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THE
School Laws
Annotated

OF THE

State of Colorado

As Amended to Date
January 1, 1912



The Smith-Brooks Company, State Printers
Denver, Colorado

LB 2529

CC3

1912

In the preparation of this work I am justly indebted to Miss Emily Griffith, deputy state superintendent, whose wide experience in matters of school law, and whose zeal and energy in all matters of this department have made her services in this connection especially invaluable, and also to Mr. I. B. Melville of the Denver Bar, who so kindly offered to review the manuscript before it passed into the hands of the printer

TO THE
ASSOCIATION

NOTE

This volume contains the complete school laws of Colorado, all provisions of the enabling act and constitution of the state pertaining to public schools, and the general provisions of the laws establishing the different state educational institutions, including the industrial schools for boys and girls, revised to January 1, 1912.

These laws have been alphabetically arranged under appropriate headings, with all decisions of the appellate courts of this state and of this department construing or relating to any portion of the law placed under the section containing the same.

Your attention is respectfully called to the fact that while these laws are distributed free to all school officers, it should be remembered that they belong to the office and not to the individual, and so should be preserved and turned over to your successors.

Allen Marsh Wilson

Superintendent of Public Instruction.

Denver, Colorado, January 1, 1912.

EXPLANATORY NOTE

Section numbers used in this edition for the enabling act and Colorado constitution are the corresponding numbers used in the Revised Statutes of Colorado of 1908.

Numbers at the beginning of each section of the law proper, commencing with "Alcoholic Drinks," are our own. The number at the end of each such section is the corresponding number of the section of the Revised Statutes.

This edition of the school law is to be known as the "School Laws Annotated." In referring to a section thereof—for instance, section 25—the reference should be "S. L. A. 25."

The letters "R. S." mean Revised Statutes. The figures following are the corresponding sections of such statutes, but are used herein for identification only, and not for reference; for instance, "R. S. 25" means section 25 of the Revised Statutes of Colorado of 1908.

The letters and figures "S. L. '09" or "S. L. '11" refer to the official Session Laws of Colorado for the year 1909 or 1911. The numbers following are the pages of such official laws; for instance, "S. L. '09, p. 26," means the corresponding portion of the law found on page 26 of the Session Laws of Colorado of 1909.

The letters "C." and "C. A." mean Colorado Supreme Court Reports and Colorado Court of Appeals, respectively. The numbers preceding are the numbers of the volumes, and the numbers following are the pages of such volume. For instance, "4 C. 25" refers to the decision found in the fourth volume of the Colorado reports, beginning at page 25.

The paragraphs in the smallest type, following the word "Note," are either references to other provisions of the law or in explanation of general provisions, but are not to be considered in any sense as decisions of this department.

The paragraphs in small type designated "a" and "b," etc., are points of law decided by our Colorado Supreme Court or Court of Appeals, and are followed by the title of the case and the number and page of the volume in which found. For instance, "*Smith v. Jones*, 4 C. 25," refers to the official decision, entitled "*Smith v. Jones*," beginning at page 25 of volume 4 of the Supreme Court Reports of Colorado.

The paragraphs in small type, numbered consecutively under each section of the law to which they refer, are the official decisions of the various state superintendents of public instruction rendered since the establishment of such office—excepting that those are omitted which have been overruled or modified by our Colorado courts—and have the effect of court decisions until overruled or set aside by the courts of this state. The numbers, however, do not refer to the order in which such decisions were rendered, but are used herein for reference only. For instance, in referring to decision 3 under section 2 of the law, one should say, "Decision 3, section 2, School Laws Annotated." In writing the same, the abbreviation would be, "Decision 3, § 2, S. L. A."

Provisions of the Enabling Act

AND

Constitution of the State of Colorado

Pertaining to Public Schools

THE ENABLING ACT

* * * * *

7. Lands for schools. The sections numbered sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of congress, other lands equivalent thereto in legal subdivisions of not more than one quarter-section, and as contiguous as may be, are hereby granted to said state for the support of common schools.

* * * * *

10. Seventy-two sections for university. That, seventy-two other sections of land shall be set apart and reserved for the use and support of a state university, to be selected and approved in manner as

aforesaid, and to be appropriated and applied as the legislature of said state may prescribe for the purpose named and for no other purpose.

* * * * *

14. School lands—how sold—price. That the two sections of land in each township herein granted for the support of common schools, shall be disposed of only at public sale, and at a price not less than two dollars and fifty cents per acre, the proceeds to constitute a permanent school fund, the interest of which is to be expended in the support of common schools.

Trustee's sale void, when.

a. A trustee's sale of school lands not in accordance with the terms of trust absolutely void.—*City of Denver v. Kent*, 1 C. 336

15. Mineral lands excepted. That all mineral lands shall be excepted from the operation and grants of this act.

Indemnity lands.

Note. This section should be construed in connection with section 7, supra, in that if sections 16 or 36 in any township are mineral in character, other sections are selected by the state in lieu thereof, and when any lands are selected in lieu of sections 16 or 36, or portions thereof, such selected land is known as "Indemnity Land."

CONSTITUTION

ARTICLE IV

EXECUTIVE DEPARTMENT

1. Term of office—residence—duties—seat of government. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, state treasurer, attorney-general, and superintendent of public instruction, each of whom shall hold his office for the term of two years, beginning on the second Tuesday of January next after his election; * * * The officers of the executive department, except the lieutenant-governor, shall, during their term of office, reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed by this constitution or by law.

* * * * *

3. State officers—election—returns—canvass—contests. The officers named in section one of this article shall be chosen on the day of the general election, by the qualified electors of the state * * *.

4. Eligibility—first election—thereafter—age—residence. No person shall be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction, unless he shall have attained the age of thirty years. * * * and in addition to the qualifications above prescribed therefor, he shall be a citizen of the United States, and have re-

sided within the limits of the state two years next preceding his election.

* * * * *

6. Governor appoint officers—vacancy—election—senate confirms. * * * If the office of auditor of state, state treasurer, secretary of state, attorney-general, or superintendent of public instruction, shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. * * *

* * * * *

8. Governor demand information from officers. The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing at any time, under oath, from all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions. * * *

* * * * *

16. Officers keep account of moneys—semi-annual reports. An account shall be kept by the officers of the executive department and of all public institutions of the state, of all moneys received by them severally from all sources, and for every service performed, and of all moneys disbursed by

them severally, and a semi-annual report thereof shall be made to the governor, under oath.

17. Officers executive department—biennial report—governor transmit. The officers of the executive department, and of all public institutions of the state, shall, at least twenty days preceding each regular session of the general assembly, make full and complete reports of their actions to the governor, who shall transmit the same to the general assembly.

* * * * *

19. Officers receive salary—fees paid into treasury. The officers named in section 1 of this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms. It shall be the duty of all such officers to collect in advance all fees prescribed by law for services rendered by them severally, and pay the same into the state treasury.

20. Superintendent of public instruction, ex officio librarian. The superintendent of public instruction shall be ex officio state librarian.

* * * * *

ARTICLE V

SPECIAL LEGISLATION

* * * * *

25. Special legislation prohibited. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say;
 * * * providing for the management of common schools * * *

Local or special laws.

a. An act providing for the annexation and consolidation of school districts organized under the general school

laws and those organized under special charter is in contra-vention of section 25, article 5, of the constitution, which prohibits the general assembly from passing local or special laws for the management of common schools.—*In re School Dist.*, 26 C. 136

* * * * *

ARTICLE VII

SUFFRAGE AND ELECTIONS

1. Citizenship. Every person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections: He or she shall be a citizen of the United States, and shall have resided in the state twelve months immediately preceding the election at which he offers to vote, and in the county, city, town, ward or precinct, such time as may be prescribed by law.

Residence in city, town, ward and precinct.

Note. Section 146 provides, in addition to above, that such person shall reside in this state one year immediately preceding the election at which he offers to vote; in the county, ninety days; in the city or town, thirty days; and in the ward or precinct, ten days; and section 143 provides that to vote at school election, the elector must live in the school district thirty days.

Wife of alien when naturalized.

1. The wife of an alien becomes naturalized upon the naturalization of her husband, and is a citizen, as the term is used in the school law.

2. A foreign woman who marries a citizen of the United States becomes herself a citizen, and in Colorado becomes a qualified elector.

4. Absence in civil or military service. For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the state, or of the United States, nor while a student at any institution of learning, nor while kept at pub-

lic expense in any poorhouse or other asylum, nor while confined in public prison.

5. Privilege of voters. Voters shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

6. Electors only eligible to office. No person except a qualified elector shall be elected or appointed to any civil or military office in the state.

Qualification of elector.

1. In addition to other qualifications, a person to be eligible to the office of county superintendent must have resided in the county at least one year preceding his election.

2. The length of residence required in Colorado to constitute eligibility to the office of school director is twelve months.

3. The fact that two members of a school board are of one family, and the further fact that another member became a resident of the district for the sole purpose of becoming an officer, so long as he is an actual resident, would not affect the regularity of the organization of the board.

4. There is nothing in the laws of Colorado to prevent a person who fills the office of district judge from also filling that of school director, the two offices belonging to an entirely different class.

5. The fact that an elector is not a taxpayer does not disqualify him from holding office, either by election or by appointment.

* * * * *

10. Prisoners disqualified—restoration—pardon or full service. No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall, without further action, be invested with all the rights of

citizenship, except as otherwise provided in this constitution.

* * * * *

ARTICLE VIII

STATE INSTITUTIONS

1. **Charitable institutions established.** Educational, reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and mute, and such other institutions as the public good may require, shall be established and supported by the state, in such manner as may be prescribed by law.

* * * * *

5. **State institutions—properties and moneys—location.** The following educational institutions, to-wit: The University at Boulder, the Agricultural College at Fort Collins, the School of Mines at Golden, and the Institute for the Education of Mutes (which shall hereafter be known as Colorado School for Deaf and Blind), at Colorado Springs, are hereby declared to be institutions of the state of Colorado, and the management thereof subject to the control of the state, under the provisions of the constitution, and such laws and regulations as the general assembly may provide, and the location of said institutions, as well as all gifts, grants and appropriations of money and property, real and personal, heretofore made to said several institutions, are hereby confirmed to the use and benefit of the same respectively; Provided, This section shall not apply to any institution, the property, real or personal, of which is now vested in the trustees, thereof, until such property be transferred by proper conveyance, together with the control thereof, to

the officers provided for the management of said institution by this constitution or by law; and, Provided further, That the regents of the University may, whenever in their judgment the needs of the institution demand such action, establish, maintain and conduct all but the first two years of the departments of medicine, dentistry and pharmacy, of the University, at Denver; and, Provided further, That nothing in this section shall be construed to prevent state educational institutions from giving temporary lecture courses, commonly called "University extension work," and "Farmers Institute and Short Courses," in any part of the state, or conducting class excursions for the purpose of investigation and study.—*Const. Amend. S. L. '09*, p. 324

Note. See generally state educational institutions.

