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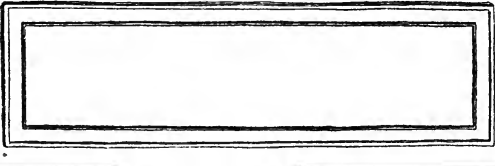
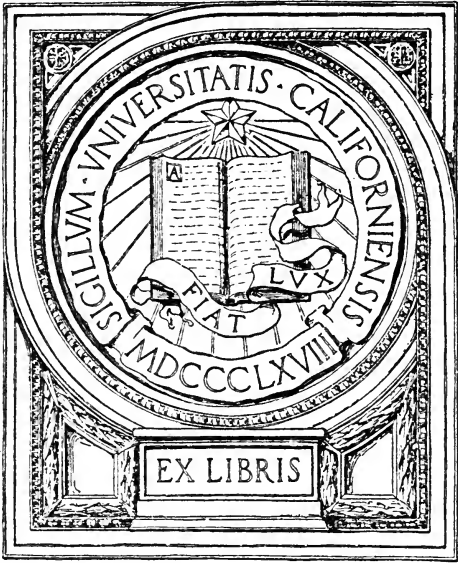
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REVISED SCHOOL LAWS

OF THE

STATE OF MISSOURI

REVISED STATUTES, 1909
SESSION ACTS OF 1911
AND SESSION ACTS OF 1913

With Court Decisions, Forms and Comments for
the Use of School Officers



PUBLISHED ACCORDING TO LAW BY THE
STATE SUPERINTENDENT OF PUBLIC SCHOOLS
SECTION 10920

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SECTION 10920

THE PRESIDENTS AND SECRETARIES OF SCHOOL BOARDS SHOULD HAVE
COPIES AND TURN THEM OVER TO THEIR SUCCESSORS. EVERY
TEACHER IS ALSO ENTITLED TO ONE COPY, WHICH
SHOULD BE PLACED IN THE DISTRICT LIBRARY
OR FILED WITH THE DISTRICT CLERK.



THE HUGH STEPHENS PRINTING COMPANY
JEFFERSON CITY, MO.



LB2529

M83

1913

THIS VOLUME IS STATE PROPERTY
AND IS FOR THE USE OF

.....
of, district No.....
County of, State of Missouri.

School officials, on retiring from office, should deliver this volume, with all other books and documents of an official character, to their successors.

The teacher's copy should be kept with the register and other school records, and be placed in the school library at the close of the term, or filed with the clerk, who will deliver same to teacher at opening of next term.

TO THE
ADMINISTRATOR

INTRODUCTORY.

In presenting this compilation of the school laws, it is proper to call attention to some important legislation passed by the Forty-seventh General Assembly.

For years the feeling had been growing that the purpose of the State school fund was to equalize educational opportunities and educational burdens, and to stimulate local initiative and local effort. In response to this feeling a law providing State aid for high schools was enacted, and the law providing State aid to rural schools was revised so as to reach many more districts and the amount of aid per district was increased from \$80.00 to \$100.00.

The strong demand for rural high schools was met by the enactment of a new law governing the organization of consolidated schools and rural high schools. Twenty new districts were organized under this law in the first three months of its operation.

The demand for better trained teachers for the rural schools led to the enactment of a law providing for teacher-training courses in first-class high schools.

A law was passed providing for an annual convention of school board members and officers in each county.

A law was also passed permitting district ownership of textbooks (free textbooks) whenever a majority of the qualified voters favor such ownership.

A law was passed permitting districts to provide gratuitous instruction for children between the ages of five and six and persons over twenty years of age, provided that only so much of the school "revenues as are not required for the establishing and maintaining of free public schools in such school district for the gratuitous instruction of persons between the ages of six any twenty," may be used for this purpose.

WM. P. EVANS,
State Superintendent of Public Schools.

REVISED
SCHOOL LAWS OF MISSOURI
1913.

CHAPTER 106.

SCHOOLS.

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- II. Laws applicable to all classes of schools.
- III. Laws applicable to common schools.
- IV. Laws applicable to city, town and consolidated schools.
- V. Laws applicable to certain school districts.
- VI. Compulsory attendance of children.
- VII. State superintendent.
- VIII. County superintendents.
- IX. Teachers' certificates—how obtained or revoked.
- X. County text-book commission.
- XI. State board of education.

ARTICLE I.

CLASSIFICATION OF PUBLIC SCHOOLS.

Sec. 10775. Schools—classification of.—The public schools of this state are hereby classified as follows:

First, all districts having only three directors shall be known as common school districts; second, all districts outside of incorporated cities, towns and villages, which are governed by six directors, shall be known as consolidated school districts; third, all districts governed by six directors and in which is located any city of the fourth class, or any incorporated town or village, shall be known as town school districts, and fourth, all districts in which is located any city of the first, second or third class shall be known as city school districts. (R. S. 1899, § 9739, amended, L. 1909, p. 770.)

School districts are *quasi* corporations. 52 Mo. 309; 54 Mo. 458. Territory outside of corporate limits may be attached, how. 53 Mo. 127; 60 Mo. 540; 65 Mo. 587. School districts not subject to garnishment. 42 A. 460.

A school district is not "a political subdivision of the State" within the meaning of section 12, article VI, of the Constitution. 238 Mo. 407.

When a new district is formed in the manner provided by law, the matter should be reported to the county clerk, and by him to the county court, whose duty it is by order made of record to denominate and number the same. 89 Mo. 158.

ARTICLE II.

LAWS APPLICABLE TO ALL CLASSES OF SCHOOLS.

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Sec. 10776. School district forfeits its organization, when and how—pupils of certain districts may be sent to other districts, when.—Whenever any school district in this state, now organized or that may be hereafter organized under the laws of this state, shall fail or refuse, for the period of one year, to provide for an

eight months' school in such year, provided a levy of forty cents on the one hundred dollars' valuation, together with the public funds and cash on hand, will enable them to have so long a term, the same shall be deemed to have lapsed as a corporate body, and the territory theretofore embraced within such lapsed district shall be deemed and taken as unorganized territory, and the same, or any portion thereof, may be attached to any adjoining district or districts for school purposes, in the same manner as is now provided in section 10836: *Provided*, that no school district shall be deemed to have lapsed where the failure to make the needed provision for the eight months of school results from the irregular or void proceedings had for that purpose: *Provided*, that in any district enumerating fewer than twenty-five children, the board may, from year to year, arrange with the board or boards of other district or districts for the admission of all children of school age in said district containing fewer than twenty-five children enumerated, and, if desired, arrange for transporting children to and from school. And, when ratified by a two-thirds vote of the qualified voters of said school district, voting at a special meeting, such arrangements shall be final, and the board will be authorized to issue warrants upon the teachers' fund for payment of tuition, and upon the incidental fund for the payment of cost of transporting pupils. (R. S. 1899, § 9741, amended, L. 1907, p. 770.)

If a district maintains a shorter term than eight months, it must show that it used a forty-cent levy, together with the public funds and cash on hand.

FREE TRANSPORTATION OF PUPILS. [NEW SECTION.]

Section 1. Free transportation of pupils—how obtained—by whom paid.—Whenever the board of directors of any school district or board of education of a consolidated district shall deem it advisable, or when they shall be requested by a petition of ten taxpayers of such district, to provide for the free transportation to and from school, at the expense of the district, of pupils living more than one-half mile from the schoolhouse, for the whole or for part of the school year, said board of directors, or board of education shall submit to the qualified voters of such school district, who are taxpayers in such district, at an annual meeting or a special meeting, called and held for that purpose, the question of providing such transportation for the pupils of such school district: *Provided*, that when a special meeting is called for this purpose, a due notice of such meeting shall be given as provided for in section 10799. If (a) two-thirds of the voters, who are taxpayers, voting at such election, shall vote in favor of such transportation of pupils of said school district, the board of directors or board of education shall arrange for and provide such transportation. The board of directors or board of education shall have authority and are empowered to make all needful rules and regulations for the free transportation of pupils herein provided for, and are author-

ized to and shall require from every person, employed for that purpose, a reasonable bond for the faithful discharge of his duties, as prescribed by the board. Said board of directors or board of education shall pay by warrant the expenses of such transportation out of the incidental fund of the district. (Session Acts, 1911.)

Sec. 10777. School loan—method of voting—sale of bonds. For the purpose of purchasing schoolhouse sites, erecting schoolhouses, library buildings and furnishing the same, and building additions to or repairing old buildings, the board of directors shall be authorized to borrow money, and issue bonds for the payment thereof, in the manner herein provided. The question of loan shall be decided at an annual school meeting or at a special election to be held for that purpose. Notice of said election shall be given at least fifteen days before the same shall be held, by at least five written or printed notices, posted in five public places in the school district where said election shall be held, and the amount of the loan required, and for what purposes; it shall be the duty of the clerk to sign and post said notices. The qualified voters at said election shall vote by ballot. Those voting in favor of the loan shall have written or printed on their tickets, "For the loan;" those voting against the loan, the words "Against the loan;" and if two-thirds of the votes cast shall be "for the loan," the district board shall be vested with the power to borrow money, in the name of the district, to the amount and for the purpose specified in the notices aforesaid, subject to the restrictions of the following section. When bonds are voted under this section for the erection of one or more schoolhouses, to be erected on the same or different sites in common school districts, said bonds shall not be negotiated by said board until said bonds have been deposited with the county or township in which said district shall be situated, and upon the order of said board, and the payment to the county or township treasurer of the amount agreed to be received for the same by said board, from the persons loaning said money upon said bonds. The county or township treasurer shall countersign said bonds and deliver the same to the person or persons named by said board of directors; but no such bonds shall be sold for such an amount that the net proceeds, after deducting expenses and commissions from the same, shall be less than ninety cents on the dollar of the face value thereof, and all renewal funding bonds issued by such districts, to be exchanged for outstanding bonds of said districts, or for the purpose of being sold to raise sufficient funds to pay any outstanding bonds thereof, shall not be exchanged, negotiated or sold by the board of directors of said districts except as above provided, and not until the purchase price thereof, or the bonds to be exchanged therefor, shall be turned over to the county or township treasurer; and said treasurer shall write or print the words "Paid by renewal bonds" across the face of said bonds so received in exchange, and sign the same before delivering the said renewal

bonds to said board. The said county or township treasurer and his securities shall be responsible, on his official bond, for all moneys, bonds or securities received by him under this section. (Session Acts, 1911.)

The above section and the one which follows were passed by the Forty-sixth general assembly on the same day and signed by the governor on the same day. They should be construed together.

Sec. 10777. School loan—method of voting—sale of bonds. For the purpose of purchasing schoolhouse sites, erecting schoolhouses and furnishing the same, and building additions to or repairing old buildings, the board of directors shall be authorized to borrow money, and issue bonds for the payment thereof, in the manner herein provided. The question of loan shall be decided at an annual school meeting or at a special election to be held for that purpose. Notice of said election shall be given at least fifteen days before the same shall be held, by at least five written or printed notices, posted in five public places in the school district where said election shall be held, and the amount of the loan required, and for what purposes. It shall be the duty of the clerk to sign and post said notices. The qualified voters at said election shall vote by ballot. Those voting in favor of the loan shall have written or printed on their tickets, "For the loan;" those voting against the loan, the words "Against the loan;" and if two-thirds of the votes cast on the proposition shall be "for the loan," the district board shall be vested with the power to borrow money, in the name of the district, to the amount and for the purpose specified in the notices aforesaid, subject to the restrictions of the following section. When bonds are voted under this section for the erection of one or more schoolhouses, to be erected on the same or different sites in common school districts, said bonds shall not be negotiated by said board until said bonds have been deposited with the county or township treasurer of the county or township in which said district shall be situated, and upon the order of said board, and the payment to the county or township treasurer of the amount agreed to be received for the same by said board from the person loaning said money upon said bonds. The county or township treasurer shall countersign said bonds and deliver the same to the person or persons named by said board of directors; but no such bonds shall be sold for such an amount that the net proceeds, after deducting expenses and commissions from the same, shall be less than ninety cents on the dollar of the face value thereof, and all renewal funding bonds issued by such districts to be exchanged for outstanding bonds of said districts, or for the purpose of being sold to raise sufficient funds to pay any outstanding bonds thereof, shall not be exchanged, negotiated or sold by the board of directors of said districts except as above provided, and not until the purchase price thereof, or the bonds to be exchanged therefor, shall be turned over to the county or township treasurer; and said treasurer shall write or print the words "Paid by renewal bonds" across the face of said

bonds so received in exchange and sign the same before delivering the said renewal bonds to said board. The said county or township treasurer and his sureties shall be responsible on his official bond, for all moneys, bonds or securities received by him under this section. (Session Acts, 1911.)

No petition is necessary to call election to vote bonds under this section. *Richardson v. McReynolds*, 114 Mo. 641. Board may issue bonds for a less sum than amount authorized by vote; and also may issue renewal bonds for a larger sum than voted when necessary to cover accrued interest on first bonds. *Bauer v. District*, 78 A. 442. The payment of a commission which reduces net proceeds of bonds to 89 cents on the dollar while not authorized does not render such bonds void. *The Franklin, etc., v. Roscoe*, 75 Mo. 408. Recital in bonds that law governing their issue has been complied with is not evidence of that fact and does not estop district from contesting them. *Heard v. District*, 45 A. 661; *Thornburg v. District*, 175 Mo. 12. When record of district fails to affirmatively show that an election was ordered and a day fixed by the board to vote on the proposition to borrow money and issue bonds, the bonds are void. *Thornburg v. District*, 175 Mo. 12.

There are two methods of securing a building fund: (1) By a sale of bonds under section 10777; (2) by levy for building purposes, under section 10797. Neither requires a petition of taxpayers or voters. In either case, the board of directors may take the initiative. 114 Mo. 641. Under section 10797, the board shall proceed to determine the rate of taxation necessary for building purposes when "requested by petition of ten taxpayers of any school district." Both sections apply to all classes of school districts—to city, town, consolidated, and to common school districts with three directors. Again, both the loan and the levy for building purposes may be voted upon at either an annual or special meeting. In both cases notice is required. In both cases, to carry the proposition, it is necessary that two-thirds of the qualified voters voting on the proposition vote therefor.

It often happens that the question of loan is submitted at an election where several other questions are voted upon, and the number of votes cast upon the loan falls considerably short of the number who vote on the various propositions submitted at the election. For instance, only thirty persons vote on the question of loan, while forty may vote upon some other proposition submitted at the election. In this case, two-thirds of the thirty votes, twenty votes, would carry the bond proposition, instead of two-thirds of the forty votes cast on other questions. The state auditor registers bonds which receive two-thirds of the votes cast on question of loan.

Note that section 10777 requires the notices to state "the amount of the loan required and for what purposes." School boards and annual meetings sometimes desire to vote upon a loan smaller than that stated in the notices. It is evident that this cannot be legally done. If so, why require the amount stated in the notices? Again, the tickets cast have on them "Against the loan," or, "For the loan." Against or for what loan, if not the one stated in the notices? Again, if the proposition carries, the board shall be vested with the power to borrow money "to the amount and for the purpose specified in the notices aforesaid." To what amount, if not the one stated in the notices?

School boards should be careful to observe the provisions of section 1275, R. S. 1909, in negotiation of bonds for the purpose of building schoolhouses, or for any other purpose, in order that the same may obtain validity. This section requires that the bond shall bear the endorsement of the state auditor, who is entitled to receive from the board all the necessary certificates and copies of record evidencing a full compliance with the law governing their issuance, which evidence is to be filed and preserved in his office. Upon request the state auditor will furnish necessary blanks, which will enable the board to carry out the provisions of this section.

The state superintendent cannot furnish blank school bonds. They may be obtained from any printing or stationery house dealing in official blanks, as *George D. Barnard & Co.*, *August Gast & Co.*, and *Heinicke-Fiegel Lithographing Co.*, all of St. Louis.

FORM OF NOTICE OF SPECIAL SCHOOL ELECTION.

Notice is hereby given to the qualified voters of school district No. 1, of — county, Missouri, that a special school election will be held at the schoolhouse in said school district, on —, the — day of —, 191—, commencing at 2 o'clock p. m., to vote upon the following propositions:

1. To authorize the school board to issue bonds to the amount of — thousand dollars (\$—), for the erection of a school building and the purchase of a school site.

2. To select — acres of land located (describe land) — as a school site for the school building.

Done by order of the school board this — day of —, 191—.

—————, Secretary of School Board.

Sec. 10778. Restrictions on loans.—The loan authorized by the preceding section shall not be contracted for a longer period than twenty years, and the entire amount of said loan shall at no time exceed, including the present indebtedness of said district, in the aggregate five per cent. of the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for state and county purposes previous to the incurring of said indebtedness, the rate of interest to be agreed upon by the parties, but in no case to exceed the highest legal rate allowed by contract; when effected, it shall be the duty of the directors to provide for the collection of an annual tax sufficient to pay the interest on said indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within the time said principal shall become due. (R. S. 1899, § 9753, re-enacted, L. 1909, p. 770.)

When a district authorized the issue of bonds in excess of the five per cent. limit recited in this section and in section 12, article X of Constitution, all of such issue is void, notwithstanding the district received the proceeds thereof. *Thornburg v. District Three*, 175 Mo. 12. When bonds are legally voted and issued no subsequent assent of voters is necessary to authorize tax levy to meet annual interest and create sinking fund to pay such bonds. *Benton v. Scott*, 168 Mo. 378; *Evans v. West Plains*, 186 Mo. 703. The validity of the organization of a district cannot be raised by suit to enjoin collection of taxes, nor can the payment of illegal taxes be resisted without first paying or tendering such taxes as are legally due. *Burnham v. Rogers*, 167 Mo. 17; *Black v. Early*, 208 Mo. 281. A failure to provide a sinking fund for payment of bonds does not affect their validity. *Bauer v. District*, 78 A. 442.

Irregularity in the issuing of bonds cannot affect an innocent holder. 45 A. 660.

This section imposes two restrictions: First, as to the period for which the loan may be effected; and, second, as to the amount. The limitation on the amount of the loan—five per cent. of the value of taxable property—is a constitutional limitation (article X, section 12 of Constitution of 1875). "The highest legal rate of interest allowed by contract," spoken of in this section, is eight per cent.

Sec. 10779. Renewal funding bonds, issue of.—The board of directors of any school district, organized under any general or special law of this state, is hereby authorized to issue funding and refunding bonds for the district, to be exchanged for outstanding bonds of the district, or sold for the purpose of meeting and paying any matured or maturing bonded indebtedness thereof. Each bond shall be of the denomination of not more than one thousand nor not less than one hundred dollars, and shall bear interest not to

exceed eight per cent. per annum, and such interest shall be payable semi-annually, and to this end each bond shall have semi-annual coupons attached thereto and be made payable to bearer: *Provided*, that no bonds issued under this section shall be payable in less than five years nor more than thirty years from the date thereof, and shall be payable, principal and interest, in the city of St. Louis or the city of New York, at the option of the board of directors, or as may be agreed upon by such board of directors and the purchaser of such bonds. Such board of directors shall be empowered to prepare and issue from time to time such number of renewal bonds as may be necessary for the objects and purposes of this law, and each bond shall be signed by the president, countersigned by the secretary or clerk, and authenticated by the seal of such board of directors, if there be one; and shall also be attested by the clerk of the county court of the county in which such district is located, and he shall put the seal of said court on each of said bonds. The secretary or clerk of the board of directors shall keep a record in the books of the school district of all the renewal bonds that may be issued by the board of directors under the provisions of this chapter, noting the date when issued and when due, and also the number and amount of each bond so issued, and shall also keep a full record of all transactions that may be necessary for the identification of such bonds. (R. S. 1899, § 9754, amended, L. 1909, p. 770.)

This section applies to the bonds legally issued by district organized under special law. *The St. Joseph, etc., v. Gaylord*, 86 Mo. 401. If there be unpaid interest on original bonds new bonds may be issued to cover both principal and interest of such old bonds. *Bauer v. District*, 78 A. 442.

School board has authority to issue bonds to raise money to build schoolhouse; also to issue renewal refunding bonds. 86 Mo. 401.

Sec. 10780. Exchange and sale of funding bonds—no commission allowed.—Boards of directors are empowered to exchange the aforesaid bonds for any bonds that may now be outstanding against any school district so indebted; but no renewal bonds shall be exchanged for any outstanding bond for a sum less than ninety cents on the dollar of its face value. Said boards of directors shall also be empowered to sell such renewal bonds for cash if, in their judgment, it will be to the interest of such school district; but no commission shall be allowed or cost incurred in the exchange or sale of said bonds which will reduce the net proceeds of the same to a less amount than ninety cents on the dollar, and all sums of money realized from the sale of said renewal bonds shall be used in the redemption of outstanding bonds of the school district. (R. S. 1899, § 9755, amended, L. 1909, p. 770.)

Payment of a commission which reduced net proceeds below 90 cents on dollar is illegal, but does not render bonds void. *The Franklin, etc., v. Roscoe*, 75 Mo. 408.

Sec. 10781. Redeemed bonds to be destroyed.—Whenever any bonds shall be redeemed, as provided for in this chapter, such bonds

shall be burned in the presence of a majority of the members of the board of directors, and two other credible persons as witnesses of the fact, and the secretary or clerk of the board of directors shall record in the books of the school district a description of the bonds so destroyed by noting the date when issued and when due, and the number and amount of each of said bonds, and specify what members of the board of directors, and who as witnesses, were present at the burning of said bonds. (R. S. 1899, § 9756, amended, L. 1909, p. 770.)

When bonds payable to bearer are redeemed before maturity and instead of burning same the board allows them to remain in hands of its agent, who fraudulently sells them to an innocent purchaser, the district will have to pay them again. *Fogg v. District*, 75 A. 159.

Bonds due in twenty years, but redeemable after five years, are negotiable. 75 A. 159.

Sec. 10782. Tax levy for sinking fund.—Boards of directors are hereby authorized to make an estimate for the levy of a tax, not to exceed two-fifths of one per cent., upon all the taxable property of the school district at its assessed valuation, said tax to be levied and collected in the same manner as other taxes for school purposes; and the money arising from said tax shall constitute a sinking fund, and shall be used only for the redemption of any outstanding bonds of such district: *Provided*, that if such outstanding bonds cannot be obtained, then such money shall be invested in United States bonds or bonds of the state of Missouri, or, if at any time the board of directors deem it advisable, they may loan such money at the same rate of interest and in the same manner and subject to the same restrictions as to security as the township school funds are loaned, until such time as said outstanding bonds can be obtained. (R. S. 1899, § 9757, amended, L. 1909, p. 770.)

When bonds are legally issued no vote of district is necessary to authorize the tax estimates for annual interest and for sinking funds. *K. C., F. S. & M. R. R. Co. v. Chapin*, 162 Mo. 409; *Benton v. Scott*, 168 Mo. 378; *Evans v. West Plains*, 186 Mo. 203. Illegal taxes cannot be resisted without paying such taxes as are legal. *Black v. Early*, 208 Mo. 281. The maximum rate of levy for sinking fund is forty cents on the one hundred dollars' assessed valuation. As provided in the following section there may also be levied in addition to the forty cents a rate sufficient to provide the necessary funds for the payment of the annual interest on all bonds of the district outstanding.

Sec. 10783. Tax levy for annual interest.—Boards of directors are hereby authorized to make an estimate for the levy of a tax upon all the taxable property of the school district at its assessed valuation, said tax to be levied and collected as other taxes for school purposes—said tax to be sufficient in amount to pay the annual interest on all bonds of their respective districts, and to pay for the printing or engraving of any bonds that may be issued by virtue of this chapter. (R. S. 1899, § 9758, amended, L. 1909, p. 770.)

All cases cited under section 10782 apply to this section.

Officers of corporation in possession of their offices are presumed to be regularly elected and entitled to hold until contrary be shown. 44 Mo. 154. A person derives his title to an office by his election. 44 Mo. 223. Official character of school directors, how proven. 27 Mo. 251.

Sec. 10784. Care of property and purchase of material.—The board of directors shall have the care and keeping of all the property belonging to the district, and shall provide the necessary globes, maps, charts, apparatus and material for the use of the school. The board shall keep the schoolhouse and other buildings in good repair, the grounds belonging thereto in good condition, and shall provide fuel, heating apparatus and all other material and appliances necessary for the proper heating, lighting, ventilation and sanitation of the schoolhouse; shall have the floors swept and the fires made at the expense of the district, and cause an accurate account of the expense thereof to be kept and a report of the same to be made at the next annual meeting. The board of directors shall not allow the use of the schoolhouse or school premises for religious, literary or other public purposes, or for the meeting of any farmer or labor organization, secret or otherwise, except when such use shall be demanded by a majority of the voters of the district at any annual or special meeting: *Provided*, that when the use of the schoolhouse and school premises is allowed for the above named purposes, they may be so used until the next annual meeting, and it shall be the duty of the person or persons so using them to keep them clean and in good repair, and to leave them in as good condition as they were when they took charge of them: *Provided further*, that should the person or persons so using the schoolhouse and school premises fail to comply with the provisions of this section, the board of directors of such district may refuse further use of them until said provisions are complied with. (R. S. 1899, § 9763, amended, L. 1909, p. 770.)

In making contract for the district the board must strictly follow the statute. If the contract is not in writing no recovery can be had for services rendered or materials furnished under same. The teacher cannot bind the district for services of a janitor, and all contracts made with the directors when not assembled as a board are void. Taylor v. District, 60 A. 372; Kane v. Calhoun, 48 A. 408; State ex rel. v. Lawrence, 178 Mo. 350. The proceedings of board at a meeting held outside of the district are void. State ex rel. v. Kessler, 136 A. 236.

The district will not be bound by an entry on its records showing the acceptance of a written proposition unless such record shows the proposition was accepted in the form it was made. Perkins v. District, 99 Mo. 483. See section 2778, requiring all contracts by districts to be in writing.

Where furniture of school district remains in schoolhouse and the key in possession of the trustees, they are in possession of the schoolhouse. 27 Mo. 251. Board of directors cannot authorize schoolhouse to be used for purposes of teaching a Sunday school. 67 Mo. 301. Directors acting separately and apart cannot bind district. 67 Mo. 319. Acts of directors to bind corporations must be done in their official capacity. 26 Mo. 102. Proceedings of board of school directors must be shown by their record. 48 A. 408. No action can be maintained against school district upon an order drawn upon treasurer by one or more of the directors of the district. 67 Mo. 319. By this section the board has full care of the school buildings and all other property belonging

to the district, and is empowered and directed to provide all necessary supplies, keep the house in good repair and cause the floors to be cleaned and fires made at the expense of the district. Under supplies the board may purchase out of the incidental funds a small amount of supplementary reading which is as necessary to the success of the school as blackboards and crayons, and more necessary than maps and charts.

In exercising their right to enter into contracts binding upon the district, the board of directors is confined to the manner and the conditions required by the terms of the statute. The purpose of these requirements is that the terms of the contract shall in no essential particular be left in doubt, or to be determined at some other time. If a person can, without such contract, bind the district impliedly for the value of his services, he would defeat the purpose of the legislature in enacting the law.

The law will not make that valid without writing which it requires to be in writing. 30 A. 456.

"No power exists in the board of school directors to rent buildings or rooms separate from the schoolhouse and employ a teacher for a supplementary school therein." 50 A. 39.

Boards of school directors should be careful to see that the provisions of this section are properly complied with when the school building is allowed to be used for other than school purposes, for fear of vitiating their insurance.

When a majority of the voters at any special or annual school meeting demand the use of the schoolhouse for any public purpose, this vote binds the school district until the next annual school meeting.

Board of directors has right under certain circumstances to reject any and all bids, and no action for damages arises. 122 Mo. 61.

Sec. 10785. Rules and regulations—admission of nonresidents.—The board shall have power to make all needful rules and regulations for the organization, grading and government in their school district—said rules to take effect when a copy of the same, duly signed by order of the board, is deposited with the district clerk, whose duty it shall be to transmit forthwith a copy of the same to the teachers employed in the schools; said rules may be amended or repealed in like manner. They shall also have the power to suspend or expel a pupil for conduct tending to the demoralization of the school, after notice and a hearing upon charges preferred, and may admit pupils not residents within the district, and prescribe the tuition fee to be paid by the same: *Provided*, that the following children, if they be unable to pay tuition, shall have the privilege of attending school in any district in this state in which they may have a permanent or temporary home: First, orphan children; second, children bound as apprentices; third, children with only one parent living, and fourth, children whose parents do not contribute to their support: *Provided further*, that any person paying a school tax in any other district than that in which he resides shall be entitled to send his or her children to school in the district in which such tax is paid and receive credit on the amount charged for tuition to the extent of such school tax. (R. S. 1899, § 9764, amended, L. 1909, p. 770.)

When the board fails to make rules for government of school, the teacher may make such rules as are reasonable and necessary and enforce them. He may prohibit pupils from quarreling or fighting in going to and from school, and may prescribe the course of study when no other lawful authority has done so. *Deskins v. Gose*, 85 Mo. 483; *State ex rel. v. Millsap*, 130 Mo. 683. A rule prescribed by board that a pupil

who is absent six half days in four weeks, without satisfactory excuse, shall be expelled, is reasonable. *King v. Board*, 71 Mo. 628. Likewise a rule made while smallpox is prevalent, excluding pupils who have not been vaccinated. *State ex rel. v. Cole*, 220 Mo. 697.

Though no rules have been made, the board may, after examination and hearing, expel a pupil who defies the teacher and intentionally tries to demoralize the school by swearing, fighting, or other obnoxious and filthy conduct. *State ex rel. v. Hamilton*, 42 A. 24. The board cannot control the conduct of pupils after they return home, and a rule prohibiting them from attending social parties is illegal. *Dritt v. Snodgrass*, 66 Mo. 286. Nonresident parent cannot, by *mandamus*, compel board to give him credit on tuition of his children with taxes paid in district. He should pay or tender any balance due the district, and then if his children are refused admittance, bring his action of *mandamus* to secure their admittance. *State ex rel. v. Clark*, 13 A. 531.

A minor who is neither an orphan nor an apprentice and whose parents reside without the school district is not entitled to attend the public school without paying tuition fee, although having a home more or less permanent in the district. 30 A. 285.

By this section boards of school directors are empowered to adopt needful and reasonable rules for the grading and government of the schools in their district. In the absence of rules being furnished by the board, the teacher may adopt such rules and punish pupils for infractions of same. The board should see that the official course of study adopted by county superintendent is followed. In this way may system and uniformity be secured.

The power to suspend or expel a pupil belongs exclusively to the board of directors. Before this power can be exercised the accused must be furnished a copy of the charges preferred and be granted an opportunity to defend himself against such charges.

This section provides that children whose parents do not contribute to their support may attend school without payment of tuition in any district in which such children may find a permanent or temporary home.

The board is authorized to admit nonresident pupils and prescribe the tuition to be paid by same, and the board may admit to the schools persons over twenty years of age on payment of tuition, just as nonresidents are admitted.

Where a person residing in one school district sends to school in another district in which he pays a school tax, how to obtain credit on tuition. 18 A. 523. Courts have no power to prescribe what shall or shall not be taught in the public schools. The term common school means schools open and public to all, rather than of a definite grade. 7 A. 566; 77 Mo. 484.

A resident of a school district is not entitled to attend the public schools of the district unless he is within the age limited by the Constitution, namely, between the ages of six and twenty years. 61 A. 407.

The Session Acts of 1913 permit boards of directors or boards of education to provide gratuitous instruction for persons between the ages of five and six years and for persons over twenty years of age, provided that for this purpose "only so much of such (school) revenues as are not required for the establishing and maintaining of free public schools in such school district for the gratuitous instruction of persons between the ages of six and twenty years" may be used. It is to be noted that the persons between the ages of six and twenty must be provided for first, and then surplus funds not needed for providing school for the children between the ages of six and twenty years may be used to provide kindergarten and adult schools. Under this law such schools are possible only in the cities and in towns that maintain first class high schools. High schools for boys and girls between the ages of fourteen and twenty years must be provided for before children under six can be given gratuitous instruction in public schools.

Coming temporarily within a district to reside during the scholastic year, for the purpose of sending children to the school of that district, is not allowable, and the party so doing is not entitled to free tuition. 84 A. 140.

A teacher has the right to inflict reasonable punishment for misconduct by whipping. It must be administered for a salutary purpose to maintain the discipline and

efficiency of the school. There is no such thing as reasonable punishment from a malicious motive. 88 A. 354.

There is no conflict between this section and section 10933. The county superintendent shall "adopt" the course of study for use in schools under his supervision, and shall require the same to be used.

Sec. 10786. Contagious diseases among pupils.—It shall be unlawful for any child to attend any of the public schools of this state while afflicted with any contagious or infectious disease, or while liable to transmit such disease after having been exposed to the same. For the purpose of determining the diseased condition, or the liability of transmitting such disease, the teacher or board of directors shall have power to require any child to be examined by a physician or physicians, and to exclude such child from school so long as there is any liability of such disease being transmitted by the same. A refusal on the part of the parent or guardian to have an examination made by a physician or physicians, at the request of the teacher or board of directors, will authorize the teacher or board of directors to exclude such child from school; and any parent or guardian who shall persist in sending a child to school, after having been examined as provided by this section, and found to be afflicted with any contagious or infectious disease, or liable to transmit the same, or after having refused to have such child examined as herein provided, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five nor more than one hundred dollars. (R. S. 1899, § 9765, re-enacted, L. 1909, p. 770.)

When smallpox exists in the neighborhood of school, board may exclude pupils who refuse to be vaccinated. In re Rebeneck, 62 A. 8; State ex rel. v. Cole, 220 Mo. 697.

Schools cannot be closed on account of contagious diseases unless ordered by board of health, or on agreement of both parties to the contract.

Sec. 10787. Employment of teachers.—The board shall have power, at a regular or special meeting, to contract with and employ legally qualified teachers for and in the name of the district; all special meetings shall be called by the president and each member notified of the time, place and purpose of the meeting. The contract shall be made by order of the board; shall specify the number of months the school is to be taught and the wages per month to be paid; shall be signed by the teacher and the president of the board, and attested by the clerk of the district when the teacher's certificate is filed with said clerk, who shall return the certificate to the teacher at the expiration of the term. The certificate must be in force for the full time for which the contract is made. The board shall not employ one of its members as teacher, nor shall the teacher serve as clerk of the district. All transactions of the board under this section must be recorded by and filed with the district clerk. (R. S. 1899, § 9766, re-enacted, L. 1909, p. 770.)

The directors have no power to hire a teacher until they are assembled as a board. Pugh v. District, 114 A. 688. When all members of a board are present, whether the

meeting is upon notice or by accident, they may lawfully hire teachers and transact other business, and their failure to make and preserve minutes of their proceedings does not render their acts illegal. *Decker v. District*, 101 A. 115; *Hibbard v. Smith*, 135 A. 721. Failure of clerk to attest contract, or failure to deposit same with clerk, does not render it void. *McShane v. District*, 70 Mo. 624; *Hibbard v. District*, 135 A. 721. If contract is illegal the fact that it appears regular on its face and was recorded by the clerk does not prevent the district from disputing its legality. *Pugh v. District*, 114 A. 688. When a majority of board duly assembled by their record authorize the president and clerk to sign contract with a teacher the district cannot enjoin her from teaching simply because the president of board failed to perform his duty in refusing to sign the contract. *School District v. Edmondson*, 50 A. 65. When new directors are elected and qualified, the old directors have no power to hire a teacher. *Loomis v. Coleman*, 51 Mo. 21. When a contract is produced, signed by all three of directors, the burden of showing it is invalid rests upon the district. *Armstrong v. District*, 28 A. 169. Directors are not liable for slander or libel when they, for reasonable cause, and in good faith, file charges against teacher with superintendent, although such charges be withdrawn before a hearing. *Emily v. Steeler*, 159 Mo. 299.

Members of school board wantonly obstructing a teacher in the discharge of his duty are individually liable therefor. 55 Mo. 149; 98 App. 163. An order of school board entered of record to employ teacher will be sufficient to constitute contract, though no written contract be entered into if teacher renders service thereunder. 63 Mo. 137; see 28 A. 169. School board has no power to discharge teacher, but when his certificate is revoked he is disqualified from further teaching in public schools in that county. 78 Mo. 226; 19 A. 462. Not necessary that teacher have certificate that reaches to end of term, for which she is employed, provided that during the term she has proper certificate. 50 A. 65. See, also, 135 A. 721.

The employment of teachers is one of the powers vested exclusively in the board of directors. In some districts the voters attempt to dictate by a vote who shall be employed as teacher, or the wages to be paid. There is no authority for a vote upon either proposition; therefore, the board is not bound by such action. A teacher may be employed at either a regular or special meeting of the board. Regular meetings of the board are those held at stated times, and it is the duty of each member of the board to attend such meeting without notice. Special meetings of the board should be called by the president, each member being notified of the time, place and purpose of the meeting, but in the event of his failure to call such meeting when the business of the district requires that a meeting shall be held, the meeting may be called by the other members of the board and the president notified of the time, place and purpose of the meeting.

When a teacher has been elected, the district record should show the name of the teacher, the number of months the school is to be taught, and the wages per month to be paid. An order should also be entered directing the president and clerk to enter into written contract with the teacher. It then becomes the duty of the president of the board to sign such contract, and he may be removed from office for a refusal to do so. Upon two points the law specifically requires that the contract shall be definite; the number of months the school is to be taught and the wages per month to be paid. A contract for five months, or longer, provided there is sufficient money to maintain a longer term, is only valid for five months. In some districts a contract is made with the teacher at so much per month and whatever tuition he may collect. This is a plain violation of law. The tuition fees must be collected and turned into the treasury to the credit of the teachers' fund.

Complaint is sometimes made by teachers that they have been regularly employed, the district record showing such employment, but that through some neglect the contract was not drawn, and the members of the board having, for some reason, changed their minds, rescind their former action and employ another teacher. This is an injustice to the person first employed, but he has no remedy, as the contract is not binding on the district until it is made in writing and signed. However, should the teacher perform services for the district he may recover compensation for such services, even though no written contract existed.

A contract for the employment of a teacher may be recovered upon, though not in writing, if service has been rendered. 63 Mo. 137. A teacher does not forfeit any right under his contract, or under the law, by failing to make monthly reports, when by action of the directors the school has been closed. 30 A. 113; 28 A. 169; see 24 A. 213. Must teach in district schoolhouse. 30 A. 641.

In absence of evidence that meeting was not regularly called, it will be presumed the meeting was regular. 59 A. 580.

Unless specific work is mentioned in the teacher's contract, the board has the right to assign the teacher to any grade it may choose. 149 A. 550.

FORM FOR TEACHER'S CONTRACT.

This agreement, made the — day of —, 19—, between —, a legally qualified public school teacher, of the first part, and the school board of district No. —, county of —, and state of Missouri, of the second part.

Witnesseth: That the said — agrees to teach the public school of said district for the term of — months, commencing on the — day of —, 19—, for the sum of — dollars per month, to be paid monthly, and that for services properly rendered and reports correctly made according to law, said board agrees to issue a warrant upon the — treasurer, in favor of the said —, for the amount of wages due under this agreement.

Done by order of the board, this — day of —, 19—.

—————, Teacher. ———, President.

Attest: ———, District Clerk.

Sec. 10788. Contract construed.—The contract required in the preceding section shall be construed under the general law of contracts, each party thereto being equally bound thereby. Neither party shall suspend or dismiss a school under said contract without the consent of the other party. The board shall have no power to dismiss a teacher; but should the teacher's certificate be revoked, said contract is thereby annulled. The faithful execution of the rules and regulations furnished by the board shall be considered as part of said contract: *Provided*, said rules and regulations are furnished to the teacher by the board when the contract is made. Should the teacher fail or refuse to comply with the terms of the contract or to execute the rules and regulations of the board, the board may refuse to pay said teacher—after due notice, in writing, is given by order of the board—until compliance therewith is rendered. Should the schoolhouse be destroyed, the contract becomes void. (R. S. 1899, § 9767, re-enacted, L. 1909, p. 770.)

The district is not liable for wages of teacher after schoolhouse is destroyed. Hall v. District, 24 A. 213. The board cannot close the school before the end of term because not enough funds have been collected to pay the teachers. Rudy v. District, 30 A. 113. Teacher cannot be deprived of his wages for failing to carry out a rule of which he was not notified. Perkins v. District, 61 A. 512. The board has no power to discharge a teacher but for immorality or other improper conduct. The county superintendent may, after due notice and hearing, revoke his certificate, which would terminate his right to teach. Arnold v. District, 78 Mo. 226; Oakes v. District, 98 A. 162.

School may be dismissed and closed before end of contract term by agreement of teacher and directors. 59 A. 580.

Each party, the teacher on the one hand and the board on the other, is equally bound by the contract. This fact cannot be too strongly impressed upon the parties to the contract. A board of directors cannot exercise too much care in the selection of

a teacher, for when the contract is completed it cannot be abrogated except by having the teacher's certificate revoked by the county superintendent, as provided in section 1094. Conditions over which neither party has control may, however, have the effect of abrogating the contract; for instance, closing of school by board of health, burning of schoolhouse, etc.

Faithful compliance with the rules and regulations furnished by the board is made part of the contract. Necessary rules and regulations for the government of the school should be adopted by every board of directors, and a copy of such rules furnished the teacher at the time of entering into contract. A person entering into a contract with a school district, through its directors, must, at his peril, take notice of the limited powers of the directors, and if he enters into a contract with them in excess of their powers, no recovery can be had by him thereon. 30 A. 113. The power of a board of directors with reference to expenditures is limited to the income provided for the current year. Therefore, a teacher should inform himself before entering into contract as to amount of revenue provided for teachers' wages, as he can collect no greater amount than that provided. Note the difference, however, between "revenue provided" and "revenue collected." When the levy for school purposes is made, the revenue is said to be "provided." Warrants may be drawn against the revenue provided whether it is collected during the school year or not.

Teacher need not have certificate when contract is made. Must hold certificate while teaching. Contract requiring special examination of teacher, nugatory. Services under contract must be rendered during school year. 93 A. 254.

Sec. 10789. Visitation of schools.—It shall be the duty of the board to visit the schools under their care, examine into their condition and the progress of the pupils, advise and consult with the teachers, and to exercise such supervision as will best promote the interest of the schools. (R. S. 1899, § 9768, re-enacted, L. 1909, p. 770.)

No member of a school board should feel that he has discharged his duty until he has visited the school at least two or three times. Such visits encourage and stimulate both pupils and teacher. Only in this manner is it possible for members of the board to make themselves familiar with the management of the school.

Sec. 10790. Enumeration lists.—The board of directors of each district shall, between the thirtieth day of April and the fifteenth day of May of each year, take, or cause to be taken, and forwarded to the county clerk, an enumeration of the names of all persons over six and under twenty years of age, resident within the district, designating male and female, white and colored, and age of each, together with the full name of the parent or guardian of each child enumerated; and also an enumeration of all blind and deaf and dumb persons of school age, resident within the district, designating male and female, white and colored, and age of each, together with the full name of the parent or guardian of each of such children so enumerated, and their postoffice address, which said enumerations shall be subscribed and sworn to; and any parent or guardian who shall knowingly furnish to any enumerator the name of any child who is under six or over twenty years of age, or who is a non-resident of the district, shall be guilty of a misdemeanor, and any enumerator who shall knowingly return a false enumeration shall be deemed guilty of a misdemeanor and punishable by a fine not to exceed one hundred dollars; and should the

board neglect or refuse to comply with the provisions of this section, such district shall forfeit its right to any portion of the public funds for the next ensuing school year: *Provided*, that the board of directors of any city having more than fifty thousand inhabitants may relieve itself of the duty aforesaid four times to every period of five years by passing a resolution each year adopting the last enumeration therein made as its enumeration of persons of school age in said city for such year, and thereupon such last enumeration shall be deemed returned and taken as its enumeration for such year for all purposes under this chapter. The county clerk of each county shall certify to the superintendent of the school for the deaf and dumb at Fulton, as soon as convenient after he receives the enumeration lists, the names of all deaf and dumb persons of school age in his county, giving name, age, sex and color, and the name and postoffice address of parent or guardian of such persons, and to the superintendent of the school for the blind in St. Louis the names of all blind persons of school age in his county, giving name, age, sex and color, and the name and postoffice address of parent or guardian of such persons. (R. S. 1899, § 9770, amended, L. 1909, p. 770.)

