in section 1, of this act.

Publisher of  
manuscript  
must defray all  
expenses.

Cash deposit.

How bids shall  
be submitted.

SEC. 7. As soon as said commission shall have entered into a contract or contracts for the furnishing or supplying of books for use in the public schools in this State, it shall be the duty of the Governor to issue his proclamation announcing such fact to the people of the State.

Governor to  
issue procla-  
mation.

SEC. 8. The party or parties with whom the contract



Depositories  
provided for.

shall be made shall establish and maintain in some one city in each of the three grand divisions of the State, a depository, to be designated by the commission, where a stock or supply of the books sufficient to meet all immediate demands, shall be kept. There shall also be maintained in each county in the State, provided the commission shall deem it advisable, and so demand, not less than one nor more than four agencies, for the distribution of the books to the patrons, or the contractor shall be permitted to make arrangements with merchants or others for the handling and distribution of the books, and parties living in a county where no agency has been established, or no arrangements made for distribution, may order the same from one of the depositories, and it shall be the duty of the contractor to deliver any book or books so ordered, to the person ordering, to his post-office address, freight, express, postage, or other charges prepaid, at the retail contract price, provided the price of the book or books so ordered shall be paid in advance. All books shall be sold to the consumer at the retail contract price, and in each book shall be printed the following: "The price fixed hereon is fixed by State contract, and any deviation therefrom shall be reported to your County Superintendent of Public Instruction, or the State Superintendent at Nashville." And it is expressly provided that should any party contracting to furnish books as provided for in this act, fail to furnish them, or otherwise breach his contract, in addition to the right of the State to sue on the bond herein above required, the chairman of the County Court or County Judge may sue in the name of the State of Tennessee, in any court of his own, or any other county having jurisdiction, and recover on the bond given by the contractor, the full value of the books so failed to be furnished, for the use and benefit of the school fund of the County; *Provided*, That the right of action given to the Chairman or County Judge shall be limited to breaches of the contract committed in this county; *And provided further*, That in all cases service of process may be had and deemed sufficient on any agent of the contractor in the county, or if no agent is in the county, then service may be had on the agent in charge of any depository, and

Books to be  
sold to con-  
sumer at retail  
contract price.

Recovery for  
violation as to  
price.

this service shall be and stand in the place of service on the defendant contractor.

SEC 9. Said commission may from time to time make any necessary regulations not contrary to provisions of this act, to secure the prompt distribution of the books herein provided for, and the prompt and faithful execution of all contracts, and it is expressly now provided that said commission shall maintain its organization during the five years of the continuance of the contract, and after the expiration of the same to renew such of them as they deem advisable, or readvertise for new bids or proposals, as required by this act in the first instance, and enter into such other contracts as they may deem for the best interests of the patrons of the public schools of the State, provided any contract entered into or renewed shall be for the term of five years.

Commission to maintain its organization five years.

SEC. 10. As soon as practicable after the adoption provided for in this act, the state superintendent shall issue a circular letter to each city and county superintendent in the state, and to such others as he may desire to send it, which letter shall contain the list of books adopted, the prices, location of agencies, and method of distribution, and such other information as he may deem necessary.

State Superintendent to announce books selected to County Superintendents.

SEC. 11. As soon after the passage of this act as may be practicable, and the commission shall deem advisable, the books adopted as a uniform system of text-books, shall be introduced and used as text-books, to the exclusion of all others in all the public free schools in this State; *Provided*, That nothing herein shall be construed to prevent the use of supplementary books, but such supplementary books shall not be used to the exclusion of the books prescribed or adopted under the provisions of this act; *And provided further*, That nothing in this act shall be construed to prohibit the use in public schools of any text-book upon any branch mentioned in section 1, of this act, where the commission shall not select or adopt a book for that branch or subject; *And provided further*, That nothing in this act shall prevent the teaching in any school any branch higher or more advanced than is embraced in section 1, of this act, nor the using of any book upon such higher branch of study, provided that

Books adopted to be used exclusively.

Supplementary books.

As to higher branches.

such higher branches shall not be taught to the exclusion of branches mentioned and set out in section 1, of this act.

Where no contract is made or contractor fails to furnish books.

SEC. 12. Nothing herein shall be construed to prevent or prohibit the patrons of the public schools throughout the state from procuring books in the usual way in case no contract shall be made, or the contractor fails or refuses to furnish the books provided for in this act, at the time required for their use in the respective schools.

Violation of this act a misdemeanor.

SEC. 13. Any person or teacher violating the provisions of this act shall become guilty of a misdemeanor, and upon conviction, punished by a fine of not less than ten dollars, nor more than fifty dollars.

Penalty of teacher for failure to use books adopted.

SEC. 14. Any teacher who shall use, or permit to be used, in his or her school, any text-book upon the branches embraced in this act, where the commission has adopted a book upon that branch, other than the one so adopted, shall be guilty of a misdemeanor, and upon conviction, punished as provided for in section 13 of this act.