Locations state institutions changed when.

a. The location of the agricultural college, and certain other institutions, having been fixed by the constitution, such location cannot be changed except by amendment of the constitution.—*State Institutions*, 9 C. 626

Classifications of appropriations.

b. In the absence of a legislative preference, appropriations for the state educational, reformatory or penal institutions have, in case of a deficiency of the revenue, no precedence over other appropriations.—*Parks v. Soldiers' Home*, 22 C. 86

Internal improvement includes what.

c. The phrase "internal improvement," as used in section 12 of the enabling act, does not include public buildings, such as asylums, state houses, universities, or any other public buildings of like character, and the fund created by the proceeds derived under such section cannot be applied to the construction of such buildings.—*In re Public Imp. Fund*, 24 C. 247

ARTICLE IX

EDUCATION

1. Board of education—members—president.

The general supervision of the public schools of the state shall be vested in a board of education, whose powers and duties shall be prescribed by law; the superintendent of public instruction, the secretary of state and attorney-general shall constitute the board, of which the superintendent of public instruction shall be president.

Note. Superintendent of public instruction an officer of executive department.—Art. IV, § 1.

2. Qualifications of superintendent.—Art. IV, § 4.

3. Ex officio state librarian.—Art. IV, § 20.

2. Free schools—one in each district—three

months. The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state between the ages of six and twenty-one years may be educated gratuitously. One or more public schools shall be maintained in each school district within the state, at least three months in each year; any school district failing to have such school shall not be entitled to receive any portion of the school fund for that year.

Establishment of schools mandatory.

a. Section 2, article 9, of the constitution, providing for the establishment and maintenance of a system of free public schools, is mandatory, and requires affirmative action by the legislature, and is not a limitation of its powers to provide free schools for children under the age of six years.—*In re Kindergarten Schools*, 18 C. 234

3. School fund inviolate—state treasurer custodian. The public school fund of the state shall for-

ever remain inviolate and intact; the interest thereon shall only be expended in the maintenance of the schools of the state, and shall be distributed amongst the several counties and school districts of the state, in such manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated except as herein provided. The state treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The state shall supply all losses thereof that may in any manner occur.

4. County treasurer collect and disburse—warrants. Each county treasurer shall collect all school funds belonging to his county, and the several school districts therein, and disburse the same to the proper districts upon warrants drawn by the county superintendent or by the proper district authorities, as may be provided by law.

5. School fund—of what consists. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been, or may hereafter be, granted to the state by the general government for educational purposes; all estates that may escheat to the state; also all other grants, gifts or devises that may be made to this state for educational purposes.

When land escheats to the state and becomes part of the school fund.

1. If a person dies intestate and has no heirs, if he has lands and owes no debts, or if there is sufficient other property to pay debts so as to have the land intact, upon proper procedure in court to determine the fact that there are no heirs, then the land would escheat to the state and become part of the school land or fund. In case any funds remain

in the hands of an administrator after debts are paid, and there are no heirs, the money goes into the county treasury subject to the call of any heirs who may appear.

6. County superintendent—commissioner of lands. There shall be a county superintendent of schools in each county, whose term of office shall be two years, and whose duties, qualifications and compensation shall be prescribed by law. He shall be ex officio commissioner of lands within his county, and shall discharge the duties of said office under the direction of the state board of land commissioners, as directed by law.

7. Aid to sectarian schools and churches forbidden. Neither the general assembly, nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money, or other personal property, ever be made by the state, or any such public corporation, to any church, or for any sectarian purpose.

School district cannot make donation.

a. No school district can make any donation or grant to, or in aid of, or become a subscriber or shareholder in any corporation or company.—*C. C. R. R. Co. v. Lea, et al.*, 5 C. 192

Prohibition of the use of public school money for the teaching of sectarian doctrines.

1. The constitution of Colorado prohibits the use of public school money for the teaching of sectarian tenets or

doctrines. It is therefore unlawful for a board of directors to require a teacher to devote any part of any school day to religious instruction.

8. Religious test forbidden—sectarian tenets—race, color. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color.

Note. See § 355.

Directors determine use of Bible in schools.

1. Neither the constitution of the state nor the statutes touch directly the reading of the Bible or prayer or any other form of religious or devotional exercises, except to forbid that observance or participation shall be compulsory. The spirit of the constitution permits religious exercises in school if nothing sectarian is introduced, and the trustees do not object. The laws of the different states bearing on this point differ. In Iowa "neither the electors, the board of directors nor the sub-directors can exclude the Bible from any school in the state." In Missouri, on the other hand, "the directors may compel the reading of the Bible." In Dakota "the Bible may be read in school not to exceed ten minutes daily, without sectarian comment." In 1869 the Cincinnati board of education forbade the reading of the Bible in the public schools of that city. An appeal was taken to the courts, and in 1870 the superior court of Cincinnati decided against the board of education. In 1873 the supreme court of Ohio reversed this judgment and sustained the board of education. In delivering their opinion the judges "held that the management of the public schools, being under the exclusive control of directors, trustees and boards of education," it rested with them solely to determine "what instruction should be given and what books should be read therein."

2. The law of Colorado does not specify concerning the reading of the Bible in the public schools, the school boards of the state having the right to specify as to what shall be the practice in the matter.

* * * * *

11. Compulsory education. The general assembly may require, by law, that every child of sufficient mental and physical ability, shall attend the public school, during the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

Note. See Kindergarten Act, § 233.

12. University—regents—election. There shall be elected by the qualified electors of the state, at the first general election under this constitution, six regents of the university, who shall immediately after their election be so classified, by lot, that two, shall hold their office for the term of two years, two for four years, and two for six years; and every two years after the first election there shall be elected two regents of the university, whose term of office shall be six years. The regents thus elected, and their successors, shall constitute a body corporate, to be known by the name and style of "The Regents of the University of Colorado."

Note. See generally state educational institutions.

13. Regents elect president—powers. The regents of the university shall, at their first meeting, or as soon thereafter as practicable, elect a president of the university, who shall hold his office until removed by the board of regents for cause; he shall be ex officio a member of the board, with the privilege of speaking, but not of voting, except in cases of a tie; he shall preside at the meetings of the

board, and be the principal executive officer of the university, and a member of the faculty thereof.

14. Regents control university—funds. The board of regents shall have the general supervision of the university, and the exclusive control and direction of all funds of, and appropriations to the university.

15. School districts—board of education. The general assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a board of education, to consist of three or more directors, to be elected by the qualified electors of the district. Said directors shall have control of instruction in the public schools of their respective districts.

16. Text books—general assembly nor board shall prescribe. Neither the general assembly nor the state board of education shall have power to prescribe text books to be used in the public schools.

ARTICLE X

REVENUE

* * * * *

5. Exemption—lots—buildings for worship—schools. Lots, with the buildings thereon, if said buildings are used solely and exclusively for religious worship, for schools, or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation, unless otherwise provided by general law.

School buildings and lots exempt from taxation.

a. The building and lots donated for a theological school on condition that the bishop of the diocese should be the chief inspector and reside in the building in which such school is conducted, is exempt from taxes under the pro-

visions of our constitution and statutes exempting lots and buildings from taxes where the buildings are used solely and exclusively for schools.—*Bishop and Chapter v. Treasurer*, 29 C. 143

Income for school purposes exempt taxation.

b. Exemption from taxation is not limited to property in actual and necessary use for school purposes, such as school buildings, campus and the like, but includes all the property and income from which and the use of which is exclusively devoted to school purposes and which is necessary in carrying out such design.—*Colorado Seminary v. County Comrs.*, 30 C. 507

Church property not taxable, when.

1. In case a district rents a classroom from one of the churches of a town for school purposes, such renting would not make the church property taxable.

* * * * *

10. Corporations subject to tax. All corporations in the state, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on the real and personal property owned or used by them within the territorial limits of the authority levying the tax.

* * * * *

13. Making profits on public money felony. The making of profit, directly or indirectly, out of state, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

School board cannot loan district money.

1. A school board cannot legally loan the money of the district.

* * * * *

ARTICLE XI

PUBLIC INDEBTEDNESS

1. Lending or pledging credit forbidden.

Neither the state, nor any county, city, town, township or school district, shall lend or pledge the credit or faith thereof, directly or indirectly, in any manner to or in aid of, any person, company or corporation, public or private, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any person, company or corporation, public or private, in or out of the state.

2. Aid to corporations—interest in—forbidden except. Neither the state nor any county, city, town, township or school district shall make any donation or grant to, or in aid of, or become a subscriber to, or shareholder in, any corporation or company, or a joint owner with any person, company or corporation, public or private, in or out of the state, except as to such ownership as may accrue to the state by escheat or by forfeiture, by operation or provision of law; and except as to such ownership as may accrue to the state, or to any county, city, town, township or school district, or to either or any of them, jointly with any person, company or corporation, by forfeiture or sale of real estate for non-payment of taxes, or by donation or devise for public use, or by purchase by or on behalf of any or either of them, jointly with any or either of them, under execution in cases of fines, penalties or forfeiture of recognizance, breach of condition of official bond, or of bond to secure public moneys, or

the performance of any contract in which they or any of them may be jointly or severally interested.

* * * * *

7. Loans for school buildings—vote—qualification. No debt by loan in any form shall be contracted by any school district for the purpose of erecting and furnishing school buildings, or purchasing grounds, unless the proposition to create such debt shall first be submitted to such qualified electors of the district as shall have paid a school tax therein, in the year next preceding such election, and a majority of those voting thereon shall vote in favor of incurring such debt.

Debt incurred must be by a vote of electors.

1. The constitution of Colorado prohibits the creation of a debt by loan for building purposes in any other way than by a vote of the electors. While a certificate of indebtedness cannot be considered a loan, strictly speaking, the courts would probably construe it to be prohibited by the same constitutional provision when issued to cover a debt incurred by building.

* * * * *

ARTICLE XII

OFFICERS

* * * * *

4. Embezzlement disqualifies from office. No person hereafter convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this state.

* * * * *

8. Civil officers—oath. Every civil officer, except members of the general assembly and such in-

ferior officers as may be by law exempted, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States and of the state of Colorado, and to faithfully perform the duties of the office upon which he is about to enter.