Historical Note.—That part of section 10932 which requires the county superintendent to receive and approve enumeration lists is probably repealed by this section, which requires such lists to be forwarded to county clerk. The bill creating section 10932 was approved March 15, 1909, while the bill which amended section 10790 was passed May 13, 1909, and approved June 1, 1909. (Laws 1909, pp. 770, 822.) However, it will no doubt be agreeable to the county clerk for the superintendent to receive and pass upon enumeration lists and estimates and then file them with him, as provided in section 10932. The district clerk is not required to enumerate children who are absent and whom he honestly believes have moved away from the district. *State ex rel. v. Smith*, 64 A. 313. When clerk intentionally makes a false enumeration showing less than fifteen colored children in district, when he knows there are more than that number, the enumeration is void, and *mandamus* will lie to compel the establishment of a negro school. *State ex rel. v. Cartwright*, 122 A. 257.

Section 1, Art. XI, Constitution. 84 Mo. 74; 30 A. 285.

Great care should be taken by the enumerator to get the name of every child in the district entitled to enumeration. The public funds—county and township—are apportioned upon the enumeration, and for every name missed the district will lose from \$1.50 to \$3.50, or possibly more. Do not fail to forward the enumeration to the county clerk within the time specified by law. It is not the duty of the district clerk to take the enumeration. The board may take the enumeration of the district themselves, or may cause the same to be taken by employing the district clerk or any other competent person. Section 10825 makes it the duty of assessors to furnish the county clerks lists of taxpayers by school districts.

NEW LAW, 1913.

Section 1. Board may provide for gratuitous education of persons between five and six and over twenty years, how.—The board of directors or board of education of any school district in this state may provide for the gratuitous education of persons between five and six and over twenty years of age, resident in such school district. Such gratuitous education, however, shall be pro-

vided only out of revenues derived by such school district from sources other than those described in section 6, article XI of the Constitution of this state, and only with so much of such revenues as are not required for the establishing and maintaining of free public schools in such school district for the gratuitous instruction of persons between the ages of six and twenty years; provided that nothing in this act shall be construed as affecting the basis of apportionment of the public school fund of this state as now fixed by law. (Session Acts, 1913.)

This law states "that nothing in this act shall be construed as affecting the basis of apportionment of the public school fund of this state as now fixed by law." This law does not repeal or change the law relating to the enumeration of school children. As heretofore, all children "over six years of age and under twenty years of age" should be enumerated.

This law permits boards of directors or boards of education to provide gratuitous instruction for persons between the ages of five and six years and for persons over twenty years of age, provided that for this purpose "only so much of such (school) revenues as are not required for the establishing and maintaining of free public schools in such school district for the gratuitous instruction of persons between the ages of six and twenty years" may be used. It is to be noted that the persons between the ages of six and twenty must be provided for first, and then surplus funds not needed for providing school for the children between the ages of six and twenty years may be used to provide kindergarten and adult schools. Under this law such schools are possible only in the cities and in towns that maintain first class high schools. High schools for boys and girls between the ages of fourteen and twenty years must be provided for before children under six can be given gratuitous instruction in public schools.

Sec. 10791. Estimate.—The board of directors of each district shall, on or before the fifteenth day of May of each year, forward to the county clerk an estimate of the amount of funds necessary to sustain the schools of their district for the time required by law, or, when a longer term has been ordered by the annual meeting, for the time thus decided upon, together with such other amount for purchasing site, erecting buildings or meeting bonded indebtedness, and interest on same, as may have been legally ordered in such estimate, stating clearly the amount deemed necessary for each fund, and the rate required to raise said amount. (R. S. 1899, § 9771, amended, L. 1909, p. 770.)

Historical Note.—This section seems to repeal that part of section 10932, requiring county superintendents to receive and approve estimates. See note under section 10790. The board may withdraw an estimate filed with county clerk before it is acted upon and file another estimate in lieu thereof, upon which latter estimate a legal levy may be made. State ex rel. v. Phipps, 148 Mo. 31, 36. When a levy of 100 cents on 100 dollar valuation has been authorized by a vote of the district, the board may apportion same by their estimate among the several funds as they deem proper, and the fact that they only filed an estimate for a 98-cent levy when 100 cents had been authorized does not render the tax illegal. State ex rel. v. Phipps, 148 Mo. 31. If the estimate for teachers and incidental funds exceeds 40 cents on the \$100, it must recite that the increase above 40 cents was authorized by vote of the district, but it is not necessary that such estimate should recite the amount which a levy made in accordance therewith will yield, nor that the estimate was authorized by an order of the board. The St. L., etc., Ry. v. Gracy, 126 Mo. 472; Kansas City, etc., v. Chapin, 162 Mo. 409. No vote of district is necessary to make estimates for annual interest and

sinking fund on bonds legally issued. *Benton v. Scott*, 168 Mo. 379. School taxes on railroad property must be levied by county courts pursuant to estimates on file with clerk. *State ex rel. v. Ry.*, 135 Mo. 619. See section 9364.

Restriction on tax levy. Section 2, Art. X, Constitution. Where estimates returned by school districts stated rate of required tax levy, but did not mention amount of the several funds which levy would produce, irregularity is immaterial. 126 Mo. 472.

"Unless the estimate shows that the annual rate above forty cents other than in village schools was authorized by a vote of the taxpayers, the county clerk has no authority to 'assess and carry out' such increase, and in the absence of such recital in the estimates, to the extent of the excess such taxes are void."

"The statute does not require the certified estimates for sinking and interest fund taxes to contain a recital that a levy of such taxes was authorized by order of the board." 162 Mo. 409.

This is to be made by the school board on or before the fifteenth day of May of each year. The estimate is for the following purposes: (1) For teachers' fund; (2) for incidental expenses; (3) for building; (4) for sinking fund; (5) for interest fund. The estimate for teachers' wages, if it exceeds forty cents on the hundred dollars, must state that it was ordered (section 10796) by a majority of the taxpayers of the district. The estimate for building purposes must show that it was authorized (section 10797) by two-thirds of the qualified voters of the district who voted at the election. The estimate for sinking fund (section 10782) cannot exceed forty cents on the hundred dollars. The estimate for interest (section 10783) must be sufficient to pay the interest as it falls due. It is very important that the estimate be made promptly and in good form, being careful to "state clearly the amount deemed necessary for each fund."

Sec. 10792. Condemnation of site.—Whenever any district shall select, at the annual or any special meeting, one or more sites for one or more schoolhouses, or the board of education in city, town or consolidated school districts, under the provisions of the statute applicable thereto, shall locate, direct and authorize the purchase of sites for schoolhouses, libraries, offices, and public parks and play grounds, and cannot agree with the owner thereof as to the price to be paid for the same, or for any other cause cannot secure a title thereto, the board of directors or board of education aforesaid may proceed to condemn the same in the same manner as provided for condemnation of right of way in chapter 22, article II of the Revised Statutes of 1909, and upon such condemnation and the payment of the appraisement as therein provided, the title of such lot or land shall vest in the board of directors or board of education aforesaid for use in trust for the district and the purposes for which the same was so selected and located; and whenever a majority of the qualified voters and taxpayers of any school district, at any annual or special meeting called for that purpose, shall determine that it is necessary to have additional grounds for school purposes or for public parks and play grounds, then the board of directors, or board of education aforesaid, may proceed to condemn and pay for any amount of land adjacent to the schoolhouse site, or elsewhere in the district for such purposes, as provided in this section. All laws and parts of laws in conflict with this act are hereby repealed. (Session Acts, 1913.)

The condemnation of land for a schoolhouse site is an appropriation thereof for public use within the meaning of the Constitution. *Twp., etc., v. Hackman*, 48 Mo. 243.

It requires a majority of the qualified voters and taxpayers of the district, and not merely a majority of those voting in an election, to authorize the condemnation of land adjacent to schoolhouse site. State ex rel. v. District, 209 Mo. 464; State ex rel. v. School District, 79 A. 103. The legality of the corporate existence of the district cannot be made an issue in an action to condemn land under this section. School District v. Hodgin, 180 Mo. 71.

In proceedings by special school district to condemn land for schoolhouse site, defendant may put in issue plaintiff's corporate existence. 125 Mo. 439.

Sec. 10793. Separate schools for white and colored children. Separate free schools shall be established for the education of children of African descent; and it shall hereinafter be unlawful for any colored child to attend any white school, or for any white child to attend a colored school. (R. S. 1899, § 9774, amended, L. 1909, p. 770.)

Sec. 10794. Schools for colored children, establishment of. When there are within any school district in this state fifteen or more colored children of school age, as shown by the last enumeration, the board of directors of such school district shall be and they are hereby authorized and required to establish and maintain within such school district a separate free school for said colored children; and the length of the school term for said colored children, and the advantage and privileges thereof, shall be the same as are provided for other schools of corresponding grade within such school district, and the board of directors shall in all cases conduct, manage and control said school as other schools of the district are conducted, managed and controlled; and all indebtedness incurred by said board of directors in providing suitable buildings, employing teachers and maintaining said school shall be paid for out of the appropriate funds of the district, upon warrants ordered and issued in conformity with the provisions of sections 10856 and 10857: *Provided*, there be no school building in such school district for said colored children, the board of directors shall be and they are hereby authorized and required to rent suitable buildings and furnish the same, and all expenses necessarily incurred shall be paid out of any funds to the credit of the building or incidental funds of such school district. Should any board of directors neglect or refuse to comply with the provisions of this section, such school district shall be deprived of any part of the public funds for the next ensuing school year: *Provided*, that in case the average daily attendance of colored children for any one school month shall be less than eight, then said board of directors may discontinue such school for a period not to exceed six months at any one time: *Provided*, that in cases where two school districts join, and in either or both of said districts the enumeration of colored children of legal school age is less than twenty-five, the boards of directors of such districts may establish a joint colored school in either of said districts, the expense of maintaining said school to be borne by the districts establishing same, in proportion to the number of colored children enumerated in each. The control of said school

shall be vested in the board of directors of the district in which the schoolhouse wherein said colored school is maintained is located. (R. S. 1899, § 9775, amended, L. 1909, p. 770.)

Warrants for the payment of teachers of both white and colored schools should be drawn on the same fund. State ex rel. v. Thompson, 64 Mo. 26. This section is mandatory, and the board cannot escape the responsibility of establishing a colored school by or through a false enumeration which omits part of the colored children residing in district. State ex rel. v. Cartwright, 122 Mo. 257.

Constitution and laws providing for separate schools for colored children are not forbidden by fourteenth amendment to federal Constitution; equality, not identity of privileges, is guaranteed to the citizens by said amendment. 103 Mo. 546. Who are residents within the meaning of this section. 64 A. 313.

When the enumeration taken in any year shows that fifteen or more colored children of school age reside within the district, it is the duty of the board of directors to establish and maintain a separate free school for the education of these children. The establishment is not perpetual. Compliance with this law requires that the school privileges accorded the colored children shall equal those enjoyed by the white children. The establishment of a colored school in some old tumble-down shed of a building, with little or no furniture, and situated in a remote, inaccessible part of the district, while the white children in the same district are provided with a comfortable well-furnished school building, does not comply with the spirit of this law. Instances have been reported in which it is claimed that the enumerator returned a false enumeration in order to avoid the establishment of a school for the colored children. In doing this, the enumerator not only violates his oath of office, but is guilty of a misdemeanor, punishable by a fine of \$100.00. See section 10790.

For failure to establish a colored school when fifteen colored children are enumerated in the district, the district forfeits all public funds due it, and the board of directors may be removed from office for neglect of duty. In a district having established a colored school, if the enumeration of colored children falls below fifteen, the school may be discontinued. The board also has authority to discontinue the school for a period of six months when the average daily attendance for any one month falls below eight. Should a school be discontinued for this reason, it must be reopened at the expiration of six months, unless the white school in the district has closed in the meantime, in which event the colored school need not be reopened during the current school year.

There is no authority for setting aside a certain sum of money to maintain the colored school. The expense of maintaining the colored school must be paid in the same manner and out of the same funds drawn upon to sustain the white school.

This encourages adjoining districts, each having an enumeration of colored children less than twenty-five, to consolidate their school for colored children.

The fact that colored children have to go farther to attend school than white children does not furnish a substantial ground of complaint on the part of the former. 103 Mo. 546.

Sec. 10795. Colored children—right to attend other schools for colored children in county.—When the number of colored children of school age residing in any school district, as shown by the last enumeration, shall be less than fifteen, they shall have the privilege and are entitled to attend school in any district in the county wherein a school is maintained for colored children, and the board of directors of the district in which such colored children reside shall reserve a sufficient amount from the teachers' fund of such district to pay the expense thus incurred for such school year; but such colored children shall only be entitled to attend school for the same length of time that other schools of the dis-

trict in which they reside are maintained; and at the end of the school term the board of directors of the district in which such children may have attended school shall make out and forward to the board of directors of the district in which such children reside an account showing the amount due for said colored children, said amount to be equal to the *pro rata* expense of such attendance, the same to be *prorated* according to the amount paid for teachers' wages and incidental expenses during such school term; and the board of directors of the district in which such children reside shall issue an order on the county or township treasurer to transfer said amount to the credit of teachers' fund of the district in which said children attended school. Any board of directors neglecting or refusing to comply with the provisions of this section shall be held individually responsible for the amount due the district in which said colored children attended school. (R. S. 1899, § 9776, amended, L. 1909, p. 770.)

This section gives colored children of school age, residing in a school district not containing the requisite enumeration, the right to attend any colored school in the county. This section imposes two duties upon the board of the district in which the colored children reside: (1) "To reserve a sufficient amount from the teachers' fund of such district to pay the expenses thus incurred;" (2) "to issue an order on the county or township treasurer to transfer said amount to the credit of the teachers' fund of the district in which said children attended school." The section imposes one duty upon the district in which the colored children attend, as follows: "To make out and forward to the school board of the district in which the children reside an account showing the amount due for said colored children." It should be noted that the colored children are only entitled to attend school during the time that the other schools in the district in which they reside are maintained; that is, if there is only a five-months' school in the country district in which the colored children reside, they are permitted to attend but five months in the district maintaining a colored school, even though that district should maintain an eight-months' school. To find the amount due the school which the colored pupils attend, it is necessary to ascertain the cost per colored pupil per day, and multiply this by the number of days attended by the colored children residing without the district. This is what is meant by "*pro rata* expenses of such attendance, the same to be prorated according to the amount paid for teachers' wages and incidental expenses during such school term." Note that "the school board in the district in which such children may have attended" shall forward the account against the other district "at the end of the school term." For a failure to pay the account, if found correct, the members of the board of directors to which the account is presented become personally liable for the amount. Failure to present the account at close of school does not forfeit the claim. The account may be collected at any time within five years after it becomes due.

Sec. 10796. Increase of tax levy for maintaining schools. Whenever it shall become necessary, in the judgment of the board of directors or board of education of any school district in this state, to increase the annual rate of taxation for school purposes, or when any five resident taxpayers of such district shall petition such board, in writing, that they desire an increase in the rate of taxation, such board shall determine the rate of taxation necessary to be levied in such district within the maximum rates prescribed by the Constitution for such purposes, and shall submit to the voters of said school district who are taxpayers of such school dis-

trict, at an election to be by such board called and held for that purpose, at the usual place of holding elections for members of such board, whether the rate of taxation be increased as proposed by said board, due notice having been given as required by section 10844; and if a majority of the voters who are taxpayers voting at such election on the proposition to increase levy shall vote in favor of such increase, the result of such vote, and the rate of taxation so voted in such district, shall be certified by the clerk or secretary of such board or district to the clerk of the county court of the proper county, who shall, on the receipt thereof, proceed to assess and carry out the amount so returned on the tax books on all the taxable property, real and personal, of such school district, as shown by the last annual assessment for state and county purposes, including all statements of merchants as provided by law. (Session Acts, 1913.)

A levy made by county court on railroad property for school purposes need not specify the special fund for which such levy is made, if the estimates are sufficient to enable the court to make the average rate. *State ex rel. v. Ry.*, 135 Mo. 618. Under this section the board should first determine what increase of taxes is necessary and have its proceedings noted on minutes of the district clerk before submitting proposition to voters; but such action is not necessary when increase of taxes is voted at annual meeting. *Benton v. Scott*, 168 Mo. 378.

See cases cited under section 10791.

Whenever a board deems it necessary or is petitioned by five resident taxpayers, it shall determine the increase of levy for school purposes. Proper notice having been given under section 10798, the proposition is voted upon, and is carried "if a majority of the voters who are taxpayers voting at such election on the proposition to increase levy shall vote in favor of such increase." Note that *taxpayers* and not *qualified voters* are spoken of. A taxpayer is one who owns either real or personal property liable to assessment and taxation. Observe that only a majority, and not a two-thirds majority, is required; also, that it is a majority of the taxpayers "voting at such election on the proposition to increase levy," and not a majority of the taxpayers of the district. For limitation of taxation, see article 10, section 11, Missouri Constitution, and section 10825.

For majority of voters voting at such election, see 35 Mo. 103, and 73 Mo. 435.

The provisions of the Constitution limiting the rate of taxation do not require legislative action to enforce it, and go into effect at once, notwithstanding the proviso allowing the rate to be increased by legislative action and a specified popular vote. 62 Mo. 444.

Sec. 10797. Increase of tax levy for erecting schoolhouse and similar purposes.—The board of education or directors of any school district in this state shall, whenever, in their judgment, it becomes necessary, or they be requested, by a petition of ten taxpayers of any such school district, to increase the annual rate of taxation for the purpose of paying for school building sites, whether the same have been purchased or condemned, for buying or erecting school buildings in such districts, or repairing or furnishing such buildings, determine the rate of taxation necessary to be levied within the maximum rates prescribed by the Constitution, and as therein limited for such purposes, and shall submit to the voters of such school district, at an election to be by such board called and held for that purpose, at the usual place for holding

elections for members of such board, whether the rate of taxation shall be increased, as proposed by said board, for any of the purposes mentioned in this section, due notice having been given, as required by section 10844, and if two-thirds of the qualified voters of such school district, or of such city, town or village forming a school district, voting at said election, shall vote in favor of such increase for the purposes aforesaid, the result of such vote, and the rate of taxation, so voted, shall be certified by the secretary or clerk of such board to the clerk of the county court of the proper county, who shall, on the receipt thereof, proceed to assess the amount so returned for any or all of the purposes mentioned in this section on all the taxable property, both real and personal, of such school district, as shown by the last annual assessment for state and county purposes, including all statements of merchants, as is provided by law. (Session Acts, 1911.)

This section does not apply to an election to vote bonds to build schoolhouse, nor to other elections specially provided for in other sections of the statutes. Richardson v. McReynolds, 114 Mo. 641, 650.

Whenever the board deems it necessary or is petitioned by ten taxpayers of the district, it shall determine the rate to be levied for building purposes, notice having been given in accordance with section 10798. The proposition is carried "if two-thirds of the qualified voters of such school district voting on the proposition shall vote in favor of such increase." Note that *two-thirds* of the qualified voters, and not a *majority*, is required. Observe, also, that it is two-thirds of those voting at the election; that is, two-thirds of the votes cast at the election, and not two-thirds of the qualified voters of *the district*. For limitation of levy for building purposes, see article 10, section 11, Missouri Constitution; also, section 10825. A building levy should be used for purchase of site, erection of house and furnishing the same. All permanent improvements should be made from the building fund rather than from the incidental fund, such as building a fence, digging a cistern, erecting outhouses and seating schoolroom.

The act (11583) authorizing an increase in the levy of school taxes for building purposes on the apportionment of the valuation of a railroad company's roadbed and rolling stock, and empowering the county court to take into consideration the rate of increase for such purposes, made in districts through which the railroad does not run, in fixing the rate to be levied, is constitutional. 97 Mo. 496.

Sec. 10798. Notice of meeting to increase tax levy.—The propositions authorized in sections 10796 and 10797 may be submitted at an annual meeting, or at a special meeting called and held for that purpose. Said board of directors or board of education submitting such proposition shall cause notice thereof to be given as provided by section 10844. (R. S. 1899, § 9779, amended, L. 1909, p. 770.)

Sec. 10799. Special meetings.—Special school meetings for the transaction of business authorized by this chapter, and not restricted to the annual meeting or otherwise provided for, shall be called by the board when a majority of the qualified voters of the district sign a petition requesting the same, and designating therein the purpose for which said meeting is desired. Upon the reception of such petition, the board shall call said special meeting, by notices thereof to be given in the same manner as is provided in section 10844; and when assembled, the meeting shall be organized by the

election of a chairman and a secretary, who shall keep a correct record of the transactions of the meeting, said record to be signed by the secretary, attested by the chairman, and filed with the district clerk, who shall enter the same upon the records of the district; but said meeting shall have no power to act upon any proposition not contained in the petition and submitted in the notices. (R. S. 1899, § 9780, amended, L. 1909, p. 770.)

Special meeting may be called for purpose of continuing school beyond period required by Constitution. 27 A. 36.

Note that special school meetings shall be called by the board "when a majority of the qualified voters of the district sign a petition requesting the same, and designating therein the purpose for which said meeting is desired."

The special meeting when called can vote only on the propositions set forth in the petition and notices. Of the items under 10845 the following are "restricted to the annual meeting or otherwise provided for:" Item 2 (election of directors); item 3 (filling of vacancy in board), restricted to the annual meeting by section 10847; item 4 (increase of levy for school purposes), otherwise provided for by section 10796; item 6 (change of boundary), restricted to the annual meeting by section 10837; item 8 (election of superintendent), restricted to annual meeting by section 10930; item 9 (levy for building purposes), otherwise provided for by section 10797. The following items under 10845 are "not restricted to the annual meeting or otherwise provided for," and therefore, may be acted upon at a special meeting called under section 10799: Item 4 (increase of school term); item 5 (to vote sum for library); item 7 (sale of school property no longer needed for use of district); item 10 (location of schoolhouse site); item 11 (change of schoolhouse site).

The law does not limit the number of times a proposition may be submitted to the legal voters of a school district. A proposition not restricted to the annual meeting nor "otherwise provided for" may be submitted as often as a majority of the qualified voters of the district will sign a petition requesting that a special meeting be called, and designating the purpose for which such special meeting is desired. Upon reception of such petition, the board of directors *must* call the meeting.

FORM OF PETITION FOR SPECIAL SCHOOL MEETING.

We, the undersigned, a majority of the qualified voters residing in school district No. —, county of —, state of Missouri, desire that a special meeting of the qualified voters of said district be called for the purpose of —

FORM FOR NOTICE OF SPECIAL SCHOOL MEETING.

Notice is hereby given to the qualified voters of district No. —, county of —, and state of Missouri, that in conformity with the petition of a majority of the resident voters of said district, a special school meeting will be held at —, in said district, on the — day of —, 19—, commencing at 2 o'clock p. m., for the following purposes, viz.:

Done by order of the board this — day of —, 19—.

—————, District Clerk.

NOTE.—The above notice should state distinctly the purpose for which the meeting is called, and should be posted fifteen days before the day set for the meeting.

Sec. 10800. School day, week, month and year.—The school day shall consist of six hours occupied in actual school work; the school week shall consist of five school days, except when thanksgiving day, December 25, February 22 or July 4 shall fall upon a regular school day, then the four remaining school days, if taught, shall constitute a legal school week; the school month shall consist of four weeks; and the school year shall commence on the first day of July and end on the thirtieth day of June following. (R. S. 1899, § 9781, re-enacted, L. 1909, p. 770.)

By long established custom, a great majority of our rural schools divide the school day as follows: 9:00, opening; a ten-minute recess middle of forenoon; 12:00 to 1:00, noon; 1:00, opening of afternoon session; a ten-minute recess middle of afternoon; 4:00, dismissal.

Consensus of opinion approves this plan as best for children. The phrase "six hours occupied in actual school work" has reference to work by the teacher in and about the schoolroom. The above programme fulfills the requirement. For, from the nature of the case, the full time of the teacher is occupied during the forenoon and afternoon recesses in looking after the heating, ventilation and innumerable other matters of detail which cannot be attended to except when the greater number of children are at liberty. But this is "actual school work." In most of the well organized city and town schools the children of the higher grades are engaged in study and recitation about five hours daily; the smaller children a much shorter time. Counting work in and about the school before 9 a. m., at noon, and after 4 p. m., good teachers in good schools usually spend from seven to nine hours daily in "actual school work." This they do voluntarily and cheerfully—at times overruling the protests of the janitor.

There are no legal school holidays except those specified in this section. General election day and New Year's day are not legal school holidays.

Some schools have adopted the Monday holiday, and teach on Saturday.

The state superintendent will try to visit each county in the state once every two years. He would be glad if directors and teachers would agree to take a day off and meet him on such occasions to discuss with him some important school questions. A day so spent will not be lost. There is nothing in law to prevent such suspension, and to prevent the board's paying teacher for that day.

Sec. 10801. Arbor day.—The first Friday after the first Tuesday in April of each year is hereby set apart as arbor day for this state, and all teachers, pupils and patrons are requested to observe the same in their respective school districts by encouraging the planting of trees, shrubbery and flowers upon and around the school grounds of their districts, that said grounds may be rendered pleasant and attractive—a part of said day to be devoted to literary exercises, having special reference to the work in hand, as the teacher or committee in charge may direct, and the afternoon to be devoted to the improvement and ornamentation of the school grounds. (R. S. 1899, § 9782, re-enacted, L. 1909, p. 770.)

Arbor day properly observed will cultivate good taste and sentiment. The planting of trees, shrubs and flowers and giving them proper cultivation should be regarded by teachers and pupils as a privilege. The school premises have a great educating influence. The *directors* should see to it that the school grounds are fully supplied with trees and grasses.

The shrubs and flowers and little experimental garden belong properly to the teachers and pupils. Arbor day is a day for special culture by means of these things. The trees, shrubs, grasses and flowers should be well kept all the year round. The

schoolhouse and grounds should constitute the culture center of each district. They should be so kept as to exercise a wholesome influence on the children of the district all the year round. Recollections of the library, the clean floors and furniture, the well-kept lawn, the shade trees and flower beds, should be made green spots in memory for all time to come. In fact, the schoolhouse and grounds and everything connected therewith should be as inviting as the best home in the district.

Sec. 10802. Injuring school property—failure of certain officers to perform duty—penalty.—Every person who shall willfully injure or destroy any building used as a schoolhouse, or for other educational purposes, or any furniture, fixtures or apparatus thereto belonging, or who shall deface, mar or disfigure any such building, furniture or fixtures, by writing, painting, cutting or pasting thereon any likeness, figures, words or devices, shall be fined in a sum double the amount of damage done to any such building, furniture or apparatus, and shall be fined in a sum not less than ten nor more than fifty dollars for each offense for writing, painting, cutting or pasting on any such building, furniture or fixtures any such words, figures, likeness or device, to be recovered by civil proceedings in any court of competent jurisdiction, in the name and to the use of the school district to which the property may belong; and the punishment provided in this section to be in addition to and not in lieu of the punishment provided by the statute regulating crimes and punishments for such offenses. Any district or county clerk, county superintendent, county treasurer, school director or other officer, who shall willfully neglect or refuse to perform any duty or duties pertaining to his office under this chapter, shall be regarded as guilty of a misdemeanor and subject to a fine of not more than one hundred dollars, to be recovered in any court of law in this state having competent jurisdiction. (R. S. 1899, § 9783, amended, L. 1909, p. 770.)

This section imposes a penalty, (1) for injuring school property; (2) for failure to perform official duty. Observe in each case the word "willful." *"To sustain a charge of misdemeanor in office, it must be confined to official conduct; that conduct must be shown to have been willfully corrupt."* 41 Mo. 210. The word *willfully*, as used in this section, means intentionally, and knowingly.

For full information as to how to proceed in misdemeanor cases, before justices of the peace, see article 4, chapter 37 of the Revised Statutes of 1909. Disturbances of the school may be punished as prescribed in section 4713, Revised Statutes, 1909.

Sec. 10803. School moneys, how applied.—All money arising from taxation shall be paid out only for the purposes for which they were levied and collected; but the income from state, county and township funds shall be applied only to the payment of teachers' warrants, issued by order of the board to legally qualified teachers for services rendered according to law. No county or township treasurer shall honor any warrant against any school district that is in excess of the income and revenue of such school district for the school year beginning on the first day of July and ending on the thirtieth day of June following; nor shall any portion of the funds mentioned in this section be applied in payment of

any teachers' warrant issued prior to the distribution of such funds in accordance with section 10822, and no school warrant shall bear interest. (R. S. 1899, § 9790, re-enacted, L. 1909, p. 770.)

School taxes can only be applied to the purposes for which they were levied, and if after a levy to build a schoolhouse the district is divided, the taxes thus levied must be applied toward building the particular schoolhouse for which they were levied. *State ex rel. v. Thompson*, 64 Mo. 26; *Rice v. McClellan*, 58 Mo. 116. See section 9364. Judgment against a school district should specify nature of the claim upon which it is founded, so that board will know out of what fund it should be paid, otherwise its payment cannot be enforced by *mandamus*. *State ex rel. v. Board*, 97 A. 613.

Liability of county court for diversion of county school fund. 110 Mo. 67.

This section further emphasizes the distinctness of the three funds and provides "no county or township treasurer shall honor any warrant against any school district that is in excess of the income and revenue of such school district for the school year beginning on the 1st day of July and ending on the 30th day of June following." Article 10, section 12 of the Constitution of Missouri, upon which the above quoted provision is based, reads: "No school district shall be allowed to become indebted in any manner or for any purpose to an amount exceeding, in any year, the income and revenue provided for such year, without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose." These provisions oblige the board to so manage the expenditures of the district as to make each year take care of itself. No treasurer is permitted to cash a warrant in excess of the revenue provided for the school year in which such warrant is issued. A warrant, however, may be issued when there is no money in the proper fund to pay it, as taxes may be collected before the end of the school year—June 30—thus permitting this warrant to be legally paid.

Sec. 10804. Teachers—certificate before employment.—No teacher shall be employed in any school supported by the public funds, or any part thereof, until he has received a certificate of qualification therefor, signed by the county superintendent of the county, the state superintendent, or a certificate or diploma issued by the state university or some normal school of this state entitling him to teach in the public schools. (R. S. 1899, § 9796, amended, L. 1909, p. 770.)

Under this section the board may employ a person who holds a proper certificate to teach, though such certificate will expire before the end of the term for which he is hired. *Hibbard v. Smith*, 135 A. 721. Teacher's contract is not invalid, though he have no certificate when contract is signed, provided he procure such certificate by the time fixed for school to open. *Crabb v. District*, 93 Mo. 254.

See cases cited under sections 10787 and 10788.

This section prohibits the employment of a teacher not holding a certificate. This includes substitute teachers. Whenever a substitute teacher teaches for even a day or a week, he must have a certificate.

Employment in this section means the *act of teaching*. A teacher's services may be engaged before he gets a certificate, but he must secure a certificate before his employment begins.

Sec. 10805. Teachers and directors guilty of misdemeanor, when.—Any teacher who shall enter a public school in this state to teach, govern or discipline the same before complying with the provisions of sections 10787 and 10804 shall forfeit all right, title and claim to any compensation therefor, and shall be deemed guilty of a misdemeanor and punished by a fine not to exceed one hundred dollars; and any director who shall indorse or encourage said

teacher in such unlawful conduct shall in like manner be deemed guilty of a misdemeanor and punishable by a like fine. (R. S. 1899, § 9797, amended, L. 1909, p. 770.)

Sec. 10806. Instruction in physiology and hygiene.—Physiology and hygiene, including their several branches, with special instruction as to tuberculosis, its nature, causes and prevention, and the effect of alcoholic drinks, narcotics and stimulants on the human system, shall constitute a part of the course of instruction, and be taught in all schools supported wholly or in part by public money or under state control. (R. S. 1899, § 9799, amended, L. 1909, p. 770.)

Sec. 10807. Register of attendance.—It shall be the duty of every teacher employed in any of the public schools of the state to keep a daily register, in which the names, ages and date of entrance of the pupils shall be entered, and the studies pursued by the same; the date of each visitation by the directors or other school officers, which register shall be open to the inspection of the public at all times. (R. S. 1899, § 9800, re-enacted, L. 1909, p. 770.)

Teachers' register kept under this section is evidence of the age of pupil whose name appears therein. *Levels v. Ry.*, 196 Mo. 606.

Sec. 10808. County school funds.—It is hereby made the duty of the several county courts of this state to diligently collect, preserve and securely invest, at the highest rate of interest that can be obtained, not exceeding eight nor less than four per cent. per annum, on unincumbered real estate security, worth at all times at least double the sum loaned, and may, in its discretion, require personal security in addition thereto, the proceeds of all moneys, stocks, bonds and other property belonging to the county school fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of this state, and all moneys which shall be paid by persons, as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in the several counties as a county public school fund, the income of which fund shall be collected annually, and faithfully appropriated for establishing and maintaining free public schools in the several counties of this state. (R. S. 1899, § 9824, amended, L. 1909, p. 770.)

A party who signed a school fund bond as additional security and looked after payment of interest thereon for six years, cannot escape liability by proving that the only authority for demanding such bond was an order made *nunc pro tunc* by county court after such bond was signed. The county court cannot release a surety nor delegate its power to make loans of school funds. *Montgomery Co. v. Auchly*, 103 Mo. 493. An attorney's fee and expenses incurred in protecting school funds should be paid out of the school fund protected. *Morrow v. Pike Co.*, 189 Mo. 610. A second mortgage on real estate should not be taken, but when taken is a valid lien. *Sharp v. Collins*, 74 Mo. 266.

Failure of county court to take mortgage in fee on unincumbered real estate does not release surety on note. 15 Mo. 604.

Powers of county court, sureties on school fund, bonds, etc., discussed. 103 Mo. 492. The judges of the county court will be held accountable for any diversion of the school funds. 110 Mo. 67.

Sec. 10809. School fund not to be loaned to certain persons—penalty.—The county court shall not loan any money belonging to the school fund to any officer of the county or his deputy, nor shall such officer or his deputy be accepted as security on the obligation given by the person borrowing. Any officer of the county who shall violate the provisions of this section by authorizing any such loan or drawing any warrant for moneys loaned in violation of this section shall be held responsible for the sum so loaned, with interest thereon, to be recovered in the name of the county to the use of the district whose fund has been so used. (R. S. 1899, § 9825, re-enacted, L. 1909, p. 770.)

Sec. 10810. County court to have jurisdiction of county school fund.—Whenever any county in this state may have, separate and apart from the township funds, any public school fund arising from any source whatever, the same shall be under the jurisdiction of the county court of said county, who shall be governed in its care and investment by the same rules and regulations as govern its actions in the township funds—the proceeds of said funds to be collected annually and distributed as provided in section 10822. (R. S. 1899, § 9826, re-enacted, L. 1909, p. 770.)

Sec. 10811. Collection of fines and penalties and other school moneys.—The county treasurer shall collect, or cause to be collected, all school moneys mentioned in section 10808, and all other moneys for school purposes in his county, and shall give the party paying duplicate receipts therefor, and said party shall file one of said receipts with the county clerk, who shall file the same and charge the same to the county treasurer; said clerk shall thereupon credit the bond and mortgage with the amount of said receipt, and when the amount of said receipts is in full of all interest and principal of said bond and mortgage, then the clerk shall satisfy said mortgage of record. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and punished by a fine not to exceed five hundred dollars. (R. S. 1899, § 9827, re-enacted, L. 1909, p. 770.)

County clerk has no authority to collect school funds, and a payment to him does not release mortgage. *County v. Goggin*, 105 Mo. 182.

Sec. 10812. Township school fund, source of.—The proceeds of the sixteenth section, or other lands selected in lieu thereof, the interest of such proceeds, the rents and profits of such lands, and all the public school moneys which shall be apportioned to any unorganized township, arising from dividends, proceeds and profits of the public school fund, shall constitute a township school fund. (R. S. 1899, § 9828, re-enacted, L. 1909, p. 770.)

In action by state to recover land, production of survey not necessary where answer sufficiently admits land claimed has been sufficiently designated. 19 Mo. 607. When state and inhabitants estopped from afterwards claiming land. 18 Mo. 313. Title of state of Missouri to sixteenth section granted by act of Congress, March 6, 1820, for school purposes, is not impaired or destroyed by previous location of a New Madrid certificate upon these sections. 13 Mo. 139.

Sec. 10813. Management of school funds.—The county courts, respectively, shall have the care and management of the school funds of the several townships within their respective jurisdictions, and shall cause accounts thereof to be stated and kept so as to exhibit the funds of each township separately, and the disposition thereof. (R. S. 1899, § 9829, re-enacted, L. 1909, p. 770.)

The county court, in its management of township school funds, acts for benefit of the several townships who hold the equitable title to such funds. County courts should obtain additional security or foreclose mortgages whenever the security from any cause becomes unsafe. *Ray Co. v. Bentley*, 49 Mo. 236; *State ex rel. v. Bonner*, 5 A. 13. Since the case of *Ray Co. v. Bentley* (49 Mo. 236) was decided, section 10821 has been enacted, authorizing counties to purchase lands sold under school mortgage. (Acts 1874, p. 161.)

Sale of land, mortgaged for school funds, loaned, made by sheriff, without proper order from county court, is a nullity. 53 Mo. 147.

Sec. 10814. Transfer of funds when county lines are changed. Whenever, by the establishment of a new county or change of county lines, any township shall fall within the jurisdiction of a different county, the court having charge of the public school fund of said township shall cause an account thereof to be stated, and the funds, together with all mortgages, bonds and other securities belonging to the said fund, shall be transferred to the court of the county thus acquiring jurisdiction over such township. (R. S. 1899, § 9830, amended, L. 1909, p. 770.)

Sec. 10815. Capital of township fund, how invested.—Whenever there shall be in the county treasury any money belonging to the capital of the school fund of any township therein, the county court of such county shall loan the same for the highest interest that can be obtained, not exceeding eight nor less than four per cent. per annum, upon conditions and subject to the restrictions hereinafter set forth. (R. S. 1899, § 9831, re-enacted, L. 1909, p. 770.)

A county court having loaned school funds has no right, upon application of the inhabitants of the township, to reduce the rate of interest. The county courts are trustees for these funds, and cannot dispose of principal or interest otherwise than the law prescribes. And if by order they reduce the rate of interest on the loan, they may be compelled by *mandamus* to collect the full amount originally contracted for. 15 Mo. 412; 103 Mo. 492.

Sec. 10816. Security for loans.—When any moneys belonging to said funds shall be loaned by the county courts, they shall cause the same to be secured by a mortgage in fee on real estate within the county, free from all liens and incumbrances, of the value of double the amount of the loan, with a bond, and may, if they deem

it necessary, also require personal security on such bond; and no loan shall be made to any person other than an inhabitant of the same county, nor shall any person be accepted as security who is not at the time a resident householder therein, who does not own and is not assessed on property in an amount equal to that loaned, in addition to all the debts for which he is liable and property exempt from execution. In all cases of loan, the bond shall be to the county, for the use of the township to which the funds belong, and shall specify the time when the principal is payable, rate of interest and the time when payable; that in default of payment of the interest, annually, or failure by principal in the bond to give additional security when thereto lawfully required, both the principal and interest shall become due and payable forthwith, and that all interest not punctually paid shall bear interest at the same rate of interest as the principal. But before any loan shall be effected, the borrower shall file with the county court an abstract of title at the time he files his bond and mortgage to the real estate which is to be mortgaged. (R. S. 1899, § 9832, amended, L. 1909, p. 770.)

The county is the proper party to maintain suit for township funds loaned. *Lafayette Co. v. Hixon*, 69 Mo. 581; *State ex rel. v. Sappington*, 68 Mo. 454. County court has right to release mortgage on one tract and accept mortgage on other lands to secure the debt when this can be done without detriment or risk to the school fund, and sureties on personal bond cannot complain unless they are injured. *Lafayette Co. v. Hixon*, 69 Mo. 581. A chattel mortgage given to county as additional security without any demand having been made for such additional security is void as to unsecured creditors of mortgagor. *Paddock et al. v. McDonald*, 61 A. 559.

County court has power to release mortgage taken as security for school funds upon receiving in its place mortgage upon other lands. 74 Mo. 266; 103 Mo. 492; 108 Mo. 294. Mortgage given to county to secure loan of school money is not void because it is a school mortgage. This statute is directory. 74 Mo. 266.

Sec. 10817. Form of mortgage—notice of sale—fees, how paid.—Every mortgage taken under the provisions of this chapter shall be in the ordinary form of a conveyance in fee, shall recite the bond, and shall contain a condition that if default shall be made in payment of principal or interest, or any part thereof, at the time when they shall severally become due and payable, according to the tenor and effect of the bond recited, the sheriff of the county may, upon giving twenty days' notice of the time and place of sale, by publication in some newspaper published in the county, if there be one published, and if not, by at least six written or printed handbills, put up in different public places in the county, without suit on the mortgage, proceed and sell the mortgaged premises, or any part thereof, to satisfy the principal and interest, and make an absolute conveyance thereof, in fee, to the purchaser, which shall be as effectual to all intents and purposes as if such sale and conveyance were made by virtue of a judgment of a court of competent jurisdiction foreclosing the mortgage. In all cases of loan of school funds in the various counties, the expense of

drawing and preparing securities therefor, and of acknowledging and recording mortgages, including the fees of all officers for the filing, certifying or recording such mortgages and other securities, shall be paid by the borrowers respectively. (R. S. 1899, § 9833, re-enacted, L. 1909, p. 770.)

The provisions of this section in regard to form of mortgage are directory, and immaterial departures from its requirements will be disregarded. A common law mortgage given for school funds creates a valid lien. *Mann v. Best*, 62 Mo. 491; *Grant v. Huston*, 105 Mo. 97; *Snyder v. Ry.*, 131 Mo. 568. A school mortgage made in pursuance of this section cannot be foreclosed by sheriff until the county court has made and delivered to him its order commanding such foreclosure, as provided in section 10819. *Benton Co. v. Morgan*, 163 Mo. 661, 676.

Sale under foreclosure of school fund mortgage held a sale for cash, as required by its terms. 131 Mo. 568; 115 Mo. 524. Where mortgage is taken for loan of school fund, statute must be in all respects complied with. 62 Mo. 491.

Sec. 10818. County court may require additional security. The county court shall have power, from time to time, to require additional security to be given on said bond when they, in their judgment, deem it necessary for the better preservation of the fund. If such additional security be not given within ten days after an order to that effect shall be made and served on the principal in the bond, and in all cases of default in the payment of interest, the court shall proceed to enforce payment of both principal and interest by writ, or in a summary manner, as provided in this chapter. (R. S. 1899, § 9834, re-enacted, L. 1909, p. 770.)

County court may require additional security. 103 Mo. 492.

Sec. 10819. County court may make order of sale, when. Whenever the principal and interest, or any part thereof, secured by mortgage containing a power to sell, shall become due and payable, the county court may make an order to the sheriff, reciting the debt and interest to be received, and commanding him to levy the same, with costs, upon the property conveyed by said mortgage, which shall be described as in the mortgage; and a copy of such order, duly certified, being delivered to the sheriff, shall have the effect of a *fiери facias* on a judgment of foreclosure by the circuit court, and shall be proceeded with accordingly. (R. S. 1899, § 9835, re-enacted, L. 1909, p. 770.)