Penalty of agent for violation of this law.

SEC. 15. Any dealer, clerk, or agent, who shall sell any book for a greater sum than the contract price, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided for in section 13 of this act.

Appropriation for carrying act into effect.

SEC. 16. The sum of one thousand dollars, or so much thereof as may be necessary to be paid out of the public school fund, be, and is hereby, appropriated for the purpose of paying the cost and expense of carrying into effect the provisions of this act.

Pay of members of sub-commission.

SEC. 17. Said text-book commission shall serve without compensation, and members of the subcommission of five shall be paid a per diem of four dollars per day during the time they are actually engaged, not to exceed thirty days, and in addition shall be repaid all money actually expended by them in the payment of necessary expenses, to be paid out of the public school fund, and they shall make out and swear to an itemized statement of such expenses.



## Laws Which Relate Only to the City of Memphis.

SEC. 57. All revenue arising from assessments on real and personal property, privileges and polls, levied on account of public schools or public education in the taxing districts, shall be for the use and benefit of the public schools in the taxing districts, and when the tax is collected, it shall be paid over weekly to the Treasurer of the Board of Education of the taxing district.

1872. Chap. 84  
Sec. 11.

SEC. 58. (1) The office of members of the Board of Education be, and the same is hereby, abolished in all taxing districts organized prior to the year 1882, where there is an incorporated system of public schools, and instead thereof the office of School Commissioner is hereby created. The Board of Education for each of said incorporated systems of public schools shall hereafter be composed of five School Commissioners, who shall be selected from said taxing district at large where said incorporated system of schools is respectively located.

1883. Chap. 17.  
Board of Education changed to School Commissioners in taxing districts

(2) Said Commissioners shall be elected by the qualified voters of such taxing district, and their election shall take place at the same time and place as that of the officers of said taxing districts, at the first election to take place on the first Thursday after the first Monday in January in the year 1884. Three of said Commissioners shall be elected for two years, and two for four years, and thereafter said Commissioners shall be elected for a term of four years.

Election and term of School Commissioners

(3) The Governor of the State of Tennessee shall immediately, on the passage of this act, appoint five School Commissioners for each of such taxing districts, by and with the advice and consent of the Senate, who shall hold their offices until their successors are elected and qualified, as prescribed in this act.

Governor to appoint Commissioners.

(4) The School Commissioners shall fill all vacancies which shall occur in the offices of School Commissioner by death, resignation, removal, or otherwise, and the Commissioner so elected to fill a vacancy shall hold his office

Vacancies.

until the next election thereafter of taxing district officers, when his successor shall be elected and qualified.

Bond of Commissioners.

(5) Each one of the five Commissioners shall enter into bonds in the sum of \$5,000, with two good and sufficient sureties, which bond shall be approved, in writing, by and filed with the President of the taxing district for the faithful performance of their duties, and the President of the board shall also enter into an additional bond of \$5,000, secured, approved, and filed in like manner, for the faithful performance of his duties as President. The President of the

Salary of Commissioners.

board shall receive a salary not to exceed five hundred dollars per annum, payable in equal monthly payments; and each one of the other Commissioners shall receive a salary not to exceed two hundred dollars per annum, payable in like manner. They shall be citizens of said taxing district. Each Commissioner shall be a man of good moral character and temperate habits; he shall be able to read and write, and shall have a general knowledge of the common branches of learning sufficient to enable him to judge of the qualification of teachers; he shall not hold any office or position for pay or compensation in the employment of the Board of Education, except the office of Secretary, Treasurer, or census taker; nor shall he be interested, directly or indirectly, in any contract or business of said board. The Board of Education shall be the judge of the qualification of its own members.

Qualifications.

Powers and privileges.

(6) Said five Commissioners shall each have and possess all the powers and privileges which have heretofore been conferred on a member of said Board of Education, except where said powers and privileges have herein been restricted and modified. Three Commissioners, when regularly assembled in session, shall constitute a quorum for the transaction of business, but not otherwise.

Organization and officers.

(7) Said Commissioners shall, immediately on their appointment, organize respective Boards of Education by electing a President and Vice-President from among their number, and by electing a Superintendent who is not a School Commissioner, and by electing a Secretary and Treasurer. The Secretary and Treasurer may be School Commissioners, or they may be citizens who are not School Commissioners, as the said Boards of Education thus constituted and controlled by such Commissioners shall, in

their discretion, see proper. Said Boards of Education shall enact by-laws for their government. They shall pay their Superintendent a salary not exceeding twenty-five hundred dollars per annum, and Secretary, a salary not exceeding *eighteen* hundred dollars per annum.

By-laws.

Salaries.

NOTE.—The word *eighteen* was substituted for *twelve* by amendment, Acts 1891, Chap. 59.

Scholastic  
census.