9. Oaths, where filed—with whom. Officers of the executive department and judges of the supreme and district courts, and district attorneys, shall file their oaths of office with the secretary of state; every other officer shall file his oath of office with the county clerk of the county wherein he shall have been elected.

10. Refusal to qualify—vacancy. If any person elected or appointed to any office shall refuse or neglect to qualify therein within the time prescribed by law, such office shall be deemed vacant.

11. Vacancy—term of officer elected to fill. The term of office of any officer elected to fill a vacancy shall terminate at the expiration of the term during which the vacancy occurred.

12. Duel—challenge—disqualifies for office. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept or knowingly carry a challenge therefor, or agree to go out of the state to fight a duel, shall hold any office in the state.

ARTICLE XIV

COUNTIES

* * * * *

8. County superintendent, etc.—election. There shall be elected in each county at the same time at which members of the general assembly are elected,

commencing in the year nineteen hundred and four, one county clerk, who shall be ex officio recorder of deeds and clerk of the board of county commissioners; one sheriff; one coroner; one treasurer, who shall be collector of taxes; one county superintendent of schools; one county surveyor; one county assessor; and one county attorney, who may be elected, or appointed, as shall be provided by law; and such officers shall be paid such salary or compensation, either from the fees, perquisites and emoluments of their respective offices, or from the general county fund, as may be provided by law. The term of office of all such officials that expire in January, 1904, is hereby extended to the second Tuesday in January, A. D. 1905.

9. Vacancies—how filled. In case of a vacancy occurring in the office of county commissioner, the governor shall fill the same by appointment; and in the case of a vacancy in any other county office, or in any precinct office, the board of county commissioners shall fill the same by appointment; and the person appointed shall hold the office until the next general election, or until the vacancy be filled by election according to law.

10. Elector only eligible. No person shall be eligible to any county office unless he be a qualified elector; nor unless he shall have resided in the county one year preceding his election.

Not a taxpayer does not disqualify.

1. The fact that an elector is not a taxpayer does not disqualify him from holding office, either by election or by appointment.

* * * * *

Qualification—ceases to be director, when.

2. The law requires that a person who desires to be a candidate for a school director must reside in the district, and it necessarily follows that, in order to remain such director after election, he must continue to reside therein, and when he permanently removes from the district, he ceases at that instant to be a director.

15. Classifying counties as to fees. For the purpose of providing for and regulating the compensation of county and precinct officers the general assembly shall by law classify the several counties of the state according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county and precinct officers as may be designated therein for services to be performed by them respectively; and where salaries are provided, the same shall be payable only out of the fees actually collected in all cases where fees are prescribed. All fees, perquisites and emoluments above the amount of such salaries shall be paid into the county treasury.

School Laws Annotated

ALCOHOLIC DRINKS AND NARCOTICS

1. **Nature and effect of alcoholic drinks and narcotics be taught.** That the nature of alcoholic drinks and narcotics, and special instructions as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the public schools of the state, and shall be studied and taught as thoroughly, and in the same manner as other like required branches are in said schools, by the use of text books, designated by the board of directors of the respective school districts, in the hands of pupils where other branches are thus studied, in said schools, and by all pupils in all said schools throughout the state.—R. S. 6011

Note. The state board of health shall, from time to time, recommend standard works on the subject of hygiene for the use of the schools of the state.—R. S. 5010.

Saloon certain distance from school.

a. The state legislature has authority to regulate the traffic of intoxicating liquors, and such authority under constitutional restrictions can be delegated to cities and towns; and an ordinance prescribing the distance a saloon may be maintained from the school building is valid.—*Keil Kopf v. Denver*, 19 C. 325

Requires study of hygiene and physiology in schools.

1. The act providing for the study of the nature of alcoholic drinks and narcotics, and their effect upon the

human system, requires the study of physiology and hygiene in all the public schools throughout the state.

Prohibiting sale intoxicating liquors to minors.

2. Sections 1811 to 1815, Revised Statutes, prohibits the sale of intoxicating liquors to minors, and prohibits any keeper of a saloon, gambling house, billiard hall, house of ill-fame, or obscene plays from allowing any minor therein, except when accompanied by his parent or guardian.

Distance saloon from school building.

3. The laws of Colorado make no provision concerning the distance a saloon may be maintained from a school building.

2. Officers enforce provisions of act—penalty for failure. That it shall be the duty of the proper officers in control of any school, described in the foregoing section to enforce the provisions of this act; and any such officer, school director, committee, superintendent or teacher, who shall refuse, fail or neglect to comply with the requirements of this act, or shall neglect, refuse or fail to make proper provisions for the instruction required, and in the manner specified by the first section of this act, for all pupils in each and every school under his or her jurisdiction shall be removed from office, and the vacancy filled as in other cases.—*R. S. 6012*

Note. Vacancies, §111.

CIGARETTES

3. Unlawful to give or sell cigarettes to persons under sixteen. It shall be unlawful for any person or persons to give or sell cigarettes to any person or persons under the age of sixteen years.—*R. S. 600*

TOBACCO

4. Penalty for giving or selling tobacco to persons under sixteen without written order. Any person who shall sell, give or furnish any tobacco, or

articles made in whole or in part of tobacco to any child under 16 years of age without the written order of the father or guardian of such child, shall be fined not less than five dollars, nor more than one hundred dollars, or imprisonment in the county jail not more than three months.—*R. S.* 601

APPEALS

5. From district board to county superintendent. Any person aggrieved by any decision or order of the district board of directors, in matter of law or fact, may, within thirty days after the rendition of such decision, or making of such order, appeal therefrom to the county superintendent of the proper county.—*R. S. 6000.*

Courts no right to interfere in decisions of state board.

a. Section 5 of the School Laws Annotated authorizes the county superintendents to entertain an appeal from the action of the school board in closing school, and clothes such officer with jurisdiction to hear and determine the matter, subject to appeal, as provided for by section 11, to the state board of education, the latter decision being final; and such proceeding being provided by statute, the courts have no right to interfere.—*School District v. County Superintendent*, 36 C. 393

Courts can inquire into final decision.

b. The statutory provisions conferring power upon district school boards, county superintendents and the state board of education to decide questions of law and fact, and making the decision of the county superintendent final unless appealed from, and if appeal to the state board making its action final, does not make such decision final in the sense that the courts cannot inquire into their correctness.—*People v. VanHorn*, 20 C. A. 215

6. Affidavit. The basis of the proceeding shall be an affidavit filed by the party aggrieved, with the county superintendent, within the time for taking the appeal.—*R. S. 6001*

7. Contents of affidavit. The affidavit shall set forth the errors complained of in a plain and concise manner.—*R. S. 6002*

8. Superintendent notify secretary—transcript. The county superintendent shall, within five days

after the filing of such affidavit in his office, notify the secretary of the proper district, in writing, of the taking of such appeal, and the latter shall, within ten days after being thus notified, file in the office of the county superintendent a complete transcript of the record and proceedings relating to the decision complained of, which shall be certified to be correct by the secretary.—*R. S.* 6003

9. Notice to parties. After the filing of the transcript, aforesaid, in his office, he shall notify, in writing, all persons adversely interested, of the time and place where the matter of the appeal will be heard by him.—*R. S.* 6004

10. Hearing appeal—oaths. At the time thus fixed for hearing, he shall hear testimony for either party, and for that purpose may administer oaths, if necessary, and he shall make such decision as may be just and equitable, which shall be final, unless appealed from, as hereinafter provided.—*R. S.* 6005

11. Appeal from county superintendent to state board of education. Any person or district board aggrieved by any decision or order of the county superintendent in a matter of law or fact, may, within thirty days after the rendition of such decision or making of such order, appeal therefrom to the state board of education, in the same manner as provided in this act for taking appeal from the district board to the county superintendent as nearly as applicable. In case of an appeal, where a trial has been had before the county superintendent and a decision rendered, the state board of education shall examine a transcript of such proceeding and render a decision therefrom, but no new

testimony shall be admitted. In other cases of appeal the said board may require of the parties such papers and documents as may be thought necessary, they may issue subpoenas and compel witnesses to attend and testify, and the said board shall have the power to administer oaths through its president. The decision of said board, or a majority of said board, shall be rendered by the president, and such decision, when made, shall be final. When an applicant for a certificate at a regular examination shall feel aggrieved at the decision of the county superintendent, and shall appeal to the state board of education the questions used and answers given shall be examined by the said board, and if the decision of the county superintendent be reversed, the state board of education shall issue to the appellant a certificate of such grade as the answers shall warrant; Provided, That a good moral character and success as a teacher be shown.—*R. S. 6006*

Teacher discharged need not appeal.

a. A public school teacher engaged for a specific term, who is discharged without cause, need not rely upon the statutory right of appeal from the decision of the board, but may bring action to recover in the courts; and the rule in the teacher's hand-book that the tenure of office of all teachers, regardless of contract, shall be at the pleasure of the board, is no defense to such action.—*School District v. Hale*, 15 C. 367

Mandamus not control discretion.

b. Mandamus will not lie to control the discretion of a public school official.—*Keefe M. & I. Co. v. School District*, 33 C. 513

Courts can inquire into final decisions.

c. The statutory provisions conferring power upon district school boards, county superintendents and the state board of education to decide questions of law and fact, and making the decision of the county superintendent final unless appealed from, and if appealed to the state board mak-

ing its action final, does not make such decision final in the sense that the courts cannot inquire into their correctness.—*People v. VanHorn*, 20 C. A. 215

State board cannot change boundaries.

d. The state board of education has no power, upon appeal from the county superintendent, to change the boundaries of a school district as established by the electors.—*People v. VanHorn*, 20 C. A. 215

Electors fix boundaries new district.

e. After a petition to organize a new school district out of a portion of one or more old districts has been presented to the county superintendent, and he is determined that the school interests will be best promoted by such organization, the sole power to determine the organization of such district and the boundaries thereof is vested in the electors; and such a district cannot be organized or its proposed or established boundaries changed by the board of directors, the county superintendent, or the state board of education.—*People v. VanHorn*, 20 C. A. 215

Court can review validity of decision of state board.

f. In a mandamus proceeding to compel a county superintendent to perform a ministerial duty, a decision of the state board of education being pleaded in defense, and the jurisdiction of the state board to render the decision and the correctness thereof are raised by the reply, the court has jurisdiction to determine the validity of such decision.—*People v. Van Horn*, 20 C. A. 215

Appeal—when, how and by whom taken.

1. An appeal to the state board of education cannot be taken except by a person or board of directors aggrieved by an order or decision of the county superintendent.