County court has power under the Constitution to order the foreclosure of school mortgages, as provided in this section, but if the sheriff sell before receiving certified copy of the order of the court, the sale is void. *Benton Co. v. Morgan*, 163 Mo. 661. An error in sheriff's notice of sale, if not known to purchaser, does not affect validity of sale. *Mitchell v. County*, 80 Mo. 257. When county's agent was misled by sheriff and purchaser, sale may be set aside for gross inadequacy of consideration. *Cole Co. v. Madden*, 91 Mo. 585. When sale under school mortgage is invalid because the order of sale did not properly recite the debt, the purchaser becomes subrogated to the rights of mortgagor. *Honaker v. Shough*, 55 Mo. 472. Such purchaser cannot collect from mortgagor unpaid balance of the mortgage; such balance not covered by purchaser's bid belongs to county. *Wells v. County*, 80 Mo. 424. For selling under school mortgage, sheriff is entitled to same fee as for sales under executions. *Jackson Co. v. Stone*, 168 Mo. 577.

Where order of county court, foreclosing mortgage given to county to secure school debt, did not truly recite debt so as to sufficiently identify mortgage, held that sale thereunder did not transfer title. 53 Mo. 147. Money expended by county court in suits to stay waste and protect security of school mortgages, held payable out of fund protected. 58 Mo. 276; 64 Mo. 179. Statute relating to securities does not apply to bonds given county for school money. 50 Mo. 225. When sale under this section will be set aside on account of conduct of sheriff and agent of county. 80 Mo. 424; 91 Mo. 585; 115 Mo. 524.

Sec. 10820. Receipts for principal or interest of loan paid. When any portion of principal or interest, or both, may be collected, as provided in any of the foregoing sections, it shall be paid into the county treasury; and it shall be the duty of the treasurer to give the person making payment thereof duplicate receipts, specifying the sums paid and on what account. One of said receipts shall be given to the clerk of the county court, who shall file and preserve the same in his office, charge the treasurer with the amount, and credit the payment to the party on whose account it is made on his bond and mortgage. (R. S. 1899, § 9836, re-enacted, L. 1909, p. 770.)

County clerk has no authority to collect school money and release mortgage. Knox Co. v. Groggin, 105 Mo. 182.

Endorsement by county clerk of payments of interest upon bond given for loan of school moneys is competent evidence of such payments. 35 Mo. 395.

Sec. 10821. Authority to repossess property by purchase. Whenever any property heretofore or hereafter conveyed in trust or mortgaged to secure the payment of a loan of school funds shall be ordered to be sold under the provisions of this chapter, or by virtue of any power in such conveyance in trust or mortgage contained, the county court having the care and management of the school fund or funds out of which such loan was made may, in its discretion, for the protection of the interest of the schools, become, through its agent thereto duly authorized, a bidder, on behalf of its county, at the sale of such property as aforesaid, and may purchase, take, hold and manage for said county, to the use of the township out of the school fund of which such loan was made, or in its own name where such loan has been made out of the general school funds, the property it may acquire at such sale aforesaid. The county court of any county holding property acquired as aforesaid may appoint an agent to take charge of, rent out or lease or otherwise manage the same, under the direction of said court; but as soon as practicable, and in the judgment of said court advantageous to the school or schools interested therein, such property shall be resold in such manner and on such terms, at public or private sale, as said court may deem best for the interest of said school or schools; and the money realized on such sale, after the payment of the necessary expenses thereof, shall become part of the school fund out of which the original loan was made. (R. S. 1899, § 9837, re-enacted, L. 1909, p. 770.)

County can maintain ejectment for possession of lands purchased under this section. *Lincoln Co. v. Magruder*, 3 A. 314. When one has purchased swamp lands and given his mortgage to secure the purchase price, but the deed from county is not made until after the mortgage is executed, such deed does not release the mortgage. *Williams v. Brownlee*, 101 Mo. 309.

Sale of land under this section, how set aside. 91 Mo. 585. Recital in deed from county that county had appointed commissioner to convey land, and that grantee therein had become the purchaser and paid price in full with interest, does not tend to show private sale. 101 Mo. 309.

Where defendants allege that the county court had an agent present at the sale who bid on the property, they will not be heard on appeal to deny the presence of such agent, because of the failure of the county court to appoint by entry of record. 91 Mo. 585.

Sec. 10822. Apportionment of public school fund.—The state superintendent of public schools shall, annually, before August 15th, apportion the public school fund applied for the benefit of the public schools among the different counties. This apportionment shall be made as follows: The state superintendent shall apportion, among the various counties, fifty dollars for each teacher, each principal, and each supervisor actually employed for the entire term: *Provided*, that any teacher employed for less than one-half of the day shall not be counted; any teacher employed for less than one-half of the term for which school is maintained in the district shall not be counted; for each teacher employed for more than one-half of the school term of the district and less than nine-tenths of the school term, he shall apportion only twenty-five dollars: *Provided, also*, that he shall apportion only twenty-five dollars for the teacher of any district in which the average attendance during the year preceding the apportionment has been less than fifteen pupils per day: *Provided further*, that he shall apportion one hundred dollars for each teacher whose salary is one thousand dollars or more per year: *Provided*, that he shall apportion fifty dollars for each teacher of any district that employs only two teachers, one of whom is colored and one white: *Provided*, that no teacher, principal, or supervisor, who is not paid by the school board from the public funds of the district shall be counted. After these teacher apportionments have been deducted the remainder of the state school fund to be apportioned shall be divided by the total number of days' attendance of all the pupils of the public schools of the state and the quotient thus obtained shall be called a pupil daily apportionment. The amount apportioned to each district shall be determined by multiplying this pupil daily apportionment by the total number of days' attendance of all pupils of each district: *Provided*, that the days' attendance on legal holidays and on days when the school is dismissed by order of the board to permit teachers to attend teachers' meetings shall be determined by counting as present each pupil who was present on the last day the school was in session before such intermission. The clerk of each school district shall make a report to the county clerk between

June 15th and June 30th of each year, showing the number of teachers employed, the total number of days' attendance of all pupils, the length of the school term, the average attendance, the number of days taught by each teacher, the salary of each teacher, and any other information that the state superintendent may require. The aforesaid report shall be sworn to before a notary public or the county clerk. The county clerk shall make a summary of all these reports and forward to the state superintendent of public schools, on or before July 15th, a report showing the total number of teachers employed in the county and the total number of days' attendance of all pupils in the county, the number of teachers employed for the full term, and the number for half terms, and the number whose salary is one thousand dollars or more per year, and such other information as the state superintendent may require. Any district clerk, county clerk, or teacher, who shall knowingly furnish any false information in such reports, or neglect or refuse to make aforesaid report shall be deemed guilty of a misdemeanor and punishable by a fine not exceeding five hundred dollars or imprisonment in the county jail for a term not exceeding six months or by both such fine and imprisonment. The state superintendent of public schools shall certify the amount so apportioned to the state auditor, also to the county clerk of each county, stating from what source the same is derived, which said sum the several county treasurers shall retain in their respective county treasuries from the state fund; the county clerks shall annually before September first, according to the same provisions hereinbefore stated, for determining the apportionment of the state school fund by the state superintendent of public schools proceed to apportion the state school fund for their respective counties; and no district, city, or town which shall have failed to make this report to the county clerk hereinbefore required, shall be entitled to receive any portion of the public school funds; and in making such distribution, each county clerk shall apportion all moneys collected on tax duplicate of any district, for the use of schools to such district, all moneys received from the state treasurer, and all moneys on account of interest of the funds accruing from the sale of section sixteen, or other lands in lieu thereof to the district schools in the congressional townships, and parts of congressional townships to which said land belonged, and all other moneys for the use of schools in the county, and not otherwise apportioned by law, to the proper district: *Provided*, that all school moneys for the use of schools in any townships or parts of townships and all moneys for the use of schools in any county shall be apportioned upon the last enumeration on file in the office of the county clerk, except the state school funds, which shall be apportioned as hereinbefore provided; and he shall immediately after making such apportionment enter the same in a book to be kept for that purpose, and shall furnish the district clerks, and those of

cities and villages, as the case may be, each a copy of said apportionment, and order the county treasurer to place such amount to the credit of the district, city or town entitled to receive the same: *Provided*, that no school district which fails to levy a tax of forty cents on the one hundred dollars' assessed valuation, unless the assessment of a less amount, together with the moneys received from the public funds, shall amount to three hundred and fifty dollars for school purposes, shall receive any part of the public school moneys for the ensuing school year, and the county clerk shall omit such districts in the apportionment of the public moneys: *Provided further*, that no district, city or town that shall have failed to afford the children thereof the privileges of a free school for at least eight months during the year ending the 30th day of June previous to the said distribution, provided a tax of forty cents on the one hundred dollars' assessed valuation, together with the public funds, will maintain the same, shall be entitled to any portion of the public school fund for that year. This act shall take effect and be in force on and after the first day of September, 1911. (Session Acts, 1911.)

Note that a district that does not levy a tax of forty cents on the one hundred dollars is not entitled to any part of the public funds unless a smaller levy with the public funds will produce \$350. The cash on hand is not to be counted as a part of the \$350.

A one-room (one teacher) country school must be reported as employing one teacher. Although two, three or more different persons may be employed by the board during the year, yet only one teacher is employed at a given time, and the district employs only one teacher. Or in other words, "one teacher" means "one teaching position."

A two-room (two teacher) or "two teaching position" school must be reported as employing two teachers, even though more than two different persons have been employed in getting the work of two teachers done. Likewise, for a three-teacher school, a four-teacher school, etc.

No person who is not a legally qualified public school teacher can be counted.

The school law recognizes but one term of school during each year. Though the term be divided, it is still one (legal) term of school.

Sec. 10823. Correction of error in apportionment—distribution of funds.—The state superintendent of public schools is hereby authorized to correct any error made in the apportionment of the public school funds among the various counties of this state out of the public school fund of the year next following the date when such mistake was made, and the amount set apart to any county for the purpose of correcting an error shall be by him certified to the state auditor and to the county clerk, and the state auditor shall draw a warrant on the state treasurer for the amount so certified in favor of the treasurer of said county, and the county clerk shall apportion said funds to the various districts in said county as the funds of the year in which said error occurred, and the county treasurer may pay outstanding warrants for teachers' wages issued during the school year in which said error occurred,

not to exceed the correction made. (R. S. 1899, § 9841, amended, L. 1909, p. 770.)

Sec. 10824. Distribution of funds when township lies in two counties.—Whenever any congressional township shall lie in two or more counties, the township school fund of such township shall be divided among the aforesaid counties in proportion to the amount of territory in the fractional township included in each county, as follows: The county court of the county in which section sixteen is located shall, upon a requisition of the county clerk of any county containing a fractional part of such township, issue an order transferring the amount due such county under this section into the care, keeping and custody of the county court thereof; and said fund shall be loaned, and the income derived therefrom shall be apportioned, annually, to such fractional township as though it were an entire township; and the township funds of all entire townships and all fractional townships included within the limits of any county in this state shall be handled and controlled by the proper officers of such county, as set forth in this chapter. The provisions of this section shall not apply to any congressional township intersected by the Missouri river. (R. S. 1899, § 9843, re-enacted, L. 1909, p. 770.)

Sec. 10825. Duties of county clerk—assessment of estimates. On receipt of the estimates of the various districts, the county clerk shall proceed to assess the amount so returned on all taxable property, real and personal, in said district, as shown by the last annual assessment for state and county purposes, including all statements of merchants in each district of the amount of goods, wares and merchandise owned by them, and taxable for state and county purposes: *Provided*, that the levy thus extended shall not exceed in any one year as follows: For building purposes, one per centum in town school districts, and not more than sixty-five cents on the one hundred dollars in other districts; for school purposes, one per centum in town school districts, and not more than sixty-five cents on the one hundred dollars in other districts; for sinking fund, forty cents on the one hundred dollars' valuation, and a sufficient amount to pay interest on bonded indebtedness; all of which shall be extended by the county clerk upon the general tax books of the county for said year in separate columns arranged for that purpose; and the county clerks shall list the names of all persons owning any personal property who do not reside in any school district, and the value thereof; also, list all lands and town lots in any territory not organized into a school district, and shall levy a tax of forty cents on the one hundred dollars' valuation on all such taxable property, said taxes to be collected as other taxes and distributed as provided in section 10822, and it shall be the duty of the county assessor in listing property to take the number of the school district in which said taxpayer resides at the time

of making his list, to be by him marked on said list, and also on the personal assessment book, in columns provided for that purpose. (R. S. 1899, § 9844, re-enacted, L. 1909, p. 770.)

County clerk may "assess" (levy and extend) taxes against property, but he cannot assess property omitted by assessor. *School Dist. v. Wickersham*, 34 A. 337. When new district is formed, clerk should not levy taxes for old district on property of such new district, even though new district has failed to adopt a plat thereof. *State ex rel. v. Burford*, 82 A. 343. When county clerk assessed personal property for school purposes in district where owner of such property does not reside, the collector cannot change the tax book nor correct the error. *State ex rel. v. Brown*, 172 Mo. 374. Such tax is illegal and cannot be collected. *State ex rel. v. Shepard*, 218 Mo. 656. When single man has farm in one district and temporarily lodges in another, his home is where his farm is located. Same case, 218 Mo. 656. The clerk cannot levy or extend school taxes on roadbed, rolling stock and movable property of railroad until such tax has been levied by county court, as provided in section 9364. *State ex rel. v. Ry.*, 135 Mo. 618.

County courts have no power to alter the assessment of taxes to build school-houses merely on the alleged ground that the schoolhouse was unnecessary; the decision of that question is left to the local directors, and that tribunal has no control over the county clerk in respect to the assessment and extension of school taxes. 52 Mo. 218; 67 Mo. 706.

A school estimate stating rate of levy, but omitting amounts of the several funds, is not illegal on that account. 126 Mo. 472.

The court will not compel a county clerk by *mandamus* to extend school taxes on property not lawfully subject thereto. 120 Mo. 67.

Sec. 10826. Compensation of county clerk for labor on tax books.—The county clerk shall receive as full compensation therefor ten cents for every hundred figures in school tax column on general tax book, to be paid by the county treasurer upon warrant issued by the county court. (R. S. 1899, § 9845, re-enacted, L. 1909, p. 770.)

Sec. 10827. Report of county clerk to state superintendent. The clerk of each and every county court shall, on or before the thirty-first day of July, annually, make out and transmit to the state superintendent of public schools, at Jefferson City, an abstract of all the returns of school districts, cities or towns in his county made to him according to the form that may be prescribed by the state superintendent; also, the amount of income of the school funds of said county, and amount realized from taxes collected therein. (R. S. 1899, § 9846, re-enacted, L. 1909, p. 770.)

The state superintendent is required to apportion the state school moneys in July; therefore, the enumeration should be forwarded not later than July 15th.

Sec. 10828. Collector's receipts and compensation.—It shall be the duty of the county clerk to take a receipt from the county collector for the school taxes by him placed on the general tax books; and the collector shall proceed to collect the same in like manner as the state and county taxes are or may be collected, and he shall receive, as full compensation for his services on the amount collected and paid over by him, the same per cent. as is allowed by law to collectors for collecting other taxes; and he shall pay over

monthly, to the county treasurer, all such taxes collected and take his receipt therefor. (R. S. 1899, § 9847, re-enacted, L. 1909, p. 770.)

Sec. 10829. Collections of delinquent taxes.—The collector shall, at the time of returning the land delinquent list for state and county taxes, return therewith all land school taxes herein provided for which shall remain unpaid, and when so returned, the same shall be a lien on such real estate, and be collected in the same manner that other delinquent taxes on land are collected; and when so collected, shall be paid over to the county treasurer as other school taxes. (R. S. 1899, § 9848, re-enacted, L. 1909, p. 770.)

Sec. 10830. County treasurers and their duties.—The county treasurer in each county shall be the custodian of all moneys for school purposes belonging to the different districts, until paid out on warrants duly issued by order of the board of directors or to the treasurer of some town, city or consolidated school district as authorized by this chapter, except in counties having adopted the township organization law, in which counties the township trustee shall be the custodian of all school moneys belonging to the township, and be subject to corresponding duties as the county treasurer; and said treasurer shall pay all orders heretofore legally drawn on township clerks, and not paid by such township clerks, out of the proper funds belonging to the various districts; and on his election, before entering upon the duties of his office, he shall give a separate bond, with sufficient security, in double the probable amount of school moneys that shall come into his hands, payable to the state of Missouri, to be approved by the county court, conditioned for the faithful disbursement, according to law, of all such moneys as shall from time to time come into his hands; and on the forfeiture of such bond it shall be the duty of the county clerk to collect the same for the use of the schools in the various districts. If such county clerk shall neglect or refuse to prosecute, then any freeholder may cause prosecution to be instituted. It shall be the duty of the county court in no case to permit the county treasurer to have in his possession, at any one time, an amount of school moneys over one-half the amount of the security available in the bond; and the county treasurer shall be allowed such compensation for his services as the county court may deem advisable, not to exceed one-half of one per cent. of all school moneys disbursed by him, and to be paid out of the county treasury. (R. S. 1899, § 9849, amended, L. 1909, p. 770.)

A treasurer's bond under this section, which in general terms requires him to faithfully disburse all funds which come into his hands, binds him to safely keep and disburse all kinds of school moneys which he may receive, and he cannot receive credit from a district for warrants paid in excess of the moneys received for such district. *State ex rel. v. Cook*, 72 Mo. 496. But when bond only obligates him to receive and disburse "school funds of — county," this does not make his sureties liable for district school funds received by him and paid out on a forged warrant. *State ex rel.*

v. Weeks, 92 Mo. 359. This section does not fix the compensation of treasurer at one-half of one per cent. He is entitled only to that amount or such part thereof as the county court may deem advisable, and he cannot recover for services in handling school moneys unless the court has made an order fixing the amount he shall receive. *Sanderson v. County*, 195 Mo. 598.

Sec. 10831. Settlement of county or township treasurer.—The county or township treasurer shall, semi-annually, settle his accounts with the county court at its first and third regular terms in each year, being the regular February and August terms of said court; and at the end of his term, or if he resign or be removed from office, he, or if he die, his executor or administrator, shall, within twenty days, settle with the county court, and if there be no term, or the court be not in session, the presiding judge shall call a special term to make such settlement. The said treasurer shall account for all school moneys or funds of any and all kinds received by him, from whom and on what account, and the particular fund to which each of said funds were entered and charged, and the amount paid out for school purposes to the various districts of the county, and for any and all other purposes. The county court shall examine the vouchers, receipts, orders, and warrants upon which each of such payments were made, and if satisfied that said payments are just and correct, shall make an order attesting the same, which order shall be entered of record and shall be *prima facie* a discharge of the liability of said treasurer. The said treasurer shall, within five days after his final settlement, or at the expiration of his term of office, turn over to his successor in office all moneys, funds, records, papers, furniture and fixtures belonging to said office, and take his receipt therefor, and within five days file a duplicate of said receipt with the clerk of the county court of said county. The said county or township treasurer shall, on the 25th day of March and the first Monday in October of each year, deliver or mail to the clerk of each school district in the county or township an accurate and detailed statement, showing the actual amount of cash on hand to the credit of each of the district funds; and the statement made in October, as herein provided, shall show the amount of cash on hand on the day of the approval of the last settlement made by the said treasurer with the county court, and shall be jointly made and signed by the said county treasurer and clerk of the county court, and shall be a full exhibit, showing the amount of public money, railroad taxes, and all other moneys on hand or due the district by taxation, the levies made, the assessed valuation of each of said districts for the year, and the balance on hand to the credit of each district fund. (Session Acts, 1911.)

The county treasurer's term of office begins January 1st. His semi-annual settlements should be based on the showing of his books on January 1st and July 1st. The settlement may not be made with the court until the August term, but it should be based on the balances shown by the treasurer's books at the close of business

June 30th. Likewise at the February term of the county court the report should show the balances at the close of business December 31st.

This will enable the county treasurer to base his settlements on conditions at the close of the school year and six months thereafter. It also makes it easy for him to report to the district clerks the condition of the finances of their districts on July 1st of each year.

Sec. 10832. Penalty for failure to make settlement.—In case the county or township treasurer shall fail to make such semi-annual settlement with the county court within the time prescribed in the preceding section, he shall, in addition to the sum remaining unaccounted for, forfeit the sum of five hundred dollars, to be recovered in a civil action, in the name of the state of Missouri, and when collected, to be applied to the use of public schools in such county; and it is hereby made the duty of the county clerk to proceed forthwith, in case of such failure, by suit, against such treasurer, before any proper tribunal, to recover the penalty aforesaid; but when it appears on trial, to the satisfaction of said court, that said treasurer was prevented from making such settlement within the time by sickness or unavoidable absence from home, it shall be the duty of the court to direct a verdict for such treasurer on his paying the costs. (R. S. 1899, § 9851, amended, L. 1909, p. 770.)

Sec. 10833. Title of property.—The title of all schoolhouse sites and other school property shall be vested in the district in which the same may be located; and all property leased or rented for school purposes shall be wholly under the control of the board of directors during such time; but no board shall lease or rent any building for school purposes while the district schoolhouse is unoccupied, and no schoolhouse or school site shall be abandoned or sold until another site and house are provided for such school district. (R. S. 1899, § 9852, amended, L. 1909, p. 770.)

NEW SECTIONS—NEW SCHOOL DISTRICTS.

Section 1. Notice of proposed organization.—In any county in this state containing seventy-five thousand population and adjoining a city having over five hundred thousand inhabitants whenever territory is annexed to an incorporated town or city for school purposes the adult taxpayers residing outside of the corporate limits of the town or city and in the school district thereof may, after giving thirty days notice by publication in a newspaper published in said district and by at least twenty-five printed handbills posted in the school district, describing the proposed new district boundaries and naming the time and place of meeting, meet and organize a school district for the territory outside of the corporate limits of the town or city located in such school district, and at the meeting so called a chairman and secretary shall be elected who shall keep a record of the proceedings at said meeting. An accurate descrip-

tion of the boundaries of the new district shall be spread upon the record of the meeting and preserved.

Sec. 2. Organization of new district.—If when the meeting above provided for convenes a majority of the qualified voters residing in such territory proposed to be organized into a school district vote for the organization of such district and for the approval of a plat defining the boundaries thereof, then the chairman of said meeting shall cause the result thereof to be spread upon the records of the meeting and shall declare the district organized.

Sec. 3. Directors, election of.—After the district shall have been declared organized the qualified voters present residing in said territory so organized as a school district shall proceed to elect three directors who shall serve until the next annual school meeting to be held on the first Tuesday of April of each year as provided by statute. At the first annual meeting so held three directors shall be elected who shall serve respectively one year, two years, and three years, and the term shall be fixed according to the number of votes each receives; the one receiving the highest number of votes shall hold three years, the next highest, two years, and the one receiving the third highest vote shall hold office for one year, and if any two or more having the highest number of votes tie, the secretary of the meeting shall cast a ballot deciding which term the respective candidates so tied shall receive.

Sec. 4. Division of property and valuation thereof when new district is formed.—All the provisions of law now in force with reference to the division of property and the valuation thereof when a new district is created shall apply to districts formed under this act.

Sec. 5. Powers and duties of officers.—Existing provisions of the statutes when applicable shall apply to districts created under this act. The directors and officers of school districts formed under this act shall have the same power, perform the same duties, and have the same responsibilities and liabilities as are now provided or as may hereafter be provided by the general school laws of the state; and all the existing and future school laws of the state shall so far as the same now are applicable are hereby made to apply to the districts and the officers thereof created under the provisions of this act.

Sec. 6. Emergency.—As the annual school meetings occur in April, 1913, and as new districts should hold their annual meetings at the regular time provided by law, an emergency is declared to exist within the meaning of the Constitution and therefore this act shall be in force and effect from and after its passage and approval by the governor.

ARTICLE III.

LAWS APPLICABLE TO COMMON SCHOOLS.

SECTION

- 10834. Renumbering of school districts—corporate powers.
- 10835. Rights not affected by renumbering—succession to powers.
- 10836. Incorporation of unorganized territory.
- 10837. Formation of new districts.
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SECTION

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Sec. 10834. Renumbering of school districts—corporate powers.—It shall be the duty of the county court of each county in this state, at the February, 1910, term thereof, to renumber all the common school districts in their respective counties, numbering them numerically instead of by township and range, as they are now known and designated. Such renumbering shall begin as near as may be at the northeast corner of each county and run first west through the entire county and thence east, and so on in the same general order that sections of land are numbered in congressional townships. Such renumbering shall be entered of record by such county court and may be in the following form:

The common school districts of — county are hereby renumbered and designated as follows: District — of township —, range —, shall hereafter be known as school district one; and so on until all of the districts in the county have been numbered.

Such county courts shall cause to be published once in one or more newspapers of their respective counties during the month of February, 1910, a certified copy of the order so made changing the numbers of school districts, and the county clerk shall prepare and mail to the clerk of each of such school districts of his county a printed copy of such order, for which he shall be allowed a fee of ten cents for each clerk thus notified, and the change of numbers so made by such court shall take effect and be in force from and

after the first day of March, 1910. Such districts shall be bodies corporate under the numbers and designation thus given them by the county courts, and shall by such numbers and designation be capable of suing and being sued; of holding such real and personal property as may at any time be either donated or purchased in accordance with the laws of this state, or of which they may be rightfully possessed at the time of the passage of this law, and shall also have the power of selling such property as hereinafter provided. (R. S. 1899, § 9739, amended, L. 1909, p. 770.)

In bringing suit for school district, its corporate existence need not be pleaded, as courts take judicial notice of its power to sue. *School Dist. v. Holmes*, 53 A. 487. A contract which does not correctly designate the district is invalid. *Globe F. Co. v. District*, 51 A. 549. *Certiorari* is not an appropriate remedy to test the corporate existence of a school district. *School District v. Pace*, 113 A. 134. *Quo warranto* is the proper remedy by which the corporate existence of a school district may be attacked. *Black v. Early*, 208 Mo. 281. In suits against school districts, the summons should be served on president of the school board. *Carr v. District*, 42 A. 154. If a taxpayer permits a school district irregularly organized to levy and collect taxes, and carry on school for several years, he is estopped from denying the legality of its organization, particularly in the collateral action of *mandamus*. *State ex rel. v. Miller*, 113 Mo. 665.

Sec. 10835. Rights not affected by renumbering—succession to powers.—Each of the school districts, when so renumbered as provided in the preceding section, shall succeed to and receive, by operation of this statute, the full, legal and equitable title to all property of every description, and to all rights, powers, duties and obligations possessed by their several predecessors, and the citizens living in such districts so renumbered shall have and retain all the rights and privileges of the former districts; and the directors, officers, teachers and other employes of the several districts, as they now exist, or may exist on March 1st, 1910, shall continue to hold office and perform their several duties under the number and designation given their respective districts by the county courts, and shall receive the same compensation for their services as if no such change of name had taken place. Common school districts created after the first day of March, 1910, shall receive a number by the county courts of the counties in which they are situated, which number shall be a continuation of the numbers given to the other districts, as herein provided. After the common school districts of this state have been renumbered in 1910, as above provided, they shall not be renumbered oftener than once in every ten years. (R. S. 1899, § 9739, amended, L. 1909, p. 770.)

See cases cited under section 10834.

Sec. 10836. Incorporation of unorganized territory.—Whenever there shall be in this state any territory not organized into a common school district, and containing within its limits twenty or more pupils of school age, three or more taxpayers of such territory may call a meeting of the qualified voters of such unorgan-

ized territory, or such part thereof as they desire to organize into a school district, by first giving fifteen days' notice of the time, place, purpose of the meeting and boundary lines of the territory proposed to be organized. The qualified voters, when assembled, may organize such territory into a school district, a majority of the qualified voters residing in such territory proposed to be organized into a school district voting therefor, who shall approve of a plat defining the boundaries thereof, and elect three directors, who shall serve until the next annual meeting, when one director shall be elected to serve for one year, one director for two years and one director for three years—said directors to serve until their successors are duly elected and qualified: *Provided*, that any territory not organized into a school district, and containing less than twenty pupils of school age, may be attached to an adjoining district, upon petition by the qualified voters of such unorganized territory, or such part thereof as may wish to be attached to such adjoining district, directed to the board of directors of such adjoining district; and it shall be the duty of such board, on receipt of the petition, to meet forthwith and consider same, and if a majority of the board are in favor thereof, such territory shall become a part of such district. (R. S. 1899, § 9740, re-enacted, L. 1909, p. 770.)

To organize new districts under this section, the notice must be signed by three taxpayers residing in the territory to be organized, and posted fifteen days before the meeting. *Berryman v. Bethune*, 89 Mo. 158. A district cannot legally detach or vote out a part of its territory except on petition and notice as required by law, and another district cannot attach territory until the same has been detached from the district in which it was once legally included. *State ex rel. v. Hill*, 152 Mo. 235.

See, also, cases cited under section 10837.

Money apportioned prior to division of district does not follow new district. 90 Mo. 395. Posting of notices, condition precedent to the validity of such division. 54 A. 31; 94 Mo. 612.

The notice required by this section should be as explicit in its essential features as that required under the provisions of section 10837, which is commented on in full.

This section confers the right to call the first meeting for forming unorganized territory into a school district upon three taxpayers of the territory to be organized. These qualifications are jurisdictional.

Sec. 10837. Formation of new districts.—When it is deemed necessary to form a new district, to be composed of two or more entire districts, or parts of two or more districts, to divide one district to form two new districts from the territory therein, to divide one district and attach the territory thereof to adjoining districts, or to change the boundary lines of two or more districts, it shall be the duty of the district clerk of each district affected, upon the reception of a petition desiring such change, and signed by ten qualified voters residing in any district affected thereby, to post a notice of such desired change in at least five public places in each district interested fifteen days prior to the time of the annual meeting, or by notice for same length of time published in all the newspapers of the district; and the voters, when assembled, shall

decide such question by a majority vote of those who vote upon such proposition. If the assent to such change be given by the annual meetings of the various districts thus voting, or by the parts of the district to be divided, each part voting separately, the district or districts shall be deemed formed or the boundary thus changed from that date; but if one or more of the districts affected vote in favor of such change and one or more of such districts vote against such change, the matter may be referred to the county superintendent of public schools; and upon such appeal being filed with him, in writing, within five days after the annual meeting, he shall appoint four disinterested men, resident taxpayers of the county, who, together with himself, shall constitute a board of arbitration, whose duty it shall be to consider the necessity for such proposed change and render a decision thereon, which decision shall be final. When there is an equal division, the county superintendent shall cast the deciding vote. The superintendent shall, at the time of the appointment of these members of this board of arbitration, notify them to meet him at some convenient place in the county within fifteen days after annual school meeting, where the deliberations of the board shall take place and its decision be rendered. But in making such change the decision in all cases shall conform to the propositions contained in the notices and voted upon at the annual meeting; and the county superintendent shall, on or before the last day of April, transmit the decision to the clerks of the various districts interested, or to the clerk of the district divided, and said clerk or clerks shall enter the same upon the records of his or their respective district or districts; and the said board of arbitration shall be allowed a fee of fifteen dollars, to be paid by the district or districts taking the appeal at the time said appeal is made: *Provided, however*, that no new district shall be created or boundary line changed by which any district shall be formed containing within its limits by actual count less than twenty persons of school age, or by which any district shall be left containing within its limits by actual count less than twenty persons of school age: *Provided, however*, the resident voters upon any island in any of the navigable rivers of this state may organize into a school district without being subject to the restrictions in the preceding portion of this section. It is further provided that, in changing the boundary line between the two established districts, one district shall not encroach upon the other simply for the acquisition of territory. At all elections to change boundaries, the votes of those parties residing in the territory sought to be attached to or detached from a district shall be separately cast and separately counted by the parties or officers holding such election: *Provided further*, that if in any school district or districts of the state a stream of running water shall in any way interfere with the convenient access of school children to the schoolhouse or houses of any such district or districts, then it shall be lawful to

create a new district, to be composed of two or more districts or parts of two or more districts, or of one entire district and parts of one or more districts, lying in whole or in part in two counties in the manner hereinbefore set out; and in the event of an appeal being taken, as herein provided, from the action of the school meetings on the proposed formation of such district, such appeal shall be taken to the county superintendents of the respective counties; and such superintendents shall thereupon be empowered to jointly appoint a board of arbitration, who shall thereupon act as hereinabove set out; and in the event of a tie vote, such superintendents shall select an additional member of such board of arbitration, whose decision shall be final; and such decision shall be transmitted to the clerks of the districts affected thereby. (R. S. 1899, § 9742, amended, L. 1909, p. 770.)

Petition for Change of Boundaries.—A petition, signed by ten qualified voters, must be filed with district clerk before he can legally post notices of an election to change boundaries. *School Dist. v. Pace*, 113 A. 134. When the proposed change affects two or more districts, the law does not require ten petitioners from each district, but such petitioners may all reside in one district, or part of them may reside in one and remainder in another, to be affected by the change, and separate copies of the petition should be signed and delivered to clerk of each district to which the proposition is to be submitted. *State ex rel. v. Job*, 205 Mo. 1. Propositions to change boundaries or to organize a new district can only be submitted at annual meeting, and then only upon petition and notice as required by this section. *State ex rel. v. Hill*, 152 Mo. 234. If petition fails to recite the precise change of boundaries intended, the election based thereon will be invalid. *School District v. Dist.*, 94 Mo. 612. When boundaries are described by section, township and range line, so that voters readily understand the full nature of change, the petition is sufficient. *State ex rel. v. Gibson*, 78 A. 170.

Notice of Election to Change Boundaries.—Unless the notices contain a description of the property sought to be detached from a district so that the voters can understand the question to be voted on, the election will be void. *School District v. Smith*, 90 A. 215; *School District v. Id.*, 94 Mo. 612. If the petition contain a proper description of the proposed change of boundaries and a copy of the petition be referred to in and attached to each notice, this is sufficient. *State ex rel. v. Eden*, 54 A. 31; *State ex rel. v. Job*, 205 Mo. 1. After posting notice of election, the board cannot cancel or withdraw same. *State ex rel. v. Gill*, 190 Mo. 79.

Appeal to Superintendent.—That part of this section which provides for the settlement of boundary disputes by the superintendent and a board of arbitration appointed by him is constitutional. *State v. Andrae*, 216 Mo. 617. Not necessary that the arbitrators or witnesses who appear before them should be sworn. *State ex rel. v. Job*, 205 Mo. 1. Not necessary for superintendent to keep a record of the proceedings of such board, but law requires its decision to be reduced to writing. *State v. Andrae*, 216 Mo. 617. The decision of the board of arbitrators should recite that it met to consider the appeal, and if it decide in favor of a change of boundaries, it should further recite that it found the change necessary and adjudged that the change be made. A mere decision that the board found in favor of the petitioners, without any recital that it ever met or found a change necessary, renders its proceedings void. *State ex rel. v. Denny*, 94 A. 559; *State ex inf. v. Cummins*, 114 Mo. 93; 163 A. 253. A valid election upon sufficient petition and notice is necessary in each district to be affected by the proposed change before such board has authority to consider such appeal. *School District v. Smith*, 90 Mo. 215. The board has no jurisdiction to consider an appeal, unless one of the districts affected has voted in favor of the change of boundaries and another against such change, and prohibition will lie to prevent a consideration of such appeal. *School District v. Burris*, 84 A. 654. The appeal must be taken in five days after the election, and the certificate of superintendent appointing the arbitrators must recite

that they are taxpayers; if it merely recites they are voters, the organization may be quashed by *certiorari*. State ex rel. v. Wilson, 99 A. 675. The superintendent and arbitrators can only decide the propositions which were submitted to the voters by petition and notice at the annual meetings, and if they decree a change of boundaries in a different manner than the plan voted upon, their acts are illegal, and *mandamus* will lie to compel the county court to extend taxes according to the boundaries as they existed before proposition was submitted. State ex rel. v. Riley, 85 Mo. 156; State ex rel. v. Patton, 108 A. 26; School District v. District, 94 Mo. 612. When there is a majority of all the votes cast in each district against the proposed change of boundaries, no right of appeal exists. State ex rel. v. Stone, 152 Mo. 202. When the requirements of the law are fully complied with, the decision of the board of arbitrators is final and cannot be set aside by any court. State ex rel. v. Gibson, 78 A. 170; State ex rel. v. Burford, 82 A. 343. In the absence of proof to the contrary, it will be presumed that the appeal was taken within the five days allowed by law. State ex rel. v. Andrae, 216 Mo. 617. As amended in 1909, this section does not authorize an appeal by the voters who petitioned for the change of boundaries, unless one district has voted in favor of such proposition. *Quo warranto* is the proper remedy to dissolve a district which has not been legally organized. School District v. Pace, 113 A. 134; Black v. Early, 208 Mo. 281; 161 A. 107.

General Provisions.—The consolidation of two or more entire districts into one does not make it a town school district. School District v. Wallace, 75 A. 317. Three districts may, by election, so change their boundaries as to entirely dissolve one district and add its territory to the others. Meyers v. District, 96 A. 48; State v. Hill, 152 Mo. 234. When a district is dissolved and its territory added to other districts, such districts receiving part of such territory become liable for its entire debts, but when one district has paid more than its proper share of such debts, it may recover excess from other districts which also received part of the territory of the disorganized district. Hughes v. District, 72 Mo. 643.

Directors must decide whether petitioners are qualified voters. 84 Mo. 90. Board of arbitration cannot change boundary otherwise than as proposed in the election. 85 Mo. 156; 70 A. 238. Statute construed. 48 A. 560. New school districts may be formed, how. 75 A. 317.

When it is desired to form a new district by division or consolidation, or to change the boundary lines of two or more districts, the first step is the preparation of a petition clearly setting forth the change desired, which petition must be signed by at least ten qualified voters "residing in any district affected thereby." It is not necessary that the voters all reside in the same district—part may reside in each district, but every signer must reside in some one of the districts affected by the proposed change. As many petitions should be prepared (all alike) as there are districts affected, and one petition be presented to the clerk of each district affected. The law makes it the duty of the clerk, without any action of the board of directors, upon receipt of the petition to post a notice in at least five public places in the district of which he is clerk, fifteen days prior to the time of the annual meeting. A failure to do this subjects the clerk to a fine not exceeding one hundred dollars. Sec. 10802.

The statutory notice prescribed by this section is mandatory and jurisdictional, and a division of school districts made at an annual meeting not within the scope of an antecedent notice given for the time, and at the places and in the manner fixed by law, is void. The notices must necessarily be as comprehensive as the proposition to be voted on, and must inform the voter what change it is proposed to make in the boundaries of his district. Unless the notice is such as to give this information, it is no notice at all. It is not sufficient that the voters be notified that at the annual meeting they will be called upon to vote upon the question whether or not a new district shall be formed, and a change made in the boundary lines of the old districts; they must be notified of *the* change proposed, of what territory the new district is to be composed, of what change is to be made in the boundaries of the old ones. The notice is sufficient if signed by the district clerk. 54 A. 31.

There are four different propositions: (a) To form a new district composed of two or more entire districts; (b) to form a new district composed of parts of two or

more districts; (c) to change boundary lines; (d) to divide one district to form two new districts. In the first three cases the districts vote as wholes. In the last case each part votes on the proposition separately. If the proposition carries in all the districts and parts affected, the division takes place at once. If the proposition is carried in one or more of the districts or parts affected, and is defeated in the others, the matter may be appealed to the county superintendent. The appeal may be taken by a board of directors acting officially, or it may be taken by one or more of the petitioners acting for all. The superintendent alone cannot consider an appeal. He must appoint a *board of arbitration* consisting of four taxpayers who live in the county, but not in any one of the districts affected by the proposed change. This board of arbitration must meet at time and place fixed by the county superintendent within fifteen days after the annual meeting (Wednesday of second week after annual meeting is last day for such hearing). The superintendent is *ex officio* chairman of this board, but has no vote except in case of a tie in the vote of the other four members. This board is allowed a fee of fifteen dollars (three dollars each) for every case appealed, which fee must be paid by the district or persons taking the appeal.

One board may be appointed to consider all appealed cases in the county in any one year, and this board could be called to meet at county seat on second Monday after annual meeting, thus giving themselves three days to consider all such cases. The appeal must be filed, in writing, with the county superintendent, within five days after the annual meeting. The first Monday after the annual meeting is the last day upon which the appeal can be filed. 99 A. 559. If filed after that day, the action of the superintendent thereon would be null and void.

The proposition voted on must specify the boundaries of the districts as sought to be changed or established. The notices must also specify the changes proposed in the school district boundaries, and are sufficient if signed by the district clerk. The county superintendent cannot go beyond the proposition voted on and establish boundaries different from those specified in the proposition. 94 Mo. 612; 89 Mo. 23. When a person by his laches cannot complain that a school district was never legally organized. 90 Mo. 683. When the county superintendent has acted, whether with or without jurisdiction, *mandamus* cannot be invoked for the purpose of reversing his decision. 84 Mo. 90. *Quo warranto* will lie on behalf of the state to determine the right of individuals to exercise the office of school directors. 84 Mo. 198. Sufficiency of notice. 54 A. 31.

Board of arbitration has no jurisdiction to hear an appeal as to formation of a new district unless the question of the proposed change in the district has first been voted on at the annual meetings of all the districts involved. 84 A. 654.

Arbitrators or witnesses not required to be sworn. 187 Mo. 409.

The action of the board of arbitration in determining the formation of a new school district is judicial, and may be restrained by prohibition. 84 A. 654; 64 A. 313.

FORM OF PETITION FOR CHANGE OF BOUNDARY.

To the district clerk:

We, the undersigned, qualified voters (ten or more) of district No. —, county of —, state of Missouri, desire the following changes in district boundary lines: — and hereby petition you "to post a notice of such desired change in at least five public places in each district interested, fifteen days prior to the time of the annual meeting."

(Signed by ten or more qualified voters residing in any territory affected by the proposed change.)

Sec. 10838. Preceding section to apply to what districts. The provisions of section 10837 shall apply to all districts of this state organized under special charter, or under and by virtue of any special law of the state of Missouri organizing or incorporating such school district, excepting such school districts formed from territory composed of land granted to any city, town or vil-

lage by virtue of any act of congress confirming to said city, town or village said grants of land, and excepting school districts formed of or contained in cities and towns containing one hundred thousand inhabitants or over. (R. S. 1899, § 9743, re-enacted, L. 1909, p. 770.)

Sec. 10839. Division of property when new district created. Whenever a new school district is or shall hereafter be formed which shall include within its limits territory upon which taxes have been collected to erect or aid in the erection of a schoolhouse, or if there be an accumulation of cash or other property from taxes collected in the territory from which such new district has been or hereafter may be formed, it shall be the duty of such districts, through their respective boards of directors, at a joint meeting to be held at the schoolhouse of the old district, to ascertain what are the rights and interest of such new district in the property and cash on hand of the old district or districts from which such new district was formed, and to agree upon a sum to be paid to such new district therefor. The directors of either district may call such meeting by giving the directors of the other district fifteen days' notice in writing. The rights of the several districts may be ascertained by computing the taxes which have been levied and collected on the property in each district, and the value of such schoolhouse or other school property at the time the new district is formed, but this method shall not exclude or prevent other methods of ascertaining the true value of the interest of such newly formed district in or to the property of the district or districts of which it was formerly a part: *Provided*, that if the persons who have petitioned for the organization of such new district shall have inserted in their petition or notice of election an offer to waive all claims upon the property or cash of the district or districts from which they sought to be detached, then such newly formed district shall have no right to or claim upon the money or property of the district or districts from which it was detached. (R. S. 1899, § 9744, amended, L. 1909, p. 770.)

If petitioners for a new school district offer to release all claims to property of old districts out of which new one is to be formed, the proposition must be recited in all the notices of election, otherwise the election will be void as to such proposition. *School District v. Neal*, 74 A. 553. This section has no application to a change of boundaries between two old districts. *School District v. District*, 94 Mo. 612. When a tax is levied it must be collected and paid into treasury to the credit of the particular district for which it was levied, and any claim to such taxes by a district thereafter organized must be settled under the provisions of section 10840. *Rice v. McClelland*, 58 Mo. 116.