(8) The said Boards of Education shall keep the scholastic census required by law in a well-bound book, in which shall be entered the name, age, color, and sex of each person of scholastic age. Said Boards of Education shall, in no case, pay for taking said census more than two cents for each person of scholastic age enumerated in said census return. Said census returns, when taken, and before their adoption, shall be referred to a special committee of three Commissioners, who shall compare said return with the total population of such taxing district, and with the census return of preceding years, and with other data and statistics, and they shall report, in writing, to the Board of Education whether or not, in their opinion, the census has been fully and fairly taken.

Offices  
abolished.

(9) The present offices of members of the Board of Education and School Visitor, Superintendent, Secretary, Treasurer, teacher, and other employes of said Board of Education be, and they are hereby, abolished.

Acts repealed.

(10) So much of an act, entitled "An act to charter the Memphis City Schools," passed January 27, 1869, and the amendment thereto, passed December 18, 1869, entitled "An act to amend an act chartering the Memphis City Schools," passed January 25, 1869, as is in conflict with this act, is hereby repealed.

NOTE.—Chapter 273, Acts 1899, authorizes incorporated Boards of Education in cities or taxing districts to issue bonds for school purposes.

(11) Hereafter children being within the age now required by law, and residing within one-half a mile of the limits of the city of Memphis, as said limits now are, or may be hereafter fixed, shall be received in and have the right to attend, free of tuition, the public schools inside the city of Memphis, nearest to their respective places of



residence, for five years, from date of the passage of this bill.

An Act of 1899 transfers to School Commissioners or Board of Education all public school property and funds of the annexed territory.

CLASSIFIED LIST  
OF  
Leading Decisions of the Supreme Court,  
CONSTRUING THE SCHOOL LAWS.

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I.—COUNTY SUPERINTENDENT.

Decision of County Court final in fixing salary,—6 Lea, 501, *Haile v. Young*.

II.—DISTRICT DIRECTORS.

Election—Illegal Directors.—12 Lea, 486, *Meadows v. Nesbitt*.

Contested Election—County Court Decides,—12 Lea, 30, *State v. Burchfield*.

Removal from Office.—3 Tenn. Ch'y Rep., 177, *State v. Leonard*.

Contracts with, and pay and dismissal of teachers.—5 Lea, 526, *Parker v. School District*; 12 Lea, 486, *Meadows v. Nesbitt*; 10 Lea, 344, *Crawley v. Leonard*; 10 Lea, 219, *Morley v. Power*; 5 Lea, 692, *Morley v. Power*; 5 Lea, 265, *Bayless v. Driskell*.

Violation of Section 19 of school laws a misdemeanor.—9 Baxter, 559, *State v. Keeton*.

Power to regulate the suspension or dismissal of pupils.—5 Lea, 526, *Parker v. School District*.

III.—SCHOOL DISTRICTS.

Debt of Directors binds successors, although district organization changed.—3 Tenn. Ch'y Rep., 556, *Shankland v. Phillips*; 6 Lea, 273, *Bank v. Baber*.

NOTE.—Since the decision in the case of *Rodemer v. Mitchell*, 6 Pickle, 65, the Legislature of 1891 has, by statute, empowered the County Court to create new school districts.

IV.—TEACHERS.

Power of Directors to employ, control, and dismiss teachers. (See Directors.)—5 Lea, 692, *Morley v. Power*; 5 Lea, 526, *Parker v. School District*; 10 Lea, 219, *Morley v. Power*; 10 Lea, 344, *Crawley v. Leonard*; 12 Lea, 486, *Meadows v. Nesbitt*; 9 Baxter, 559, *State v. Keeton*.

Employment of minors.—12 Lea, 30, *State v. Burchfield*.

Pay of teachers.—10 Lea, 219, *Morley v. Power*; 10 Lea, 344, *Crawley v. Leonard*; 5 Lea, 265, *Bayless v. Driskell*; 6 Lea, 274, *Bank v. Baber*.

Power of teachers to suspend and punish pupils.—3 Head, 425, *Anderson v. State*; 5 Lea, 526, *Parker v. School District*; 3 Leg. Rep., 19, *State v. Von Strans*.

## V.—COUNTY TRUSTEE.

**Liability.**—5 Lea, 265, *Bayless v. Driskell*; 6 Lea, 276, *Bank v. Baber*.

**May be sued.**—9 Lea, 168, *Bedwell v. Jones*; 14 Lea, 536, *Jernegan v. Gray*.

**Entitled to only one and one-half per cent of fees.**—6 Pickle, 741, *Monroe County v. Hudson*.

NOTE.—The Assessment Act for 1891, Extra Session, Chap. 26, Sec. 19, raising anew the question decided in above case, being an amendment to the act of 1889, Chapter 96, was repealed by the act of 1895, Chap. 120, Sec. 117, page 246, and leaves the commission of the Trustee at one and one-half per cent on school money collected from taxpayers, and at one per cent on all school moneys received from other sources, and paid out according to law.

## VI.—SCHOOL WARRANTS.

**How issued.**—10 Lea, 219; *Morley v. Power*; 5 Lea, 265, *Bayless v. Driskell*.

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