2. It is not good practice for one county superintendent to overrule the decision of a former county superintendent upon the same point, but the person feeling aggrieved should file a protest in writing with the present county superintendent, who should confirm the former ruling, and the aggrieved person can then appeal to the state board of education, in accordance with section 11, School Laws Annotated.

Appeal from grading examination papers.

3. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county super-

intendent of another county, as this is mere matter of comity between county superintendents, and therefore, whenever a teacher appeals from the refusal of a county superintendent to accept such papers and mark them and issue a certificate thereon, the board of education has no other course than to dismiss the appeal.

4. In case of appeal from the decision of county superintendent to the state board of education by an applicant for certificate at a regular examination, the certificate, if any, issued to said applicant upon such examination, should accompany the papers sent to the state board.

5. The state board of education has no authority to pass upon a teacher's examination papers except on formal appeal.

May continue school during pendency of appeal.

6. A person holds a certificate that expires September 8. He begins school under contract on September 1. He fails to obtain a certificate in the examination held on August 29-30, and appeals to the state board of education. Held, that he may continue his school during the pendency of an appeal.

State board may order certificate issued.

7. The state superintendent has no authority to grant a certificate to teach except when directed to do so by a vote of the state board of education in cases of appeal or upon a state examination.

Appeal from change of boundary.

8. In the absence of a showing to the contrary, it will be presumed that the county superintendent complied with the law in hearing and determining the appeal, and therefore that the change of boundary was properly made; but even in the absence of such showing, as these two districts have continued to exercise undisputed the prerogatives and enjoy the privileges of legally formed districts for a period of nearly twelve years, they will now be considered legally formed districts.

9. The action of the county superintendent in dividing a district or forming a new district can be reviewed only on the ground of his abuse of discretion.

12. No judgment for money. Nothing in this act shall be so construed as to authorize either the county superintendent or the state board to render

a judgment for money; neither shall they be allowed any other compensation than is allowed by law. All necessary postage must first be paid by the party aggrieved.—*R. S.* 6007

BONDS

SCHOOL DISTRICT BONDS

13. **Submitting question of contracting bonded indebtedness.** The board of directors of any school district may submit at any regular or special election called for the purpose, to such qualified electors of the district as shall have paid a school tax therein in the year next preceding such election the question of contracting a bonded indebtedness for the purpose of erecting and furnishing school buildings or purchasing ground, or for funding floating debts.—*S. L. '09*, p. 494

Lien law not applicable to school buildings.

a. The provisions of the mechanics' lien law cannot be applied to public school buildings.—*Florman v. School Dist.*, 6 C. A. 319

No provision for petition.

1. No provision is made by law for petitioning the school board to call an election for voting bonds.

Qualifications for voting on bonds.

2. If a person has paid any one year's school tax during the year immediately preceding the election regarding the question of refunding bonds, and is otherwise qualified, he is entitled to vote at such election.

3. If real estate is in the names of both man and wife, even though the tax receipt shows but one name, both are legal voters.

4. If a man has given his wife part of his real estate, but no deed has yet been given to the wife, even though she has paid taxes upon the same, she has not the right to vote.

5. A person who has been assessed for taxes, but has as yet paid no taxes in the district, would not be entitled to vote.

6. If property is in the wife's name, but the tax receipt is in the husband's name, the wife would have the right to vote, and not the husband.

7. On the question of bonding a district, those electors have the right to vote "who have paid a school tax therein in the year next preceding the said meeting." The word "year" is construed to mean the twelve months immediately preceding the meeting or election.

8. In the case of a woman and her husband, each owning property, the woman's property being real estate, and the county records showing that she is the *bona fide* owner of the property and pays the taxes, the fact that in listing the property of the husband and wife the assessor made only one list, and that in the husband's name, would not take away the right of the woman to vote at a school meeting called to vote upon bonded indebtedness; but the woman should be provided with a tax receipt or a certified statement from the county treasurer, showing that she has paid a tax for the year preceding the date upon which the question of the bonded indebtedness was decided.

9. Voters who have paid a school tax within the year upon property which at the time of the tax was paid in another school district, but at the time they offered to vote on the question of issuing bonds was by annexation in the district where they offered to vote, are legally qualified to so vote.

Certificate of indebtedness.

10. The constitution of Colorado prohibits the creation of a debt by loan for building purposes in any other way than by a vote of the electors. While a certificate of indebtedness cannot be considered a loan, strictly speaking, the courts would probably construe it to be prohibited by the same constitutional provision when issued to cover a debt incurred by building.

11. There is no authority in law for issuing certificates of indebtedness by school districts. However, it is frequently done to tide over a difficult year.

Funding floating debts.

12. A special election may be held for the purpose of submitting the question of bonding the district for funding floating debts within the limit specified in section 13.

In consolidated districts.

13. There is no statute which makes several districts, consolidated under the act of 1909, liable for the bonded indebtedness of one of the districts. It seems that the property originally bonded will have to pay the indebtedness due.

In joint districts.

14. Bonded indebtedness may be contracted by a joint district in just the same manner as by a single district; provided that the law is complied with in each county so as to have the taxes assessed upon all property in the district.

14. Amount of bonded indebtedness first determined by board. The amount of the bonded indebtedness proposed to be contracted shall, prior to such submission to said electors, be determined by said board of directors but in no event shall the aggregate amount of bonded indebtedness of any school district of the first or second class exceed five per centum or of any school district of the third class three and one-half per centum of the assessed value of the property in such district for the year next preceding the date of said bonds.—*S. L. '09*, p. 494

Maximum amount issued.

1. In estimating a maximum amount of bonds that can be issued by a school district, the estimate must be based upon the last complete assessed valuation.

Cannot create debt, except.

2. A school district has no right to create a debt, except through bonding in accordance with the provisions of section 13, provided that warrants may be issued after the annual levy has been made and the funds to pay them are actually in the treasury; but the total sum of such warrants must not exceed the revenue of the district for the year in which they are issued.

3. In regard to the method of raising money to build a school building, the law prohibits the issuing of warrants in excess of the revenues of the district for the current year; therefore an arrangement for issuing warrants payable in one, two and three years, the qualified voters to vote a levy to be collected in one, two and three years to pay the warrants, would not be legal. The voters have no authority to vote a levy except for the current year. It would, therefore, only be possible to raise the money by voting bonds for the amount if the electors do not wish to levy the whole tax in one year.

Certificates of indebtedness.

4. No warrants can be issued in excess of the revenue, but a certificate of indebtedness should be issued, payable out of the revenues of the succeeding year; and it would be the duty of the board during the succeeding year to draw a warrant for its payment.

15. Notices of election posted. Notices of said election shall be posted in at least three public places in the district, and at each polling place at least twenty days before said election, and, if a newspaper is published in said district, said notice shall also be published therein once a week for four consecutive weeks next preceding such election. Said notice shall specify the purpose of said election, the date and the voting place or places, and the time during which the ballot box or boxes shall be kept open, not less however than three hours.—*S. L. '09*, p. 494

Ballot box, when open.

1. It is lawful for the ballot box, for voting on the question of bonding the district, to be open at the same time as the one for the election of school officers.

16. Number of voting places. In districts of the first class the school board may order more than one voting place in the district, fix the voting places and the limits of the voting precincts.

The president, secretary and treasurer of the district school board may act as judges of the election or said board may appoint three judges and the necessary clerks for each election precinct in said district and should any of the judges be absent at the opening of the polls, the electors present shall appoint a legal voter to fill the vacancy.—*S. L. '09*, p. 495

17. Form of ballot. Each elector voting at said election shall deposit in the ballot box a ballot

whereon shall be printed or written the words: "For the bonds" and the words "Against the bonds," and shall indicate his approval or disapproval of the proposition submitted by placing a cross (X) opposite the group of words on his ballot which expresses his choice.—*S. L. '09*, p. 495

18. Any person may be challenged by qualified elector. Any person offering to vote at said election may be challenged by any legally qualified elector of the district and any one of the judges of election shall thereupon administer to the person challenged an oath as follows:

"You do swear (or affirm) that you are a citizen of the United States; that you have resided in the state of Colorado twelve months immediately preceding this election; that you are twenty-one years of age; that you have resided in this district thirty days next preceding this election and that you have paid a school tax within this school district in the year next preceding this election; and that you have not voted at this election, so help you God (or under the pains and penalties of perjury)."

If he shall refuse to take such oath or affirmation his vote shall be rejected. The judges may, however, reject the vote of any person offering to vote if in their judgment said voter is not qualified according to law, whether said voter takes said oath or not.—*S. L. '09*, p. 495

19. Returns certified immediately after polls close. Immediately after the close of the polls the judges in each voting precinct shall open the ballot box and count the ballots and promptly thereafter certify the result to the board of directors of the

district. Said board shall, promptly after receiving said returns, open them, canvass the vote, and determine the result of the election, and said determination shall be entered in the minutes of the meeting of said board.—*S. L. '09*, p. 496

20. Coupon bonds issued—when payable. If it shall appear that a majority of all the votes cast are "For the bonds" the board of directors, as soon as practicable, shall issue coupon bonds of the district in denominations of \$100, \$500 or \$1,000, or all or either of such denominations or any combination of said denominations as circumstances may require, bearing interest at not exceeding eight per cent. per annum in districts of the third class and not exceeding six per cent. per annum in districts of the first and second classes, payable semi-annually, and redeemable at the pleasure of the district at any time after a date to be fixed by said board not less than ten or more than twenty years after date, and payable at a date to be fixed by said board not less than twenty nor more than forty years from date, the principal and interest payable at the office of the treasurer of the county in which said district or the greater part thereof may be situated, and said board also may make either the principal or interest or both payable at some banking house in either the cities of New York or Boston or Chicago, at the option of the holder.—*S. L. '09*, p. 496

21. Bonds payable to bearer—how signed. The bonds issued under the provisions of this act shall be payable to bearer. The board of directors of the district is authorized to prescribe the form of such bonds and the coupons thereto. Said bonds shall

recite the title of the act under which they are issued, shall be signed by the president of the board of directors, countersigned by the county treasurer and bear the seal of the district and the coupons thereto annexed shall be signed by the president of the school board, by original or engraved signature.