When a new district is formed, tax to erect a schoolhouse must be levied upon the whole of the organized district. 80 Mo. 190. New district cannot maintain action for money in the hands of county treasurer. 18 A. 266.

Sec. 10840. Valuation of property to be divided.—If the boards of directors of the several districts cannot agree upon a settlement as provided in the foregoing section, then either dis-

trict may appeal to the county superintendent of public schools, who shall appoint four persons as a board of arbitration, as provided by section 10837, to ascertain and agree upon the amount, if anything, due from the old district or districts to the new district, and upon the filing of their award with the clerk of the old district or districts, such district or districts (as the case may be) shall owe the new district the full amount or amounts of such award. Whenever the amount of such indebtedness from the old district or districts is ascertained by the boards of directors, or by the award of arbitration or otherwise, the board of directors of such old district or districts shall pay to the new district the amount or amounts found to be due to it, and for the purpose of making such payment, the board of directors of such old district or districts shall, if necessary, cause a tax to be levied upon the property of their districts, and when the same is collected and paid over it shall constitute a building fund for such new district. (R. S. 1899, § 9745, amended, L. 1909, p. 770.)

A vote of the qualified voters upon proposition to withdraw from that part of the district lying outside of their own county was ineffectual to divide such district when no vote was taken to unite an adjoining, or form a separate, district. 78 Mo. 80.

Sec. 10841. Assessment of building fund.—The amount levied by the new district for building purposes, where either or all of the parts of which it is composed have received their proportion of the property of the old district, shall be divided proportionately; and those amounts, less the amounts thus received, shall be assessed and collected from the property included in the limits of the respective portions. (R. S. 1899, § 9746, re-enacted, L. 1909, p. 770.)

This section has no application to a mere change of boundaries between two established districts. *School District v. District*, 94 Mo. 612.

The raising of a building fund, in case of a formation of the new district, has no application where the boundary lines are changed. 94 Mo. 612.

Sec. 10842. Division of districts lying in two or more counties.—Whenever any school district in this state shall lie partly in two counties, and a majority of the qualified voters in that portion of said district lying in any one of such counties shall desire to divide such district by county lines, they may hold an election for that purpose in that part of the district where they reside by giving fifteen days' notice of the time and place of holding such election by five handbills, signed by such qualified voters, and posted up in five public places in such district. Such election shall be held in the same manner as in newly created districts, and if a majority of the votes cast at such election be in favor of dividing such district on county lines, then such district shall be deemed so divided, and the persons acting as chairman and secretary of such meeting shall certify the result of such election to the clerks of the county courts of both the counties in which said district was orig-

inally situated. From and after the division of such district as herein mentioned each part thereof shall be a separate school district with all the powers of other districts, and may choose directors as in newly formed districts, and may continue as separate districts or be annexed by or to other districts in the counties where they are severally situated in the manner now provided by law, or by a petition of all the qualified voters of such new district, and the consent of the board of directors of the district or districts to which they desire to be attached, at a meeting of such directors, held for that purpose. Each new district created by dividing a district originally lying partly in two counties, which shall at the time of such division have within its boundaries any school property or cash on hand, received or paid for partly by taxes levied on property situated in that part of the original district lying in another county, shall be required to settle with and account to such district lying in such other county for its just share of such school property, and cause to be paid to it the amount found to be due, which amount may be ascertained and paid under the provisions of sections 10839 and 10840. All taxes collected for any district, which has been divided under the provisions of this section, shall be paid to the successor or successors of such school district lying in the county where such taxes may be collected. Hereafter no new school district shall be formed of territory lying in two counties, except where the portion of a district sought to be joined across the county line is cut off from the district or districts in the same county by a running stream, which can not easily be crossed by children attending said school; *and provided*, that districts or parts of districts lying in another county but adjoining a district that contains a city, town or consolidated school district may become a part of said city, town or consolidated school district in the same manner as provided in section 10880. In all school districts divided by county lines it shall be the duty of the clerk of such school district to report to the clerk of each county in which such district is in part located the number of persons of school age residing in that part of said school district lying within the respective counties, together with the amount of money necessary to maintain the school, and such other funds as it is necessary to raise by taxation in the same manner as is provided in districts not so divided. And it shall be the duty of the county court and county clerk of each county in which such district is located to apportion to said district such part of the public school funds as the enumeration of such parts of said districts shows it to be entitled, and all moneys collected for school purposes as taxes on property within such district shall be paid to said district, the same as if it lay entirely within one county. (R. S. 1899, § 9747, amended, L. 1909, p. 770.)

A town or city district lying partly in two counties cannot be divided under the provisions of this section, as it applies only to common schools. *State ex rel. v. Fry,*

186 Mo. 198. It is not necessary that the new district created by dividing a district lying partly in two counties should have the number of pupils and taxable property required of other new districts. State ex rel. v. Patton, 79 A. 164.

School districts lying in two or more counties, how divided. 78 Mo. 80.

While this section authorizes a majority of the legal voters in a fractional part of a district divided by a county line to at any time withdraw from the district and either form a new district or become attached to a district in their own county, there are good reasons why such division should take place only at the annual meeting, or within thirty days thereafter. The estimate, enumeration list, and list of taxpayers are furnished the county clerk in May, and all changes of boundary line should take place before this is done. This does not apply to districts organized under article II, relating to city and town schools.

Note that no new district can be legally formed that will be divided by a county line except where the portion sought to be joined across the county line is cut off from the district in the same county by a running stream which cannot easily be crossed by children attending the school. This provision also applies to changes of boundary line. There can be no appeal to the county superintendent upon the question of joining territory to districts across a county line.

Sec. 10843. First meeting of newly created districts.—It shall be the duty of the voters resident in the territory embraced within the limits of the newly created district to assemble at some central point within said district within fifteen days after the formation thereof—such point to be designated by notices posted in at least five public places in said district, or by notices published for the same length of time in all the newspapers published in such district, and signed by two of the resident freeholders therein; and such meeting, when assembled, shall be invested with the same powers and be conducted as prescribed for the first annual district meeting held under the provisions of this chapter: *Provided*, that the children in such newly created district shall have the right to attend school in their original districts until the thirtieth of June following. (R. S. 1899, § 9748, amended, L. 1909, p. 770.)

Unless the voters of a new district meet and organize within fifteen days after they are voted out of the old districts, the organization of the new district will be void. School District v. Wallace, 75 A. 317. But if an appeal be taken, the first meeting can be held within fifteen days after notice of decision of board of arbitrators, and a failure to adopt a plat of the district at first meeting does not render its acts invalid. State ex rel. v. Burford, 82 A. 343. Such first meeting held upon due notice has all the powers of an annual meeting, and may vote a tax for building purposes as well as to hire teachers. State ex rel. v. Edwards, 151 Mo. 473.

Note.—This section does not specify for what length of time notice shall be given of first meeting in newly formed districts, but as such meeting must be held *within* fifteen days after the annual meetings, it would only be possible to give fifteen days' notice thereof by posting such notices on the day of the annual meetings, designating the fifteenth day after the annual meetings as the date for such first meeting. If an appeal be granted, the notice for such first meeting should be given as soon as notice of the decision of the board of arbitrators is received.

Notice for a first meeting in each of the new districts should be posted according to the provision of this section. 54 A. 31.

Upon complying with section 10837, the new district or districts "shall be deemed formed." It will therefore be observed that failure to do the things provided in this section after the formation of the district would not work a forfeiture of its organization. While the provisions of this section must be complied with, yet the fifteen days' time given therefor is merely declaratory.

It is not a condition to the validity of the division of a school district that notice for a first meeting in each of the new districts should be posted in accordance with the provisions of section 10843 of the Revised Statutes. The corporate existence of the new districts dates from the meeting whereat they were substituted for the old district. 54 A. 31.

The notices of this meeting need not be posted "fifteen days before the meeting" as notices of all other school meetings must. In fact, they cannot be posted for such time, as the meeting must be held "within fifteen days after the formation" of the district. It is unquestionably the intention of the law to make this exception, although the phrase "for the same length of time" used in reference to the time of publication in newspapers is ambiguous.

Sec. 10844. Annual meeting.—The annual meeting of each school district shall be held on the first Tuesday in April of each year, at the district schoolhouse, commencing at 2 o'clock p. m. If no schoolhouse is located within the district, the place of meeting shall be designated by notices, posted in five public places within the district fifteen days previous to such annual meeting, or by notice for same length of time in all the newspapers published in the district, giving the time, place and purposes of such meeting. (R. S. 1899, § 9749, amended, L. 1909, p. 770.)

Chairman of meeting not subject to criminal law for rejecting vote of applicant for suffrage. 19 A. 210.

The law fixes the time of the annual meeting on the first Tuesday in April in each year at 2 o'clock p. m. All residents of the district are expected to take notice of this fact. Those who are present at the hour named, and authorized to participate in the deliberations, may organize the meeting and proceed with the order of business specified in section 10845. Each item of the order of business may be taken up and disposed of, and those who arrive later have no right to complain that they were deprived of their right to take part in the business disposed of before their arrival.

Sec. 10845. Powers of the annual meeting.—The qualified voters assembled at the annual meeting, when not otherwise provided, shall have power by a majority of the votes cast:

First—To organize by the election of a chairman and a secretary, who shall keep an accurate record of the proceedings of the meeting, which, when duly approved and attested by the signature of the chairman, the clerk shall enter upon the record of the district.

Second—To choose, by ballot, one director, who shall hold his office for the term of three years and until his successor is elected and qualified.

Third—To fill vacancies, if any, caused by death, resignation, refusal to serve, repeated neglect of duty or removal from the district; and the persons thus elected shall hold their office for the unexpired term and until their successors are elected and qualified.

Fourth—To determine, by ballot, the length of school term in excess of eight months that the public schools of the district shall be maintained for the next scholastic year; also, to determine the rate, if any, in excess of forty cents on the one hundred dollars' assessed valuation to be levied for school purposes, as provided for in section 10796.

Fifth—To determine, by majority vote, whether or not the schoolhouse of the district may be used during the ensuing year for religious, literary or other purposes, or for the meeting of farmer or labor organizations, secret or otherwise.

Sixth—To decide in favor of or against any proposed change of boundaries, notice of such change having been given in each and every district affected thereby in the manner provided by law.

Seventh—To direct the sale of any property belonging to the district but no longer required for the use thereof, to determine the disposition of the same and the application of the proceeds.

Eighth—To designate their choice, by ballot, for a person to fill the office of county superintendent of public schools.

Ninth—To determine, by ballot, the rate to be levied upon the one hundred dollars' assessed valuation necessary to purchase a site, erect a schoolhouse thereon and furnish the same, as provided for in section 10797.

Tenth—To determine, in districts newly formed, or wherein no schoolhouse site has yet been selected, the location thereof, notice having been given in the manner provided by law.

Eleventh—To change the location of schoolhouse site when the same for any cause is deemed necessary: *Provided*, that in every case a majority vote of the voters who are resident taxpayers of said district shall be necessary to remove a site nearer the center of said district; but in all cases to remove a site further from the center of said district, it shall require two-thirds of the legal voters who are resident taxpayers of such school district voting at such election. (R. S. 1899, § 9750, amended, L. 1909, p. 770.)

To increase the rate of taxation for school purposes above forty cents on the hundred dollars at a special meeting, the board must first determine the rate and then submit the proposition by notice, but at the annual meeting under the fourth power of the annual school meeting, the voters may increase the rate of levy for school purposes in excess of forty cents on the one hundred dollars' valuation without notice having been given that such vote would be taken. *Benton v. Scott*, 163 Mo. 373. An estimate calling for an increase of taxes for teachers and incidental funds, which, in the aggregate, exceed forty cents on the one hundred dollars' valuation, when such increase has not been sanctioned by a majority vote of the district, is not authorized, and taxes assessed on such estimates will be illegal as to such excess. *Kansas City, etc., v. Chapin*, 162 Mo. 409. To change the location of a schoolhouse site nearer the center of district only a majority of taxpayers present and voting in the election is necessary. *Richardson v. McReynolds*, 114 Mo. 641; *Tucker v. McKay*, 131 A. 723. Failure of district clerk to copy into his record the signature of the person who acted as chairman of the annual meeting does not render such record incompetent evidence of the proceedings of such meeting. *State ex rel. v. Eden*, 54 A. 31. The expense of moving a schoolhouse cannot be paid out of the incidental fund, but should be paid out of building fund. A proposition "to move schoolhouse to southeast corner of J. B. Whitney's place" held sufficiently definite to enable directors to determine where it should be moved. *Livesay v. Whitney*, 107 A. 475. The law does not designate the particular form in which minutes of the annual meeting shall be kept, and an entry that "next in order voted to move schoolhouse; carried," while incomplete, may be explained by parol evidence to show that the vote was by ballot, and that the necessary majority voted therefor. The removal of a schoolhouse pursuant to a vote of district cannot be enjoined because district has no funds to pay the expenses, if

responsible citizens of the district have obligated themselves to pay for such removal. *Tucker v. McKay*, 131 A. 728.

Note.—It seems that school boards may, by proper notice, submit to annual meetings propositions to change boundaries without a petition praying for such change, but this point has not been directly decided by appellate courts. *Mason v. Kennedy*, 89 Mo. 23.

The powers of the board of directors defined. 48 A. 408; 30 A. 641. The powers conferred on the voters have relation to the then existing school year. 27 A. 36.

Our supreme court has held that school districts are *quasi* corporations, the powers and duties of the corporators being limited and prescribed by statute. The corporators are the legal voters of the district, the directors being chosen by them. Certain powers and duties devolve by law exclusively upon the directors, and the incorporators cannot abridge or interfere with these powers and duties. In some districts the voters attempt to select the teacher by a vote. The right to select teachers belongs exclusively to the board, and a vote taken upon this proposition must be considered by the board as a recommendation only. It will be observed that unless otherwise provided by law, a proposition submitted to the annual meeting is determined by a majority of the votes cast. The chairman should not recognize a motion to adjourn until all the business for which the meeting was convened has been transacted. The law provides that the meeting shall convene at 2 o'clock p. m. Promptly at that time the legal voters may proceed to organize the meeting and take up the order of business specified in section 10845. When the business is completed, the meeting may adjourn, and voters who neglect to be present have no right to complain.

First. The meeting is organized by the election of a chairman and a secretary. These are temporary officers and must not be confounded with the president and clerk of the board of directors. The chairman presides during the meeting, putting all motions and announcing the result. The chairman is entitled to vote upon all propositions submitted. In case of a tie vote, the proposition or motion voted upon must be declared lost. The secretary keeps a correct record of the proceedings of the meeting, which, "when duly approved and attested by the chairman," must be turned over to the district clerk to be entered upon the district record.

Second. Notice that the director is to be chosen by ballot for three years, and that he is to hold his office "until his successor is elected and qualified." By reference to section 10847 we find, speaking of directors, "and shall hold their office for the term of three years, and until their successors are elected or *appointed and qualified.*" Yet, in section 10850, the remaining two directors are authorized to appoint when a vacancy occurs in one of the five following ways: First, by death; second, resignation; third, refusal to serve; fourth, repeated neglect of duty; fifth, removal from the district. Upon failure to elect a director at the annual meeting, the remaining two members cannot appoint, but the old director holds over to the next annual meeting, unless the outgoing member was appointed. No director (in an annual mass meeting), in a district with three directors, can be elected unless he receives a "majority of the votes cast." If, upon the announcement by the chairman of the first ballot, no one has "a majority of the votes cast," successive ballots should be taken till some one does receive such majority. When an annual meeting has adjourned after all business has been attended to, another meeting or getting together cannot be had that day or at any other day except it be called in accordance with section 10799. The election of a director is restricted to the annual meeting by section 10847.

Third. Filling of vacancies.—It should be noted that persons elected at the annual meeting to fill vacancies "hold their office for the unexpired term, and until their successors are elected and qualified," while persons appointed by the board under section 10850 to fill vacancies "serve until the next annual school meeting."

Fourth. Increase of levy for school purposes.—The annual meeting is authorized "to determine the rate, if any, in excess of forty cents on the hundred dollars assessed valuation to be levied for school purposes." The proposition voted on should be, for instance, to levy forty-five cents, fifty cents, or any amount not exceeding sixty-five cents on the one hundred dollars valuation for school purposes. Both the Missouri Constitution and statutes limit the amount to be levied for school purposes,

in districts not formed of cities and towns, to sixty-five cents on the hundred dollars valuation. In districts formed of cities and towns, a hundred cents on the hundred dollars valuation may be levied for school purposes. Any school district which is organized as a village or town district with six school directors under section 10865, and which contains within its boundaries a platted town, may levy for school purposes any amount not in excess of one hundred cents on the one hundred dollars valuation. Only taxpayers can vote on the proposition to increase the levy for school purposes. By reference to section 10796 it will be seen that a vote upon this proposition is not confined to the annual meeting, but can be had at any time upon petition of five resident taxpayers, or when the board of directors deem it necessary.

Fifth. To decide upon use of schoolhouse for other purposes, etc.—The annual meeting may, without previous notice, determine whether or not the schoolhouse shall be used during the ensuing year for any other purpose than that of the public school. See also section 10784.

Seventh. To direct the sale of school property.—The annual meeting is here authorized to *direct* the sale of school property and not to *sell* it; that is, to authorize the board of directors to sell the property—on such conditions and under such limitations, of course, as the annual meeting may see fit to impose. It should be observed also that this property is to be “no longer required for the use of the district.” It is to be supposed, of course, that at the same annual meeting at which the sale of this property is directed, bonds will be voted for the erection of schoolhouse and furnishing the same. The board of directors should receive definite instruction not to dispose of the old schoolhouse till a contract is entered into for the building of a new schoolhouse before the opening of school. The money derived from the sale of the school property should be credited to the building fund of the district.

Tenth. Location of schoolhouse site.—This applies to any school district seeking a schoolhouse site: First, to a regularly organized district without a schoolhouse site; second, to districts just organized from unorganized territory (section 10836). The annual meeting must vote upon a definite site, and not instruct the board of directors to select a site. The proposition is carried by a majority of the votes cast. This proposition may be voted on either at an annual meeting or a special meeting called in accordance with section 10739.

Eleventh. To change location of schoolhouse site.—In the discussion of this section we have found one proposition (increase of levy for school purposes) that must be decided by taxpayers as distinguished from qualified voters. The change of location of schoolhouse site is a second proposition that is determined by the taxpayers of the district.

The supreme court, in the 114 Mo., at page 649, in speaking upon this statute, said: “A majority vote of the voters who are resident taxpayers of said district means a majority of the taxpayers present and voting at such election.” See, also, 37 Mo. 270.

In the event that the proposition submitted be to change the site to a point further from the center of the district, a two-thirds vote of the resident taxpayers who are legal voters present and voting is sufficient to carry the proposition. The law does not require that two-thirds of the residents of the district who are legal voters and taxpayers must vote affirmatively upon the proposition to carry it.

All propositions submitted at the annual meeting, except these two (increase of levy for school purposes and change of schoolhouse site), can be decided by the qualified voters; these two, by taxpayers only. For definition of qualified voter, see section 10847.

A taxpayer is one who holds in the district, in his own name, real or personal property liable to assessment and taxation.

Of the eleven items of section 10845, the fourth, sixth, ninth and tenth require notices. In the fourth, it is the latter part—*increase of levy*—that requires notice.

The annual meeting cannot authorize a spring term of school to be begun or held before the 30th of June next succeeding; or, in other words, it cannot extend the term of school voted by the last annual meeting. If it is considered desirable to extend the school term beyond that voted by the last annual meeting, the proposition

must be submitted at a special meeting called as provided in section 10799 for that purpose.

The directors have no power of their own will to select the schoolhouse site. 57 Mo. 430. The chairman of a meeting of qualified voters of a school district for the election of a school director is not subject to the criminal law for rejecting a vote of an applicant for suffrage. 19 A. 210. No power exists in a board of public school directors, without authority from the voters of the district, to rent buildings or rooms separate from the district schoolhouse, and to employ teachers for a supplemental school therein. 30 A. 641. Expense of moving house to be paid out of building fund. 107 A. 475.

FORM FOR NOTICE OF ANNUAL SCHOOL MEETING.

Notice is hereby given to the qualified voters of district No. —, county of —, state of Missouri, that the annual school meeting of said district will be held at —, on Tuesday, the — day of April, 191—, commencing at 2 o'clock p. m., and among other things specified by the law, the following will be proposed and considered:

—————, District Clerk.

Sec. 10846. Length of school required—state aid, how obtained.—The board of directors of every school district is hereby empowered and required to continue the public school or schools in the district for a period of eight months in each scholastic year: *Provided*, that when any district has levied for school purposes (teacher and incidental expenses) the maximum levy provided by law and the funds so derived, together with the money on hand and the amount received from the public funds, are insufficient to maintain such school or schools for such a period, paying the teacher or teachers a maximum salary of forty dollars (\$40.00) per month, then such district shall receive from the state treasurer a sufficient amount to make up this deficit: *Provided*, that a salary of forty-five dollars (\$45.00) per month may be paid by a district employing a teacher who holds a second grade certificate, and fifty dollars (\$50.00) per month by a district employing a teacher who holds a first grade certificate, or its equivalent: *Provided further*, that no district shall receive more than one hundred dollars (\$100.00) in any one year. Any district making application for such state aid shall show that it has an assessed valuation of fifty thousand dollars or less, that it has made a levy of sixty-five cents on the one hundred dollars' valuation for school purposes, not more than twenty-five cents of said levy to be used for incidental purposes, and that it has maintained an average daily attendance of fifteen or more pupils during the past school term; or in lieu of an average daily attendance of fifteen or more pupils that during the past school term it has maintained an average daily attendance of sixty per cent. of the last enumeration in said district: *Provided further*, that any school district that receives aid under the provisions of this act and then pays its teachers salaries in excess of the amount above specified

shall forfeit its right to any further state aid under this act for a period of two years. It is also further provided that no school district organized after January 1, 1913, with an area of less than six square miles shall be entitled to state aid under the provisions of this act. The directors of any such district desiring to avail itself of this aid shall meet and, on or before June 30th, furnish to the county clerk an estimate verified by the signatures of the clerk and the members of such board, showing the amount of such probable deficit; it shall be the duty of the county clerk to furnish to the state superintendent, on or before July 15th, a list of all districts in his county making such application, showing the amount estimated by each district and the total for the county. Before apportioning the state school funds, the state superintendent of public schools shall set aside a sum equal to the total of all deficits reported by all the counties in the state, after which he shall proceed in accordance with section 10822. The state superintendent shall cause the state treasurer to forward to the county clerk of each county the total amount shown to be due to such county to make up such deficits, and the clerk shall thereupon apportion to each district its proper amount in accordance with the estimates on file in his office. (Session Acts, 1913.)

Every district in the state must have an eight months term of school each scholastic year, provided a levy of forty cents on the one hundred dollars assessed valuation, together with the public funds and the cash on hand, is sufficient therefor. Should a district be unable to have eight months of school it may receive aid from the state.

In order to secure aid a district must meet the following three conditions:

1. The district must have an assessed valuation of \$50,000 or less.
2. The district must levy 65 cents on the \$100 for school purposes.
3. The district must have maintained this year an average daily attendance of fifteen pupils, or in lieu of fifteen pupils, the average daily attendance must be 60 per cent. of the enumeration of the preceding year.

The amount of aid granted is \$100 per district or so much thereof as may be necessary to maintain an eight months' term of school at the following salaries:

- (a) Forty dollars (\$40.00) per month for a teacher who holds a third grade certificate.
- (b) Forty-five dollars (\$45.00) per month for a teacher who holds a second grade certificate.
- (c) Fifty dollars (\$50.00) per month for a teacher who holds a first grade certificate or its equivalent.

A district that receives state aid can not pay salaries in excess of those prescribed above. If necessary, the board of directors may call a special meeting to vote the increase of levy necessary for state aid.

No school district organized after January 1, 1913, and having an area of less than six square miles can receive state aid.

Formal application must be made to the county clerk on or before June 30th and by him to the state superintendent on or before July 15th. A careful reading of section 10822, especially the two provisos, is recommended before sending in estimates required by section 10791.

The year here spoken of is the school year beginning July 1st and ending June 30th.

Sec. 10847. Directors, qualifications of—how and by whom elected.—The government and control of the district shall be vested

in a board of directors composed of three members, who shall be citizens of the United States, resident taxpayers and qualified voters of the district, and who shall have paid a state and county tax within one year next preceding his or their election. Said directors shall be chosen by the qualified voters of the district at the time and in the manner prescribed in section 10844, and shall hold their office for the term of three years, and until their successors are elected or appointed and qualified, except those elected at the first annual meeting held in the district under the provisions of this chapter, whose term of office shall be for one, two and three years, respectively. A qualified voter within the meaning of this chapter shall be any person who, under the general laws of this state, would be allowed a vote in the county for state and county officers, and who shall have resided in the district thirty days next preceding the annual or special meeting at which he offers to vote. (R. S. 1899, § 9759, amended, L. 1909, p. 770.)

Supreme court has jurisdiction of appeal in suit to oust a school director. If a party has paid a state and county tax in another county within one year and has resided in school district long enough to entitle him to vote, he may serve as school director if elected. *State ex inf. v. Fasse*, 189 Mo. 532.

A director must be a citizen of the United States, either naturalized or native born, a resident taxpayer and qualified voter of the district, and shall have paid a state and county tax within one year next preceding his election.

The following portion of the definition of a qualified voter may not be plain: "A qualified voter within the meaning of this chapter shall be any person *who, under the general laws of this state*, would be allowed to vote," etc. Who are "allowed to vote under the general laws of this state?" Article 8, section 2 of the Constitution settles this: "Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people: (1) He shall have resided in the state one year immediately preceding the election at which he offers to vote; (2) he shall have resided in the county, city or town where he shall offer to vote at least sixty days immediately preceding the election."

Sec. 10848. Oath of directors.—The directors shall, within four days after their election or appointment, take and subscribe an oath or affirmation to faithfully and impartially discharge the duties of their office, which oath may be administered by each other; and the district clerk shall enter the same, with the date thereof, upon the records of the district, and the oath administered shall be as follows:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the state of Missouri, and that I will faithfully and impartially discharge the duties of school director in and for district No. —, county of —, state of Missouri, to the best of my ability, according to law, so help me God.

Sworn to and subscribed before me this — day of —, 191—.

(R. S. 1899, § 9760, re-enacted, L. 1909, p. 770.)

It is not sufficient in administering the oath of office to a newly elected director that it be done orally. The oath should be written or printed in the form given in this section, and signed by the person or persons to whom the same is being administered. It should also bear the signature of the person administering the same, under the proper date thereof. While this section provides that the oath may be administered by the members of the board, this does not preclude the idea that it may also be taken before any officer authorized to administer an oath.

Sec. 10849. Organization of board.—The directors shall meet within four days after the annual meeting, at some place within the district, and organize by electing one of their number president; and the board shall, on or before the fifteenth day of July, select a clerk, who shall enter upon his duties on the fifteenth day of July, but no compensation shall be allowed such clerk until all reports required by law and by the board have been duly made and filed. A majority of the board shall constitute a quorum for the transaction of business: *Provided*, each member shall have due notice of the time, place and purpose of such meeting; and in case of the absence of the clerk, one of the directors may act temporarily in his place. The clerk shall keep a correct record of the proceedings of all the meetings of the board. No member of the board shall receive any compensation for performing the duties of a director. (R. S. 1899, § 9761, re-enacted, L. 1909, p. 770.)

In the absence of evidence to the contrary, it will be presumed that proper notice was given of a special meeting of directors. *Waters v. District*, 59 A. 580. If two directors meet and without keeping a record of their proceedings and without notice to the third member issue warrants, such warrants will be illegal, but if paid, no action can be maintained against the directors who issued same, provided they were issued for a valid indebtedness of district. *School District v. Smalley*, 58 A. 658. A meeting of directors held outside of district is void. *State v. Kessler*, 136 A. 236.

President of board is empowered to call special meetings, and the only requisite is that each member has notice of time and place. 59 A. 580.

By organization is meant election of officers. The directors should meet within four days after the annual meeting—that is, before the close of the week in which the election is held, and organize by the election of a president. The clerk need not be elected until later, as he does not enter upon the duties of his office until July 15th. The president must be a member of the board. The clerk may or may not be a member of the board. The board should, after organization, fix the date of holding regular meetings of the board—that is, on the last Saturday of each month, or some other date that may seem most convenient. After the date of holding regular meetings has been fixed, it is the duty of each member of the board to attend such meetings without notice. Special meetings of the board may be called as provided in section 10787.

I desire to call especial attention to one provision of this section—the one providing that no compensation shall be allowed the district clerk until all reports required by law and by the board have been duly made and filed. At the meeting of the board at which the clerk is elected his compensation should be fixed by an order of the board. The law clearly contemplates that the compensation should not be paid until the end of the school year and until the board is satisfied that all reports have been made and filed. The report usually neglected is that to the county superintendent, required by section 10853. A reasonable compensation should be paid the district clerk, and he should be selected solely with reference to his qualifications for the position. In many of the country districts the board of directors meet for organization on the same day and immediately after adjournment of the annual meeting.

“When all members of a school board meet at some place in the district, whether in obedience to notice or by accident, they may, if they choose, hold a board meeting

and proceed to transact any ordinary business pertaining to the district, and a failure on their part to make and preserve minutes of their proceedings will not affect the rights of a party with whom they have made a valid settlement at such meeting." 101 A. 115; 135 A. 721.

"In order that the warrant of a school district for the purchase of books be legal, the directors must meet as a board, and as a body make the purchase, and order the warrant drawn as the statute requires, and all transactions must be evidenced by the record of the board kept by the clerk." 178 Mo. 356; 48 A. 408.

Sec. 10850. Vacancy in board of directors, how filled.—If a vacancy occur in the office of director, by death, resignation, refusal to serve, repeated neglect of duty or removal from the district, the remaining directors shall, before transacting any official business, appoint some suitable person to fill such vacancy; but should they be unable to agree, or should there be more than one vacancy at any one time, the county superintendent of public schools shall, upon notice of such vacancy or vacancies being filed with him in writing, immediately fill the same by appointment, and notify said person or persons in writing of such appointment; and the person or persons appointed under the provisions of this section shall comply with the requirements of section 10848, and shall serve until the next annual school meeting. (R. S. 1899, § 9762, amended, L. 1909, p. 770.)

Failure of board to fill vacancy as required by this section does not invalidate its acts performed while such vacancy exists. *Bauer v. District*, 78 A. 442.

This section applies to districts organized under the provisions of the city and town schools act, as well as to country districts. When a vacancy occurs from any of the causes prescribed in this section, it must be filled before transacting any official business. Any member may be cited to appear before the board of directors and show cause why his office should not be declared vacant on account of repeated neglect of duty. If it shall be held by a majority of the board that such member is guilty of repeated neglect of duty, or if such member fails to appear in obedience to notice, his office may be by them declared vacant, and some person qualified therefor may then be appointed by them to fill such vacancy until the next annual meeting.

FORM FOR APPOINTMENT OF DIRECTORS BY SCHOOL DIRECTORS.

We, the undersigned, directors of district No. —, of — county, Missouri, do hereby appoint — to fill the vacancy in the office of director of said district, caused by the (death, resignation, removal or refusal to act, naming the cause) of —.

Directors.

Sec. 10851. Removal of district clerk.—The board shall have power to remove the district clerk from his office for dereliction of duty and appoint another in his place, to whom the former incumbent shall immediately deliver his books and papers pertaining to the office. (R. S. 1899, § 9769, re-enacted, L. 1909, p. 770.)

The district clerk is a creature of the board, and can therefore be removed "for dereliction of duty." For this reason, it is better that the clerk be not a member of the board. The president of the board is also a creature of the board, and can be

removed and another appointed. Of course, he will still hold his position as a member of the board. "It is essential, in every case, that charges be made, and trial had, and that the accused be notified and have a full opportunity for defense." 44 Mo. 570.

Sec. 10852. Joint high schools may be established.—Whenever any school district in Missouri, as party of the first part, has or will furnish a room or rooms, suitable for the purposes of a high school, and will agree to seat, equip, heat and keep in order said room or rooms for high school purposes, at its own expense, said district, together with any other three or more school districts in Missouri, as parties of the second part, may unite as a public central high school district, for the purposes of organizing and maintaining a high school for the better instruction of the children of such school districts in high school studies; and the question of such union may be submitted to the annual meetings of such districts severally, by legal notice, as other questions are submitted to such meetings; and the clerk of each district voting upon the question of such union shall record the result of the vote in the records of the meeting, and, on the reorganization of the board of directors in each of the said school districts, issue to the president thereof a certificate of the vote on the said question of union; and at 2 p. m. on the Tuesday following the annual meeting the directors of the several districts which have voted on the question of said union shall meet at the schoolhouse of the district herein designated as party of the first part, and if the district so designated as party of the first part, and any three or more of the districts herein designated as parties of the second part, shall have decided severally, by majority vote, to form such central high school district, then the same shall be considered formed; and the directors of the several school districts forming such central high school district shall, on said first Tuesday after the annual election, organize for the purposes of such high school district by electing from their number a president and secretary, and agree, by a majority vote, upon the part, not to exceed twenty per cent. of the teachers' fund of the several districts, to be set apart by the directors of such several school districts for the salary of the teacher or teachers of said central high school, and decide upon the time, place and manner of electing the teacher or teachers of said central high school, who shall hold a first-grade county certificate or certificates, or a state certificate or certificates, and who shall enter into a contract with said central high school directors in the manner in which teachers contract with other school districts; and said directors of said school district shall annually thereafter, on the first Tuesday after the annual meeting, meet as hereinbefore provided for their first organization, and reorganize by the election of a president and secretary, and transact such further business as may be necessary to continue said central high school from year to year: *Provided*, the sum set aside by the several boards of directors of the several school districts of said central high school

district for the salary of said high school teacher or teachers shall not, in any one of said school districts, exceed twenty per cent. of the teachers' fund in said school district; and the county treasurer, or the township trustees handling the funds of said school district forming said central high school district, shall, upon notice from the secretary of said central high school district, set aside for the salary of said central high school teacher or teachers the part of teachers' fund of the said several school districts agreed upon and set apart by the directors of the said several school districts, as herein provided for; and said county treasurer or township trustees shall pay said high school teacher or teachers from said fund set aside, upon the warrant of the president and secretary of said central high school district; and the authority of the central high school board of directors herein created over the central high school, as to rules and regulations, shall be the same as that of the board of directors of other school districts over the schools of their school districts: *Provided*, that the length of term of said central high school shall not exceed the average length of term in the school districts of which said central high school district is composed: *Provided*, that no pupil shall be permitted to enter the classes of said central high school who has not completed the study of descriptive geography, practical arithmetic, mental arithmetic, language lessons and elementary grammar, United States history and elementary physiology; and the teacher or teachers of said central high school may examine all pupils desiring to enter said central high school, to test their knowledge of the aforesaid subjects. (R. S. 1899, § 9773, re-enacted, L. 1909, p. 770.)

This has been in the statutes for more than twenty years, and but two high schools have been organized under its provisions, and one of these was disorganized in April, 1913, because the plan was not successful. So only one such school remains in the state. It would be a much better plan to consolidate four or more school districts into one district for all school purposes. This can be done in accordance with the Buford consolidation law. Four or more districts with a village near the center may be consolidated into one new district, or four or more country districts containing no village. This will provide definitely for a school of higher grade and such primary schools as the board may deem necessary. Such an organization will enable the board to maintain a school in each of the several original districts and to establish a central high school within reach of all the children prepared therefor, and none of them need to have farther than six miles to go to such high school. The elementary schools in the subdistricts may be properly graded and have some supervision by the principal of the high school. The board could employ him with this in view. All the schools would be maintained for the same length of term out of a common fund derived from the same rate of taxes levied on the property of the entire consolidated district. In the event that the attendance in any one of the subdistricts should fall below a certain number, the board could discontinue that school and arrange to have such pupils transferred and, if need be, carried by conveyances to other school or schools in the district. It has been tried in other states. It is practical, especially in populous sections of our state, and more especially where good roads are provided or shall be provided. The advantages summed up in a few words are: equal taxation; equal privileges for the children in length of term, efficiency of teachers, and proper grading; all children having opportunity of a good high school with free tuition; economy of teaching force by collecting together a sufficient number of advanced pupils to justify

the employment of a good teacher and in closing out the elementary schools with small attendance. More than twenty districts have already been organized under the Buford consolidation law.

Sec. 10853. Duties of district clerk.—The district clerk shall keep a record of the proceedings of all annual and special meetings of the qualified voters of the district; also, the proceedings of the board of directors. He shall make copies of the election notices, contracts with teachers, certificates and all other papers relating to the business of the district, and securely keep the same. He shall transmit to the county superintendent, on or before the fifteenth day of July in each year, a report embracing the following items: First, the number of children, male and female, white and colored, attending the public schools during the year; second, total number of days attendance by all such children; third, the number of days the public schools of the district have been maintained during the school year; fourth, the number of teachers employed, male and female, and the wages per month of each; fifth, the number of schoolrooms occupied in the district, and the number of children that may be seated in the same; sixth, estimated value of school property owned and managed by the district; seventh, assessed valuation of the district; eighth, rate of school tax on the assessed valuation of the district; ninth, cash on hand at the beginning of the year; tenth, tuition fees received and credited to the teachers' fund of the district; eleventh, public funds received by county treasurer; twelfth, district tax received by county (or township) treasurer; thirteenth, amount paid on teachers' wages; fourteenth, amount paid for incidental expenses; fifteenth, amount expended for purchasing site, erecting schoolhouses, rent and repairs; sixteenth, amount expended in cancelling bonded indebtedness and paying interest on same; seventeenth, amount expended for library; eighteenth, cash on hand at the end of the year. (R. S. 1899, § 9784, amended, L. 1909, p. 770.)

Notice of election, when signed by clerk, is sufficiently authenticated. *Mason v. Kennedy*, 89 Mo. 23.

30 A. 641; 48 A. 408; 58 A. 658. District clerk should enter upon records of district an exact copy of record of annual meeting as kept by secretary; but, should he fail to do so, his record is admissible in evidence. 54 A. 31.

This section makes it the duty of the district clerk (1) "to keep a record of the proceedings of all annual and special meetings;" (2) "of the proceedings of the board of directors;" (3) he shall make copies of the election notices, contracts with teachers, certificates and all other papers relating to the business of the district, and securely keep the same; (4) to "transmit to the county superintendent on or before the fifteenth day of July in each year a report." The record of the annual and special school meetings is of special importance. It is the only official evidence of these proceedings. Grave questions are settled at these school meetings—directors elected, levies made for school purposes and for building purposes, and school bonds voted. Remember that the record of the district clerk obtained from the secretary of the meeting is the only official and legal evidence of these transactions. The financial statement to the annual meeting should be carefully recorded.

Again, how important it is that the proceedings of the board of directors be carefully recorded. This record is the only legal evidence as to whether a teacher was

elected or a contract let. But no duty of the district clerk is more important than that of transmitting a correct report to the county superintendent, embracing every item in the blank report prepared by the state superintendent. This report is due from the district clerk "on or before the fifteenth day of July in each year." The law specifies that it must be made on or before July 15th. This does not mean the last of July or any time during August or September, as many district clerks seem to think. If the district clerks do not make their reports promptly, how can the county superintendent make his report promptly to the state superintendent? As late as November, we urge a county superintendent to send in his report. He replies that some district clerks have so far failed to make their reports to him. Boards of directors should dismiss such inefficient clerks. Note, also, from section 10849 that no clerk shall receive his compensation until his report is made. Board should not allow the clerk any pay until he shows receipt from the county superintendent that his report is accepted. This should be enforced strictly. This report cannot be made before the first day of July, because the school year does not end till the 30th day of June. You will notice (section 10831) that it is between July 1st and July 15th that the county treasurer settles with the county clerk, thus arriving at the data for the financial statement of each district of the county, showing the receipts and disbursements. Duties of district clerks discussed. 89 Mo. 23. In addition to the duties of the district clerk prescribed under section 10853, section 10822 requires the district clerk to make a report on school attendance and the number of teachers employed. The state school fund apportionment is based on this report. The district clerk of any school district desiring state aid for its elementary or high school must file an application for this aid on or before June 30th. See section 10846 and the Wilson high school aid law and the Buford consolidation law. It is also made the duty of the district clerk to attend the annual school board convention now provided for by law.

Sec. 10854. District clerk to procure record books.—It shall be his duty to procure the necessary record books for the proper transaction of the duties of his office; also, to procure and furnish to each teacher a school register, properly ruled, headed and classified, to exhibit the following: The names, ages and studies pursued by all pupils attending the school, the date of their entrance, daily attendance and absence, and the date of the visitation of the school by the directors or patrons, and such other facts as the state superintendent may require—the above to be paid for out of the moneys used to defray the incidental expenses of the district. (R. S. 1899, § 9786, re-enacted, L. 1909, p. 770.)

In the district clerk's record book are recorded the proceedings of annual and special meetings of the board of directors, copies of election notices, contracts with teachers, etc., in accordance with section 10853. District clerk must procure a register for the teacher. This is not optional, and the teacher should take special pains to use this register to the best advantage. Section 10807.

Section 10822 (Laws of 1911) makes it the duty of the district clerk to report to the county clerk between June 15th and June 30th of each year several items which will render it necessary for the clerk to be thoroughly familiar with the records of the school. The clerk should read section 10822 very carefully, as the public funds will, in the future, be apportioned in accordance with these reports to the county clerks.

Sec. 10855. District clerk to post notices.—It shall be the duty of the district clerk to post all notices required by law, when duly ordered by the board, for any annual or special school meeting; also, those required by law to be posted by the district clerk without such order of the board; and all such notices shall be given

as provided in section 10844. (R. S. 1899, § 9787, amended, L. 1909, p. 770.)

A notice, issued, signed and posted by clerk is sufficient. *Mason v. Kennedy*, 89 Mo. 23.

Change of boundary of district; duty of clerk as to notices. 89 Mo. 23. Sufficiency of notice. 54 A. 31.

Special meetings are those provided for by sections 10777, 10796, 10797 and 10799. It is supposed that all qualified voters should take notice of the annual meeting without notices being posted, but it has become customary to post notices for annual meetings as well as for special meetings, as it often happens that special propositions requiring notice are voted on at the annual meeting. Propositions requiring notices for the annual meeting should be considered as if submitted at a special meeting. In other words, the annual meeting becomes a special meeting when it considers anything not specifically designated as belonging thereto. The district clerk may be proceeded against under section 10802 for failure to perform his duty.

Sec. 10856. Payment of district indebtedness.—Upon the order of the board of directors, it shall be the duty of the district clerk to draw warrants on the county treasurer in favor of any party to whom the district has become legally indebted, either for services as teacher, for material purchased for the use of the school, or material or labor in the erection of a schoolhouse for said district—the said warrant to be paid out of any moneys in the appropriate funds in the hands of the said treasurer and belonging to the district. The species of indebtedness must be clearly stated and should be drawn on its appropriate fund; all moneys for teachers' wages on the teachers' fund; all moneys used in the purchase of a site, erection of building thereon, and furnishing the same, on building fund; and all other expenses to be paid out of the incidental fund: *Provided, however*, that no order for the payment of teachers' wages shall be drawn in favor of any person not holding a certificate of qualification, signed by the county superintendent, state superintendent or a certificate or diploma conferred by a normal school of this state, or in favor of any teacher delinquent in his monthly or term reports; *and further provided*, that before drawing any such warrant, the president of the board shall first visit the office of the county or township treasurer, and record his signature in a book to be kept in the office of said treasurer for that purpose, and for making such trip such president of the board shall be allowed one dollar per day and his necessary traveling expenses, payable out of the incidental funds of his district. (R. S. 1899, § 9788, amended, L. 1909, p. 770.)

Directors are not personally liable for a school warrant drawn when there is no money in the treasury to pay same, provided they have not issued warrants in excess of the taxes levied and other income of district for the year. *Jacquemin v. Andrews*, 40 A. 507. *Mandamus* will not lie to compel board of directors to issue warrants to pay a judgment if such judgment fails to recite the nature of the contract or indebtedness upon which it is based. *State ex rel. v. Board*, 97 A. 613. Teacher may recover wages if school be closed without his consent because not enough of outstanding taxes have been collected to pay his wages. *Rudy v. District*, 30 A. 113. Changing a school warrant constitutes forgery. *State ex rel. v. Tyree*, 201 Mo. 574.

The words "contingent" and "incidental" are used interchangeably to denote the same fund.

Where an average rate for school building tax is computed upon a basis which blends rate of taxes for school buildings, sinking and interest fund, the irregularity is no ground to enjoin collection of tax. 126 Mo. 472. Those funds are all part of building fund. *Id.* Until teacher files his report, directors have no right to order payment of his wages. 24 A. 213. But teacher does not forfeit any rights under his contract by failure to make such reports, if prevented from so doing by action of directors. 30 A. 113; 31 Mo. 319.

This section provides for the drawing of warrants upon the "order of the board of directors," by the district clerk, "on the county treasurer, in favor of any party to whom the district has become legally indebted." These warrants must be upon the proper fund. Three funds are specified—teachers' fund, building fund and contingent, or incidental, fund. The species of indebtedness must be clearly stated. No teacher delinquent in his monthly or term reports, or not holding a legal certificate, can receive a warrant. The president of the board is required to record his signature with the county or township treasurer. The object of this is to prevent fraud. By section 10868 in express terms, and by section 10849 by inference, no warrant can be ordered except by a majority of the board; that is, unless a majority of the whole board vote therefor. By section 10849 a majority of the board is necessary to constitute a quorum. A majority of a board of three is two. If two members are present, both must vote for issuing the warrant before it can be ordered issued. This is a majority of the entire board. In signing warrants, the president and clerk of the board act ministerially. It is their duty to sign warrants when ordered by the board, regardless of their preferences in the matter. Boards of directors, in purchasing furniture or apparatus from agents, should be very careful not to be induced to sign any contracts or warrants presented by these agents. If a purchase is made from agents, the warrant should be drawn upon the legal blanks belonging to the board and upon the incidental fund.

Boards of directors have no authority to order a warrant or enter into a contract exceeding the revenue provided for the current school year. Such warrant or contract does not constitute a legal claim against the district.

Sec. 10857. Form of warrant—to be paid from proper fund.
The warrants thus drawn shall be in the following form, and shall be signed by the president of the board and countersigned by the district clerk:

TEACHERS' FUND.

§ _____ No. _____
Treasurer of _____ county, Missouri:
Pay to _____, or order, for services as teacher in district No. _____, _____ dollars, out of any funds in your hands for the payment of teachers' wages belonging to said district.
Done by order of the board, this _____ day of _____, 191—.
_____, President. _____, Clerk.

INCIDENTAL FUND.

§ _____ No. _____
Treasurer of _____ county, Missouri:
Pay to _____, or order, the sum of _____ dollars, for _____ furnished district No. _____, out of any funds in your hands for the payment of incidental expenses belonging to said district.
Done by order of the board, this _____ day of _____, 191—.
_____, President. _____, Clerk.

BUILDING FUND.

§ _____

No. _____

Treasurer of _____ county, Missouri:

Pay to _____, or order, the sum of _____ dollars, for _____ furnished in the erection of a schoolhouse in district No. _____, out of any money in your hands belonging to the building fund of said district, and not otherwise appropriated.

Done by order of the board, this _____ day of _____, 191—.

_____, President.

_____, Clerk.

The treasurer shall open an account for each fund specified in this section, and all moneys received from the state, county and township funds, and all moneys derived from the taxation for teachers' wages, and all tuition fees, shall be placed to the credit of the "teachers' fund;" the money derived from taxation for incidental expenses shall be credited to the "incidental fund;" all moneys derived from taxation for building purposes, from the sale of school site, schoolhouse or school furniture, from insurance, from sale of bonds, from sinking fund and interest, shall be placed to the credit of the "building fund;" and all moneys not herein specified that now belong to any school district, or that may hereafter be received by such school district, shall be placed to the credit of the "teachers' fund" of such school district. No treasurer shall honor any warrant unless it be in the proper form and upon the appropriate fund; and each and every warrant shall be paid from its appropriate fund, and no partial payment shall be made upon any school warrant, nor shall any interest be paid upon any such warrant: *Provided*, that the board of directors shall have the power to transfer from the incidental to the building fund such sum as may be necessary for the ordinary repairs of school property: *Provided further*, that in the event of a balance remaining in the building fund after the purpose for which said fund was levied is accomplished, the said board shall have the power to transfer such unexpended balance to the incidental fund. (R. S. 1899, § 9789, amended, L. 1909, p. 770.)

When the law requires an officer to perform a ministerial duty he is liable for damages if he refuses to perform such duty. When holder of school warrant demanded damages from treasurer for failure to pay his warrant, but accepted the face value of the warrant, he waived his claim to such damages. *St. Joseph, etc., v. Hull*, 72 A. 403.

School warrant will not draw interest, but treasurer refusing to pay warrant, when legally drawn and payment of same demanded, will be liable on his official bond for damages sustained, which would be interest on amount detained. 72 A. 403.

This section defines the three funds and gives the source from which each is derived. No provision is made in the law for any transfer of money into the teachers' fund or out of the teachers' fund. The two provisos of above section make clear the circumstances under which sums may be transferred from the incidental to the building fund and *vice versa*.

Sec. 10858. County court may invest sinking fund, when and how.—Whenever there are outstanding any legal county revenue warrants of any county bearing six per cent. interest, which will be redeemed by the taxes of the current year, and there are school moneys in the hands of the county treasurer belonging to the vari-

ous districts, which will not be required for the support of the public schools before the date when such revenue warrants will be paid, the county courts are authorized to direct the county treasurer to invest such surplus school moneys in the revenue warrants, and hold them for the use and benefit of the school districts until the money for the redemption of such warrants is received into the county revenue fund, when such money shall be applied to their payment. (R. S. 1899, § 9792, re-enacted, L. 1909, p. 770.)

Sec. 10859. County treasurer to report.—The county treasurer shall, at the first term of county court after the redemption of the warrants by the county revenue fund, submit to the court a detailed statement showing the amount and time the school moneys were invested, the amount belonging to each district so used, and the amount of interest realized for each district; and the court shall direct such interest to be placed to the credit of the respective districts and the treasurer be charged therewith. (R. S. 1899, § 9793, re-enacted, L. 1909, p. 770.)

Sec. 10860. Records of district clerk.—The district clerk shall record a copy of all reports made by him to the county superintendent. He shall also record in the record book of the district a correct plat of the district, changing the same as often as alteration is made in the boundary lines by the proper authority, and shall furnish the county clerk and county superintendent with copies of the same, and shall officially notify them of any change whenever made. (R. S. 1899, § 9794, amended, L. 1909, p. 770.)

A change of boundaries takes effect from the date when made, regardless of whether a copy of plat showing such change is furnished to county clerk as required by this section. *Henry v. Dulle*, 74 Mo. 443.

Sec. 10861. Teachers' monthly and term reports.—It shall be the duty of every teacher to make out and file with the district clerk, at the expiration of each month, a report of the number of pupils in attendance during the month, distinguishing between male and female, the average attendance, and such other statistics as the board of directors, by order, may require, and no warrants shall be ordered by the board or drawn by the clerk for such month's salary until such monthly report has been made and filed with the district clerk; and at the close of the term, a report, embracing a summary of the above, together with the length of term taught, wages paid, teachers employed, and such other information as the board, by its official acts, may require; a duplicate of same shall be filed with the county superintendent, and no warrant shall be issued by said clerk in favor of such teacher for the last month's salary of such term until he shall have filed with said clerk and county superintendent such term report. (R. S. 1899, § 9801, re-enacted, L. 1909, p. 770.)

A teacher cannot recover his wages by suit if he has failed to furnish the reports required by this section. *Hall v. District*, 24 A. 213. Teacher cannot be deprived of

his salary for failure to enforce a rule prescribed by directors unless he be notified of such rule. Perkins v. District, 61 A. 512.

Teacher must make out and file with clerk of district monthly report to entitle him to wages. 24 A. 213.

Many teachers are careless in making their monthly and term reports, often using lead pencil instead of pen and ink, and sometimes using any kind of paper instead of the proper blanks sent out from this department. In a graded school composed of a number of teachers, the assistant teachers should make their reports to the principal or superintendent, and he should condense these reports and make one report to the board. "No warrant shall be issued by said clerk in favor of such teacher for the last month's salary of such term unless he shall have filed with said clerk such term report." This should be strictly adhered to. See, also, section 10859. "Where a teacher in a school district failed to make out and file with the clerk of the school district the monthly report required by the statute, the board of directors of the school district had no power to order the payment of such teacher's wages under the statute, and he could not lawfully recover judgment against the school district on account of a claim which the statute prohibited it from paying." 24 A. 214. Notice, also, the following from 30 A. 113: "A teacher does not forfeit any right under his contract, or under the law, by failing to make monthly reports when, by action of the directors, the school has been closed and there is, therefore, nothing to report." The term report blank calls for individual pupils' reports. A school board lays its members personally responsible if it pays the teacher the last month's salary before this term report is made according to the prescribed blank.

Sec. 10862. Loan of surplus district school money.—Whenever it shall be found that any school district has any surplus funds in the county treasury, the directors of such school district may make application, in writing, to the county court, setting forth that school funds are accumulating beyond the wants or necessities of such district. Upon such application, it shall be the duty of the county court to cause such funds to be loaned for the use and benefit of such school district. (R. S. 1899, § 9838, re-enacted, L. 1909, p. 770.)

Sec. 10863. How loaned.—Such school funds shall be loaned at the same rate of interest and in the same manner as township school funds are loaned: *Provided*, that no school tax shall be levied in such district other than for incidental expenses during the time for which such surplus fund is sought to be loaned; *and provided further*, that a free public school shall be maintained in such school district for at least eight months in each year. (R. S. 1899, § 9839, amended, L. 1909, p. 770.)

The sureties on the general bond of a county treasurer are not liable for his failure to account for, and pay over to his successor in office, county and township school funds. For the special duties imposed upon him by the school law he is answerable on a separate bond. 55 Mo. 80. A treasurer of a school township is liable on his official bond for school funds deposited in bank, and lost through the failure and insolvency of the bank, although he was not guilty of any want of care or prudence in failing to ascertain its financial condition. 67 Mo. 395. Where the county treasurer receives a check from the state treasurer in payment of the apportionment of the amount due the county from the public school moneys, and fails to use diligence in collecting the check, the loss, if any occur thereby, falls on the county treasurer. 67 Mo. 139; 56 Mo. 65. An action on the bond of a defaulting county treasurer to recover school moneys is properly brought by the county in the name of the state to the use of the county. The statute does not require it to be brought to the use of the county clerk. 68 Mo. 454.

ARTICLE IV.

LAWS APPLICABLE TO CITY, TOWN AND CONSOLIDATED SCHOOLS.

SECTION

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SECTION

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Sec. 10864. Organization of town or city school districts—corporate powers.—Any common school district containing within its boundaries a city, town or village, the plat of which has been filed in the recorder's office of the county in which the same is situated, or any district having two hundred or more children of school age by the last enumeration, may be organized into a town or city school district, and, when so organized, shall be a body corporate, and known as the school district of ———, and in that name may sue and be sued and possess the same corporate powers and be governed the same as other school districts except as herein provided; and every extension that has heretofore been made, or that hereafter may be made, of the limits of any city, town or village that is now or may be hereafter organized under the laws of this state, shall have the effect to extend the limits of such town or city school district to the same extent, and such extension of the limits of any city or town school district shall take effect on the first day of July next following the extension of the limits of such city, town or village: *Provided*, that any incorporated city, town or village, the plat of which has been previously filed in the recorder's office of the county in which the same is situated, and which is divided by a school district boundary line, so that said incorporated city, town or village lies partly in one school district and partly in another, shall have the right to organize as a separate town or city school district in the manner provided in this section for the organization of common school districts as town or city school districts. The

meeting for such organization shall be called by posting notices, setting forth the time, place and purpose of said meeting in at least five public places in said city, town or village, at least fifteen days prior to the date of said meeting. Said notices shall be signed by at least ten freeholders, residents of the city, town or village to be organized as a school district. Such town or city school district shall, at the time of organization, include only the territory in the corporate limits of the city, town or village organizing as a school district and such territory outside the corporate limits as may, by the creation of the new district, be cut off from the district or districts to which it originally belonged. (R. S. 1899, § 9860, amended, L. 1909, p. 770.)

Unorganized territory cannot be organized into a town or city school district without first being formed into a common school district. *School District v. Wallace*, 75 A. 317. The provisions of this section do not apply to cities of 50,000 to 300,000 inhabitants which are already organized as school districts. *School District v. District*, 184 Mo. 140. The president of the school board is the proper person to serve with process in suits against school districts. *Carr v. District*, 42 A. 154.

Note.—Under this section, as amended in 1909, any incorporated city, town or village, the plat of which has been filed in the recorder's office, and which lies partly in two or more school districts, may organize as a separate school district.

Under this section rural school districts may be united into one district, as provided in section 10837, and when the new district has two hundred or more children of school age, it can organize under this article. This is another way of providing for rural high schools.

This section is constitutional. 45 Mo. 458. The whole subdistrict need not be included. 50 Mo. 268. Territory outside of corporate limits may be taken in and attached for school purposes. 53 Mo. 127; 60 Mo. 540; 64 Mo. 53; 65 Mo. 587; 93 Mo. 655; 99 Mo. 332. School district has power to change and extend its limits, although town is not incorporated. 56 Mo. 231; 68 A. 397. Each organized school district is a body corporate and its territorial form can be changed only in manner pointed out by statute. 120 Mo. 67. Special school district has power to condemn land for schoolhouse site. 125 Mo. 439. Suit against school district process, on whom served. 42 A. 154.

Sec. 10865. Town or city school districts, how organized. Whenever it may be desired to organize a common school district or consolidated school district into a town or city school district, with special privileges granted under this article, the board of directors shall, upon the reception of a petition to that effect, and signed by ten qualified voters who are resident taxpayers of the district, submit the proposition at an annual or special meeting, giving notice of such meeting as provided by section 10844. The order of business at such meeting shall be as follows:

First—To organize as a town or city school district, those voting for the organization shall have written or printed on their ballots "For organization," and those voting against the organization shall have written or printed on their ballots "Against organization;" and each person desiring to vote shall advance to the front of the chairman and deposit his ballot in a box to be used for that purpose. When all present shall have voted the chairman shall appoint two tellers, who shall call each ballot aloud, and the

secretary shall keep a tally and report to the chairman, who shall announce the result; and if a majority of the votes cast are "For organization," the chairman shall call the next order of business.

Second—To elect six directors, as follows: Two shall be elected for three years, two for two years and two for one year, and each director shall be elected separately and the result announced in the manner prescribed for organization. If said election is held at a special meeting, from then until the next annual meeting shall be taken as one year, so far as relates to the terms of the directors elected. The directors chosen must comply with the requirements of section 10868.

The chairman and secretary of such meeting shall keep a record of the proceedings thereof and turn the same over to the board of education of such district, to be entered upon its records by the clerk of such district. (R. S. 1899, § 9861, amended, L. 1909, p. 770.)

When a proper petition is presented to directors, as provided in this section, and they have ordered an election and caused the notices thereof to be posted, they cannot prevent such election by taking down the notices and causing other notices to be posted announcing the withdrawal of such election. Under this section any common school district may organize as a town or consolidated district, whether or not it contain a village, town or city with a plat filed in the recorder's office. State ex rel. v. Gill, 190 Mo. 79.

See cases cited under section 10864.

Construing 10864 and 10865, the supreme court said: "Thus we have two separate and distinct organizations provided for—the result the same in each—a single school district governed by the provisions of article IV. To the first is essential a village, and a recorded plat thereof; that the territory to be organized may be defined. To the second, only an organized common school district, where territory is *already defined*, and which needs no plat for that purpose." 190 Mo. 79.

By "territory attached thereto" is unquestionably meant such territory as may belong to the school district lying outside of the corporate limits of the city or town. Under a prior statute, the supreme court held that in the formation of a district under this act, territory belonging to adjacent districts could be attached without the consent of such districts. The present statute does not admit of the dismemberment of districts in this manner. If it is considered desirable to include in the organization territory belonging to adjoining districts, the boundary lines must either be changed in the manner provided in section 10837 before organizing, or in the manner provided in section 10880, after completing the organization.

Territory embraced in a school subdistrict outside of and adjoining an incorporated town may be organized at the same time with that part within the corporate limits. 64 Mo. 53; 60 Mo. 540; 65 Mo. 587. A school district is a *quasi* corporation, and the powers of the corporators and directors are prescribed and limited by statute. 25 A. 85. The territorial form of a school district can be changed only in the manner pointed out by the statutes. 120 Mo. 67.

Sec. 10866. Board of education, tenure of members of—vacancies in, how filled.—The government and control of such town or city school district shall be vested in a board of education of six members, who shall hold their office for three years and until their successors are duly elected and qualified, and any vacancy occurring in said board shall be filled in the same manner and with like effect as vacancies occurring in boards of other school dis-

tricts are required to be filled, and the person appointed shall hold office till the next annual meeting, when a director shall be elected for the unexpired term. (R. S. 1899, § 9862, amended, L. 1909, p. 770.)

The establishment and management of public schools of a town school district is vested in the board of directors, and their discretionary powers cannot be controlled by *mandamus*. State ex rel. v. Jones, 155 Mo. 570.

Sec. 10867. Election of directors.—The qualified voters of the district shall, annually, on the first Tuesday of April, elect two directors, who are citizens of the United States, resident taxpayers and qualified voters of the district, and who shall have paid a state and county tax within one year next preceding their election or appointment, who shall hold their office for three years and until their successors are duly elected and qualified; and all vacancies in the board shall be filled for the unexpired term. (R. S. 1899, § 9863, re-enacted, L. 1909, p. 770.)

A woman is not eligible to the office of school director. State ex rel. v. McSpaden, 137 Mo. 628.

Sec. 10868. Organization of board—duties of officers.—Within four days after the annual meeting the board shall meet, the newly elected members be qualified, and the board organized by the election of a president and vice-president, and the board shall, on or before the fifteenth day of July of each year, elect a secretary and a treasurer, who shall enter upon their respective duties on the fifteenth day of July; said secretary and treasurer may be or may not be members of the board. No compensation shall be granted to either the secretary or the treasurer until his report and settlement shall have been made and filed or published as the law directs. A majority of the board shall constitute a quorum for the transaction of business, but no contract shall be let, teacher employed, bill approved or warrant ordered unless a majority of the whole board shall vote therefor. The president and secretary, except as herein specified, shall perform the same duties and be subject to the same liabilities as the presidents and clerks of the school boards of other districts. (R. S. 1899, § 9864, re-enacted, L. 1909, p. 770.)

The treasurer of a school district is a public officer, and a suit on his official bond is barred under section 1890, at the end of three years after the breach of said bond. State ex rel. v. Harter, 188 Mo. 516. A party who is elected treasurer of school district before July 15th cannot legally enter into the office until that date, but where he is elected and before July 15th gives his receipt for funds of district, receives pass book from bank showing such funds to his credit, he is estopped when sued for on his bond from denying that he held such funds as treasurer, and that the district was duly incorporated. State ex rel. v. Dorton, 145 Mo. 305. The directors cannot issue warrants except when assembled as a board. Kane v. Calhoun, 48 A. 408. The insertion of the number of township and range in the bond of the treasurer of town or city school district is surplusage, and does not invalidate such bond. State ex rel. v. Delaney, 122 A. 239.

Proceedings of board of school directors must be shown by their record. 48 A. 408; 54 A. 202.

Sec. 10869. Primary and high schools to be established and sites located.—When the demands of the district require more than one public school building therein, the board shall, as soon as sufficient funds have been provided therefor, establish an adequate number of primary or ward schools, corresponding in grade to those of other public school districts, and for this purpose the board shall divide the school district into school wards and fix the boundaries thereof, and the board shall select and procure a site in each newly formed ward, and erect a suitable school building thereon and furnish the same; and the board may also establish schools of a higher grade, in which studies not enumerated in section 10941 may be pursued; and whenever there is within the district any school property that is no longer required for the use of the district, the board is hereby authorized to advertise, sell and convey the same, and the proceeds derived therefrom shall be placed to the credit of the building fund of such district. (R. S. 1899, § 9865, re-enacted, L. 1909, p. 770.)

Taxpayers cannot enjoin collection of school taxes because directors failed to establish and maintain ward schools as the law requires, nor can they in such suit attack the corporate existence of the district. *Burnham v. Rogers*, 167 Mo. 17; *Black v. Early*, 208 Mo. 281.

Note.—Under this section, as amended in 1899, town and city school districts may establish more than one high school.

See cases cited under section 10866.

Directors have no power to change site of schoolhouse or erect new schoolhouse on new site without the sanction of the voters of the district. 25 A. 85.

The purpose of the public school laws is twofold, to wit: To establish primary grade schools sufficient to meet the demands of all children of the district of that class, and, second, after these primary demands have been met and satisfied, to establish higher grade schools within the limits of the school fund provided and available. 155 Mo. 571.

Sec. 10870. Town, city or consolidated school districts—how disorganized.—Any town, city or consolidated school district heretofore organized under the laws of this state, or which may be hereafter organized, shall be privileged to disorganize or abolish such organization by a vote of the resident voters and taxpayers of such school district, first giving fifteen days' notice, which notice shall be signed by at least ten qualified resident voters and taxpayers of such town, city or consolidated school district; and there shall be five notices put up in five public places in said school district. Such notices shall recite therein that there will be a public meeting of the resident voters and taxpayers of said school district at the schoolhouse in said school district, and at said meeting, if two-thirds of the resident voters and taxpayers of such school district shall vote to dissolve any such town, city or consolidated school district, then from and after that date the said town, city or consolidated school district shall be dissolved, and the same territory included in said school district may be organized into a common school district under article III of this chapter. (Laws 1901, p. 246, amended, L. 1909, p. 770.)

A town or city school district lying partly in two counties cannot be dissolved or divided under the provisions of section 10842. State ex rel. v. Fry, 186 Mo. 198.

Sec. 10871. Duties, restrictions and liabilities of boards.—The board of education of any town, city or consolidated school district shall, except as herein provided, perform the same duties and be subject to the same restrictions and liabilities as the boards of other school districts acting under the general school laws of the state: *Provided, however,* that in cities, as hereinafter specified, the board of education shall have power to establish and maintain separate libraries and public parks and play grounds for the use of white and colored persons in such school district and for the use of the public school district therein and to appropriate such sums as they may deem proper for the support thereof, not to exceed in any one year two thousand five hundred dollars for cities of twenty thousand and under one hundred thousand inhabitants and not to exceed five hundred dollars for cities of five thousand and under twenty thousand inhabitants, and not to exceed two hundred and fifty dollars for cities of one thousand and under five thousand inhabitants—the population to be determined by the last United States or municipal census. Such board of education is hereby authorized: To lease or purchase grounds additional to the schoolhouse site, either adjacent thereto or elsewhere in such school district, for such purposes and pursuant to the laws of eminent domain, now or hereafter in force within this state, to condemn grounds to be used for such purposes as are herein expressed and to pay for such grounds so leased, purchased or condemned out of the revenues of such school district on hand and provided for such purposes under the Constitution and laws of said state and within the constitutional limitations and restrictions as to taxation within such school districts. To permit such use of said public parks and play grounds under their control as in their judgment may be deemed best for the interests of such school district pursuant to the provisions and for the purposes designated herein and to hold said parks and play grounds in trust for the use of such school district and to have full control and custody thereof, including the policing and preservation of order therein, and to adopt and enforce suitable rules and regulations for the control thereof and the conduct of children and other persons while using the same, subject to the statutes of the state of Missouri and the ordinances of the city included in such school district regulating the policing and preservation of order therein. All laws and parts of laws in conflict with the provisions of this act are hereby repealed. (Session Acts, 1913.)

Sec. 10872. Corporate seal—school term.—The board shall keep a common seal with which to attest its official acts. The board shall have power and they are required to continue the public schools in their respective districts for a period of not

less than eight nor more than ten months, excepting in schools in which the board of directors desires to extend such term for the purpose of physical training, under an instructor, for which purpose such term may be extended to not more than eleven months, when the effects of such continuance will not increase the total estimate for school purposes to an amount exceeding forty cents on the hundred dollars' assessed valuation of the taxable property of the district, unless duly ordered in compliance with the provisions of section 10796, fifteen days' notice having been given that such increase would be voted upon. (R. S. 1899, § 9867, amended, L. 1909, p. 770.)

Sec. 10873. Bond of treasurer.—The treasurer, before entering upon the discharge of his duties as such, shall enter into a bond to the state of Missouri, with two or more sureties, to be approved by the board, conditioned that he will render a faithful and just account of all money that may come into his hands as such treasurer, and otherwise perform the duties of his office according to law—said bond to be filed with the secretary of the board; and thereafter said treasurer shall be the custodian of all school moneys derived from taxation for school purposes in said district until paid out on the order of the board, and on breach of the conditions of said bond, the secretary of such board, or any freeholder, may cause suit to be brought thereon, which suit shall be prosecuted in the name of the state of Missouri, at the relation and to the use of the proper school district. (R. S. 1899, § 9868, re-enacted, L. 1909, p. 770.)

Suits on treasurer's official bond are barred in three years under the provisions of section 4525. State ex rel. v. Harter, 183 Mo. 516.

Sureties on treasurer's bond remain liable so long as he continues to hold the office, though that be beyond the period for which he is elected. 72 Mo. 648; 48 A. 408.

Sec. 10874. Liability of treasurer for sinking fund and interest—compensation.—The treasurer of the board shall be the custodian of all moneys collected for liquidating any bonded indebtedness and interest on the same, and shall be responsible on his official bond for the safekeeping and proper appliance of such sinking fund and interest as may be by him received, and also for any loss incurred or damage resulting from his failure to burn any and all redeemed bonds, as required in section 10781; he shall promptly pay the interest on bonds when due, and pay off, cancel and burn the bonds as rapidly as possible; and he shall receive as full compensation for his services under this section not to exceed one per cent. on amount by him paid out in the redemption of bonds and payment of interest on same. (R. S. 1899, § 9869, amended, L. 1909, p. 770.)

See cases cited under section 10873.

Sec. 10875. District moneys to be paid to treasurer.—Whenever any state or county school money apportioned to any town,

city or consolidated school district shall have been paid to any county or township treasurer, as now provided by law, the same shall, on the application of the treasurer of said town, city or consolidated school district, be paid over to him by said county or township treasurer, and the receipt of any such school district treasurer for said money shall be a lawful voucher for the disposition of said money by said county or township treasurer, and be accepted as such by the county court or other body or person having authority by law to make settlements with said county or township treasurer. (R. S. 1899, § 9870, amended, L. 1909, p. 770.)

Sec. 10876. Settlement of treasurer.—The treasurer of the board of education of any town, city or consolidated school district shall, annually, between the first and fifteenth of July, settle with the board of education, and account to said board for all school moneys or funds received, from whom and on what account, and the amount paid out for school purposes in such town, city or consolidated school district, which settlement, if found correct by said board of education, shall be approved by said board; and when the said settlement is thus approved, it is hereby made the duty of said treasurer to present his settlement to the clerk of the county court of said county, and the said clerk shall make a careful examination of the said settlement, and, if found correct, he shall certify the same, which certificate shall be *prima facie* a discharge of such liability of the treasurer for the funds expressed in the vouchers; and at the expiration of his term of office said treasurer shall deliver over to his successor in office all books and papers, with all moneys or other property in his hands, and also all orders he may have redeemed since his last annual settlement with the board of education and with the county clerk, and take the duplicate receipts of his successor therefor, one of which he shall deposit with the secretary of said board of education and the other with the clerk of said county court. (R. S. 1899, § 9871, amended, L. 1909, p. 770.)

See cases cited under section 10873.

Sec. 10877. Duties of county clerk—how paid.—The clerk of the county court of such county shall perform the same duties under this law, not herein specified, as shall be required by law to perform in relation to the state and county taxes in said county, and shall receive like compensation therefor, the same to be paid by the county treasurer upon warrant issued by the county court. (R. S. 1899, § 9872, re-enacted, L. 1909, p. 770.)

Sec. 10878. Duties of collectors.—The county or township collector shall pay over to the treasurer of said board of education all moneys received and collected by him to which said board is entitled at least once in every month; and upon such payment he shall take duplicate receipts from said treasurer, one of which he

shall file with the secretary of said board of education, and the other shall be filed in his settlement with the county court. (R. S. 1899, § 9873, re-enacted, L. 1909, p. 770.)

Sec. 10879. Regulations governing elections at annual meetings.—The qualified voters of such town, city or consolidated school district shall vote by ballot upon all questions provided by law for submission at the annual school meetings, and such election shall be held on the first Tuesday in April of each year, and at such convenient place within the district as the board may designate, beginning at 7 o'clock a. m. and closing at 6 o'clock p. m. of said day. The board shall appoint three judges of election, and said judges shall appoint two clerks; said judges and clerks shall be sworn and the election otherwise conducted in the same manner as the elections for state and county officers, and the result thereof certified by the judges and clerks to the secretary of the board of education, who shall record the same, and, by order of said board, shall issue certificates of election to the persons entitled thereto; and the results of all other propositions submitted must be reported to the secretary of the board, and by him duly entered upon the district records. All propositions submitted at said annual meeting may be voted for upon one and the same ballot, and necessary poll books shall be made out and furnished by the secretary of the board: *Provided*, that in all cities and towns having a population exceeding two thousand and not exceeding one hundred thousand inhabitants, said elections shall be held at the same time and places as the election for municipal officers, and the judges and clerks of such municipal election shall act as judges and clerks of said school election, but the ballots for said school election shall be upon separate pieces of paper and deposited in a separate ballot box kept for that purpose. Should such school district embrace territory not included in the limits of such city or town, the qualified voters thereof may vote at such voting precinct as they would be attached to, provided the ward lines thereof were extended and produced through such adjoining territory. All school districts in cities, towns and villages in this state which are now or which may hereafter be under special charter shall hereafter hold their annual school elections on the first Tuesday in April, and the members of the boards of education now serving in such districts shall continue to serve until the first Tuesday in April next following the expiration of the terms for which they were elected or appointed, and until their successors are elected and qualified. (R. S. 1899, § 9874, amended, L. 1909, p. 770.)

Sec. 10880. Annexation to town and city districts.—Whenever an entire school district, or a part of a district adjoining any city, town or village school district, desires to be attached thereto for school purposes, upon the reception of a petition setting forth such fact and signed by ten qualified voters of such district, the

board of directors thereof shall order a special meeting for said purpose by giving notice as required by section 10844. Should a majority of the votes cast favor such annexation, the secretary shall certify the fact, with a copy of the record, to the board of said district and to the board of said city, town or village school district; whereupon the board of such city, town or village district shall meet to consider the advisability of receiving such territory, and should a majority of all the members of said board favor such annexation, the boundary lines of such city or town school district shall from that date be changed so as to include said territory, and said board shall immediately notify the clerk of said district which has been annexed, in whole or in part, of its action. In case an entire district is thus annexed, all property and money on hand thereto belonging shall immediately pass into the possession of the board of said city or town school district; but should only a part of a district be annexed thereto, said part shall relinquish all claim and title to any part of the school property and money on hand belonging to said original district, and that portion of the district remaining must contain within its limits thirty children and thirty thousand dollars assessed valuation, or thirty children and nine square miles of territory. The voting at said special school meeting shall be by ballot, as provided for in section 10865, and the ballots shall be "for annexation" and "against annexation," when the whole district is to be annexed, but if only a part is to be annexed, the ballots shall read "for release" and "against release." (R. S. 1899, § 9875, amended, L. 1909, p. 770.)

This section does not apply to cities having 50,000 and less than 300,000 inhabitants. *School District v. District*, 184 Mo. 140. This section is constitutional. *Sharp v. Miller*, 65 Mo. 50. Before a vote can be taken to annex all or part of a common school district to a town or city district, the directors of such common school district must meet and order such election, and unless the clerk's record shows such election was so ordered the annexation is void. *State ex rel. v. Lockett*, 54 A. 202.

Board of special school district, power to extend limits. 65 Mo. 50. How right of annexation may be exercised. 68 A. 397.

Sec. 10881. Change of boundary lines and division of property.—All the provisions of section 10837, relating to the changes of boundary lines of common school districts, and all the provisions of sections 10839 and 10840, relating to the division of property between common school districts, shall apply to town, city and consolidated districts. (Laws 1907, p. 426, amended, L. 1909, p. 770.)

Sec. 10882. Annexation to school district when corporate limits are extended.—Whenever, by reason of the limits of any city, town or village being extended, a portion of the territory of any school district adjacent thereto has been incorporated in the town or city school districts, the inhabitants of such remaining parts of districts shall have the right to be annexed to such town or city school district: *Provided*, that when such part of a school district desires to be so annexed, an election shall be held at a

special meeting, as provided in section 10880, and should a majority of the votes cast favor annexation, the secretary shall certify the fact, with a copy of the record, to the board of said district, and to the board of said town or city school district; whereupon the board of such town or city school district shall meet and confirm such annexation by a proper resolution of record; *and provided*, that when such part of a school district has no organization, any ten qualified voters may call a meeting of the district and proceed as provided in the foregoing section; and the secretary of such meeting shall certify, if the majority vote for annexation, to the board of directors of the town or city school district, and the same action shall be taken as provided above. The remaining portion of such district shall be entitled to be attached to said town or city school district: *Provided*, that the school population of said adjoining district has been reduced to a smaller number than that required by law, or the territory has been reduced to less than nine square miles; and whenever such adjoining fractional district shall desire to be so annexed, a petition or memorial shall be presented to the town or city school district, informing the board of directors of the same of their desire to be annexed, and giving the boundary of the fractional district desired to be annexed, the number of inhabitants in the same, and the number of children of school age; whereupon the board of education of such town or city school district shall take such action for the incorporation of such adjoining territory as is required to be taken when territory has been annexed, as provided in section 10880: *Provided, however*, that where a portion of one or more school districts adjacent to such town or city school district, and adjacent to each other, have been, by reason of the extension of the limits of such city, deprived of the necessary school population or territory to enable them to maintain their school district organization, they shall have a right to elect, first, to become a part of said town or city school district; or, second, to continue as a separate school district; and for the purpose of such election, the qualified voters of such districts shall call a special meeting and proceed to vote on such proposition, as provided in section 10880; *and provided*, if the said fractional part of a district has no board of directors remaining, a majority of the qualified voters of said fraction of a district may call such special meeting, and if a majority of the qualified voters present and voting at said meeting vote favorable to either of said propositions, a certified copy of the proceedings of such meeting shall be delivered to the board of directors of the school district to which they vote to be attached, and such board of directors shall take such steps as necessary and lawful to perfect the annexation as decided by said election. (R. S. 1899, § 9876, amended, L. 1909, p. 770.)

This section has no application to school district containing a city of 50,000 to 300,000 inhabitants. School District v. District, 184 Mo. 140.

This act of April 11, 1895, is applicable to the extension of the city limits made prior to said date, and a portion of a school district lying adjacent to such city district *ipso facto* became a part of the city district; the act is not retrospective in the constitutional sense, and the remaining portion of the adjoining district not so annexed by said act is entitled to be annexed.

The right of annexation may be exercised as follows:

(1) When the fractional district has an organization and the territory and the school population required by law.

(2) When such district has no organization, but has the territory and school population required by law.

(3) When it has an organization and school population, but not the territory required by law.

(4) When it has the territory, but not the organization, nor the population required by law. 68 A. 397.

Sec. 10883. Consolidated districts—how formed.—Three or more common school districts, or a village district having less than two hundred children of school age by last enumeration, together with two or more adjoining districts, may be consolidated into a new district for the purpose of maintaining both primary schools and a high school by proceedings had in accordance with the provisions of section 10837. When such new district is formed it shall be known as "Consolidated district No. of county," and shall organize at a special meeting within fifteen days after the formation thereof; such organization and the government of such consolidated district shall be under and in compliance with the laws governing town and city school districts as provided in article IV of this chapter. (Laws 1901, p. 249, amended, L. 1909, p. 770.)

Note.—The law does not contemplate that consolidated districts be numbered in the same manner provided for numbering common school districts in section 10834, but when a new consolidated district is formed it should not be given the same name or number as another consolidated district already in existence.

This law enables three or more school districts, one of which may be a village district with six directors, to unite and form a new district. This must be done at the annual school meeting by posting notices as in case of change of boundary line. The districts vote separately on the question of consolidation. If all districts affected vote "for consolidation" the new district is formed. If one or more districts vote *for* and one or more vote *against*, the matter should be appealed to the county superintendent and by him referred to a board of arbitration. The new district will be under the six-director system, and may maintain a high school and as many lower grade schools as the board of directors may determine.

The first meeting of the newly created district should be called in the manner provided for in section 10843, and when assembled the organization should be effected as provided for in section 10865.

THE NEW CONSOLIDATION LAW.

(The Buford Consolidation Law, 1913.)

AN ACT to provide for the organization of consolidated schools and rural high schools, and to provide state aid for such schools, with an emergency clause.

SECTION

1. Consolidated district for elementary and high school may be formed.
2. Consolidated district—area and enumeration of.
3. Petition to form consolidated district filed with whom—duties of county school superintendent—meeting—organization of.
4. Transportation—may be voted on.

SECTION

5. Parts of districts remaining after consolidation—procedure.
6. Settlement of property—original districts to continue—how long.
7. State aid—when granted—how.
8. Special state aid granted—when and how.
9. Emergency.

Section 1. Consolidated district for elementary and high school may be formed.—The qualified voters of any community in Missouri may organize a consolidated school district for the purpose of maintaining both elementary schools and a high school as hereinafter provided. When such new district is formed it shall be known as consolidated district No. of county, and all the laws applicable to the organization and government of town and city school districts as provided in article IV, chapter 106 of the Revised Statutes of Missouri, 1909, shall be applicable to districts organized under the provisions of this act.

Sec. 2. Consolidated district—area and enumeration of.—No consolidated district shall be formed under the provisions of this act unless it contains an area of at least twelve square miles or has an enumeration of at least two hundred children of school age: *Provided*, that no district formed under the provisions of this act shall include within its territory any town or city district that at the time of the formation of said consolidated district has by the last enumeration two hundred children of school age.

A consolidated school district must either contain an area of twelve square miles or have an enumeration of two hundred children of school age.

Sec. 3. Petition to form consolidated district filed with whom—duties of county school superintendent—meeting—organization of.—When the resident citizens of any community desire to form a consolidated district, a petition signed by at least twenty-five qualified voters of said community shall be filed with the county superintendent of public schools. On receipt of said petition, it shall be the duty of the county superintendent to visit said community and investigate the needs of the community and determine the exact boundaries of the proposed consolidated district. In determining these boundaries, he shall so locate the boundary lines as will in his judgment form the best possible consolidated dis-

trict, having due regard also to the welfare of adjoining districts. The county superintendent of schools shall call a special meeting of all the qualified voters of the proposed consolidated district for considering the question of consolidation. He shall make this call by posting within the proposed district ten notices in public places, stating the place, time and purpose of such meeting. At least fifteen days' notice shall be given and the meeting shall commence at 2 o'clock p. m. on the date set. The county superintendent shall also post within said proposed district five plats of the proposed consolidated district at least fifteen days prior to the date of the special meeting. These plats and notices shall be posted within thirty days after the filing of the petition. The county superintendent shall file a copy of the petition and of the plat with the county clerk and shall send or take one plat to the special meeting. The special meeting shall be called to order by the county superintendent of schools or some one deputized by him to call said meeting to order. The meeting shall then elect a chairman and a secretary and proceed in accordance with section 10865, R. S. 1909. The proceedings of this meeting shall be certified by the chairman and secretary to the county clerk or clerks and also to the county superintendent or superintendents of schools of all the counties affected. If the proposed consolidated district includes territory lying in two or more counties, the petition herein provided for shall be filed with the county superintendent of that county in which the majority of the petitioners reside. The county superintendent shall proceed as above set forth and in addition shall file a copy of the petition and of the plat with the county clerk of each county from which territory is proposed to be taken.

Sec. 4. Transportation—may be voted on.—The question of transportation of pupils may be voted upon at a special meeting above provided for, if notice is given that such a vote will be taken. If transportation is not provided for in any school district formed under the provisions of this act, it shall then be the duty of the board of directors to maintain an elementary school within two and one-half miles by the nearest traveled road of the home of every child of school age within said school district: *Provided further*, that if transportation is not provided for, any consolidated district may by a majority vote at any annual or special meeting decide to have all the seventh grade and the eighth grade work done at the central high school building, provided fifteen days' notice has been given that such vote will be taken. Such seventh and eighth grade work at the central school may be discontinued at any time by a majority vote taken at any annual or special meeting.

It requires that two-thirds ($\frac{2}{3}$) of the voters who are taxpayers voting at the election vote in favor of transportation in order to authorize the board of directors to provide transportation.

Sec. 5. Parts of districts remaining after consolidation—procedure.—Whenever by reason of the formation of any consolidated school district a portion of the territory of any school district has been incorporated in the consolidated district, the inhabitants of the remaining parts of the districts shall proceed in accordance with section 10882, providing for the annexation to city school districts and the consolidated district shall be governed by the same provisions as govern city school districts in such cases. The inhabitants of the remaining parts of the districts may also annex themselves to any other adjoining district or districts by filing a petition asking to be so annexed with the clerk or clerks of the district or districts to which they desire to be annexed and by also filing a copy of all such petitions with the clerk of the county court.

Sec. 6. Settlement of property—original districts to continue—how long.—Whenever any consolidated district is organized under the provisions of this act, the original districts shall continue until June 30th, following the organization of said consolidated district, and at that time all the property, money on hand, books and papers of the school districts whose schoolhouse sites are included within said consolidated district shall by the officers of aforesaid districts be turned over to the board of directors of the consolidated district, and also all bonds outstanding against the aforesaid districts shall become debts against the consolidated district. The division of property and money on hand in case school districts are divided by the formation of any consolidated district shall be governed by sections 10839 and 10840.

This section provides that the boards of directors of the original districts shall continue until June 30th following the formation of the consolidated school district. Such boards of directors continue only for the purpose of completing the business already begun in the original districts. They have no power to make any contracts extending beyond June 30th.

At any time after its organization, the board of directors of the consolidated district has power to call a meeting for the purpose of voting bonds for the erection of a central school building or other needed buildings.

In the event a consolidated district is organized between the date of the annual school meeting and June 30th, the board of directors of the consolidated district must on June 30th assume all the contracts made by the boards of the original districts prior to the organization of the consolidated district. Only such contracts as are in writing should be assumed. Copies of all such contracts must be delivered by the boards of directors of the original districts to the board of directors of the consolidated district.

Sec. 7. State aid—when granted—how.—Whenever a district organized under the provisions of this act has secured a site of not less than five acres for the central high school building of said district and has erected thereon a school building, suitable for a central school and containing one large assembly room for the meeting of the citizens of the district and has installed a modern system of heating and ventilating, the state shall pay one-fourth of the cost of said building and equipment, provided the amount

thus paid by the state shall not exceed two thousand dollars (\$2,000.00) for any one district. The state of Missouri shall out of the general revenue fund of the state make adequate appropriation for carrying out the provisions of this section and the money due any district shall be remitted by the auditor to the county treasurer of the proper county on receipt of a certificate from the state superintendent of public schools stating that the conditions herein prescribed have been complied with.