—*S. L. '09*, p. 496

22. County commissioners assess tax for payment—how paid. Whenever any school district shall issue bonds under the provisions of this act, it shall be the duty of the board of county commissioners of the county in which said district may be situated to levy and assess a tax on the taxable property of said district in amount sufficient to pay the interest coupons, when the same shall become due, according to their tenor and effect, and the county treasurer shall collect the same as other taxes are collected, in cash only, keeping the same separate from other funds received by him; and if there shall be any surplus after paying the coupons and the expense of collecting such tax, the treasurer shall, without delay, pass the same to the credit of such school district, and such fund so passed to the credit of the district shall be subject to the disposal of the board of directors. In the calendar year next preceding the date fixed by said board after which said bonds are redeemable and annually thereafter, until the full payment of said bonds, the said board of county commissioners shall provide by taxation and shall collect such a per centum of the principal of said bonds as will, in equal annual installments, be sufficient to redeem all of said bonds by the time they mature; which amount shall be assessed and collected the same as the tax for the payment of

the interest coupons, and when collected shall be turned over to the treasurer of such school district, such money to be used only in the payment of such bonds in their numerical order beginning with bond number one, in the manner as follows: The treasurer of such school district, immediately after receiving the money as aforesaid, shall advertise in some newspaper published in his county, if there be any, and if not, in the newspaper published nearest the county seat of said county, once a week for four consecutive weeks, that, on a certain day named in the advertisement, he will pay certain of the district bonds, said bonds to be described in the advertisement by number and amount and date of issue and the advertisement shall further state that after the day so fixed for payment the interest on the bonds described as aforesaid shall cease and determine. And after the day of payment fixed in said published notice the bonds so called shall cease to draw interest. The said payment shall be made at the office and in the presence of the treasurer of the county, who shall cancel the bonds redeemed, and a minute of such cancellation shall be made on the books of the county treasurer, after which they shall be at the disposal of the district board.—*S. L. '09*, p. 496

Government land not taxable.

a. A tax levy for the bonded indebtedness of a school district must be limited to the real estate taxable at the time the bonds were voted, and, since government land is not taxable, parties acquiring title thereto subsequent to the voting of the bonds take it free from taxation for such purpose.—*Callaway v. D. & R. G. R. R. Co.*, 6 C. A. 284

Surplus special fund pay past indebtedness.

1. If any surplus funds remain in the special fund over what is necessary to meet the regular current expenses of

the district, such surplus may be used to pay past indebtedness.

23. Board keep record—auditor register bonds. Whenever the board of directors of any school district shall issue bonds under the provisions of this act, they shall enter in and upon the records of such board an order requesting the state auditor to register the bonds in a book to be kept by him for that purpose, and when so registered, the legality thereof shall not be open to contest by such district or any person or corporation on behalf of such district for any reason whatever; and a certified copy of the order of the board so made and entered of record shall be furnished the state auditor by said board of directors and thereupon it shall be his duty to register said bonds, noting the name of the district and the amount, date of issuance and maturity and rate of interest of said bonds, and he shall receive a fee of ten cents for registering each bond.—*S. L. '09*, p. 497

24. Districts in city under special charter. In all school districts which lie entirely within the exterior boundaries of any city operating under a special charter adopted under the provisions of article XX, of the constitution, no person shall be permitted to vote at any election called under the provisions of this act unless such person shall first have been registered as hereinafter provided.—*S. L. '09*, p. 498

25. No new registration required. For all such elections in the districts mentioned in section 13 no new registration shall be required, except as hereinafter provided, but any qualified elector of any such district whose name is on the registration books used at the then last preceding general election,

whether county or municipal, and who resides within the district and still resides at the place designated in his said registration, shall be deemed properly registered for any such election; and additional registration and changes in registration may be made as hereinafter provided.—*S. L. '09*, p. 498

Note. Section 13 referred to is section 24 herein.

26. Registration books furnished by county clerk. On the fourteenth day preceding any such election to be held, the county clerk of the proper county shall deliver to the registration committee of each election precinct the original book of registration for that precinct as prepared and completed for the then next preceding general election, whether county or municipal, and on the tenth day preceding the election thus to be held, or if that day be a legal holiday or a Sunday, then on the succeeding day, the registration committee for each precinct shall sit from nine o'clock a. m. until nine o'clock p. m., at some suitable place to be provided by the county commissioners and centrally located within the precinct as far as practicable, and shall place on the said book of registration, next after the names already thereon, the names of all qualified electors of the district residing in that precinct who are not registered and who shall present themselves for registration and comply with the requirements prescribed by the general registration laws of this state.—*S. L. '09*, p. 498

27. Elector removing from precinct—how register. Any qualified elector whose name appears upon any such book of registration, but who has removed from the precinct in which he is registered to some other precinct within such district, may ap-

pear before the county clerk at any time within five days prior to any such election, and upon making oath in writing as to his then present residence, said county clerk shall draw a red line through the registration of such person, making a note as follows:

“Changed 19.....,
to precinct, ward.....,”
inserting the date and number of the precinct and ward therein, and shall register in red ink such person in the book of registration for the precinct in which such person then resides; and a change of residence within the same precinct may be made in like manner. The county clerk or deputy making such a change shall sign his name in the column provided for the signatures of the registration committee, and the person so registered shall also sign his name as in the case of an original registration.
—*S. L. '09*, p. 499

28. Registration books kept where. Immediately after completing such registration said registration committee shall deliver the original book of registration to the county clerk, who shall retain the same until the day prior to the election, when he shall deliver the same to the judges of election selected by said board of directors for their use at such election, properly certified, but the county clerk shall not, for any such election, make and furnish any copy of such registration list at public expense, nor shall he make any charge for delivering said original books of registration as required herein; but his compensation for all other matters hereby required shall be as fixed by the registration laws of this state.—*S. L. '09*, p. 499

29. Petition for purging lists. At any time prior to the delivery of the original book of registration to the registration committee of the precinct, as herein provided, a petition for purging the list may be filed as to the registration list appearing therein, and at any time prior to the seventh day before election a petition may be filed for purging the list of additional registrations made as herein provided, which petition and the procedure and relief thereunder shall be the same, as near as may be, as provided in the registration laws of this state. And the registration and election laws of this state shall govern in all matters connected with the making of said registration except as herein otherwise provided.—*S. L. '09*, p. 500

30. Repealing clause—proceedings under repealed acts. Sections 5942, 5943, 5944 and 5945 of the Revised Statutes of Colorado, 1908, and all other acts and parts of acts inconsistent herewith are hereby repealed; Provided, That the repeal of said acts and parts of acts shall in no wise affect any bonds issued thereunder.

Any and all proceedings heretofore had or which are now being had or carried forward, under the acts hereby repealed or any, all or either of them, may be carried forward, completed or consummated under this act and bonds contemplated by such procedure may be issued in the form and with the terms and according to the provisions of this act.—*S. L. '11*, p. 582

Surplus fund may be applied on bonded indebtedness.

1. The extra money in the special fund may be used to apply on bonded indebtedness. *Provided*, That the other necessary expenses of the school have been met, or *Provided*,

That there is sufficient money in the general fund to meet the necessary expenses of the school.

31. Redemption of bonds—premium. In all districts that have issued bonds under the provisions of the laws of the territory of Colorado, the treasurer of the district, immediately after receiving the annual installment of the funds for the redemption of said bonds, as provided in section 91, shall go into the market and, at the lowest price for which he can obtain such bonds, shall use such funds in the retiring of such bonds to the extent of such fund; Provided, That the said treasurer shall not pay more than five per cent. premium on any bonds of his district, and any balance of said funds remaining in the hands of said treasurer shall be invested, as nearly as possible, in United States bonds or state bonds of Colorado.—*R. S. 5946*

Note. Section 91 above referred to is section 22 herein.

32. U. S. and state bonds purchased by district treasurer—how kept—proceeds—sale. All United States or state bonds which may come into the hands of any district treasurer, under the provisions of this act, shall be duly recorded in the books of the district, and deposited in the safety vault of some bank within the state, selected by the district board. The interest coupons of said bonds shall be duly collected by the district treasurer, and the proceeds turned over to the county treasurer, to be used in the payment of the interest coupons of the bonds of such district, and the annual tax for the payment of the interest on said district bonds shall be proportionately lessened. Said United States or state bonds shall be sold by the district board at the best market rates, and the proceeds thereof used to

redeem the bonds of the district when the same become due or when they can be bought at not to exceed five per cent. premium.—*R. S.* 5947

33. Change of boundaries not release property—annexed property. No change in the boundary lines of such school district shall release the taxable real estate of the district from assessment and levy of taxes to pay the interest and principal of such bonds, and if there shall be any change of the lines of such school district, so as to leave any portion of the taxable real estate of the district out of the district, which was subject to taxation in the district at the time of the issue of such bonds, the assessment and levy for principal and interest of such bonds shall be made on such property as if it were still within the district, and if there shall be any change of the lines of such school district, so as to annex any taxable real estate, after the issue of such bonds, the real estate so annexed shall thereafter be subject to the assessment and levy for principal and interest of such bonds.—*R. S.* 5948

Government land not taxable.

a. A tax levy for the bonded indebtedness of a school district must be limited to the real estate taxable at the time the bonds were voted, and, since government land is not taxable, parties acquiring title thereto subsequent to the voting of the bonds take it free from taxation for such purpose.—*Callaway v. D. & R. G. R. R. Co.*, 6 C. A. 284

Lands not subject to tax.

1. Lands to which title has not been obtained from the government at the time school bonds are issued by a district of which such lands form a part are not subject to tax for the payment of such bonds. Hence, if said lands are set off or detached from the district before title is perfected, they are not subject to a bond tax in the original district when title is complete.

Lands subject to tax.

2. State or government lands occupied under contract of purchase, title having already been acquired and land deeded, are subject to assessment the same as other lands for the payment of bonds issued by the school district of which they form a part, or such portion of said bonds, if any, that remain unpaid; *Provided*, "That said lands were deeded before said bonds had matured."

3. Territory detached from a district which has been bonded is not released from taxation to pay both principal and interest of such bonds. Such detached territory is liable for such taxation until the bonds have been fully discharged, the same as if it had remained a part of the original district.

34. County treasurer's fees. The treasurer of the county shall receive the same compensation for the collection of such special taxes as he does for other school taxes.—*R. S. 5949*

Note. See Revised Statutes for per cent. of compensation.

35. Refunding bonds—when issued—interest—redemption. That when the bonded indebtedness of any school district in this state has matured, or may hereafter mature, or has or may hereafter become redeemable at the pleasure of the district, and there shall not be funds in the treasury of such school district available for that purpose with which to redeem or pay such bonds, it shall be lawful for the board of directors of such school district to issue and sell new bonds, equal to the sum necessary and not otherwise provided for the payment of the bonds then matured or those then redeemable at the pleasure of such school district, and such bonds thus issued shall not be sold at a less price than their par value; *Provided*, It shall be lawful for the board of directors of any school district having a bonded indebtedness, to refund the same, at any time, with the consent of the bond owners, in bonds bearing a less rate of interest than the bonds so refunded

and running for a longer time, which said bonds thus issued shall be exchanged at not less than par for the bonds outstanding.