Sec. 8. Special state aid granted—when—how.—When a consolidated district has been organized as herein provided and has provided adequate buildings for school purposes, the state shall grant a special aid of twenty-five dollars (\$25.00) per year for each square mile or fraction thereof in the area of said district: *Provided*, the district maintains an approved high school of at least the third class and gives an approved course of at least one year in agriculture; *and provided further*, that no district shall receive more than eight hundred dollars per year under the provisions of this section. The state of Missouri shall out of the general revenue fund of the state make adequate appropriation for carrying out the provisions of this section. The money herein provided shall become due on June 30th of each year and the district clerk shall on or before June 30th make application to the county clerk for the aid due his district and the county clerk shall certify these applications to the state superintendent of public schools, who shall approve them and certify to the state auditor the amount due each district under the provisions of this act. The state auditor shall draw his warrant on the state treasurer for the said amount and remit to the treasurer of the proper county.

Sec. 9. Emergency.—On account of the immediate need of consolidated schools and rural high schools, there is created an emergency within the meaning of the Constitution; therefore, this act shall take effect and be in force from and after its passage and approval.

Districts may organize under this law at any time. Fifty thousand dollars (\$50,000.00) was appropriated for aid under this law for the biennial period ending December 31, 1914.

State aid for the building is granted when the three conditions prescribed in section 7 have been met.

In order to secure state aid for maintenance, only three conditions are prescribed:

- (1) The district must provide adequate buildings.
- (2) It must maintain at least two years of approved high school work.
- (3) It must give an approved course of one year in agriculture.

It is not necessary that school site contain five acres in order that the consolidated school may obtain aid for maintenance under section 8. Since the passage of this law twenty-one districts have been organized.

Under the present school laws there are four independent plans for securing good graded rural schools and high schools for the rural boys and girls.

First: The first and best way is under the law passed by the forty-seventh general assembly, S. B. 241, known as the Buford consolidation law. Under this law it is possible to build a central high school in every township in the state. Under this

law every community that desires a high school may have one. The state contributes a large amount toward the maintenance of such schools. The state aid for such schools will usually be about one-half of the salaries of the high school teachers. The consolidated school district could maintain elementary schools sufficient to put every child under fourteen within two and one-half miles of a good elementary school and one school of higher grade for all older and more advanced within five miles. The little independent school district with fewer than twenty children is too expensive. Consolidate, harmonize and organize. The law furnishes the opportunity.

Second: School districts that are near villages and towns may under section 10880 annex themselves to the adjoining village or town, and thus secure the advantages of graded and high schools.

Third: A village and one or more adjoining districts may unite into one school district under section 10837 and then organize under section 10865 and establish graded schools and a high school.

Fourth: Under section 10852, four or more school districts may establish a joint high school. This method of securing a high school has not proved satisfactory. One school was organized at Lamonte in Pettis county several years ago. This school was abandoned in April, 1913. There is now only one such school in the state. This is at Aldrich, Polk county.

FORM OF PETITION.

_____, Mo., _____, 191—.

We, the undersigned qualified voters of school districts numbered _____, _____, _____, _____, and adjoining school districts, in accordance with the provisions of an act of the Forty-seventh general assembly of the state of Missouri, entitled "An act to provide for the organization of consolidated and rural high schools, and to provide state aid for such schools, with an emergency clause," do hereby petition the county superintendent of _____ county to visit this community, to investigate the needs of the community, to make and to post the plats of a consolidated school district in this community, and to post notices of a special school meeting to vote on the organization of said consolidated school district.

Names.

Names.

FORM OF SPECIAL SCHOOL MEETING NOTICE.

In accordance with the provisions of an act of the Forty-seventh general assembly of the state of Missouri, entitled "An act to provide for the organization of consolidated schools and rural high schools, and to provide state aid for such schools, with an emergency clause," notice is hereby given to the qualified voters of proposed consolidated district No. _____, county of _____, state of Missouri, that a special school meeting of said proposed consolidated district will be held at _____, on _____, the _____ day of _____, 191—, commencing at two o'clock p. m., and the following things will be considered:

First: To organize a consolidated school district in this community with boundaries as laid out on the plats posted.

Second: To elect six school directors for said consolidated school district; two for three years, two for two years, and two for one year.

Done this the _____ day of _____, 191—.

County Superintendent of Public Schools.

FORM OF NOTICE OF SPECIAL SCHOOL ELECTION.

Notice is hereby given to the qualified voters of consolidated school district No. 1, of _____ county, Missouri, that a special school election will be held at the schoolhouse in said consolidated school district, on _____, the _____ day of _____, 191—, polls opening at 7 a. m. and closing at 6 p. m., to vote upon the following propositions:

1. To authorize the school board to issue bonds to amount of ——— thousand dollars (\$———), for the erection of a central school building and the purchase of a central school site.

2. To select ——— acres of land located (describe land) ——— as a school site for the central school building.

Done by order of the school board this ——— day of ———, 191—.

Secretary of School Board.

THE HIGH SCHOOL AID LAW.

(The Wilson High School Aid Law, 1913.)

AN ACT to provide state aid for high schools, determining the amount of such aid and defining the conditions under which such aid may be obtained, with an emergency clause.

SECTION

1. State aid for high schools, how received.
2. Provisions under which aid may be had.

SECTION

3. Board of directors to make statement of amount of aid entitled to—county clerk to certify list—duties of state superintendent.
4. Emergency.

Section 1. State aid for high schools, how received.—Any town, city or consolidated school district may apply for state aid to maintain a high school. The aid granted shall be eight hundred dollars (\$800.00) per year to districts whose valuation is less than three hundred thousand dollars (\$300,000); six hundred dollars (\$600.00) per year to districts whose valuation is three hundred thousand dollars and less than four hundred thousand dollars (\$400,000); four hundred dollars (\$400.00) per year to districts whose valuation is four hundred thousand dollars and less than six hundred thousand dollars (\$600,000); two hundred dollars (\$200) per year to districts whose valuation is six hundred thousand dollars (\$600,000) or more: *Provided*, that a district in order to receive state aid shall show its assessed valuation, that it is organized as a town, city or consolidated school district and has six school directors, that it has levied for school purposes (teachers and incidental expenses) the maximum levy provided by law, that it maintains an approved high school and employs a competent principal to teach in said high school and to supervise the elementary school of said school district, that it pays each of its teachers at least forty dollars per month, that it admits non-resident pupils to said high school on payment of a reasonable tuition fee, that during the past year the daily attendance in said high school has averaged fifteen pupils, that it gives an approved course of at least one year in agriculture: *Provided further*, that in no case shall any district receive from the state in any year more than one-half of the amount of the salary paid to its high school teachers the previous year. It is also further provided that no district receiving any

other form of special high school aid from the state shall be entitled to aid under this act.

Sec. 2. Provisions under which aid may be had.—Any town, city or consolidated school district, situated in any county in which there is no school district whose assessed valuation is more than three hundred thousand dollars (\$300,000) may apply for state aid to maintain a high school. A district making application for state aid under this section shall show that it has an assessed valuation of less than three hundred thousand dollars, and that no approved high school in the county maintains an average daily attendance of fifteen pupils, that it is organized as a town, city or consolidated school district and has six school directors, that it has levied for school purposes (teachers and incidental expenses) the maximum levy provided by law, that it proposes to maintain an approved high school of at least the third class for a term of eight months and that it employs a competent principal to teach in said high school and supervise the elementary school of said district. The state hereby grants an aid of eight hundred dollars (\$800.00) per year to such school district. But it is further provided that, if two or more districts in the same county apply for state aid under the provisions of section 2 of this act, the district that first files in the office of the state superintendent of public schools notice of its intention to apply for aid under this act shall be granted the aid: *Provided*, that on or before June 30th, following the filing of the notice of its intention to apply for aid, it shows that it has met the requirements of this section: *Provided further*, that any district receiving aid in any year shall be regarded as the first applicant for aid the succeeding year without the filing of a formal notice. It is further provided that any school district receiving aid under the provisions of this act shall admit non-residents pupils to the high school of said district on the payment of a reasonable tuition fee. *Provided further*, that any school district receiving state aid for two consecutive years and then during any two consecutive years thereafter fails to maintain an average daily attendance of fifteen high school pupils, shall forfeit its right to any further aid for a period of five years, or until it can again show an average daily attendance of fifteen high school pupils for a term of eight months.

Sec. 3. Board of directors to make statement of amount of aid entitled to—county clerk to certify list—duties of state superintendent.—The board of directors of any school district desiring to avail itself of the state aid provided for under this act shall meet and on or before June 30th furnish to the county clerk evidence that their school district has met the requirements of this act, and shall make a statement of the amount of aid to which said district is entitled. This evidence and statement shall be attested by the signatures of the president and the clerk of said school board and sworn to before a notary public or the county clerk. It shall be the

duty of the county clerk on or before July 15th to furnish to the state superintendent of public schools a list of all the districts in his county making application for state aid for high schools, showing the amount estimated for each school district and the total amount for the county. Before apportioning the state school funds, the state superintendent shall set aside a sum equal to the total of all the applications for state aid called for by all the counties of the state, after which he shall proceed in accordance with section 10822 of the Revised Statutes of Missouri, 1909, and of the session acts of 1911: *Provided*, that the amount so set aside shall in no one year exceed five per cent. of the total state school funds. Should the total application[s] for aid called for by all the counties in any one year exceed five per cent. of the total state school funds, then the state superintendent of public schools shall first set aside out of the five per cent. the amount of aid applied for under section 2 of this act and then the remainder of the five per cent. of said state school funds shall be distributed pro rata among the districts applying for aid under section 1 of this act, according to the amount applied for by each district. The state superintendent of public schools shall within thirty days after he has approved the work of any school applying for aid, certify his approval to the state auditor, who shall draw a warrant on the state treasurer for the amount due such district and forward said amount to the county clerk of the proper county, and the county clerk shall thereupon apportion the said amount to the proper district in accordance with the application on file in his office.

Sec. 4. Emergency.—On account of the high schools requiring immediate aid, an emergency is created within the meaning of the Constitution; therefore, this act shall take effect and be in force from and after its passage and approval.

THE TEACHER-TRAINING COURSE LAW.

(The Crossley Teacher-Training Course Law, 1913.)

AN ACT to provide for teacher-training courses in certain high schools and academies, and to provide for state aid to high schools giving such teacher-training courses, with an emergency clause.

SECTION

1. Teacher-training courses—provisions for—what grades.
2. State aid—amount of—payable how—superintendent to make report—auditor to send amount to county clerk.
3. State aid—when more than one high school—requirements for.
4. Inspector of teacher-training—appointment of—salary.

SECTION

5. State school superintendent—duty of—teacher-training classes.
6. Examination for graduation—fee for certificate—apportionment of fee—account to be kept by state school superintendent.
7. Certificate of graduation—issued by whom—grades—fee.
8. Emergency.

Section 1. Teacher-training courses—provisions for—what grades.—For the purpose of increasing the facilities for training teachers for the elementary and rural public schools, by requiring a review of such common branches as may be deemed essential by the state superintendent of public schools and for instruction in elementary pedagogy, including the art of teaching elementary agriculture, provision is hereby made for teacher-training courses in the eleventh and twelfth grades of such approved first class high schools as the state superintendent of public schools may designate: *Provided*, that such high schools shall be selected and distributed with regard to their usefulness in supplying trained teachers for the elementary schools of all portions of the state and with regard to the number of teachers required for the elementary schools in each portion of the state: *Provided*, that private and denominational schools be eligible to the provisions of this act, except as to receiving state aid.

Sec. 2. State aid—amount of—payable how—superintendent to make report—auditor to send amount to county clerk.—Each public high school approved under the provisions of this act shall receive state aid to the amount of seven hundred and fifty dollars (\$750.00) per annum, payable in two equal installments at the close of each semester as hereinafter provided. The superintendent of each such approved high school shall at the close of each semester file such report with the state superintendent of public schools as said officer may require. Upon receipt of a satisfactory report the state superintendent of public schools shall certify to the state auditor the amount due said school and the county in which said school is situated, and shall also notify the county clerk of each county the amount due any school in his county. The state auditor shall draw a warrant on the state treasurer for the amount due such district and forward said amount to the county clerk of the proper county and the county clerk shall thereupon apportion said amount to the proper district.

Sec. 3. State aid—when more than one high school—requirements for.—It is provided that in case more than one high school in any county shall be approved under the provisions of this act the total state aid distributed in such county shall not exceed twelve hundred dollars (\$1,200.00), to be divided equally among said high schools. No high school shall be approved as entitled to state aid unless a class of ten or more shall have been organized, maintained and instructed during the preceding semester in accordance with the provisions of this act and the regulations of the state superintendent of public schools.

Sec. 4. Inspector of teacher-training—appointment of—salary.—The appropriation provided for by this act for the instruction of pupils in the science and practice of rural school teaching

and the teaching of elementary agriculture, may be expended in part for the inspection and supervision of such instruction by the state superintendent of public schools and by such person as he may designate, and the expense of such inspection and supervision shall be paid out of said appropriation on vouchers certified by the state superintendent of public schools. In accordance with the foregoing provisions of this section, the state superintendent of public schools is authorized to appoint an inspector of teacher-training in high schools and private and denominational schools at a salary of not to exceed two thousand two hundred dollars (\$2,200.00) per year, and the necessary traveling expenses while in the discharge of his duties.

Sec. 5. State school superintendent—duty of—teacher-training classes.—The state superintendent of public schools shall prescribe the conditions of admission to the teacher-training classes, the courses of instruction, the rules and regulations under which such instruction shall be given and the requirements for graduation subject to the provisions of this act.

Sec. 6. Examination for graduation—fee for certificate—apportionment of fee—account to be kept by state school superintendent.—In each high school approved under this act, an examination for graduation from the teacher-training course shall be conducted under such rules as the state superintendent of public schools shall prescribe. Each applicant for such certificate of graduation shall pay a fee of three dollars (\$3.00) to the superintendent of schools of the county in which said applicant is attending high school. One dollar of said fee shall be sent by said county superintendent to the state superintendent of public schools, to be used to pay the cost of reading and grading the answer papers of such applicants and other expenses incident to such examinations, one dollar shall be used for the payment of the expenses of teachers' associations, and one dollar shall be retained by the county superintendent for compensation for such work as the state superintendent of public schools may require of him in connection with teacher-training courses. The state superintendent of public schools shall keep an accurate account of all moneys received and disbursed by him in carrying out the provisions of this act. Any balance remaining in said fund shall be turned into the general revenue fund of the state by the state superintendent of public schools on the first day of September of each calendar year.

Sec. 7. Certificate of graduation—issued by whom—grades—fee.—A certificate of graduation from the teacher-training course provided for in this act shall be issued by the state superintendent of public schools and shall be a valid license to teach in any public elementary or rural school in any county of the state for a term of two years on registration with the superintendent of schools of the county in which the applicant is employed to teach. After

thirty-two weeks of successful experience and one term's successful work in a state normal school, in the state university, or in any standard college or university, any person holding a teacher-training certificate issued under the provisions of this act shall receive a first grade county certificate. On request of the superintendent of schools of the county under whose supervision the applicant may have taught, accompanied by a statement that the applicant has been successful as a teacher and by a certificate showing that the work prescribed above has been done, the state superintendent of public schools shall certify to the county superintendent the grades made by said applicant, and upon these grades a first grade certificate shall be issued to the applicant by the county superintendent on the payment of a fee of one dollar and fifty cents.

Sec. 8. Emergency.—On account of the immediate need of trained teachers for the rural schools, an emergency is created within the meaning of the Constitution; therefore this act shall take effect and be in force from and after its passage and approval.

One hundred thousand dollars (\$100,000.00) was appropriated for teacher-training courses for the biennial period ending December 31, 1914.

More than sixty first class high schools have been designated as teacher-training high schools

Sec. 10884. Employment of members of board—publication of financial report.—No member of any public school board of any city, town or village in this state having less than twenty-five thousand inhabitants shall hold any office or employment of profit from said board while a member thereof except the secretary and treasurer, who may receive reasonable compensation for their services: *Provided*, the compensation of the secretary shall not exceed one hundred and fifty dollars, and that of the treasurer shall not exceed fifty dollars for any one year; *and provided further*, that it shall be the duty of each of said boards, and of the boards of directors in other school districts in this state having graded schools, to make and publish, annually, on or before the 15th day of July in each year, in some newspaper published in such school district, and if there be no newspaper published therein, then by written statements posted in five public places in such districts, a detailed statement of all receipts of school moneys, when and from what source derived, and of all expenditures, and on what account; also, the present indebtedness of the district and its nature, and the rate of taxation for all school purposes for the year; which said statement, so required to be made and published, shall be duly attested by the president and secretary of the board, and the secretary shall forward a copy of said report to the state superintendent of public schools at Jefferson City. And any board of education or board of directors who shall fail, refuse or neglect to order such statement to be made, and any officer of said board who shall

fail, refuse or neglect to prepare such statement and publish and forward the same, as required by the foregoing provisions of this section, when ordered by such board, shall be guilty of a misdemeanor and punishable by a fine not to exceed one hundred dollars. (R. S. 1899, § 9879, re-enacted, L. 1909, p. 770.)

The department of education sends out a blank for the report contemplated by this section. Secretaries of school boards should make this report promptly between the 1st and 15th days of July in each year, and thus avoid unnecessary correspondence.

Sec. 10885. Boards may accept gifts for libraries.—The board of education shall have power to accept and receive gifts and devises for the erection and endowment of libraries and for the purchase of books, and to invest the same, and to loan such endowment fund upon the same security and in the same manner as required by law for the county or capital school fund. (R. S. 1899, § 9879, re-enacted, L. 1909, p. 770.)

A note of donor, payable to district at a future date, is ordinarily not a valid gift and not collectible, but when the district has made large expenditures on the faith that such note will be paid before executors of donor repudiate same, it can be collected. *School District v. Sheidley*, 138 Mo. 672.

Sec. 10886. Depositories of school moneys.—The board of education of city, town and consolidated school districts in this state shall select depositories for the funds of such school district in the same manner as is provided by law for the selection of county depositories; and they may loan any moneys held for the payment of outstanding bonds upon the same terms and upon the same conditions as provided by law for loaning county and school moneys. (R. S. 1903, p. 269, re-enacted, L. 1909, p. 770.)

Boards of education should observe the provisions of this section. The interest paid by the depository makes a good nucleus for a library fund.

NEW SECTIONS—SURRENDER OF SPECIAL SCHOOL DISTRICT CHARTERS.

Section 1. May be governed by general school law, how.—All school districts in this state now having a special charter may surrender such special charter, and become a school district under and be governed by general school laws of this state, and more particularly chapter 106 Revised Statutes of Missouri, 1909, and amendments thereto, in the manner hereinafter provided.

Sec. 2. Special election to determine whether special charter shall be surrendered.—A majority of the school directors may, and upon the petition of ten (10) assessed tax paying citizens they (the school directors) shall, within ten days after same is filed with the clerk of said school board, call a special election as hereafter provided, to determine whether the special charter shall be surrendered.

Sec. 3. Notice of election.—The school board shall publish a notice of said election in some newspaper published in said district

in the following manner; if a daily paper for seven successive days, and if a weekly newspaper in two issues thereof, and the election shall be held not less than five nor more than ten days after the last insertion of said notice in said paper.

Sec. 4. Elections, how conducted.—Said election shall be held, judges and clerks be appointed, and in every other respect conducted, as school elections are now held in said special school district.

Sec. 5. Ballot.—The school board shall furnish the ballots for use at said election which shall be in the following form—

SPECIAL ELECTION.

_____ SCHOOL DISTRICT.

SHALL THE SPECIAL CHARTER BE SURRENDERED.

YES.

NO.

Sec. 6. Result of election.—If a majority of those voting at said election shall vote in favor of surrendering the special charter, such school district shall thereafter become a school district under and be governed by the general school laws of this state, and more particularly chapter 106 Revised Statutes of Missouri, 1909, and amendments thereto.

Sec. 7. Emergency.—There being a number of school districts which desire to surrender their special charters and there being no law by which same may be done, creates an emergency within the meaning of the Constitution of this state, and requires that this act shall take effect immediately upon its approval. Therefore, this act shall take effect and be in force from and after its approval. (Session Acts, 1913.)

ARTICLE V.

LAWS APPLICABLE TO CERTAIN SCHOOL DISTRICTS.

SECTION

10887. Boards may loan sinking fund, when and how.
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Sec. 10887. Boards may loan sinking fund, when and how. Whenever any school district in any county in this state, which now

has or hereafter shall adopt township organization, shall accumulate a sinking fund for the payment of district indebtedness, the board of directors of such school district shall have the power to loan such sinking fund for such length of time as they shall deem proper, such time not to extend beyond the maturity of the district's indebtedness. Said board shall not loan said money for a less rate of interest than four per cent. per annum, nor for a greater rate than eight per cent. per annum. The security which shall be required shall be unincumbered real estate of at least double the value of the amount loaned, and, in addition, the borrower may, if the board deem it necessary, be required to give a note or bond, with one or more solvent sureties, to be approved by the board of school directors, payable to the school district making the loan; which note or bond shall be described in and secured by the deed of trust or mortgage on the real estate given as security. (R. S. 1899, § 9791, amended, L. 1909, p. 770.)

While it is improper to loan school money on a second mortgage, such mortgage is not invalid. *Sharp v. Collins*, 74 Mo. 266.

Sec. 10888. Boards in certain cities to purchase site, when. In all such school districts as are mentioned in article IV of this chapter that have or that may hereafter have a population exceeding five thousand and not exceeding one hundred thousand inhabitants, the board of education of such school districts shall have full power, by an affirmative vote of not less than two-thirds of all the members of such board, to locate and direct and authorize the purchase of sites for schoolhouses, libraries, school offices and public parks and play grounds adjacent to the schoolhouse site or elsewhere in said school district, and, by a like vote, to direct and authorize the sale of any real estate or other property belonging to such school districts; and if two-thirds of the members of such board shall authorize and direct the sale of such real estate, same shall be entered of record by the secretary, together with the terms of such sale, and the president of such board shall, in the name of such board, execute the necessary deed or deeds of conveyance to the purchaser or purchasers thereof; which said deeds of conveyance shall be by him acknowledged as other deeds conveying real estate are by law required to be acknowledged. All laws and parts of laws in conflict with this act are hereby repealed. (Session Acts, 1913.)

Sec. 10889. Board of education may establish free night schools, when.—The board of education in school districts organized under the provisions of article IV, article XII or article XIII of chapter 106 of the Revised Statutes of 1909, upon the receipt of a petition signed by fifty or more freeholders requesting such action, are hereby authorized and empowered to establish and maintain free night schools, to make all necessary rules and regulations therefor, to fix the rates for tuition of pupils above the age of twenty years and of such others as are not entitled to receive

free public school privileges in the district in which such school is maintained, and to have general charge and control over such school: *Provided*, that such boards of education may grant the use of, or lease, any of the public school buildings in their respective districts to any responsible party or parties for the purpose of conducting a free night school therein: *Provided, however*, that when the use of a school building is granted or leased for the above named purpose, it shall be the duty of the party or parties using it to keep it clean and in good repair and to leave it in as good condition as it was when they took charge of it: *Provided further*, that should the party or parties so using the said school building fail to comply with the provisions of this section, the board of education of such district shall refuse them further use of it until said provisions are complied with. (Laws 1909, p. 849.)

Sec. 10890. Districts may be annexed in certain cases. Whenever a city school district now having or which may hereafter attain a population of more than one hundred thousand and less than three hundred thousand inhabitants shall adjoin a city school district having a population of less than one hundred thousand inhabitants, and the school district containing the larger population shall desire to extend its boundary lines so as to embrace the territory of the district having the lesser population, together with the territory which may be attached thereto for school purposes, such extension may be accomplished in the manner hereinafter in sections 10890 to 10895 prescribed. (R. S. 1899, § 9952.)

Sec. 10891. *Id.* Procedure.—The board of directors of the district having the greater population shall adopt a resolution expressive of the desire of their said district to extend its limits so as to embrace the territory of the district having the lesser population, together with the territory which may be attached thereto for school purposes, and requesting the board of directors of such smaller district to order a special election in said district for the purpose of submitting to the qualified voters thereof a proposition for such extension, and shall cause to be delivered to the president of the board of directors of such smaller district a copy of such resolution, certified by the secretary of the board. (R. S. 1899, § 9953.)

Sec. 10892. Election to be held—to be conducted, how.—Within thirty days after the delivery of a copy of said resolution to such president, the board of directors of such smaller district shall, by resolution, order a special election to be held in such district, at which shall be submitted to the qualified voters of the district the question whether said district, with the territory attached thereto for school purposes, shall be annexed to and become a part of the district having the greater population. The board of directors shall by such resolution fix the time and designate the places at which such special election shall be held, and the number of the places so designated shall not be less than one in each city

ward in the district. Printed notices, signed by the president and secretary of the board, stating the purpose of the election, and the time and places at which it will be held, shall be posted in at least ten public places in the district at least twenty days before the day of election. The election shall begin at seven o'clock a. m., and close at six o'clock p. m. The board of directors shall appoint three judges of election for each polling place and the judges at each polling place shall appoint two clerks. The judges and clerks shall be sworn, and the election, except as herein otherwise provided, shall be conducted in the same manner as elections under article II, chapter 43 of the Revised Statutes of 1909. Should such school district embrace territory not included in the limits of a city, the qualified voters thereof may vote at such voting precinct as they would be attached to: *Provided*, the lines thereof were extended and produced through such adjoining territory. The voting shall be by ballot. Those voting in favor of such annexation shall have written or printed on the ballots "for annexation;" and those voting against such annexation the words "against annexation." The ballots, necessary poll books and one ballot box for each voting place shall be furnished by the board of directors. Immediately after the close of the election the ballots shall be counted, and the ballots, after being counted, shall be sealed up in a package and delivered to the secretary of the board of directors, who shall deposit them in his office, where they shall be safely preserved for twelve months, and said secretary shall not allow the same to be inspected unless in case of a contested election or the same become necessary to be used in evidence, and then only on the order of the proper court or the judge thereof in vacation, under such restrictions for their safe-keeping or return as the court or judge making the order may deem necessary; and at the end of twelve months such secretary shall publicly destroy the same by burning. The result of the election shall be certified by the judges and clerks to the secretary of the board of directors, who shall report the same to the board, which shall order the same duly entered on the records in which are preserved the minutes of the proceedings of the board. With the certificates as to such results, the judges shall also deliver to the secretary of the board of directors the poll books and the ballot boxes used at such special election. (R. S. 1899, § 9954.)

Sec. 10893. Proceedings if proposition to annex carries.—If at such election a majority of the votes cast favor such annexation, the board of directors of such smaller district shall, within thirty days after the election, adopt a resolution declaring the result of the election to be in favor of such annexation, and deliver to the board of directors of the larger district a copy of such resolution, whereupon the board of directors of the larger district shall, within fifteen days after such delivery, adopt a resolution declaring that the boundary lines of such larger district are extended so as to embrace the territory of such smaller district, together with the

territory which may have been attached thereto for school purposes. Upon the adoption of such resolution, such extension and annexation shall be complete, and the corporate existence of such smaller district shall, *ipso facto*, cease, and the smaller district, together with the territory which may have been attached thereto for school purposes become annexed to and be a part of such larger district, and all property and rights of every kind and nature belonging to and vested in such smaller district shall, by operation of law, at once pass to and vest in the larger district; and it shall be the duty of all officers and employes of such smaller district, having custody or control thereof, to surrender and deliver the same to such larger district, and the larger district shall also, by operation of law, become liable to pay all the debts and liabilities of such smaller district. (R. S. 1899, § 9955.)

Sec. 10894. Maintenance of library.—Should there be in such smaller district a library building, and a library established therein, the board of directors of the larger district, after such annexation shall have been accomplished, shall have the power, if they shall deem it for the best interests of the district, to maintain such building and library, and to appropriate to its support and maintenance such sums as they may deem proper. (R. S. 1899, § 9956.)

Sec. 10895. Delinquent, dependent and neglected children, where sent to school.—The boards of managers of houses of refuge, houses of correction, orphan asylums, or any public institutions having charge of delinquent or dependent and neglected children, in cities now having or which may hereafter have one hundred thousand inhabitants or over, shall have power to arrange with the public school authorities of such cities for the education, schooling, instruction and training of such children. (Laws 1905, p. 301.)

ARTICLE VI.

COMPULSORY ATTENDANCE OF CHILDREN.

SECTION

10896. Parents and guardians required to send children to school.
10897. Child may be excused temporarily, when.
10898. Attendance officers, how appointed—duties.
10899. Teachers to be furnished enumeration list.
- 10899a. Superintendent to be furnished names of parents or guardians of

SECTION

- children not complying with section 10896—superintendent to file same with prosecuting attorney—prosecuting attorney to proceed.
10900. Truant or parental schools.
10901. Parents and guardians to be warned—penalty.
10902. Public notice of this act to be given.
10905. Violations of this act, how prosecuted.

Sec. 10896. Parents and guardians required to send children to school.—Every parent, guardian or other person in the state of Missouri having charge and control of a child between the ages of eight and fourteen years shall cause such child to attend regularly some day school, public, private, parochial or parish not less than

three-fourths of the entire time the school which said child attends is in session, or shall provide such child at home with such regular daily instruction during the usual hours as shall be, in the judgment of a court having competent jurisdiction, substantially equivalent at least to the instruction given children of like age at said day school in the locality in which the child resides: *Provided*, that every parent, guardian or person in the state of Missouri having charge and control of a child between the ages of fourteen and sixteen years, who is not actually and regularly and lawfully engaged in some useful employment or service, shall cause said child to attend regularly some day school as aforesaid. (Laws 1905, p. 146, amended, L. 1909, p. 847.)

Sec. 10897. Child may be excused temporarily, when.—A child between the ages aforesaid may be excused temporarily from complying with the provisions of sections 10896 to 10905, inclusive, in whole or in part, if it can be shown to the satisfaction of a court of competent jurisdiction that said parent, or guardian, or person having charge or control of said child, is not able, through extreme destitution, to provide or obtain in any way proper clothing for said child; or that said child is mentally or physically incapacitated to attend school for the whole period required, or any part thereof, or that there is no public school taught within two and one-half miles of the residence of said child by the nearest traveled road, or that said child has completed the common school course as prescribed by constituted authority, or its equivalent, and has received a certificate of graduation therefrom." (Session Acts, 1911.)

Sec. 10898. Attendance officers, how appointed—duties.—The board having charge of a public school in a city or district of one thousand or more population by the last census shall appoint and remove at pleasure one or more attendance officers to enforce the provisions of sections 10896 to 10905 inclusive, and shall fix the compensation and manner of performance of the duties of said attendance officer, and shall pay them from the public school fund; and the attendance officer, as aforesaid, shall serve written or printed notices upon the parents, or guardians, or persons who, having charge and control of children as aforesaid, violate the provisions of said sections; shall, when reasonable doubt exists as to the age of such child, require a properly attested birth certificate or an affidavit stating such child's age, date of birth and physical characteristics; shall have the right to visit and enter any office or factory or business house employing children as aforesaid; shall have the right to require a properly attested certificate of the attendance of any child or children at such day school; shall have power to arrest, without warrant, all truants non-attendants as aforesaid and place them in some public school, unless the parents or guardians, or persons in charge and control of such children, respectively, shall at once place them in some other day school as aforesaid; and shall serve the legal notices and subpoenas of the

court and make such required arrests in the cases which they prosecute without further fee or compensation than that paid by the board, as aforesaid, and shall carry into effect such other regulation as may lawfully be required by the board appointing them. (Laws 1905, p. 146, amended, L. 1909, p. 847.)

Sec. 10899. Teachers to be furnished enumeration list.—It shall be the duty of the secretary of the board in city, town and village schools, and of the clerk of the board in other districts, to furnish the teacher at the beginning of the term with a copy of the last enumeration of the district. The teacher shall compare this list with the enrollment and report to the attendance officer at the end of each week during the first month, and as often thereafter as necessary, the names of all non-attendants between the ages of eight and sixteen. (Laws 1909, p. 847.)

Sec. 10899a. Superintendent to be furnished names of parents or guardians of children not complying with section 10896—superintendent to file same with prosecuting attorney—prosecuting attorney to proceed.—It shall be the duty of the secretary of board in city, town or village schools, and of the clerks of the board in other districts, to file with the county superintendent on or before the end of each of the first three quarters of any school term the names of parents, guardian or other persons having control of children in his district who are not complying with the provisions of section 10896 of this article. The county superintendent shall immediately make an investigation and if he finds that the parents, guardians or other persons having charge of such children are carelessly and negligently refusing to comply with section 10896 of this article he shall file with the prosecuting attorney such information as he may possess touching upon this question. The prosecuting attorney shall proceed as in any misdemeanor case. (Session Acts, 1911.)

Sec. 10900. Truant or parental schools.—The board having charge of the public schools of any district now having, or which may hereafter have, 10,000 inhabitants or more, may establish and maintain from the public school funds one or more special truant or parental schools in such city or district for children who are either habitual truants from any day school in which they are enrolled as pupils, or who, while in attendance at any school are incorrigible, vicious, or immoral, or who habitually wander or loiter about the streets or roads, or other public places without lawful employment, or who, in the opinion of such board or of its superintendent of instruction, require special attention and instruction; all such children may by said school board, through its officers, be assigned to and required and compelled to attend such special truant or parental school, or any department of the graded schools as such board may direct; and any such board of education may also establish and maintain from the public school funds, either within or without its district, a parental school for the care and

education of any child resident of said school district adjudged to be a delinquent and committed to it by any court of competent jurisdiction therein: *Provided, however,* that for every such delinquent child thus committed to such school there shall be paid to such board of education out of the treasury of said city or county the sum of ten (\$10.00) dollars per month for the support, maintenance, clothing and other expenses of such child from the time of its entrance into said school until its discharge therefrom. (Session Acts, 1911.)

Sec. 10901. Parents and guardians to be warned—penalty. Any parent or guardian or person who, having charge and control of a child between the ages of eight and sixteen years, violates any provisions of section 10896 to 10905, inclusive, shall be warned as aforesaid as soon as possible after the beginning of the public school term of the city or town district in which such child resides, and also at any time thereafter, by the attendance officer herein provided for, or by clerk of district when no attendance officer is provided for, to place and keep said child in regular attendance at some day school within ten days from the service of said written or printed notice of warning, and upon failure to comply with said sections after a lapse of ten days from the date of the service of said notice of warning, said parent or guardian, or person having charge and control of said child shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not less than ten dollars and not more than twenty-five dollars, or be imprisoned for not less than two days and not more than ten days, or both such fine and imprisonment: *Provided,* that said sentence of fine or imprisonment, or both, may be suspended and finally remitted by the court with or without the payment of costs at the discretion of the court if the said child be immediately placed and kept in regular attendance in some day school as aforesaid, and if such fact of regular attendance is proven subsequently to the satisfaction of said court by a properly attested certificate of attendance by the superintendent or teacher of said day school. (Laws 1905, p. 146.)

This law is constitutional and can be enforced. Several convictions have been secured under this law. School officers should see that the law is enforced.

Sec. 10902. Public notice of this act to be given.—Every board having charge of the public schools of any city or town or district in the state of Missouri shall, each year, publish a synopsis of sections 10896 to 10905, inclusive, ten days prior to the opening of school in a newspaper published in the city or town district in which the members thereof reside, or shall post copies thereof in five or more public places in the district as will in their judgment best give knowledge thereof. (Laws 1905, p. 146.)

Sec. 10905. Violations of this act, how prosecuted.—Prosecutions under sections 10896 to 10905 shall be brought in the name of the state of Missouri, before any court of record having compe-

tent jurisdiction in cities having fifty thousand population or more, and before any court having competent jurisdiction in other districts, and the fines collected shall be paid over to the county treasurer and be credited to the permanent school fund of the county or city. (Laws 1905, p. 146.)

The following notice should be posted in five public places ten days before school opens each year. Printed notices will be supplied by state superintendent to county superintendents:

NOTICE TO PARENTS AND GUARDIANS.

PROVISIONS OF COMPULSORY ATTENDANCE LAW.

Article 6, chapter 106, R. S. 1909 and Session Acts, 1911.

1. Every child between 8 and 14 years old must attend some day school at least three-fourths of the term each year.
2. Every child between 14 and 16 years old, when not regularly employed, must attend some day school at least three-fourths of the term each year.
3. No child can be excused on promise to attend; he must attend the first three-fourths of the term before being excused under this law.
4. Courts having jurisdiction (justice of the peace in rural districts and in cities having less than 50,000 population) may excuse children from attending school for following reasons: (1) Parents cannot supply proper clothing; (2) child is mentally or physically unable to attend; (3) no public school in two and a half miles of the home; (4) child has completed the common school course.
5. No child under 14 can be employed except at agricultural pursuits and in domestic service unless excused for one of the four reasons, or has statement from teacher that he has already attended three-fourths of the term for that school year; no child between 14 and 16 can be legally employed without an employment certificate issued by the school authorities.
6. It is the duty of attendance officers and district clerks to notify parents and guardians when children fail to comply with the provisions of the law.
7. The secretary or clerk of board must furnish principal or teacher at beginning of term with copy of enumeration. The principal or teacher must compare the list with enrollment and report at the end of each week during the first month, and as often as necessary after that, the names of nonattendants.
8. The clerk or secretary of board must report to the county superintendent on or before the end of each of the first three quarters of the school term the names of parents or guardians of nonattendants.
9. The penalty for nonattendance falls on parent or guardian, and is a fine of not more than \$25 or imprisonment for 10 days, or both.
10. For illegal employment of a child, the employer is subject to a fine of one hundred dollars and costs and imprisonment for one year.
11. Every school board shall publish this synopsis in newspaper of the district or post it in at least five public places ten days before school opens each year.

ARTICLE VII.

STATE SUPERINTENDENT.

SECTION

10918. State superintendent—election and term of office.
 10919. Bond and qualification.
 10920. Powers and duties.
 10921. May employ chief clerk.
 10922. Annual report of state superintendent—shall inspect schools.

SECTION

10923. Classification of high schools—work to be accredited.
 10924. High school inspection by state superintendent.
 10925. Blanks for reports.
 10926. Restrictions and penalties.
 10927. Reports to state superintendent.
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Sec. 10918. State superintendent—election and term of office. There shall be elected by the qualified voters of this state, at the next general election for state and county officers, and every four years thereafter, a state superintendent of public schools, who shall enter upon the discharge of his duties on the second Monday of January next following his election, and hold his office for the term of four years and until his successor is elected and qualified. The election of said superintendent and the returns thereof shall be the same in all respects as provided for the election of other state officers; and in case of vacancy occurring in said office, by death, resignation or otherwise, the governor shall fill the same by appointment, who shall hold his office until the next general election. (R. S. 1899, § 9854, re-enacted, L. 1909, p. 770.)

Sec. 10919. Bond and qualification.—Before entering upon the discharge of his official duties, the said superintendent shall give bond in the penal sum of ten thousand dollars to the state of Missouri, with two or more sureties, to the acceptance of the secretary of state, conditioned that he will truly account for and apply all moneys or other property which may come into his hands, in his official capacity, for the use and benefit of public schools, and that he will faithfully perform the duties enjoined upon him by law; and he shall take and subscribe the oath or affirmation required by the Constitution of the state, and diligently and faithfully discharge the duties of his office as prescribed by law; which bond, with certificate endorsed thereon, shall be filed with the secretary of state. (R. S. 1899, § 9855, re-enacted, L. 1909, p. 770.)

Sec. 10920. Powers and duties.—He shall reside and the books and papers of his department shall be kept at the seat of government, where a suitable office shall be provided by the state, at which he shall give his attendance when not absent on public business. He shall exercise such supervision over the educational funds of the state as may be necessary to secure their safety and correct application and distribution according to law. He shall also have power to require of county clerks or treasurers, boards of education or other school officers, recorders and treasurers (boards

of education or other school officers, recorders and treasurers), of cities, towns and villages, copies of all records by them required to be made, and all such other information in relation to the funds and condition of schools and the management thereof as may be deemed important; and he shall cause as many copies of the law relating to schools, with instructions for carrying into execution of such laws, to be printed in a separate volume and distributed to each county in the state, for the use of school officers therein, and all the blanks that may be necessary for the supply of all officers provided for by this chapter, as often as any change in said laws may be made of sufficient importance, in the opinion of the superintendent, to require re-publication and distribution thereof; and all moneys necessarily expended in performance of the duties required in this section shall be allowed by the auditor and paid out of the state treasury. He shall also have authority to examine teachers and grant certificates of qualifications to those who pass a satisfactory examination, but the applicant shall not be charged any fee for such examination or certificate, nor shall the state superintendent receive any fee or compensation therefor; and any person holding such certificate from him shall be permitted to teach without further examination from other authorized examiners. Said certificate may be revoked by the state superintendent for incompetency, cruelty, immorality, drunkenness or neglect of duty. (R. S. 1899, § 9856, re-enacted, L. 1909, p. 770.)

The instructions for carrying into effect the school laws prepared by state superintendent of schools under the provisions of this section are not binding on the courts, but when such instructions are practical they have great weight with the courts in determining the true meaning of the law. *State ex rel. v. Job*, 205 Mo. 1.

Sec. 10921. May employ chief clerk—salary.—The state superintendent shall be entitled to employ a chief clerk, who shall sustain the same relations to the state superintendent as are sustained by the chief clerks of other state officers. The chief clerk shall perform such clerical and other work as may be directed by the state superintendent, and shall hold his office at the pleasure of the state superintendent, and shall receive a salary of two thousand dollars per annum. (R. S. 1899, § 9857, re-enacted, L. 1909, p. 770.)

By an act of the forty-sixth general assembly the salary of the chief clerk was raised to \$2,400 per annum.

Sec. 10922. Annual report of state superintendent—shall inspect schools.—It shall be the duty of said superintendent of public schools to make an annual report on or before the first Wednesday in January, in each and every year, to the general assembly, when that body shall be in session any such year; and when not in session any one year, then the report shall be made to the governor, who shall cause the same to be published, and shall also communicate a copy thereof to the next general assembly. The state superintendent, in the annual report of his labors and observations, shall present a statement of the condition and amount of all funds and

property appropriated for purposes of education; a statement of the number of public schools in the state, the number of pupils attending such schools, their sex, and the branches taught; a statement of the number of teachers employed, their sex, the average amount of wages paid to such teachers, statistics showing the amount of professional training had by teachers in the schools of the state; a statement of the estimates and accounts of the expenditures of public school funds of every description; a statement of plans for the management and improvement of public schools, and such other information relative to the educational interests of the state as he may deem important. He shall, in person or by deputy, confer with and advise county officers on all matters pertaining to the school law and school directors, and all other school officers, teachers and patrons of the public schools. He shall have power, in person or by deputy, to visit and inspect schools, and make suggestions in regard to the subject matter and methods of instruction offered, the control and government of the school, and the care and keeping of all school property. He shall have power to attend and assist in meetings of teachers, directors or patrons, and to in every way elevate the standard and efficiency of the instruction given in the public schools of the state. All moneys reasonably expended in the execution of these duties, as prescribed by this section, shall, upon due proof, be allowed by the auditor, and paid out of the state treasury: *Provided*, that no personal expenses be included in the above allowance. (R. S. 1899, § 9958, amended, L. 1909, p. 770.)

Sec. 10923. Classification of high schools—work to be accredited.—The state superintendent of public schools shall have authority to classify the public high schools in the state into first, second and third classes, and shall prescribe minimum courses of study for each class: *Provided*, that no school shall be classed as a high school of the first class which does not maintain a four years' course of standard work in English, mathematics, science and history for a term of at least nine months in the year, and which does not employ the entire time of at least three approved teachers in high school work; that no school shall be classed as a high school of the second class which does not maintain a three years' course of standard work in English, mathematics, science and history for a term of at least nine months in the year, and which does not employ the entire time of at least two approved teachers in high school work; that no school shall be classed as a high school of the third class which does not maintain a two years' course of standard work in English, mathematics, science and history for a term of at least eight months in the year, and which does not employ the entire time of at least one approved teacher in high school work. All work completed in an accredited high school shall be given full credit in requirements for entrance to and classification in any educational institution supported in whole or in part by

state appropriations. (Laws 1903, p. 264, re-enacted, L. 1909, p. 770.)

Sec. 10924. High school inspection by state superintendent. For the purpose of classifying high schools and having their work accredited by higher educational institutions, the state superintendent of public schools shall, in person or by deputy, inspect and examine any high school making application for classification, and he shall prescribe rules and regulations governing such inspections and examinations, and keep complete record of all inspections, examinations and recommendations made. He shall, from time to time, publish lists of classified high schools: *Provided*, he may drop any school in its classification if, on reinspection or re-examination, he finds that such school does not maintain the required standard of excellence. (Laws 1903, p. 265, re-enacted, L. 1909, p. 770.)

Sec. 10925. Blanks for reports.—The blanks for the reports required to be made by the various school officers under the provisions of this chapter shall be printed under the direction of the commissioners of public printing, in the form prescribed by the state superintendent of public schools, to be paid for in like manner and upon the same terms as other public printing. (R. S. 1899, § 9853, re-enacted, L. 1909, p. 770.)

Sec. 10926. Restrictions and penalties.—The state superintendent shall not act as agent for any author, publisher or bookseller, or manufacturer or vendor of school furniture or apparatus, nor directly or indirectly receive any gift, emolument, reward, or promise of reward, for his influence in recommending or procuring the use of any text-book, school apparatus or furniture of any kind whatever in any public school. Any superintendent who shall violate the provisions of this section shall be guilty of a felony, and shall, upon conviction thereof, be punished by imprisonment in the penitentiary for a period of not less than two years; and the provisions of this section shall apply to county superintendents. (R. S. 1899, § 9859, amended, L. 1909, p. 770.)

Sec. 10927. Reports to state superintendent of schools.—The curators of the state university, the trustees of other state institutions for the purposes of education, and others having authority, and being required by law so to do, except the Missouri school for the blind, and the school for the deaf, shall report to the state superintendent of public schools on or before the 31st day of August of each year, concerning the condition, improvements and necessities of said institutions, which report shall be published as a part of the state superintendent's annual report. (R. S. 1899, § 7723.)

Sec. 10928. Disposition of reports.—Fifty copies of such report shall be reserved for the use of each public institution so reporting, and ten copies shall be bound in suitable manner and preserved in the state library. (R. S. 1899, § 7724.)

ARTICLE VIII.

COUNTY SUPERINTENDENTS.

SECTION

10929. County superintendent—eligibility—term of office.
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10931. Superintendent to take oath, give bond—keep office, where.
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SECTION

10934. County teachers' associations.
10935. Make statistical report annually—shall require report from teachers.
10936. County superintendent to furnish blanks to school officers.
10937. Superintendent shall not teach—must study rural school problems and supervision.
10938. Salary.

Sec. 10929. County superintendents—qualifications—term of office.—There is hereby created the office of county superintendent of public schools in each and every county in the state. The qualified voters of the county shall elect said county school superintendent at the annual district school meetings held on the first Tuesday in April, 1911, and every four years thereafter. Said superintendent shall be at least twenty-four years old, a citizen of the county, shall have taught or supervised schools as his chief work during at least two of the four years next preceding his election or appointment, or shall have spent the two years next preceding his election or appointment as a regular student in a normal school, college or university, and shall at the time of his election hold a diploma from one of the state normal schools or teachers' college of the state university, or shall hold a state certificate, authorizing him to teach in the public schools of Missouri, or shall hold a first grade county certificate, authorizing him to teach in the county of which he is superintendent. The person elected county school commissioner or county school superintendent at the annual school meeting, held the first Tuesday in April, 1909, or his successor, shall, during the month of August, 1909, qualify under this article as county superintendent of public schools, and shall serve as such until the first Tuesday in April 1911, and until his successor is elected and qualified; and the qualifications prescribed for the county school commissioner at the time of the annual school meeting, the first Tuesday in April, 1909, shall be the qualifications for the county superintendent of public schools until the first Tuesday in April, 1911. Said county superintendent of public schools shall hold his office for four years and until his successor is elected and qualified; and all vacancies, caused by death, resignation, refusal to serve or removal from the county, shall be filled by the governor by appointment for the unexpired term; the county superintendent shall turn over all books, papers, certificates, stub books and records in his possession to his successor. Wherever the term, "county commissioner," or, "county board of education," is used in the statutes, it shall be construed to mean county superintendent of public schools. (Session Acts, 1911.)

Sec. 10930. Election returns, how certified—duty of county clerk.—At least ten days before the annual school meeting in any year when a county superintendent of public schools is to be elected, the clerk of the county court shall mail by registered letter to the president or clerk of the board of school directors of the various districts of the county a tally sheet of sufficient size to contain the names of all the qualified voters of such districts, which tally sheets shall, so far as practical, conform to the form of poll books set out in section 5809 of article 2 of chapter 43 of the Revised Statutes of Missouri, 1909, relating to general elections, and in making the returns of such election, the tally sheets shall be certified by the chairman and secretary of such annual school meeting and attested by the members of the board of directors of the district, who may be present. The voting for county superintendent shall be by ballot and all ballots cast shall be counted for the persons for whom cast, and it is hereby made the duty of the members of the board of directors and the chairman and secretary of the annual school meeting to see that each ballot so cast is counted for the person receiving the same, and it is hereby made the duty of the chairman of the annual school meeting, within two days after such meeting, to transmit the tally sheets and all ballots, in person or by registered letter, to the clerk of the county court; such ballots to be in a sealed package, separate and apart from such tally sheets, such package being properly designated. It shall be the duty of the county clerk, within five days after the annual school meeting, to call to his assistance two justices of the peace or two qualified voters of the county, and cast up the vote and issue a commission to the person receiving the highest number of votes, for which commission he shall receive a fee of one dollar to be paid by the person commissioned. A tie vote shall cause a vacancy in the office of county superintendent, which shall be filled by appointment by the governor, and the person so appointed shall hold such office till the next annual school meeting and until his successor is elected and qualified. In case a school district is divided by a county line, the county clerk shall transmit to the president or clerk of the board of directors of such districts two sets of tally sheets, and the voters residing on each side of the line shall vote separately and returns shall be made to each county as herein provided. For transmitting the returns of such election, the chairman of the annual meeting shall receive the sum of one dollar to [be] paid out of the incidental fund of the district. The provisions of this act shall, so far as practical, apply to village and city elections so far as affects the election of county superintendent of public schools and so far as not conflicting with existing laws, which are sufficient to safeguard such elections. Any person, upon whom there is imposed an official duty by this act, and who shall violate any of the provisions herein, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in

the county jail not less than thirty days nor more than six months or by both such fine and imprisonment. (Session Acts, 1911.)

Sec. 10931. Superintendent to take oath, give bond—keep office, where—county court to furnish supplies.—Before entering upon the duties of his office, the county superintendent shall take and subscribe an oath to discharge faithfully and impartially the duties of his office; he shall give bond in double the amount of his salary, conditioned upon the faithful performance of his official duties, and the proper application and care of all moneys, books, records, papers, furniture and other property in his possession or under his control, with two or more sureties, who are resident freeholders and accepted by the county court or by the county clerk in vacation. He shall keep his office at the county seat, or at some other place in the county where a court of record is held, and the county court, by order of record, shall designate where the superintendent shall keep his office, and for this purpose the county court shall supply him with a suitable room, properly furnished, wherein all records, books, papers, furniture and other property thereto belonging shall be securely kept; and at the expiration of his term of office he shall turn the same over to his successor in good condition; and said county court shall supply the superintendent with all necessary record books, stationery and postage stamps for properly conducting the business of his office, and shall allow all necessary printing of notices and circulars of information, the same to be paid for by warrant drawn upon the county treasurer.

The county superintendent is primarily a "field man," but he should have fixed office days when directors, patrons and teachers may easily find and consult him. He should keep accurate account of all expenditures, so that the county court may act intelligently in passing upon them. The court cannot under the law refuse to allow "necessary" expenses.

The county court should make an order of record stating where the superintendent is to have his office, whether at the county seat or elsewhere.

Sec. 10932. Superintendent's powers and duties.—The county superintendent shall have general supervision over all the schools of his county, except in city, town and village school districts employing a superintendent who devotes at least one-half of his time to the direct work of supervision. He shall visit each school under his jurisdiction at least once each year, and as many other times as practicable; he shall examine the classification of pupils, the methods of instruction, the manner of discipline, the order maintained, the results secured, and make such suggestions to teachers and school boards as he may deem advisable; he shall inspect the ventilation, note the condition of the building, furniture, apparatus, grounds and appurtenances thereto belonging, and report the same to the board in writing, with such suggestions as he may consider necessary to the health, comfort and progress of the pupils; he shall examine the teacher's register and the district clerk's record and see that they are kept according to law; he shall furnish annually statements to the district clerks showing the assessed valua-

tion of their respective districts; he shall receive, and, if properly made, approve estimates and enumeration lists and turn same over to the county clerk; he shall assist the district clerks, when necessary, in making their reports, and see that all warrants have been duly issued "by order of the board," either for services actually rendered or for material actually furnished.

Note.—That part of this section which requires the superintendent "to receive, and if properly made, approve estimates and enumeration lists," seems to be repealed by sections 10790 and 10791, requiring the enumeration lists and estimates to be forwarded to county clerk, said last-named sections having been passed and approved several weeks after this section was enacted. (See sections 10790 and 10791.) It will, however, be a matter of prudence for the superintendent to visit county clerk's office, examine and endorse his written approval on estimates and enumeration lists when he finds them properly made.

When an estimate is incorrect, it may be withdrawn from county clerk's office before action is taken thereon and a corrected estimate filed in lieu thereof, on which taxes may be assessed and extended. (This gives superintendent an opportunity to see that proper estimates are filed.) *State ex rel. v. Phipps*, 148 Mo. 31.

This section provides that the superintendent "shall receive and approve" estimates and enumeration lists and turn same over to county clerk. Sections 10790 and 10791 require these statements to be filed with the county clerk, who seems to have prior authority. See note under section 10790. The superintendent should consult with the county clerk and follow his wishes in the matter.

Sec. 10933. Public meetings—course of study—grade schools—system of graduation and examination—guard school moneys. The county superintendent shall hold annually not fewer than six public meetings at different points in the county for the purpose of discussing educational questions, interpreting the school law, counseling with teachers and school officers, and promoting the cause of education among the people. One of these meetings shall be held at the county seat just prior to the opening of the fall term of school, and shall be of two days' duration. It shall be the duty of directors and teachers to attend meetings called by him when such attendance does not interfere with their school duties. He shall adopt a course of study and a plan for grading the schools of his county, and forward three copies to the state superintendent of public schools, one copy to each district clerk and one copy to each teacher employed in the county, and require the same to be followed as nearly as practicable. He shall inaugurate and maintain a system of final examinations and graduation of pupils who complete the state course of study for rural schools. He shall examine the records of the county, so far as they relate to school funds and school moneys, see that the law is strictly observed, and shall be present at the August term of the county court, to give such information as may be of importance to said court in the transaction of all business pertaining to the school interests of the county; and the instruction of the state superintendent shall be his guide in the interpretation and execution of the law.

The association, provided for in section 10934, is not one of the six meetings provided for in this section.

Sec. 10934. County teachers' associations.—The county superintendent may organize county teachers' association, which shall hold a three days' meeting on the last three days of some week in September, October, November or December of each year. He shall arrange a program of exercises and secure the services of some one specially prepared to lecture on pedagogical subjects. It shall be the duty of the teacher to attend all such meetings; and when a certificate of attendance and faithful performance of duty signed by the county superintendent is filed with the district clerk, the first three days when school is taught thereon shall constitute the school week. The expenses of such association, including the expenses of a lecturer, shall be paid out of the thirty per cent. of the fees provided for in section 10940.

All arrangements for this association are in the hands of the county superintendent. Neither he nor any school board has the authority to excuse a teacher from attendance upon one of these meetings.

Sec. 10935. Make statistical report annually—shall require report from teachers.—It shall be the duty of said superintendent, under the direction of the state superintendent, to condense and return to the office of the state superintendent of public schools, on or before the thirty-first day of August of each year, the educational statistics of the county; see that the directors and other school officers are supplied with copies of the school law and the necessary blanks for making the various reports required, and perform such other duties as may be required by the state superintendent. He shall require of each teacher under his supervision a term report, giving name, classification and grades of each pupil: *Provided*, that in schools employing more than one teacher the term report for the entire school shall be prepared and filed by the principal in charge. No teacher shall receive the last month's salary until he presents a receipt for the term report, signed by the county superintendent.

Much depends upon every teacher filing the term report with the county superintendent. This section should be strictly observed.

Statistics, to be of any value, should be accurate. County superintendents should require carefully prepared reports from district clerks, and should cast up the total for the state superintendent with great exactness.

Sec. 10936. County superintendent to furnish blanks to school officers.—All necessary blanks required by school officers shall be furnished by the state superintendent to the county superintendent, who shall immediately, upon the receipt of the same, supply the clerk of each district in their respective counties with the same, the form of such blanks to be determined and indicated by the state superintendent as provided by law; and all necessary expenses incurred by the superintendent for postage and stationery in supplying the districts of his county with blanks, laws, reports and circulars of information shall be paid for annually out of the county treasury, upon an order from the county court, based upon an item-

ized statement of the superintendent, accompanied by corresponding vouchers.

Blanks provided for under this section are sent out by the state superintendent in January or February of each year. County superintendents should not delay in sending them out so that they may be in the hands of the district clerks early in the year.

Sec. 10937. Superintendent shall not teach—must study rural school problems and supervision.—During his term of office the county superintendent shall not engage in teaching or in any other employment that interferes with the duties of his office as prescribed by law. He shall spend annually, studying rural school problems and supervision of schools, five days in conventions called by the state superintendent of public schools, or twenty days in the state university or in one of the state normal schools, or in some other manner approved by the state superintendent. He shall not receive his salary for the third quarter of the year until he presents a certificate, signed by the state superintendent, stating that he has spent the period prescribed by law in studying rural school problems and supervision of schools, and that his report as county superintendent of public schools has been properly made to the state superintendent of public schools.

This section allows the state superintendent to fix the time and place of the county superintendents' convention.

The county superintendent cannot teach in any school, public or private. He cannot conduct review schools. Such action is a plain violation of the law. He must devote his entire time to the duties of his office as here prescribed. An ouster suit in the nature of *quo warranto* will lie against the superintendent violating this act.

Sec. 10938. Salary.—The county superintendent shall be allowed an annual salary, to be paid out of the county treasury, as follows: In counties having less than twelve thousand population, he shall receive seven hundred dollars; in counties having twelve thousand population and less than fifteen thousand, he shall receive eight hundred dollars; in counties having fifteen thousand population and less than eighteen thousand, he shall receive nine hundred dollars; in counties having eighteen thousand population and less than twenty-one thousand, he shall receive one thousand dollars; in counties having twenty-one thousand population and less than twenty-four thousand, he shall receive eleven hundred dollars; in counties having twenty-four thousand population and less than twenty-seven thousand, he shall receive twelve hundred dollars; in counties having twenty-seven thousand population and less than thirty thousand, he shall receive thirteen hundred dollars; in counties having thirty thousand population and less than fifty thousand, he shall receive fourteen hundred dollars; in counties having fifty thousand population or more, he shall receive fifteen hundred dollars; of which the state of Missouri shall appropriate annually out of the general revenue fund of the state of Missouri four hundred dollars to each and every county. At each regular term of the county court, said court shall order a warrant in favor of the

county superintendent for the proportional amount of his annual salary then due under this section; and the same shall be paid by the county treasurer out of the county revenue fund.

The county superintendent must look to the county for his entire salary, which is to be paid "by the county treasurer out of the county revenue fund." Each county receives \$400 annually from the state to apply on this salary, but the amount goes into the county treasury, and the superintendent should receive a warrant from the county court for the whole amount due him. He is not dependent on the state appropriation, which is made to the county and not to him.

For finding the population of a county in order to determine the salary of the superintendent of such county, see section 10719.

THE TAYLOR SCHOOL BOARD CONVENTION LAW, 1913.

Section 1. County school superintendent to call meetings, when—to provide place of meeting—for what purpose.—That it shall be the duty of the county superintendent of public schools to call together once each school year, at the county seat or some other suitable place in the county, the presidents of the school boards and the clerks of the school districts of the county, for the consideration and discussion of questions pertaining to school administration.

Sec. 2. Officers of school district shall attend meetings—compensation.—It shall be the duty of every president of a school board and of every clerk of a school district in the several counties to attend the meeting of school officers called by the county superintendent of public schools for the purpose of considering and discussing questions pertaining to school administration; and each school officer attending such meeting shall receive compensation at the rate of one dollar and fifty cents per diem and mileage at the rate of five cents per mile for the number of miles necessary to be traveled in going from the schoolhouse of his district to the place of meeting, same to be paid out of the incidental fund of his district: *Provided*, that no allowance shall be made for more than two days in any school year: *Provided further*, that in case of the inability of either the president of the board or the clerk of the district to attend such meeting, the school board shall appoint another member or some other person to represent the district in place of said president of the board or clerk of the district. Upon presentation of a certificate signed by the county superintendent of public schools, the board shall order warrants drawn in favor of the school officers or other representatives of the board who attended said meeting in accordance with the provisions of this section.

ARTICLES IX.

SCHOOLS: Teachers' Certificates—How Obtained or Revoked.

SECTION

10939. County superintendents to grant certificates—public examinations held, when—grades and qualifications.
10940. Grading of examination papers by state superintendent of public schools.
10941. Qualifications necessary for certificates.
10942. Renewal of certificates.
10943. County superintendent to pass on morality of applicants—to keep grades and record of certificates—may endorse certificate from adjoining county.
10944. Applicants to pay fee—fees received to be used to pay expenses—super-

SECTION

- intendent to make annual statement of fees collected and expended.
10945. Revocation of certificate.
10946. State board to outline work of institutes and summer schools for colored teachers—tuition fee.
10947. Grades at summer terms of state educational institutions to be received—grades to become void, when.
10948. Complimentary certificates, etc., prohibited.
10949. Law not to apply to cities of 75,000 or over.

Section 10939. County superintendents to grant certificates—public examinations held, when—grades and qualifications.—The county superintendent of public schools shall have authority to examine teachers and grant certificates of qualification to teach in their respective counties or in the state. Three public examinations of two days each shall be held during the year on the first Friday and the succeeding Saturday in March, June and August, at such place or places in the county as the county superintendent of schools may designate. Said examinations shall be conducted by said county superintendent of public schools, or by some one duly authorized by him to conduct them. All questions given in said examinations shall be prepared and furnished by the state superintendent of public schools. Certificates issued by said county superintendent of public schools shall be of three grades: Third grade shall be valid for one year and second grade for two years in the county for which they are issued, and first grade for three years in the state. Third grade certificates shall be granted to applicants who are of good moral character and who shall pass satisfactory examinations upon the following branches: Spelling, reading, penmanship, language lessons, geography, arithmetic (including business forms and rules), English grammar, United States history, civil government (including the government of Missouri), physiology and hygiene, with special reference to the effect of alcoholic drinks and stimulants and narcotics generally upon the human system, agriculture, and pedagogy. Second grade certificates shall be granted to applicants who are of good moral character and who shall pass satisfactory examinations upon the branches hereinbefore mentioned, and in addition thereto, algebra and literature. First grade certificates shall be granted to applicants who are of

good moral character and who shall pass satisfactory examinations upon all the branches hereinbefore mentioned, and in addition thereto one branch of history, either ancient, mediaeval or modern, or English, and one branch of science, either physical geography, physics, or elementary biology: *Provided*, that in addition to the above named scholastic requirements each applicant who has had four months' experience in teaching shall be graded by the county superintendent on the following professional qualities: Teaching ability and management. Each applicant shall be graded on these professional qualities at the time of each renewal of certificate and each issue of a new certificate: *Provided*, that to obtain a first grade certificate each applicant shall have had eight months' experience in teaching and shall maintain an average grade of 90 per cent on the above named scholastic requirements, together with the above named professional requirements; to obtain a second grade certificate an average grade of 85 per cent on the aforesaid requirements; to obtain a third grade certificate an average grade of 80 per cent on aforesaid requirements, but no certificate shall be granted to any person whose grade in any subject falls below sixty per cent: *Provided*, that the county superintendent of public schools shall have authority to prepare questions, conduct examinations, grade papers and issue certificates to applicants who for good and sufficient reasons could not attend the last regular examination. Said applicants to conform to all requirements for that grade county certificate. Said certificate to be good only until the end of the school year in which it is issued, and the papers written on said examination to be filed by said county superintendent of schools in his office where they shall be kept for a period of at least one year after the date upon which they were written.

Special examinations can be granted only to "applicants who for good and sufficient reasons could not attend the last regular examination." Applicants who failed in the regular examination can not be given a special examination.

Section 10940. Grading of examination papers by state superintendent of public schools.—The county superintendent of public schools shall in accordance with a system prepared and submitted by the state superintendent of public schools give each applicant writing in the examination a number by which number alone the papers of said applicant shall be marked and designated. Said county superintendent shall keep an accurate record of the number given to each applicant. Within three days after the close of each regular examination, the county superintendent of public schools shall forward to the state superintendent, by express or registered mail, all the papers of all applicants for first grade certificates and of all other applicants who shall request their papers to be sent to the state superintendent. Said state superintendent of public schools shall carefully grade all papers, keep a record of said grades, certify them to the county superintendent of the county in which said papers were written, and also return said papers to said

county superintendent of public schools, who shall preserve them among the records of his office for at least one year after the date of the examination at which they were written.

Section 10941. Qualifications necessary for certificates.—No person shall be granted a license to teach in the public schools of this state who is not of good moral character. From and after September 1, 1912, all applicants for first or second grade certificates to teach must present evidence of having completed the first year's work of a classified or accredited high school as defined in section 10923, R. S. Mo. 1909, or its equivalent. From and after September 1, 1914, all applicants for first or second grade certificates must present evidence of having completed two years of such work, or its equivalent. From and after September 1, 1916, all applicants for first or second grade certificates must present evidence of having completed three years of such work, or its equivalent. From and after September 1, 1918, all applicants for first or second grade certificates must present evidence of having completed four years of such work, or its equivalent. "The high school work herein required may be done in any public, private, or parochial school, or private study, and satisfactory evidence thereof presented by the written statements of parties who have personal knowledge that such work has been done, or by passing a satisfactory examination on the subjects for which credit is claimed and which are not required in the examination prescribed by section 10939 of this article:" *Provided*, that provisions of this section shall not apply to any person who holds a certificate entitling him to teach in the schools of Missouri at the time of the taking effect of this act.

No high school work is required of any person who held a certificate to teach January 1, 1912.

Section 10942. Renewal of certificates.—A third grade certificate may be granted to any one person in but four consecutive years. A second grade certificate shall be renewed without examination once. A first grade certificate an unlimited number of times: *Provided*, that the holder shall give satisfactory evidence to county superintendent of public schools that certain professional work prescribed by state superintendent at the time of the issuing of [or] former renewal of the certificate has been complied with: "*Provided*, that any teacher who has had five years' experience in teaching and is employed as a teacher at the time of the taking effect of this act shall have his or her county certificate renewed an unlimited number of times, on condition that said teacher continues in the same position and is faithful in the performance of his or her professional duties."

A third grade certificate cannot be renewed. A new examination must be taken each year to secure a third grade certificate. Only four such certificates can be secured in consecutive years.

Conditions for the renewal of county certificates are as follows:

Requirement Number I.—Each holder of a renewable certificate, in order to be eligible to have his certificate renewed, must each year during the life of his certificate attend either the state teachers' association, his county teachers' association or meeting, or a district teachers' association which embraces several counties. In case of his failure to attend his county association, attendance at three township or district meetings during that year may be accepted instead of the attendance at the county association. This requirement may be waived for teachers in large cities which are, by section 10932, exempt from the supervisory powers of the county superintendent, provided such cities have at least semimonthly meetings for seven months each year in which professional work approved by the state superintendent is being done.

Requirement Number II.—Each holder of a renewable certificate must also do the reading circle work to the satisfaction of the county superintendent for two years for each renewal. Passing grades in extension or correspondence courses approved by the state superintendent of schools shall be accepted by county superintendents instead of reading circle work. Passing approved summer school grades shall be accepted in lieu of reading circle work. Summer school, extension or correspondence grades must in all cases have been made since the issue or former renewal of the certificate to be renewed. Reading circle work of special merit conducted by city superintendents with the approval of the state superintendent shall be accepted in lieu of the regular reading circle work.

Section 10943. County superintendent to pass on morality of applicants—to keep grades and record of certificates—may endorse certificate from adjoining county.—The county superintendent of public schools shall pass upon the moral character and requirements, other than scholastic as shown by the papers written, of all applicants for certificates to teach in the schools under his jurisdiction, and he shall grade each applicant who has had four months' experience in teaching on teaching ability and management. The grades on these two professional requirements shall be averaged with the grades on the scholastic branches required in section 10939. The county superintendent shall keep a true record of all grades made by all applicants in examinations conducted by him as certified to him by the state superintendent, and also as graded by himself, and also a record of all certificates granted, renewed or revoked, said record exhibiting the number granted, date, grade and length of time for which each certificate was issued, and the name, age, sex, and nativity of the person receiving the same, and deliver the same to his successor in office. Any applicant may raise the grade of his certificate by meeting the additional requirements prescribed for such higher grade of certificate, and any or all grades on a valid third grade certificate may be used on a second grade certificate: *Provided*, that the county superintendent may endorse without examination second grade certificates from adjoining counties, on the payment of a fee of one dollar and fifty cents.

Only second grade certificates from adjoining counties may be endorsed. First grade certificates issued under the new law are valid in any county in the state.

Section 10944. Applicants to pay fee—fees received to be used to pay expenses—superintendent to make annual statement of fees collected and expended.—Every applicant for a certificate shall pay to the county superintendent of public schools a fee of three dollars, which shall entitle him to take any and all examina-

tions given in any calendar year. Every applicant for a renewal of his certificate shall pay a fee of one dollar and fifty cents. The fees so collected shall be used for the payment of the expenses of teachers' associations and teachers' meetings authorized by this chapter—at least thirty per cent being set apart and used for this purpose—and for the expenses incident to the grading of papers and issuing certificates of applicants for license to teach. The county superintendent of public schools shall remit to the state superintendent five cents for each subject written by each applicant, whose papers are sent to the state superintendent of schools. The fees, received in this manner by the state superintendent of public schools, shall be used to pay the compensation of such assistants as may be necessary to examine and grade all such papers, and to pay other expenses incident to the grading of the papers submitted and recording and certifying said grades. The state superintendent of public schools is hereby empowered to appoint and pay such assistants as he may need for the examining and grading of all such papers submitted, and he shall also keep an accurate account of all moneys received and disbursed by him in carrying out the provisions of this act. Any balance remaining in said fund shall be turned into the general revenue fund of the state by said state superintendent of public schools on the first day of December of each calendar year. The county superintendent of public schools shall make report of all fees collected, all amounts expended for teachers' associations and meetings and for all amounts remitted to the state superintendent, to the county court at its regular meeting in February of each year.

Section 10945. Revocation of certificate.—The county superintendent may revoke, upon satisfactory proof, any county certificate for incompetency, immorality, neglect of duty, or the annulling of written contracts with the board of directors without the consent of the majority of the members of the board which is a party to such contract. All charges must be preferred in writing and signed by the party or parties filing the accusation, and the teacher must be given due notice and opportunity to be heard. In case any person holding a certificate issued by the state superintendent, the board of curators of the state university, or the board of regents of any normal school, shall be charged as above, then it shall be the duty of the county superintendent in the county where the offense is alleged to have been committed to notify, in writing, the person or board issuing such certificate, and such person or board shall proceed as hereinabove provided for the revocation of such certificate.

Section 10946. State board to outline work of institutes and summer schools for colored teachers—tuition fee.—The state board of education shall prepare—or cause to be prepared—outlines of work to be done in institutes for colored teachers, and outlines for minimum requirements for work done in approved summer schools

and accepted on county certificates as provided in section 10947. It shall also establish ten or more institutes for colored teachers, appoint instructors and make all rules and regulations therefor. Grades made by colored teachers in said (said) institutes shall be accepted by county superintendents in lieu of examinations in subjects or parts of subjects covered by the work of the institute. A tuition fee of not to exceed two dollars may be charged to maintain such institute for colored teachers.

Section 10947. Grades at summer terms of state educational institutions to be received—grades to become void, when.—Grades made in the summer terms of the state educational institutions, and in such other schools as may be approved by the state board of education, obtained under conditions conforming to the requirements prescribed by the state board of education shall be accepted by the state superintendent in lieu of examinations on the several subjects required for county certificates and shall be certified by the state superintendent of public schools to the county superintendent of the county in which the certificate is to be issued. Grades made in an examination conducted in any county in the state in accordance with the provisions of this article shall be good in any other county in the state when the papers have been graded by the state superintendent of public schools and the grades properly certified by him. Grades made under the provisions of this article shall become void if the holder thereof shall have ceased to be engaged in active educational work as a teacher, a student in school, a supervisor or administrator in school work, for a period of two consecutive years.

All grades made on papers sent to the state superintendent of schools for grading are valid during the life of the grades in any county in the state. The state superintendent certifies such grades to any county on the request of the county superintendent.

Section 10948. Complimentary certificates, etc., prohibited. Any county superintendent of public schools, members of board of examiners, or instructor in any institute or approved summer school who shall grant complimentary certificates or grades, or certificates and grades except in accordance with the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars.

Section 10949. Law not to apply to cities of 75,000 or over. This article shall not apply to cities having or hereafter attaining a population of 75,000 or more. This act shall take effect and be in force on and after Jan[uary] 1, 1912. (Session Acts, 1911.)

County certificates issued prior to January 1, 1912, are not subject to renewal after that date, but are valid only for the life of the certificate, since at that date section 10942, R. S. 1909, ceases to be a law, and there is thereafter no authority for the renewal of such certificates, except that section 10942, Session Acts 1911, provides "that any teacher who has had five years' experience in teaching and is employed as a teacher at the time of the taking effect of this act shall have his or her county certificate renewed an unlimited number of times on condition that said teacher continues

in the same position (in the employment of the same board) and is faithful in the performance of his or her professional duties."

All county certificates issued prior to January 1, 1912, are valid only in the county in which issued and cannot be endorsed in other counties.

Under the Session Acts 1911, county superintendents have authority to endorse only second grade certificates, issued after January 1, 1912, section 10943.

All grades on a valid third grade certificate may be transferred to a second grade certificate. Section 10943.

All scholastic grades for a first grade certificate must be certified from the office of the state superintendent of schools. Grades from a second or third grade certificate cannot be transferred to a first grade certificate, unless the papers for said certificates were graded by the state superintendent or were made in an approved summer school.

According to section 10947, all grades made on papers graded by the state superintendent are valid in any county in the state, when properly certified from the office of the state superintendent of schools.

In the Session Acts 1911, there is no provision for the transfer of grades from a certificate issued prior to January 1, 1912, to one issued after that date.

ARTICLE X.

COUNTY TEXT-BOOK COMMISSION.

SECTION

- 10951. Text-book commission—how composed—who not eligible.
- 10952. Meeting of—salary—how paid.
- 10953. Shall adopt books from authorized lists.
- 10954. Publisher to submit publication with price list.
- 10955. Publisher to pay filing fees—fund, how used.
- 10956. Bond to be given by publisher.
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Sec. 10951. Text-book commission—how composed—who not eligible.—There is hereby created a county school text-book commission, which shall be the county board of education, in all counties in which such a board exists. In counties where there is no county board of education the school text-book commission shall consist of the county superintendent of schools and two teachers, who shall be selected in the same manner and at the same time as the two members of the county board of education that are appointed in those counties that have a county commissioner of schools: *Provided*, that no person shall be appointed to serve on the said commission who has been in the employ, as a traveling salesman or otherwise, in this state, of any publisher of school text-books within the period of two years prior to this article. Vacancies on the commission resulting from death, resignation, removal from

the county, disqualification, or otherwise, shall be filled as prescribed by law. A majority of the commission shall constitute a quorum for the transaction of all business of the commission.

Section 9957 of the Revised Statutes of 1899 provided for the appointment of the county board of education. County text-book commissions are appointed, as were county boards of education under that section; *i. e.*, the state board of education appoints one member and the county court one. The implied repeal of this section by the law establishing county supervision does not affect the *method* of appointing the text-book commission. Appointed members must be teachers, and they will serve for two years. A vacancy is filled by the power appointing the member whose place becomes vacant. The spirit of the law prohibits the appointment of any one who has been in the employ of a text-book publisher since June 14, 1905.

Sec. 10952. Meeting of—salary—how paid.—The county text-book commission shall meet at the county seat to organize within thirty days from the date of the taking effect of this article. The county superintendent shall be *ex officio* president of the commission, and a secretary shall be elected from its own membership. Said commission shall meet annually thereafter, and special meetings may be called by the president, or on the written request of the other two members. The president shall preside at all meetings of the commission, and the secretary shall keep the records of the meetings, and all contracts shall be signed by both the president and secretary. Members of said commission that do not receive an annual salary from the county shall receive five dollars per day for their services, with such additional amount as shall be necessary to cover their actual traveling expenses: *Provided*, that they shall receive pay for not to exceed six days in any one year, the same to be audited and paid by the county court.

The first meeting of the commission is the only one required by the law to be held at the county seat.

The commission must meet annually, but except when adoptions are to be made it should not be in session more than one day. If two members sign a request to the president asking that a meeting be called, he has no option in the matter, but must call same.

County superintendents are not entitled to salary for serving on the text-book commission.

Sec. 10953. Shall adopt books from authorized lists.—Said commission shall adopt from the authorized state list, as hereinafter provided, a uniform series of text-books for use in the schools of all the districts of the county, except that in cities having more than one thousand children of school age, as shown by the last enumeration, and in towns having high schools affiliated with the state university, the board of directors of said cities and said towns may select from the aforesaid list such books as in their opinion are best suited to the local conditions, and may contract for the same.

Unless the board of directors in the cities and towns included in the provisions of section 10953 select books from the authorized state list, their respective schools must use the books adopted by the county text-book commission. Section 10968 also requires the boards to take some affirmative action if they do not accept the county adoptions.

Boards of directors must select books from those on the state list, or they must use the books adopted by the county commissions. They *may* contract for these books for a period of five years, acting in accordance with the provisions of section 10968.

The "authorized state list" means the list of all the books filed with the state superintendent by publishers who have complied with all the provisions of the law.

A school losing its classification as a high school must use the books adopted by the county commission, even though while on the approved list it contracted for other books for a period of five years. A school becomes exempt from the county adoptions and has power to select and contract for its own books immediately upon its high school being classified or when the city in which it is located enumerates 1,000 children of school age, regardless of its being included in the county contract.

Sec. 10954. Publisher to submit publication with price list. Before the publisher of any school text-book shall offer the same for sale to any county text-book commission or board of school directors in the state of Missouri, said publisher shall file a copy of said text-book in the office of the state superintendent of public schools with a sworn statement of the list price and the lowest net price at which said book is sold anywhere in the United States under like conditions of distribution. Said publisher shall file with the state superintendent a written agreement to furnish said book or books to the county text-book commissions or boards of directors of Missouri at the price so filed. Said publisher must further agree to reduce such prices in Missouri if reductions are made elsewhere in the country, so that at no time may any book be sold in Missouri at a higher price than is received for the same book elsewhere in the country where like methods of distribution prevail. Said publisher shall further agree that all books offered for sale in Missouri shall be equal in quality to those deposited in the office of the state superintendent as regards paper, binding, print, illustration and all points that may affect the value of said books.

Sec. 10955. Publisher to pay filing fees—fund, how used. Before the publisher of any school text-book shall offer the same for sale to any county school text-book commission or board of school directors in the state of Missouri, and at the time of the filing of such text-book in the office of state superintendent of public schools, said publisher shall pay into the treasury of the state of Missouri a filing fee of ten dollars for each book offered by said publisher. A series of books by the same author and upon the same subject shall constitute one book for this purpose. The fees thus received shall constitute a fund out of which upon requisition made by the state superintendent of public schools shall be paid the expenses of publishing lists and other information for the use of the county school text-book commissions, clerk hire and other necessary expenses in connection with the filing of all text-books submitted for adoption in the state of Missouri. Any balance remaining in such fund shall be, upon the first of January of each year, placed to the credit of the general revenue fund of the state.

Before offering a book to the county commission for adoption the publisher must do ten things:

1. File a copy of the book to be offered with the state superintendent of public schools.
2. File a sworn statement of the list price and the lowest net price at which said book is sold anywhere in the United States under like conditions of distribution.
3. File an agreement to sell the book at the price filed.
4. File an agreement to sell such book in Missouri at no higher price than is charged elsewhere in the United States under like conditions, and to reduce the price of such book in Missouri when it is reduced elsewhere.
5. File an agreement that all books offered for sale in Missouri shall be equal in quality to those deposited in the office of the state superintendent.
6. Pay a filing fee of ten dollars on every book filed.
7. Execute a bond to insure compliance with the above agreements.
8. Furnish county text-book commissions a list of the books and prices filed with the state superintendent.
9. File sworn statement that he has entered into no agreement to control prices or to restrict competition in the sale of books. (Section 10969.)
10. File sworn statement, showing ownership of publishing house, and what interest or shares the owners hold in any other publishing house. (Section 10970.)

Sec. 10956. Bond to be given by publisher.—To insure compliance with the aforesaid conditions under which school text-books may be sold in the state of Missouri, said publisher shall file with the state superintendent a bond of not less than two thousand dollars nor more than ten thousand dollars, said bond to be approved by the state superintendent and the amount to be fixed by him; upon compliance with this and the preceding section, said publisher shall thereupon be licensed to sell school books in this state.

Comments under sections 10954 and 10955 show the ten things required of publishers before being licensed to sell school books in this state.

Sec. 10957. When liable upon bond.—If in any case said publisher shall furnish books inferior in any particular to the samples on file with the state superintendent, or shall require higher prices than those listed with the state superintendent, then it shall become the duty of the county text-book commission, or board of directors, to inform the state superintendent of the failure of said publisher to comply with the terms of his contract. The state superintendent shall thereupon notify the publisher of said complaint, and, if said publisher shall disregard the notification and fail to immediately comply with the terms of his contract, then the state superintendent shall institute legal proceedings for the forfeiture of the bond of said publisher.

Sec. 10958. Superintendent of schools to furnish lists to county commission.—During the month of April, 1907, and thereafter annually, during the month of January, it shall be the duty of the state superintendent to furnish each county superintendent with a list of publishers who shall have conformed to the requirements hereinbefore set forth relating to sample books, prices and bond.

Sec. 10959. Duty of publisher when books are adopted.—Before seeking to enter into contract with any county text-book com-

mission, or board of directors, for the schools covered by this article, the publisher shall furnish the county superintendent or secretary of the board of directors with a duplicate printed list of the books and prices filed with the state superintendent. When any book or series of books in such list shall have been adopted by the county commission or by any board of directors in said county, it shall be the duty of said publisher of said book or books to furnish each county superintendent with a sample of the same, to remain in the office of said county superintendent, and to be the property of said county.

The copies filed with the county superintendents should be carefully preserved. They must be equal in quality to those on file in the office of the state superintendent, and will allow county text-book commissions to have samples available for comparison in order that they may see that the provisions of the law are carried out. The books are "the property of the county," and are to be carefully preserved and turned over to the next superintendent, the same as other papers, books and files of the office.

Sec. 10960. Adopted books to be used exclusively.—The county text-book commissions are hereby empowered to adopt text-books for all subjects that may be taught in the public schools of their respective counties, and to enter into contract for the same for a period of five years in the manner hereinafter provided. All books adopted by the county commission shall be used exclusively in the schools of the county, except in such towns and cities as are exempt in section 10953; and, further, except that all books introduced into the public schools since May 1, 1905, either through the action of boards of directors or on the recommendation of county superintendents or county boards of education, may be continued in use for a period of five years from the date of the introduction of said books: *Provided*, that the publishers of said books shall comply with all the requirements of sections 10954 and 10956 prior to August 1, 1907.

Sec. 10961. Changes—how made.—Said commissions shall make no changes until they shall have advertised for bids for at least two successive weeks in one or more county papers, and the adoption of such books shall not be made until the expiration of at least fourteen days from the date at which such advertisement first appeared. Such advertisement shall specify subjects in which changes will be considered and the probable number of books of each kind required.

Sec. 10962. What to be considered in selecting.—In selecting books the text-book commission shall carefully consider the price, character of the subject matter, binding, illustrations, print and paper, the adaptability to local conditions, and all points that affect the value of the book.

Sec. 10963. Profit of dealer shall not exceed fifteen per cent. In all counties where the county court does not elect to purchase text-books and sell the same to pupils at cost, as hereinafter pro-

vided, the publisher making contracts under this article shall sell and furnish to all dealers or merchants of said county, or to dealers or merchants in contiguous territory, all adopted text-books at the net contract price. No dealer shall sell said books at more than fifteen per cent. advance on said net contract price. Any dealer or merchant violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars and not more than one hundred dollars.

No provision is made for the county court to purchase text-books and sell to pupils at cost.

Sec. 10964. Exchange price.—When any county text-book commission or board of directors shall adopt books and enter into contracts with the publishers thereof such contracts shall provide a reasonable exchange price for the books displaced by such adoption.

Exchange price should be included in the contracts signed by the county text-book commissions and boards of directors.

Sec. 10965. Penalty for using other than adopted books.—Any teacher or school director who, within eight months after the county board of education shall have adopted a list of text-books for such county, shall sanction or permit the use of any book not adopted in accordance with the provisions of this article shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars. If any county text-book commission or board of directors shall attempt to change any text-book before the expiration of a contract for the same, made under this article, any member of such commission or board, who votes for such unlawful change, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars. Any publisher, or agent of said publisher, who shall connive at or seek to procure such unlawful change, shall be guilty of a misdemeanor, and subject to a like penalty.

After an adoption has been made and contract signed, there is no way provided whereby the books may be changed before the expiration of a period of five years.

Sec. 19066. Supplementary books.—Nothing in this article shall be construed to prevent the use of such supplementary books as shall be furnished at the expense of the school district, provided such supplementary books shall not displace books regularly adopted under the provisions of this article.

This section refers to supplementary books furnished *at the expense of the school district*. Such need not be taken from the authorized state list. Books *bought by the pupils* must be books on the authorized state list.

Sec. 10967. Indigent pupils, how supplied.—The boards of directors of each school district shall have authority to purchase

all necessary books for indigent pupils and pay for the same out of the incidental funds of the district.

Sec. 10968. Certain cities—may adopt—how.—Boards of directors of cities and towns exempt from county uniformity under section 10953, who may not accept county uniformity, may adopt and contract for books from the state list under the same restrictions and in the same general manner as herein provided for the adoption of books by the county text-book commission.

“Same general manner” requires boards of education to advertise for bids as is provided in section 10961. Cities and towns are not exempt unless they take affirmative action showing that they do not accept the books adopted by the county commission.

Sec. 10969. Publisher to make certain statement.—When any publisher of school text-books shall file with the state superintendent the samples and lists provided for in section 10954, said publisher at the same time shall be required to file a sworn statement that he has no understanding or agreement of any kind with any other publisher, or interest in the business of any other publisher, with the effect, design or intent to control the prices on such books or to restrict competition in the adoption or sale thereof.

Sec. 10970. Publisher to show ownership of publishing house. Before being licensed to sell school text-books in this state, the publisher thereof shall file with the state superintendent of public schools a sworn statement, showing the ownership of such publishing house, with the interest, names and addresses of such owners, and specifically stating whether or not the said publisher, or the owner of any interest or shares in such publishing house, is the owner of any interest or shares in any other publishing house, and if so, giving the name and address thereof.