Provided, further, That all bonds issued under this section shall bear interest at such rate as said school board may determine, not to exceed 8 per cent. per annum, and shall be redeemable at the pleasure of the district board, in not to exceed ten years and payable in not to exceed twenty years from the date thereof, and the date after which said bonds are redeemable shall be plainly written or printed on the face thereof.—*R. S. 5950*

36. What laws apply to issue and payment—except. All the provisions of the laws of the state of Colorado, now existing, relating to the duties of district and county officers in the issue and payment of district bonds, and relating to the assessment and collection of taxes for the payment of the interest and principal of school district bonds, shall be held to apply equally and in like manner to all matters pertaining to the issue and payment of bonds issued under the provisions of this act, except that the time when taxes shall be levied and collected for the payment of the principal of said bonds shall be as hereinafter provided.—*R. S. 5951*

37. County commissioners levy tax—treasurer collect. At the time provided by law for the levying of county taxes in the year next preceding the date at which the first installment of said bonds shall mature, and every year thereafter until the whole amount of said bonds shall be redeemed, the board of county commissioners of any county in which bonds shall have been issued under the pro-

visions of this act, shall levy a tax sufficient to pay not less than ten per centum nor more than twenty per centum of the principal of said bonds, and the county treasurer shall collect the same as other taxes are collected, and shall pay the amount so collected to the district treasurer as is now provided by law.—*R. S. 5952*

38. Proviso—submission for refunding—against refunding. Provided, however, That no bonds shall be issued under the provisions of this act until the question of refunding shall first have been submitted to, and approved by, the qualified voters of the district as is now or may be provided by law, except that the electors shall vote “for refunding,” or “against refunding,” instead of “for the bonds,” or “against the bonds.”—*R. S. 5953*

COUNTY HIGH SCHOOL BONDS

39. Notice of bond election given upon petition. On the petition of fifty voters having the qualifications hereinafter prescribed, of any high school district, the county superintendent of public schools and ex officio secretary of said district shall give notice, not less than twenty days before any regular meeting now or which may hereafter be provided by law, for electing members of school boards in the respective districts of the state, or special meeting held under the provisions of this act, that the question of contracting a bonded debt for the purpose of erecting and furnishing high school buildings, or purchasing ground, or for funding floating debts, will be submitted to such qualified voters of the high school district as have paid a school tax therein in the year next preceding said meeting. Notice of

such meeting shall be given and such meeting shall be held and conducted and the returns thereof made and the result declared in the manner as nearly as may be as is by this act provided for the organization of high school districts. Any person offering to vote at such meeting in the respective public school districts of the high school district, may be challenged by any legally qualified elector of the district and any one of the judges of election shall thereupon administer to the person challenged, an oath as follows:

“You do swear (or affirm) that you are a citizen of the United States; that you have resided in the state of Colorado one year immediately preceding this election; that you are twenty-one years of age; that you have resided in this district thirty days next preceding this election, and that you have paid a school tax within this school district in the year next preceding this election, and that you have not voted at this election, so help you God (or under the pains and penalties of perjury).”

If he shall refuse to take such oath or affirmation, his vote shall be rejected. The high school committee of any such high school district shall first agree, and certify the amount of indebtedness to be created, if any. In no case shall the aggregate amount of bonded indebtedness of any high school district for high school purposes, exceed two per cent. of the assessed value of the property of such high school district. At such election a separate ballot box for this purpose shall be provided and the qualified electors shall vote by ballot “For high school bonds” or “Against high school bonds.” If

it shall appear from the final record of the county superintendent that a majority of all the votes cast are for the high school bonds, the high school committee, as soon as practicable thereafter, shall issue coupon bonds of the high school district, bearing interest not exceeding six per cent. per annum, payable semi-annually and redeemable at the pleasure of the high school district at any time after a date to be fixed by said high school committee not less than ten years after date, and to be absolutely due and payable at a date to be fixed by said high school committee not less than twenty nor more than forty years from date, the principal and interest payable at the office of the treasurer of the county in which said high school district may be situate, or the interest may be payable in the city of New York, at the option of the holders thereof, and the canceled coupons shall be at the disposal of the high school committee. All such bonds so issued shall be signed by the president of the high school committee, and shall have the seal of the high school district attached, attested by the secretary and shall be countersigned by the county treasurer, and the coupons thereto annexed shall be signed by the president of the high school committee by original or engraved signature.—S. L. '09, p. 404

County high school right to issue bonds.

1. Having considered the relation in which the above law stands to the school act, it appears evident that the general assembly intended to create a new and distinct school district, which should exercise all the powers of "school districts" and be classed as a school district, and in the exercise of those powers given to school districts in the state. It is, therefore, concluded that it has the right to issue bonds in accordance with the provisions of section 39 of School Laws Annotated.

40. Bonds to be registered by county clerk.

Whenever any high school district shall issue bonds under the provisions of this act, all such bonds shall, previous to being negotiable, be presented to the recorder of the county, to be duly registered by him in a book kept for that purpose in his office, noting the amount, time of payment and rate of interest, and all such bonds shall state on their face that they are issued under the provisions of this act.

—*S. L. '09, p. 405*

41. Commissioners levy tax for principal and interest—how paid—surplus.

Whenever any high school district shall issue bonds under the provisions of this act, it shall be the duty of the board of commissioners of the county in which said district may be situated, to levy and assess a special tax on all the taxable property of such high school district, in amounts sufficient to pay the interest coupons thereon, when the same shall become due, according to their tenor and effect, and the county treasurer shall collect the same as other taxes are collected, in cash only, keeping the same separate from other funds received by him; and if there shall be any surplus after paying the coupons and the expenses of collecting such special tax, the treasurer shall without delay pass the same to the credit of such high school district, and such fund so passed to the credit of such district shall be subject to the disposal of the high school committee. And in the calendar year next preceding the date fixed by said high school committee after which said bonds are redeemable and annually thereafter, until the full payment of said bonds, the said county commissioners shall provide by taxation and shall collect

such a per centum of the principal of said bonds as will, in equal annual installments, be sufficient to redeem all of said bonds by the time they mature, which amount shall be assessed and collected the same as the tax for the payment of the interest coupons, and when collected shall be turned over to the treasurer of such high school district, such money to be used only in the payment of such bonds, in the manner as follows:

The treasurer of such high school district, immediately after receiving the money as aforesaid, shall advertise in some newspaper published in his county, if there be any, for four successive weeks, that on a certain day named in the advertisement, he will pay certain of the high school district bonds, said bonds to be described in the advertisement by number and amount, and the advertisement shall further state that after the day so fixed for payment, the interest on the bonds described as aforesaid, shall cease and determine. The said payment shall be made at the office and in the presence of the treasurer of the county, who shall cancel the bonds redeemed, and a minute of such cancellation shall be made on the books of the county recorder, after which they shall be at the disposal of the high school committee.—*S. L. '09*, p. 405

42. Bonds redeemed—go in open market. In all high school districts that may issue bonds under the provisions hereof, the treasurer of such district, immediately after receiving the annual installment of the fund for the redemption of said bonds, as provided in the foregoing section hereof, shall go into the market and at the lowest possible price for

which he can obtain such bonds, shall use such fund in the retiring of such bonds to the extent of such fund.—*S. L. '09*, p. 406

43. Change in boundary not release taxable property. No change in the boundary lines of such high school district shall release the taxable real estate of the district from assessment and levy of taxes to pay the interest and principal of such bonds, and if there shall be any change of the lines of such high school district, so as to leave any portion of the taxable real estate of the district out of such district, which was subject to taxation in the district at the time of the issue of such bonds, the assessment and levy for principal and interest of such bonds shall be made on such property as if it were still within the district, and if there shall be any change of the lines of such high school district, so as to annex any taxable real estate after the issue of such bonds, the real estate so annexed shall thereafter be subject to the assessment and levy for principal and interest of such bonds.—*S. L. '09*, p. 407

44. Compensation of county treasurer. The treasurer of the county shall receive the same compensation for the collection of such special taxes as he does for other school taxes.—*S. L. '09*, p. 407

45. Special meetings—purpose—notice. In any high school district the high school committee may at any time call a special meeting of the electors of such district for any of the purposes specified in this act, and the notice of such special meetings shall be given and such special meeting shall be held and the result thereof declared, in the same manner as nearly as may be as is provided by this act

in the case of meetings for the organization of high school districts.—*S. L. '09*, p. 407

46. What high school districts subject to this act—no district obliged to maintain two high schools. All high school districts organized and now existing under the provisions of chapter 100 of the Session Laws of Colorado, 1899, being “An act to provide for the establishment and support of high schools in counties of the fourth and fifth classes,” approved April 8th, 1899, or under chapter 219 of the Session Laws of Colorado, 1907, being “An act to amend an act entitled an act to provide for the establishment and support of high schools in counties of the fourth and fifth classes,” approved April 9th, 1907, are hereby declared to be duly organized high school districts under the provisions of this act, and entitled to enjoy all the privileges and exercise all of the powers conferred by this act, and shall hereafter be subject to the provisions of this act; Provided, That no school district in any county shall be taxed without its consent for the support of more than one class or kind of high school, the establishment of which is authorized by law; and in voting on the organization of a county high school district under the provisions of this act, any school district then maintaining a high school or any school districts then organized into a union high school district and maintaining therein a union high school may by voting against the organization of a county high school district be excluded from such county high school district; but if any school district maintaining a high school or districts maintaining a union high school shall, un-

der the provisions of this section vote against the organization of a county high school district, the ballots cast in such district or districts shall be considered only upon the question of exclusion and shall not be considered in determining the final result upon the question of organizing a county high school district. And providing further that any school district maintaining a high school, or any districts organized into a union high school district and maintaining therein a union high school, may abandon such high school organization and organize under the provisions of this act.—*S. L. '09*, p. 407

CERTIFICATES

Note. For state, college and other diplomas, see general heading "Diplomas."