Sec. 10971. Unlawful combination to control prices—contract forfeited.—If at any time any publisher shall enter into any understanding, agreement or combination to control the prices or to restrict competition in the adoption or sale of school books, or if the statements required of said publisher by the two preceding sections shall be untrue in any respect, then the attorney-general shall institute and prosecute legal proceedings for the forfeiture of the bond of said publisher and for the revocation of his authority to sell school books in this state, and all contracts made by said publisher under this article shall thereupon become null and void at the option of the other parties thereto.

Sec. 10972. Penalty for selling without license.—Any publisher who shall sell, or offer for sale or adoption in this state, school text-books of any kind without first obtaining a license therefor under this article, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than five hundred dollars, and not more than five thousand dollars.

Sec. 10973. Bribery—penalty.—Any member of any county board of education who shall accept or receive any money, gift or

any property, or favor whatsoever, from any person, firm or corporation selling or offering for sale any text-books, or any agent thereof, or from any person in any way interested in the sale of text-books, shall, upon conviction, be punished by a fine not exceeding one thousand dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

THE FREE TEXTBOOK LAW.

(The Orr Free Textbook Law, 1913.)

AN ACT to provide free textbooks in all the public schools of the state.

SECTION

1. District may furnish free textbooks, how.
2. County court to apportion foreign insurance money to districts furnishing free textbooks.

SECTION

3. Funds apportioned to purchase text-books only.
4. Corporation furnishing books to designate secretary of state as agent.

Section 1. District may furnish free textbooks, how.—The qualified voters of any school district in the state may at any annual or special school meeting, fifteen days' notice having been given as required in section 10844, vote to authorize the board of directors or board of education of such district to purchase from the incidental fund and furnish free all the textbooks for all the pupils in the public schools of said district. A majority vote of those voting upon this proposition shall be sufficient to decide the question. In the event the incidental fund is not sufficient to supply all the books during the first year, then the board shall supply as many grades of their school or schools as possible beginning with the lowest grade and shall furnish free textbooks to all the pupils of all the elementary grades within a period of three years from the date of the school meeting at which it was decided to furnish free textbooks. Such books shall be the property of the school district, but shall be furnished free of charge to all public school pupils for use in the public schools of said school district, under such rules and regulations as the board of directors or board of education shall prescribe. No board of directors or board of education shall pay a higher price for such books than is paid by any other school district in this state, or in any other state purchasing textbooks in the open market. No contract hereafter made by any county or state textbook commission shall be binding upon any school district furnishing free textbooks to its pupils. No contract for books for a period of more than five years shall be made by any school district under the provisions of this act. Any owner, agent, solicitor or publisher of textbooks who shall offer for

sale in this state or sell to any board of directors or board of education textbooks at a higher price than herein specified shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than five hundred dollars and not more than ten thousand dollars for each offense.

Sec. 2. County court to apportion foreign insurance money to districts furnishing free textbooks.—Whenever the board of directors or board of education of any school district in this state certifies to the county court that they are furnishing textbooks free of charge to all the pupils in at least the first four grades in the public schools of their district, it shall be the duty of the county court to apportion annually to each such school district from the county foreign insurance tax moneys received from the state treasurer in accordance with section 7102, Revised Statutes, 1909, an amount to be determined by multiplying the number of children on the last enumeration list of said school district by the ratio used by the state auditor in making the distribution of said foreign insurance tax moneys among the counties of the state, and shall order the county treasurer to place to the credit of the incidental fund of each such district the amount thus obtained, or shall draw its warrant in favor of the proper township treasurer or treasurers for the amount due the districts of the various townships, and shall also draw its warrant in favor of the treasurer of any school district organized as a city, town or consolidated district for the amount due such district. When any school district that contains an incorporated town or city receives such aforesaid moneys on account of furnishing free textbooks, then the incorporated city or town contained in such district shall not be entitled to any further moneys under section 7103. After the money due the aforesaid districts on account of their furnishing free textbooks has been properly apportioned, the county court shall then proceed to apportion the remaining fund in accordance with the provisions of section 7103.

Sec. 3. Funds apportioned to purchase textbooks only.—The funds received by the various school districts in accordance with section 2 of this act shall be used only for the purchase of textbooks for free use in the public schools of said districts, and any district that does not within three years after receiving the first grant of money under this act furnish all the textbooks free to all the pupils of its elementary schools, shall be deprived of any further moneys under this act until such time as it does furnish all said textbooks free.

Sec. 4. Corporation furnishing books to designate secretary of state as agent.—Any person, firm or corporation furnishing textbooks to any districts under the provisions of this act shall designate the secretary of state of the state of Missouri as its or their agent upon whom citation and all other writs and processes

may be served in the event any suit shall be brought against such person, firm or corporation.

FORM OF NOTICE OF SPECIAL SCHOOL ELECTION.

In accordance with the provisions of H. B. 810, entitled "An act to provide free textbooks in all the public schools of the state," enacted by the forty-seventh general assembly of Missouri, notice is hereby given to the qualified voters of the school district of _____, in _____ county, Missouri, that a special school election will be held at the schoolhouse in said school district on _____, the _____ day of _____, 191—, polls opening at 7 a. m. and closing at 6 p. m., to vote upon the following proposition:

1. To provide free textbooks for the public school pupils.

Done by order of the school board, this _____ day of _____, 191—.

Secretary of School Board.

(Form of notice for town, city and consolidated schools.)

ARTICLE XI.

STATE BOARD OF EDUCATION.

SECTION

10974. State board of education—members and duties.

10975. Duty in relation to swamp lands.

10976. Duty as to state school fund of counties.

SECTION

10977. Power to employ attorneys—fees for services of same.

10978. To report to legislature.

Sec. 10974. State board of education—members and duties.

The supervision of instruction in the public schools shall be vested in a state board of education, whose powers and duties shall be prescribed by law. The superintendent of public schools shall be president of the board; the governor, secretary of state and attorney-general shall be *ex officio* members, and, with the superintendent, compose said board of education. It shall be the duty of the state board of education to take the general supervision over the entire educational interests of the state; to direct the investment of all moneys received by the state to be applied to the capital of any fund for educational purposes; to see that all funds are applied to such branch of the educational interest of the state as by grant, gift, devise or law they were originally intended. (R. S. 1899, § 9814, amended, L. 1909, p. 770.)

Sec. 10975. Duty in relation to swamp lands.—The state board of education is hereby required to ascertain from all the various counties in the state having swamp or other school lands what disposition has been made of the same, and when in any case it shall be ascertained that the objects of the grant have been violated, the funds arising therefrom perverted, or the lands or moneys used for any purpose other than those named in the grant, and by the law intended, it shall be their duty to institute suits to

recover the same in the name of the state in behalf of the public schools of the county in which such lands lie. (R. S. 1899, § 9815, re-enacted, L. 1909, p. 770.)

The state board of education has authority to employ attorneys to reclaim or protect swamp lands held in trust by counties for school purposes. *State ex rel. v. Crumb*, 157 Mo. 545; *Phillips v. County*, 187 Mo. 698. When a county has caused a patent to issue for swamp lands and suffered the same to remain on record thirty years without attacking its validity, it is estopped from thereafter denying that such patent passed a valid title. *Simpson v. County*, 173 Mo. 421.

Sec. 10976. Duty as to state school fund of counties.—It shall also be the duty of the said state board of education to ascertain from all the counties of the state what disposition has been made of the state school fund drawn by the counties from the state yearly, how much thereof has been transferred to the school townships; and when any such fund, or any part thereof, has been diverted from its lawful use, it shall be their duty, in like manner as in the last section provided, to institute suit for and collect the same and return it to its legitimate channel. (R. S. 1899, § 9816, amended, L. 1909, p. 770.)

Sec. 10977. Power to employ attorneys—fees for services of same.—The state board of education shall have power to employ a competent attorney in each congressional district to prosecute the suits mentioned in the preceding section, and who, for such services, shall be allowed the following per cent. as fees: For all claims prosecuted to final judgment in favor of the state or county as plaintiff, on all sums under five hundred dollars, ten per cent.; between five hundred and one thousand dollars, seven per cent.; between one thousand and two thousand dollars, five per cent.; between two thousand and four thousand dollars, three per cent.; between four thousand and eight thousand dollars, two per cent.; and for all sums over eight thousand dollars, one per cent.—such fees to be paid said attorney out of the sums collected; and where lands are recovered by suits instituted by such attorneys, they shall be allowed such sums for their services as may be deemed reasonable by the county court of the county in which the lands recovered are situated, to be paid out of the county treasury; but if said county court shall neglect or refuse to allow reasonable compensation for the services of said attorneys in prosecuting suits for the recovery of lands as above set forth, then such attorneys may bring suit in the circuit court of the proper county against the county the court of which so refuses or neglects to allow compensation, and the amount thus recovered shall stand as a judgment against the county in which said lands are located upon which suit was brought. And it shall be the further duty of said attorneys to examine the records and papers relating to school lands and funds in the counties of the district for which they are appointed, and report the condition of the same to the state board of education, and they shall receive, as compensation therefor, the

sum of six dollars per day for the time actually employed in such examination, said amount to be audited by the state board of education and paid out of any moneys in the state treasury not otherwise appropriated: *Provided*, that no more than five days shall be employed in such examination in any one county, except upon an order of the state board of education. (R. S. 1899, § 9817, re-enacted, L. 1909, p. 770.)

Sec. 10978. To report to legislature.—Said board of education shall report to each session of the legislature their proceedings under this chapter, stating therein what suits have been instituted, the amount of money collected, if any, and the land recovered, if any, naming the counties in which such suits were instituted and lands recovered, with such other information as may be deemed important. (R. S. 1899, § 9818, amended, L. 1909, p. 770.)

SCHOOL LIBRARIES.

Chapter 73, Article IV.

Sec. 8184. Library board created.—There is hereby created a state library board to consist of five members, four of whom shall be appointed by the state board of education to serve for four years and until their successors are appointed. The state superintendent of schools shall be a member and *ex officio* chairman. (Laws 1901, p. 205.)

Sec. 8185. Board shall select, classify and recommend books. The state library board shall select, classify and recommend a list of suitable books for school libraries, supplementary reading and school reference books. Said list shall contain not less than forty suitable books to supplement the regular schoolroom work in each of the following lines: Reading, literature, history, geography and nature study, or practical agriculture. They shall enter into contract with the publishers of the selected books to furnish them, transportation charges prepaid, at the lowest possible cost to the districts: *Provided*, that said list may be revised every two years by said board. It shall be the duty of the state superintendent of public schools to publish and distribute to the district clerks of the state a classified list of selected books, setting forth contract price of each. (Laws 1901, p. 205.)

Sec. 8186. School boards to set aside funds to purchase books. For the purpose of purchasing school libraries, supplementary and reference books, district boards of directors shall set aside, out of the levy made for incidental purposes, not less than five nor more than twenty cents per pupil enumerated in the district each year, which shall be spent under the direction of the board in purchasing books from the list selected: *Provided*, that books other than

those selected may be purchased after one hundred volumes have been purchased from the selected list of library books. (Laws 1901, p. 205.)

It is recommended that teachers be consulted by school boards before books are purchased. The county superintendent will be able to give wholesome advice in the selection of books. A pamphlet containing the prices and descriptions of the selected books has been distributed, containing rules and regulations for the management of the libraries. When the incidental funds will admit of it, school boards should appropriate the maximum of twenty cents per child enumerated.

Lists of small libraries will be furnished upon application to the county superintendent or state superintendent. These have been selected with great care, with the view of supplementing the regular schoolroom work. If ten or fifteen dollars is to be spent, selections may be made from two or three of the special libraries. These small libraries are numbered and may be ordered by number. Any combination of special lists and supplemental lists may be made to suit the amount the district has to spend.

School boards should make, or cause to be made, a simple box bookcase to rest on the teacher's desk, provided with door on hinges and with lock and key. It will be much better if such bookcase can be made in the walls of the house when the house is constructed.

It may be objected that five dollars will not buy many books, and that so few books will do little good. Try it. Five dollars a year is better than waiting five years to raise twenty-five dollars. Teachers and pupils will learn to appreciate a few books faster than if the list is too large. Experience with few books will insure wiser purchases later. Districts should make as large orders as possible, but it is better that small orders be made now rather than wait to make larger ones.

This law in no wise interferes with the right of directors in cities and towns to provide public libraries.

IMPORTANT SECTIONS BEARING ON SCHOOL LAW.

Section 1715. Children under 14 not to be employed in certain occupations.—No child under the age of fourteen years shall be employed, permitted or suffered to work at any gainful occupation within this state, except at agricultural pursuits, and in domestic service.

Sec. 1716. Children under 16 not to be employed in certain occupations—notices to be posted.—No child under the age of sixteen years shall be employed, permitted or suffered to work at any gainful occupation in this state more than forty-eight hours in any one week, nor more than eight hours per day; nor before the hour of seven o'clock in the morning, nor after the hour of seven o'clock in the evening. Every employer shall post in a conspicuous place in every room or place where such minors are employed a printed notice stating the hours of service required of them each day of the week, the hours of commencing and stopping work, and the hour, or hours, when the time, or times, allowed for meals begin and end. The printed form of such notice shall be furnished by the state factory inspector.

Section 1717. Lists of children employed to be posted.—It shall be the duty of every person, firm or corporation, employing minors over fourteen and under sixteen years of age within this state, to keep two complete lists containing the names, ages and

places of residence of all such children employed therein, one on file, and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed.

Section 1718. Child not to be employed without age certificate—certificate to be surrendered to owner on termination of employment.—No child under sixteen years of age, and over fourteen years of age, shall be employed, permitted or suffered to work in this state unless there is first produced and placed on file at the time of employment, and accessible to any factory inspector, and to any school attendance officer, or to any other authorized officer, an employment certificate as hereinafter prescribed. On termination of the employment of any such child, such certificate shall be forthwith surrendered by the employer to the owner thereof, or in the event said certificate is not called for within thirty days, it shall be transmitted by the employer to the person who issued the same.

Section 1719. Employment certificate, by whom issued.—An employment certificate shall be issued only by the superintendent of instruction of any board of education in this state, or by a person authorized by him in writing, or, where there is no superintendent of instruction, by a person authorized by the board of directors of any school district in this state.

Section 1720. Employment certificate, how issued.—The person so authorized to issue an employment certificate shall not issue such certificate until he has received, examined, approved and filed the following papers, duly executed:

1. The school record of such child, properly filled out and signed by the principal or chief executive officer of the school which such child has attended. It shall contain a statement certifying that the child has regularly attended the public schools, or schools equivalent thereto, or parochial schools, and is able to read and write simple sentences in the English language. Such school record shall also give the date of birth and residence of the child, as shown on the record of the school, and the names of its parent, guardian, or custodian.

2. A passport, or duly attested transcript of the certificate of birth, or baptism, or other religious record, showing the date and place of birth of such child.

3. An affidavit of the parent or guardian or custodian of a child (which shall not be accepted, however, unless a passport or certificate of birth, or baptism, or other religious record is not obtainable), showing the place and date of birth of such child. Such affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath without demanding or receiving any fee therefor.

Section 1721. Employment certificate not to be issued without personal appearance and examination before officer issuing same. No employment certificate shall be issued until the child in question

has personally appeared before and been examined by the officer issuing the certificate, nor until such officer, after making such examination, has signed and filed in his office a statement that the child can read and legibly write simple sentences in the English language, and that in his opinion the child is fourteen years of age or over, and has reached the normal development of a child of its age, and is in sufficiently sound health and physically able to perform the work it intends to do. Whenever such officer issuing the employment certificate requests it, such normal development, sound health and physical fitness shall be determined by a medical officer of the board or department of health or by a regularly licensed physician.

Section 1722. Employment certificate, to contain what—duplicates, how obtained.—Every such employment certificate shall state the name, sex, residence, the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight, and any distinguishing physical marks of such child, and that the papers required by the preceding sections have been duly examined, approved and filed, and that the child named in such certificate has appeared before the officer signing it. Every such certificate shall be signed in the presence of the officer issuing it by the child in whose name it is issued. It shall show the date of its issue. In the event such employment certificate is lost, duplicates may be issued upon the payment of a fee of 50 cents for each duplicate, which shall be paid into the general school fund.

Section 1723. Employment certificates, subject to review by factory inspector—how cancelled.—All such employment certificates shall be subject to review by the factory inspector, or by any of his assistants or deputies, and may by him be cancelled if he finds such certificate has been obtained through fraud, misrepresentation or falsification of facts. In such cases the factory inspector shall give written notice to the employer, who shall at once cause the minor affected to be dismissed from employment. The factory inspector or his assistant or deputy shall also have the power to demand a certificate of physical fitness from some regularly licensed physician in the case of children who may seem to said inspector physically unable to perform the labor at which they may be employed; and no such child shall be employed who cannot obtain such a certificate.

Section 1724. Form of employment certificate.—Such employment certificate shall be printed, the printed form to be furnished by the state factory inspector, and shall be filled out, signed and held for surrender in the following form:

EMPLOYMENT CERTIFICATE.

I, ———, (here officer issuing certificate shall insert his name and official title and by what authority he issues said certificate) hereby certify that there personally appeared before me, ———, (here insert name of child), and that he, or she, has been duly examined by me and found by me to be able to read and legibly write simple

sentences in the English language; and I further certify that in my opinion the said child is fourteen years of age or over and has reached the normal development of a child of his, or her, age, and is in sufficiently sound health and physically able to perform the work which he, or she, intends to do, which, according to the statement of the child, is as follows: — (here insert kind of work child states he, or she, intends to perform).

I further certify that I have received, examined, approved, signed and filed in my office at —, (here insert address of officer issuing certificate), the papers required by the statutes of Missouri pertaining to the issuance of employment certificates to children over fourteen years of age.

I further certify that the child in whose name this certificate is issued has signed his, or her, name in my presence. His, or her, full name is —, (here insert full name of child in whose behalf certificate is issued). — (here state whether male or female child); residence —; born on the — day of — (month); — (year), at — (place of birth); color of hair is —; of eyes is —; height, —; weight, —; (here insert distinguishing facial marks).

In the event this certificate is lost, a duplicate may be issued upon the payment of a fee of 50 cents.

Signed this — day of — (month), — (year), at — (place of issuance).

(Signature and official title of officer issuing certificate.)

(Signature and address of child on whose behalf certificate is issued.)

Section 1725. Persons issuing certificates to transmit list of same monthly to factory inspector.—The superintendent of instruction, or other person authorized to issue employment certificates, shall transmit, between the first and tenth days of each month, to the office of the factory inspector, upon blanks to be furnished by him, a list of the names of the children to whom certificates have been issued. Such list shall give the name of the prospective employer, if known, and the nature of the occupation the child intends to engage in.

Section 1726. Presence of child, prima facie evidence of employment.—The presence of any person under the age of sixteen years in any place where labor is employed shall constitute *prima facie* evidence of his, or her, employment therein.

Section 1726a. Boys under 10 and girls under 16 not to sell papers, etc., in certain places.—No boy under ten and no girl under sixteen years of age shall sell, or expose, or offer for sale, newspapers, magazines, periodicals, or other merchandise in any street or hotels, railway stations, places of public amusement, places where intoxicating liquors are manufactured or sold or public office buildings within the state.

Section 1726b. Children under the age of 16 not to be employed in certain occupations.—No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or in any of the following positions: Sewing machine belts in any workshop or factory, or assisting therein in any capacity whatever; adjusting any belt to any machinery; oiling, wiping or cleaning machinery or assisting therein;

operating, or assisting in operating—circular saws; wood jointers; wood shapers; planers; sandpaper or wood-polishing machinery; picker machines; machines used in picking wool; machines used in picking cotton; machines used in picking hair; machines used in picking upholstering material; paper-lacing machines; leather-burnishing machines; burnishing machines in any tannery or leather manufactory; job or cylinder printing presses, operated by power other than foot power; emery or polishing wheels used for polishing metal; woodturning or boring machinery; stamping machines used in sheet metal and tinware manufacturing; stamping machines used in washer and nut factories; corrugating rolls, such as are used in roofing and washboard factories; steam boilers; steam machinery; or other steam generating apparatus; dough brakes; or cracker machinery of any description; wire or strengthening machinery; rolling mill machinery, punches or shears; washing, grinding or mixing mills; calender rolls in rubber manufacturing; laundry machinery.

Section 1726c. Children under 16 not to be employed in manufacture of certain goods, or in certain positions.—No child under the age of sixteen years shall be employed, permitted or suffered to work in any capacity in, about or in connection with the—preparing any composition in which dangerous or poisonous acids or alkalis are used; manufacture of paints, colors or white lead; dipping, drying or packing matches; manufacturing, packing or storing powder, dynamite, nitroglycerine compounds, fuses or other explosives; manufacture of goods for immoral purposes; nor in, about or in connection with any—brewery, or other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled; hotel; concert hall; moving picture shows; pool and billiard halls; wholesale drug store; saloon, or place of amusement; nor in operating any automobile, motor car or truck; nor in bowling alleys; nor in any other employment declared by the state factory inspector to be dangerous to lives and limbs, or injurious to the health or morals of children under the age of sixteen.

Section 1726d. Penalty.—The violation of any of the provisions of this act shall be deemed a misdemeanor and every day's violation shall constitute a separate offense, and any person, firm or corporation committing such violation shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail not exceeding one year, or by both such fine and punishment.

Sec. 2. Child may be excused temporarily, when.—Section 10897 of the Revised Statutes of Missouri of 1909 is hereby amended by striking out of the tenth and eleventh lines thereof, after the word "road" in the tenth line thereof, the following words, to-wit, "or that the labor of said child is absolutely necessary for the support of the family," so that said section thus amended shall read as follows: "Section 10897. A child between the ages aforesaid may be excused temporarily from complying with the provisions

of sections 10896 to 10905, inclusive, in whole or in part, if it can be shown to the satisfaction of a court of competent jurisdiction that said parent, or guardian, or person having charge or control of said child, is not able, through extreme destitution, to provide or obtain in any way proper clothing for said child; or that said child is mentally or physically incapacitated to attend school for the whole period required, or any part thereof, or that there is no public school taught within two and one-half miles of the residence of said child by the nearest traveled road, or that said child has completed the common school course as prescribed by constituted authority, or its equivalent, and has received a certificate of graduation therefrom."

Sec. 3. Children, when excused from attendance.—Section 10907 of the Revised Statutes of Missouri of 1909 is hereby amended by striking out of the tenth and eleventh lines thereof the following words, to wit: "or that the labor of said child is absolutely necessary for the support of the family;" and by striking out all that part of said section, beginning in the thirteenth line thereof with the words: "*Provided, however,*" and ending with word "officer," being the last word of said section, so that said section thus amended shall read as follows: "Section 10907. A child between the ages aforesaid may be excused temporarily from complying with the provisions of sections 10906 to 10917, inclusive, in whole or in part, if it be shown to the satisfaction of the attendance officer, or if he declines to excuse to the satisfaction of a court of competent jurisdiction, that said parent, guardian, or person having charge, control or custody of said child is not able, through extreme destitution, to provide or obtain in any way proper clothing for said child; or that said child is mentally or physically incapacitated to attend school for the whole period required, or any part thereof, or that said child has completed the common school course, as prescribed by constituted authority, or its equivalent, and has received a certificate of graduation therefrom." (Session Acts, 1911.)

In connection with this, read sections 10896-10905 on compulsory attendance of children.

Sec. 4560. Claims corruptly allowed by county courts and other officers.—Any member of the county court, common council or board of trustees, or officer or agent of any county, city, town, village, school township, school district or other municipal corporation, who shall, in his official capacity, willfully or corruptly vote for, assent to or report in favor of, or allow or certify for allowance, any claim or demand, or any part thereof, against the county, city, town, village, school township, school district or other municipal corporation, of which he is such officer or agent, or against the county court, common council or board of trustees of which he is a member—such claim or demand, or part thereof, being for or on account of any contract or demand or service not authorized or made as provided or required by law—every such person so

offending shall, on conviction, be punished by imprisonment in the penitentiary not more than five years, or by a fine of not less than one hundred nor more than five thousand dollars, or by imprisonment in the county jail not less than two nor more than twelve months, or by both such fine and imprisonment. (R. S. 1899, § 1922.)

Sec. 4615. Injury of schoolhouses and church buildings. Every person who shall injure, deface or destroy any building used as a schoolhouse, or any church building or other building used for such purposes or for other religious or educational purpose, or any furniture, fixtures or apparatus thereto belonging, or who shall deface, mar or disfigure any such building, or any part thereof, or the fixtures therein, by writing, painting, cutting or pasting thereon any likeness, figures, words or device, or who shall commit any trespass upon the land connected with said schoolhouse and used for school or educational purposes, by removing therefrom the water, contained in any well, cistern or reservoir, in which water is gathered or kept for the supply of said schoolhouse or those attending the same, and without the permission, in writing, of the person or persons having the legal control of said schoolhouse and land, or who shall in any manner pollute the water contained in any well, cistern or reservoir, shall be deemed guilty of a misdemeanor. (R. S. 1899, § 1974.)

Sec. 4713. Disturbing religious assemblies.—Every person who shall willfully, maliciously or contemptuously disquiet or disturb any camp meeting, congregation or other assembly met for religious worship, or when meeting at the place of worship, or dispersing therefrom, or any school or other meeting or assembly of people met together for any lawful purpose whatever, by making a noise, or by rude or indecent behavior or profane discourse within the place of assembly, or so near the same as to interrupt or disturb the order or solemnity thereof, or who shall willfully menace, threaten or assault any person there being, shall be deemed guilty of a misdemeanor. (R. S. 1899, § 2160.)

Sec. 4734. Sale and gift of cigarettes or cigarette paper forbidden—penalty.—Any person who shall, by himself, his servant or agent, or as the servant or agent of any other person, directly or indirectly, or upon any pretense, or by any device, sell, give away or otherwise dispose of, unto any person under the age of eighteen years, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, or any paper made or prepared for the purpose of making cigarettes or any substitute therefor, or for the purpose of being filled with tobacco for smoking, shall be adjudged guilty of a misdemeanor, and, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than one hundred dollars for the first offense, and by a fine of not less than fifty dollars nor more than five hundred dollars for the second offense; *and provided further*, that one-half of the fine recovered shall go to the com-

plaining witness. (Laws 1903, p. 164, amended, Laws 1909, p. 447.)

Sec. 4735. Use of cigarettes by minors in public places forbidden—penalty.—Every person, over the age of ten years and under the age of eighteen years, who shall smoke or use cigarettes on any public road, street, alley, park, or other lands used for public purposes, or in any public place of business or amusement, or upon and railroad train or street car, shall, upon conviction, be adjudged guilty of a misdemeanor, and punished by a fine of not more than ten dollars. (Laws 1909, p. 447.)

Sec. 1249. Bonded debt of counties, cities, etc., may be funded—question to be submitted.—The various counties in this state, for themselves, as well as in behalf of any township or parts of townships for which said counties may have heretofore issued any bonds, and the several cities, villages, incorporated towns and school districts, are hereby authorized by their respective county courts, and the said cities, villages and incorporated towns by their authorities, and the said school districts by their respective school boards, to fund any part or all of their existing bonded indebtedness, including any judgments, bonds, or coupons, at a lower rate of interest, and for that purpose may issue, negotiate, sell and deliver renewal or funding bonds, and with the proceeds thereof pay off, redeem and cancel old bonds, as the same are called for redemption: *Provided*, that such funding bonds shall not be sold for less than the par value thereof, and that in no case shall the amount of the debt of any such county or township or parts of townships, or city, village, incorporated town or school district, nor the rate of interest on such debt, be increased or enlarged under the provisions of this chapter; *and provided also*, that no funding bonds issued under this chapter shall be payable in less than five nor more than thirty years from the date thereof, and that such funding bond shall be of the denomination of not more than one thousand dollars nor less than one hundred dollars, and shall bear interest not to exceed five per cent. per annum, payable annually or semiannually, and to this end each bond shall have annexed interest coupons, and the funding bonds and coupons shall be made payable to bearer: *Provided*, that nothing in this act shall be so construed as prohibiting any county, city, township or school district having a bonded debt from refunding such debt without the submission of the question to a popular vote, whenever such refunding can be done at a lower rate of interest than the bonds so refunded bore. (R. S. 1899, § 5157, amended, Laws 1901, p. 52.)

23 Mo. 483; 33 Mo. 440; 36 Mo. 294; 38 Mo. 450; 41 Mo. 453; 44 Mo. 197, 504; 45 Mo. 458; 47 Mo. 349; 48 Mo. 167, 390; 50 Mo. 338, 600; 51 Mo. 479, 522; 54 Mo. 58; 56 Mo. 126; 62 Mo. 188; 67 Mo. 253, 445; 69 Mo. 150, 224; 72 Mo. 329, 496; 85 Mo. 41; 86 Mo. 551; 92 Mo. 511; 93 Mo. 606; 96 Mo. 29; 101 Mo. 136; 106 Mo. 659; 109 Mo. 248; 112 Mo. 126; 113 Mo. 297; 116 Mo. 129; 120 Mo. 577; 121 Mo. 614; 123 Mo. 72; 128 Mo. 427; 45 A. 660; 69 A. 660. Where vote held necessary. 42 Mo. 171; 45 Mo. 242; 48 Mo. 167, 390; 51 Mo. 350; 67 Mo. 445. Irregularities. 33 Mo. 440; 36 Mo. 294; 47 Mo. 349; 48 Mo. 390, 167; 45 A. 660. When void.

48 Mo. 167; 56 Mo. 126; 66 Mo. 498; 67 Mo. 345, 445. Conflict, federal and state courts. 72 Mo. 499; 75 Mo. 246; 77 Mo. 573; 106 Mo. 659. A *bona fide* holder for value has right to presume the issue regular. 51 Mo. 483; 54 Mo. 58; 7 A. 294. Tender. 107 Mo. 50. Dealing with agent, etc. 143 Mo. 13.

This section vests the board of directors with authority to refund the bonded indebtedness of the district at a less rate of interest at any time after it, by the terms of the bonds, becomes payable at the option of the board, and before final maturity thereof.

Sec. 1275. Bonds to be registered.—Before any bond hereafter issued by any county, city, town, village or school district, for any purpose whatever, shall obtain validity or be negotiated, such bond shall first be presented to the state auditor, who shall register the same in a book or books provided for that purpose, in the same manner as the state bonds are now registered, and who shall certify by indorsement on such bond that all the conditions of the laws have been complied with in its issue, if that be the case, and also that the conditions of the contract under which they were ordered to be issued have also been complied with, and the evidence of that fact shall be filed and preserved by the auditor; but such certificate shall be *prima facie* evidence only of the facts therein stated, and shall not preclude or prohibit any person from showing or proving the contrary in any suit or proceeding to test or determine the validity of such bonds, or the power of any county court, city or town council or board of trustees, or school board or other authority, to issue such bonds; and the remedy of injunction shall also lie at the instance of any taxpayer of the respective county, city, town, village, township or school district, to prevent the registration of any bonds alleged to be illegally issued or funded under any of the provisions of this article. (R. S. 1899, § 5167.)

Sec. 1247. Contractors with counties, cities, school districts, etc., to give bond.—All counties, cities, towns and school districts making contracts for public work of any kind to be done for such county, city, town or school district shall require every contractor to execute a bond with good and sufficient securities, and such bond, among other conditions, shall be conditioned for the payment for all material used in such work, and all labor performed on such work, whether by subcontract or otherwise. (R. S. 1899, § 6761.)

Sec. 11073. Diplomas and certificates—secretary of each board and state superintendent to make annual report.—The normal diploma, conferred upon completing the “advanced course,” shall entitle the holder thereof to teach in any county in this state, without further examination, until revoked by the board of regents or curators granting the same, or by the county school commissioner, or state superintendent of schools, for incompetency, cruelty, immorality, drunkenness or neglect of duty; and the normal certificate, granted upon completing the “elementary course,” shall bear the names of the branches of study completed and the grades sustained in each; and said certificate shall in like manner entitle the holder thereof to teach the branches therein named for a period

of two years from date, unless sooner revoked by said board, or county school commissioner, or state superintendent of schools, for one or more of the causes above specified; and the provisions of this section shall apply to the normal department of the university of Missouri and to Lincoln Institute. The secretary of each board shall annually, in the month of June, transmit to the state superintendent the names of those receiving such diploma or certificate, with reference and date of issue, and the state superintendent shall annually, in the month of August, forward to each county commissioner a printed list of persons holding state certificates now in force, and those authorized to teach under the provisions of this section, giving name, residence, date of qualification, and by whom conferred, and the date each normal certificate expires; and the holder of such state certificate, normal diploma or normal certificate shall, before commencing to teach a public school in any county in this state, notify the county commissioner thereof of such fact, give date of qualification, and by whom conferred. (R. S. 1899, § 9993, amended, Laws 1909, p. 851.)

Sec. 11078. Annual report of president of board, shall contain what.—The president of each of the boards of regents of the normal schools shall make to the state superintendent of public schools an annual report in the month of August in each year, which shall contain a full account of the acts of said board, of all receipts of moneys from appropriations, tuition fees and all other sources, and the disbursements thereof and for what purposes, and the condition of said normal schools; also a list of the names of all students that may have been taught in the respective normal schools during the preceding year, with the age and place of residence of each, the number of terms enrolled, the number of days each has been taught, and the amount of tuition or incidental fees paid. (R. S. 1899, § 9998, amended, Laws 1909, p. 851.)

Sec. 11132. Selling liquor to students—penalty.—Any person who shall knowingly sell, give or in any manner dispose of any intoxicating liquor to any student of the university of the state of Missouri, or of any school or college or academy in this state, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than forty nor more than four hundred dollars, or by imprisonment in the county jail not less than three months nor more than one year, or by both such fine and imprisonment: *Provided*, that it shall be lawful for druggists to sell or give such liquor to any student upon the written prescription of a regular practicing physician in good standing: *Provided*, that nothing in this section shall be so construed as to apply to any mercantile or business college. (Laws 1909, p. 884.)

PROVISIONS OF THE CONSTITUTION OF MISSOURI.

ARTICLE VIII—SUFFRAGE.

Sec. 2. Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people:

First—He shall have resided in the state one year immediately preceding the election at which he offers to vote.

Second—He shall have resided in the county, city or town where he shall offer to vote at least sixty days immediately preceding the election.

Sec. 7. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in service, either civil or military, of this state or of the United States, nor while engaged in the navigation of the waters of the state or of the United States, or of the high seas, nor while a student of any institution of learning, nor while kept in a poorhouse or other asylum at public expense, nor while confined in public prison.

Sec. 8. No person, while kept at any poorhouse or other asylum, at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this state.

Sec. 11. No officer, soldier or marine, in the regular army or navy of the United States, shall be entitled to vote at any election in this state.

Sec. 12. No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States, and who shall not have resided in this state one year next preceding his election or appointment.

ARTICLE X—TAXATION.

Sec. 11. Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city or school district for state and county purposes. For county purposes the annual rate on property, in counties having six million dollars or less, shall not, in the aggregate, exceed fifty cents on the hundred dollars valuation; in counties having six million dollars and under ten million dollars, said rate shall not exceed forty cents on the hundred dollars valuation;

in counties having ten million dollars and under thirty million dollars, said rate shall not exceed fifty cents on the hundred dollars valuation; and in counties having thirty million dollars or more, said rate shall not exceed thirty-five cents on the hundred dollars valuation. For city and town purposes, the annual rate on property in cities and towns having thirty thousand inhabitants or more shall not, in the aggregate, exceed one hundred cents on the hundred dollars valuation; in cities and towns having less than thirty thousand and over ten thousand inhabitants, said rate shall not exceed sixty cents on the hundred dollars valuation; in cities and towns having less than ten thousand and more than one thousand inhabitants, said rate shall not exceed fifty cents on the hundred dollars valuation; and in towns having one thousand inhabitants or less, said rate shall not exceed twenty-five cents on the hundred dollars valuation. For school purposes in districts composed of cities, which have one hundred thousand inhabitants or more, the annual rate on property shall not exceed sixty cents on the hundred dollars valuation, and in other districts forty cents on the hundred dollars valuation: *Provided*, the aforesaid annual rates for school purposes may be increased in districts formed of cities and towns to an amount not to exceed one dollar on the hundred dollars valuation, and in other districts to any amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are taxpayers, voting at an election held to decide the question, vote for said increase. For the purpose of erecting public buildings in counties, cities or school districts, the rates of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of such county, city or school district voting at such election shall vote therefor. The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for state and county purposes, and the rate allowed to each city or town by the number of inhabitants, according to the last census taken under the authority of the state, or the United States; said restrictions as to the rates shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing or bonds which may be issued in renewal of such indebtedness: *Provided*, that the city of St. Louis may levy for municipal purposes, in addition to the municipal rate of taxation above provided, a rate not exceeding the rate which would be allowed for county purposes if said city were part of a county.

Sec. 12. No county, city, town, township, school district or other political corporation or subdivision of the state shall be allowed to become indebted in any manner, or for any purpose, to an amount exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters thereof,

voting at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for state and county purposes, previous to the incurring of such indebtedness: *Provided*, that with such assent any county may be allowed to become indebted to a larger amount for the erection of a courthouse or jail; *and provided further*, that any county, city, town, township, school district, or other political corporation or subdivision of the state, incurring any indebtedness requiring the assent of the voters aforesaid, shall before or at the time of doing so provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for payment of the principal thereof, within twenty years from the time of contracting the same.

ARTICLE XI—EDUCATION.

Section 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state between the ages of six and twenty years.

Sec. 2. The income of all the funds provided by the state for the support of free public schools shall be paid annually to the several county treasurers, to be distributed according to law; but no school district in which a free public school has not been maintained at least three months during the year for which the distribution is made shall be entitled to receive any portion of such funds.

Sec. 3. Separate free public schools shall be established for the education of children of African descent.

Sec. 4. The supervision of instruction in the public schools shall be vested in a "board of education," whose powers and duties shall be prescribed by law. The superintendent of public schools shall be president of the board; the governor, secretary of state and attorney-general shall be *ex officio* members, and, with the superintendent, compose said board of education.

Sec. 5. The general assembly shall, whenever the public school fund will permit, and the actual necessity of the same may require, aid and maintain the state university now established, with its present departments. The government of the state university shall be vested in the board of curators, to consist of nine members, to be appointed by the governor, by and with the advice and consent of the senate.

Sec. 6. The proceeds of all lands that have been or hereafter may be granted by the United States to this state, and not otherwise appropriated by this state or the United States; also, all moneys, stocks, bonds, lands and other property now belonging to any state fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the state by escheats, from unclaimed dividends and distributive shares of the estates of deceased persons; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this state (if congress will consent to such appropriation); also, all other grants, gifts or devises that have been or hereafter may be made to this state, and not otherwise appropriated by the state or the terms of the grant, gift or devise, shall be paid into the state treasury and securely invested and sacredly preserved as a public school fund; the annual income of which fund, together with so much of the ordinary revenue of the state as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the state university in this article provided for, and for no other uses or purposes whatever.

Sec. 7. In case the public school fund now provided and set apart by law for the support of free public schools shall be insufficient to sustain a free school at least four months in every year in each school district in this state, the general assembly may provide for such deficiency in accordance with section eleven of the article on revenue and taxation, but in no case shall there be set apart less than twenty-five per cent. of the state revenue, exclusive of the interest and sinking fund, to be applied annually to the support of the public schools.

Sec. 8. All moneys, stocks, bonds, lands and other property belonging to a county school fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the state, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in the several counties as a county public school fund; the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties in this state.

Sec. 9. No part of the public school fund of the state shall ever be invested in the stock or bonds or other obligations of any other state, or of any county, city, town or corporation; and the proceeds of the sales of any lands or other property which now belongs or may hereafter belong to said school fund shall be invested in the bonds of the state of Missouri or of the United States.

Sec. 10. All county school funds shall be loaned only upon unencumbered real estate security of double the value of the loan, with personal security in addition thereto.

Sec. 11. Neither the general assembly nor any county, city, town, township, school district or other municipal corporation shall ever make an appropriation, or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state, or any county, city, town or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

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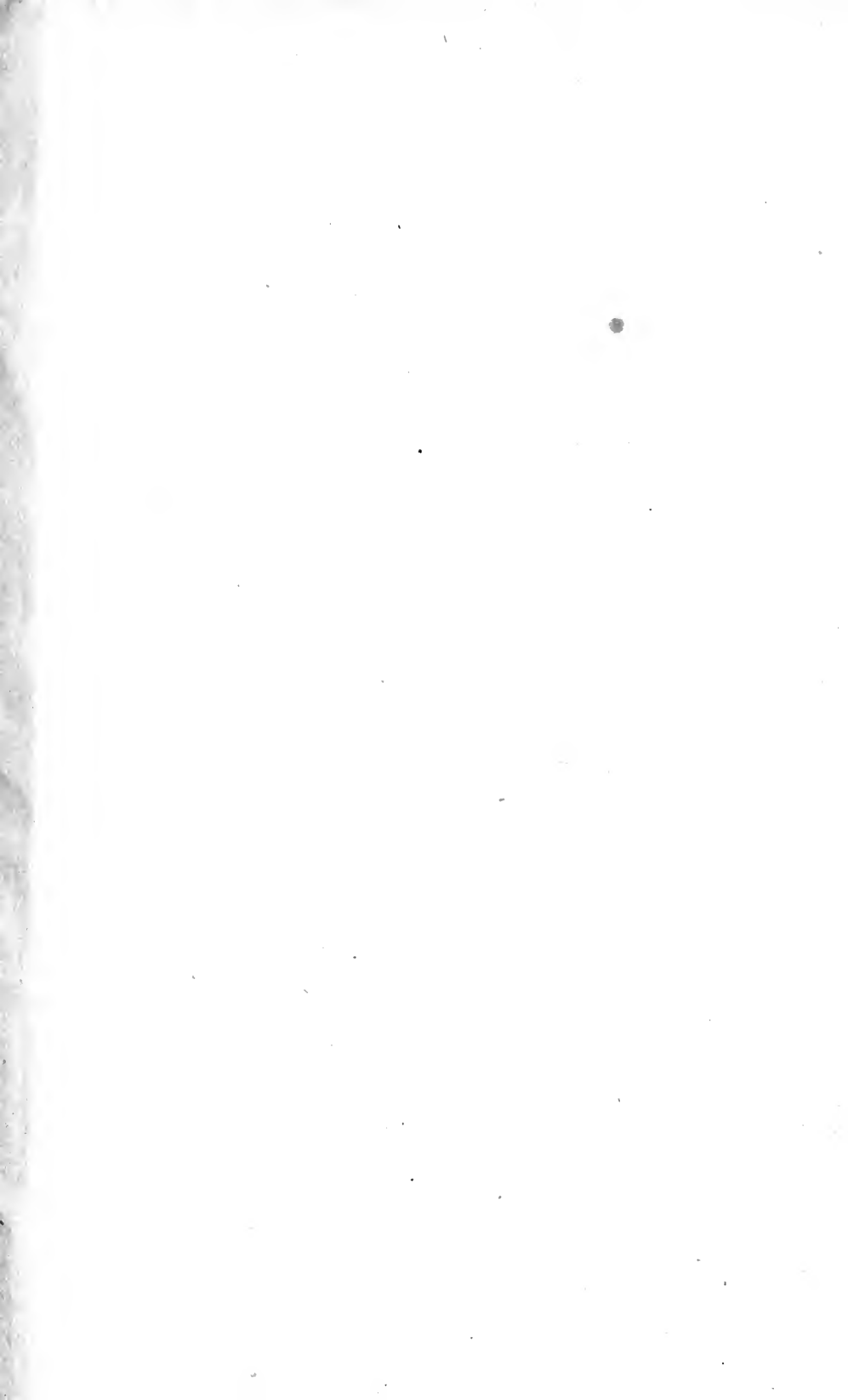
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