47. Grades of certificates — renewals — record. The certificates issued by the county superintendent shall be of three grades, distinguished as first, second and third. The first grade certificate shall be valid for three years and may be renewed by the county superintendent of the county in which it was issued; the second grade certificate shall be valid for eighteen months; the third grade certificate shall be valid for nine months; Provided, however, That not more than two certificates of the same grade (third grade) shall be issued to the same person. A county superintendent may, upon the application of a teacher holding a first grade certificate, received at a regular examination in another county in the state, and in full force at the time, issue to said teacher a certificate of like grade; Provided, That such certificate shall not show the standing in each branch, nor be subject to renewal, but shall show the conditions upon which it is issued. And he may revoke certificates of any grade at any time, for immorality, incompetency or other just cause. It shall be deemed a violation of law to grant certificates of any of the above grades, except one of like grade, without requiring the applicant to pass a thorough and satisfactory examination in such branches and at such times as are specified in section 15 of this act; and in all such examinations the questions prepared by the superintendent of public instruction shall be used. In case a certificate is revoked or refused by

the county superintendent, the right of appeal to the state board of education shall not be denied the teacher or applicant, if said appeal be taken within thirty days from date of notice of such revocation or refusal. The county superintendent shall keep an official record in a suitable book of the persons so examined, containing the names, age, nativity, date of examination and grade of certificate issued; he shall also retain for three months the written answers of all applicants at the regular examinations and hold the same subject to the order of the state board of education; Provided, further, That in a school district of the first class the examination may be conducted by the school board of such district in such manner and at such times as the board may determine, who shall have power to issue district certificates of the same grades and under the same conditions as are specified in sections 15 and 16 of this chapter, said certificates, however, shall be reported to the county superintendent, who shall keep a record of the same, and shall be valid only in the district where issued, such boards may, however, if they see fit, issue certificates without examinations to high school teachers who hold satisfactory evidence of adequate training for the work they are to do.—*R. S. 5994*

Note. Section 15 above referred to is section 149, and section 16 is section 47 herein.

Note. Questions prepared by superintendent of public instruction, see section 374.

Note. For teaching languages other than English and music and drawing, see section 383, decision one.

Note. This section sought to be repealed by section 47a herein, which was referred by petition, and will be voted upon at the general election in November, 1912.

Revoking certificate after discharging.

a. A school board of a first class district, after discharging a teacher, has no authority to revoke a certificate theretofore issued to him so as to prevent his recovery for the unexpired term.—*School District v. Shuck*, 49 C. 526

Teacher discharged only upon hearing.

b. Under the law providing that a teacher can be discharged only on good cause shown, there must be a specific accusation, notice and evidence placed before the board in its official capacity, and a hearing given the teacher to refute the charge; and where some of the members of the board, in an unofficial capacity only, inquired around and found some basis for neighborhood rumors of immorality, and upon such evidence the board gave the teacher leave of absence, with instructions to clear up the matter and discharged him upon failure so to do, is not a compliance with the statute, and such discharge is illegal.—*School v. Shuck*, 49 C. 526

Teacher employed without license, how.

c. Although the law prohibits a school board from employing a teacher having no license to teach at the date of such employment, and further provides that a teacher who shall commence teaching without such license shall forfeit all claim to compensation, yet a school board may engage a teacher to begin teaching at a future date, conditioned upon her obtaining such license prior to the beginning of the school; and when such license is obtained and the school commenced, the engagement ripens into a valid contract.—*Hotz v. School Dist.*, 1 C. A. 40

Certificate not collaterally attacked except.

d. In an action by a teacher for wages under a contract, his certificate from a county superintendent cannot be collaterally attacked except for fraud.—*School Dist. v. Stone*, 14 C. A. 211

Life of first grade certificate—renewal.

1. The life of a first grade certificate is three years. Such certificate may be renewed for a like term by the county superintendent in the county in which it was originally issued at any time before its expiration.

2. A first grade certificate cannot be renewed if presented for renewal after the expiration of the time for which it was issued.

3. A first grade certificate may be renewed any number of times, without examination, in a county in which it was originally issued.

4. A first grade certificate issued in one county cannot be renewed by a county superintendent of another county, but he can issue one of like grade, which shall not show the standing in different branches nor be subject to renewal.

5. The fact that a teacher failed to pass the examination in another county would not affect the standing of the first grade already obtained by her. It is entirely optional with the county superintendent as to whether a first grade certificate shall be renewed or not.

6. The law provides that a first grade certificate may be renewed by the county superintendent of the county in which it was issued. Since Adams county is a portion of that territory in which the certificate was issued, it may be renewed at the discretion of the county superintendent.

Experience necessary for first grade certificate.

7. There is no law concerning the practical experience in teaching to be considered in issuing a certificate of any grade except in the prescribed rules and regulations governing county examinations of teachers, which rules are sent from this office. Rule 14 definitely states applicants for certificates of the first grade shall have taught successfully for at least one year.

8. The one year's successful teaching required for eligibility to a first grade certificate is not restricted to teaching in Colorado.

9. The year's experience required for a first grade certificate is construed to mean twelve months.

10. There is no provision in the Colorado school law crediting teachers with a year's experience who have taught the blind, deaf, or mentally deficient, for one year.

Duplicates.

11. A duplicate first grade certificate, while in force, can be renewed just as if it were the original.

12. The law makes no provision for the writing of a duplicate certificate for the convenience of the person holding a first grade certificate. Special permission may be obtained by a county superintendent to write a duplicate certificate in case the holder of the original gives proof of its being lost or destroyed.

13. In case of loss of original certificate, upon written statement thereof, a duplicate may be issued by the county superintendent of the county in which original was issued.

Like grade certificates.

14. The endorsement or renewal of certificates and the issuing of like grade certificates are in all cases optional with the county superintendent.

15. The county superintendent has the power to issue a like grade certificate upon a renewal of a first grade certificate issued in another county; that is, a renewal made by the superintendent in the county in which the certificate was originally issued. There is nothing compulsory in regard to the issuing of a like grade certificate. If, in the judgment of the county superintendent to whom the certificate issued in another county is presented, it seems best that the applicant should take the examination rather than that the renewed certificate shall be recognized by a like grade, he has absolute authority to do so.

16. A like grade certificate cannot be issued on a second grade certificate, though such second grade certificate has a first grade average.

17. A like grade certificate is not renewable, and expires at the time the original certificate expires.

18. A certificate of like grade from one county cannot be endorsed by a county superintendent of another county; but if the first certificate upon which the like grade was issued is still in force, another like grade certificate upon it can be issued in another county.

19. The life of a like grade certificate is concurrent with that of the original in lieu of which it was issued.

20. A like grade certificate may be issued in lieu of a first grade certificate which has been renewed in the county where issued.

21. A like grade certificate may be issued in lieu of a first grade, even though the first grade show previous endorsement.

22. A like grade certificate may be issued, only to a person who is to teach in the county where such certificate is issued.

Renewal optional with county superintendent.

23. As it is entirely discretionary with the county superintendent whether or not a first grade certificate shall be renewed or recognized by a "like grade," a first grade cannot in any case be considered equivalent to a state certificate, which must be recognized in every part of the state during the life of the holder.

24. A county superintendent may renew her own certificate under the same conditions as other renewals are made.

Second grade certificate.

25. A second grade certificate is not good for eighteen months' teaching; it is simply in force for eighteen months from the date upon which it was issued.

26. There is no law authorizing a county superintendent to refuse granting a second grade certificate to an applicant meriting the same because of lack of experience in teaching.

27. A second grade certificate cannot be legally renewed; neither does the law make provision for the issuing of a certificate of like grade.

Third grade certificate.

28. The nine months specified in issuing a third grade certificate means that the certificate is valid nine months from the date of the examination upon which it was issued. It does not mean that it is good for nine months' teaching, no matter when the teaching may be done. The same rule holds good for the time specified upon a first or second grade certificate.

29. The clause "*Provided, however,* That no more than two certificates of the same grade shall be issued to the same person," is interpreted as referring to third grade certificate.

30. A third grade certificate issued to one who has previously held two third grades is invalid.

First class districts—examinations.

31. According to this section the school board of a first class district has the right to conduct an examination in such manner and at such time as the board may determine; therefore it may decide to hold the examination on consecutive days, or on irregular days, as desired. The school board has the right to prepare its own questions used in this examination, or to authorize some person to prepare them, and the right to make rules and regulations governing examinations for certificates and for any special line of work, and have a legal right to renew certificates without examination.

32. Since the law provides that the certificates issued by the boards of districts of the first class must be of the same grades and under the same conditions as those specified in sections 47 and 149 of the school law, it follows that equal requirements must be made in districts of the first class as in other districts, and the board would not have the right to exempt the candidates from examination in one or more of the subjects specified in section 149 of the school law.

33. Teachers' certificates issued by the board of directors of first class districts are reported to the county super-

intendent and a record kept of the same, but they are not renewed or endorsed; therefore, no fee would be charged for the registration of said certificates.

34. There is no law authorizing second and third class districts to hold examinations for teachers to be employed by such districts.

35. The laws of Colorado do not give county superintendents the slightest authority to recognize district certificates in any way, and such certificates are valueless so far as entitling their holders to a right to teach in other schools of the county.

36. Until a first class district is fully organized, so far as its board, etc., is concerned, in conformity with the provisions of the law relating to first class districts, the board of the district would have no right to grant certificates to the teachers employed. Until the board was fully organized as a first class board the teachers employed in the district should be required to take the regular county examination.

37. When a district of the first class has issued a district certificate in recognition of a first grade county certificate and such certificate is revoked by the county superintendent, such revocation would not revoke the district board's certificate any more than it would if the board's certificate had been granted on some other evidence.

38. In districts of the first class, the board may issue certificates without examinations to high school teachers who hold satisfactory evidence of adequate training for the work they are to do; but in districts of the second and third class such teacher must pass the regular county examination, and the examination shall extend to such additional branches of study as are to be pursued in the high school in which they are to teach.

Endorsement of certificates.

39. The endorsement of a first grade certificate until the next examination will not invalidate it in the county where issued.

40. A second grade certificate endorsed "good until the next examination" is good in any district of the county for such period of time.

41. It is a violation of the law to endorse county teachers' certificates issued in this, or any other state, if the certificate be not in full force at the date of such endorsement. Should the board employ a teacher without a license to teach, all claim to compensation on the school fund for the term will be forfeited.

Revocation of certificates.

42. A certificate to teach can not be revoked by a county superintendent without having good and sufficient reasons for so doing. Alleged exorbitant wages named in a contract between him and the directors of a district would not be lawful reason for revoking a certificate unless fraud of some kind could be shown.

43. A teacher's certificate may be revoked for immorality, incompetency, drunkenness or like cause; and if a person of bad habits who becomes intoxicated, or is a gambler, applies for a certificate such grounds would be sufficient reason for refusing it; but positive proof should be in the possession of the county superintendent before taking such action.

44. If a certificate was obtained illegally, and the county superintendent has positive proof of the same, it would be sufficient reason for revoking it.

Expired certificates.

45. There is nothing that can be done in the case of an expired certificate of any grade. A second or third grade certificate cannot be renewed under any circumstances. The laws of Colorado do not permit the endorsement of expired certificates, neither do they permit the holding of special examinations.

College diploma not license to teach.

46. A college graduate from another state is not exempt from the regular county examination.

47. A college diploma is not a license to teach in any public school in the state.

48. Any private school of Colorado may lawfully grant certificates or diplomas indicating the work done by its students, but such certificates or diplomas cannot be recognized by county superintendents in issuing county certificates.

Permits not granted.

49. There is absolutely no authority in law for a temporary permit or certificate of any nature to teach in the public schools of this state.

Appeals from county superintendent.

50. Except in the case of a formally taken appeal from the action of a county superintendent in refusing to grant a certificate, the state board of education has no authority to pass upon the papers presented by an applicant at a teacher's examination.

51. In case of appeal from the decision of county superintendent to the state board of education by an applicant for certificate at a regular examination, the certificate, if any, issued to said applicant upon such examination, should accompany the papers sent to the state board.

52. A person holds a certificate that expires September 8. He begins school under contract on September 1. He fails to obtain a certificate in the examination held in August and appeals to the state board of education. Held, that he may continue his school during the pendency of an appeal.

53. When a certificate is revoked by a county superintendent such revocation takes effect on the day named by him, and the holder thereof can not lawfully teach during the pendency of an appeal to the state board of education.

Authority of state superintendent.

54. The laws of Colorado do not give the state superintendent the right to endorse certificates of any kind from other states.

55. The state superintendent has no authority to grant a certificate to teach except when directed to do so by a vote of the state board of education in cases of appeal or upon a state examination.

56. The state superintendent has no authority to issue a temporary certificate or a certificate of any nature whatever.

57. The state superintendent has no authority whatever to waive in any manner the requirements of law for a license to teach, nor to grant a temporary certificate or permit, nor to authorize a county superintendent to grant such certificate or permit.

[Note. The following section is a portion of the law passed by the eighteenth general assembly and referred by petition, and will be voted upon by the people at the general election of 1912, and, if approved, will supersede section 47 herein.]

47a. The certificates issued by the county superintendent shall be of three grades, distinguished as first, second, and third. The first grade certificates shall be valid for three years and may be renewed by the county superintendent of the county in which it was issued; provided, that no first grade certificate shall be issued to any person who has not had at

least eighteen weeks of professional training in a recognized teachers' training school and three terms of not less than six months each of successful teaching experience; the second grade certificate shall be valid for eighteen months; provided, that no second grade shall be issued to any person who has not had at least twelve weeks of professional training in a recognized teachers' training school and two terms of not less than six months each of successful teaching experience; the third grade certificate shall be valid for twelve months; provided, that no third grade certificate shall be issued to any person who has not had at least six weeks of professional training in some recognized teachers' training school or one year of successful teaching experience; provided, further, that not more than two third grade certificates shall be issued to the same person. A county superintendent may upon application of a teacher holding a first grade certificate receive at a regular examination in another county in the state and in full force, at the time, issued to said teacher a certificate of like grade; provided, that such certificate shall not show the standing in each branch or be subject to renewal, but shall show the conditions upon which it is issued. And he may revoke certificates of any grade at any time, for immorality, incompetency, or other just cause. It shall be deemed a violation of law to grant certificates of any of the above grades except one of like grade, without requiring the applicant to pass a thorough and satisfactory examination in such branches and at such times as are specified in section 15 (5991) of this act, and in all such examinations the questions prepared by the superintendent of public instruction shall be used. In case a certificate is

revoked or refused by the county superintendent, the right of appeal to the state board of education shall not be denied the teacher or applicant, if said appeal be taken within thirty days from date of notice of such revocation or refusal. The county superintendent shall keep an official record in a suitable book of the person so examined, containing the names, age, nativity, date of examination, and the grade of certificate issued; he shall also retain for three months the written answers of all applicants at the regular examinations and hold the same subject to the order of the state board of education; provided, further, that in the school districts of the first class the examination may be conducted by the school board of such district in such manner and at such times as the board may determine, who shall have power to issue district certificates of the same grades and under the same conditions as are specified in sections 15 (5991) and 16 (5994) of this chapter. Said certificates, however, shall be reported to the county superintendent, who shall keep a record of the same and shall be valid only in the district where issued; such boards may, however, if they see fit, issue certificates without examination to high school teachers who hold satisfactory evidence of adequate training for the work they are to do.—*S. L. '11*, p. 629

Note. Sections 15 (5991) and 16 (5994) are sections 149 and 47.

CHILDREN

CHILD LABOR LAW

48. Employment of child under fourteen—exception. That no child under the age of fourteen years shall be employed, permitted or suffered to work at any gainable occupation in any theatre, concert hall or place of amusement where intoxicating liquors are sold, or in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, passenger or freight elevator, factory or workshop, or as a messenger or driver therefor, within this state. That no child under the age of fourteen years shall be employed at any work performed for wages or other compensation, to whomsoever payable, during any portion of any month when the public schools of the town, township, village or city in which he or she resides, are in session, nor be employed in any work before the hour of seven o'clock in the morning, or after the hour of eight o'clock in the evening; provided, that no child shall be allowed to work more than eight hours in any one day.

The general assembly of the state of Colorado does hereby declare that all occupations or employments in which children are forbidden to engage by the provisions of this act shall be and hereby declared to be injurious or dangerous to health, life or limb. The employments or occupations permitted under this act, under the sections hereof providing for exemptions shall be considered injurious or dangerous to health, life or limb, unless it shall appear from the evidence produced before the authorities

permitted to grant such exemptions that, in their opinion, the injury or danger to health, life or limb has been removed; provided, also that where conditions are such as to justify granting a permit exempting children from the provisions of this act to take part in concerts and theatrical performances and where such permits have been granted the performances of such children shall be construed to be a part of their training and education.

Nothing in this act shall be construed to prevent the employment of children in any fruit orchard, garden, field or farm, provided that any child under fourteen years of age engaging in such employment for persons other than their own parents must first secure a permit from the superintendent of schools in accordance with the provisions of section fifteen of this act. The hours of work during each day, or in any week shall be in compliance with the provisions of this act as to the hours during any day or week when children may be employed. —*S. L. '11*, p. 232

Note. Section 15 above referred to is section 62 herein.

49. Exhibit of child under sixteen — exception.

It shall be unlawful for any person having the care, custody or control of any child under the age of sixteen years, or apparently under the age of sixteen years, to exhibit, use or employ such child as an actor or performer in any concert hall or room where intoxicating liquors are sold or given away, or in any variety theatre, or for any illegal, obscene, indecent or immoral purpose, exhibition or practice whatsoever, or for any business, or in any place, situation or exhibition or vocation injurious to the morals or health, or dangerous to the life or limb of such child,

or cause, procure or encourage such child to engage therein. Nothing in this section contained shall apply to or effect the employment or use of any such child as a singer or musician in any church, school or academy, or the teaching or learning the science or practice of music, or in the physical development of its body in any respectable gymnasium or natorium; Provided, that any child may be permitted to take part in any concert or any theatrical exhibition that is being given for profit with the written consent of the authority provided by this act for the granting of permits to children for exemptions from the provisions of this act.

Nothing in this act shall be construed to prevent children taking part in what are known as amateur entertainments or theatricals for charity or not for profit in schools, churches, settlement houses or boys' or girls' clubs.—*S. L. '11*, p. 233

50. Employment underground works under sixteen. It shall be unlawful for any person, firm or corporation to take, receive, hire or employ any child or children under sixteen years of age in any underground works or mine, in or about the surface workings thereof, or in any smelter, coke oven or to adjust any belt to any machinery, or to operate or assist in operating circular or band saws, wood-shapers, wood-jointers, planers, sand-paper or wood-polishing machinery, emery or polishing wheels used for polishing metal, wood-turning or boring machinery, stamping machines in sheet-metal and tinware manufacturing, stamping machines in washer and nut factories, operating corrugating rolls, such as are used in roofing factories, nor shall they be employed in operating any passenger or freight elevators, steam boiler,

steam machinery or other steam generating apparatus, or automobiles, wire or iron straightening machinery; nor shall they operate or assist in operating rolling mill machinery punches or shears, washing, grinding or mixing mill or calendary rolls in rubber manufacturing, nor shall they operate or assist in operating laundry machinery, nor shall children be employed in any capacity in preparing any composition in which dangerous or poisonous acids are used, and they shall not be employed in any capacity in the manufacture of paints, colors or white lead; nor shall they be employed in any capacity whatever in the manufacture of goods for immoral purposes; nor shall females under the age of sixteen years of age be employed in any capacity whatsoever where such employment compels them to remain standing constantly. No female child under ten years of age, shall sell or be permitted or allowed to sell or distribute any newspapers, periodicals or other publication or any article of merchandise or to engage in or carry on any other business of occupation in the streets of alleys of any town or city.—*S. L. '11*, p. 234

51. Employer to keep register—school certificate. It shall be the duty of every person, firm or corporation, agent or manager of any firm or corporation employing minors over 14 years and under 16 years of age in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, theatre, concert hall or place of amusement, passenger or freight elevator, factory or workshop or as a messenger or driver therefor, within this state, to keep a register in said mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, theatre, concert hall or

place of amusement, factory or workshop in which said minors shall be employed or permitted or suffered to work, in which register shall be recorded the name, age and place of residence of every child employed or suffered or permitted to work there, or as messenger or driver therefor, over the age of 14 and under the age of 16 years; and it shall be unlawful for any person, firm or corporation agent or manager of any firm or corporation to hire or employ, or permit or suffer to work in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, theatre, concert hall or place of amusement, passenger or freight elevator, factory or workshop, or as messenger or driver therefor, any child under the age of 16 years and over 14 years of age, unless there is first produced and placed on file in such mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, factory or workshop, theatre, concert hall or place of amusement, an age and school certificate approved as hereinafter provided.—*S. L. '11*, p. 235

52. List of employed posted in work room.

Every person, firm or corporation, agent or manager of a corporation employing or permitting or suffering to work five or more children under the age of 16 years and over the age of 14 in any mercantile institution, store, office, laundry, hotel, manufacturing establishment, factory or work-shop, shall post and keep posted in a conspicuous place in every room in which such help is employed, or permitted or suffered to work, a list containing the name, age and place of residence of every person under the age of 16 years employed, permitted or suffered to work in such room. —*S. L. '11*, p. 235

53. Age and school certificate. No child permitted to be employed under this act shall be employed in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, theatre, concert hall, or place of amusement, passenger or freight elevator, factory or workshop, or as messenger or driver therefor, unless there is first produced and placed on file in such mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, theatre, concert hall or place of amusement, factory or workshop, and accessible to the state factory inspector, assistant factory inspector or deputy factory inspector, an age and school certificate as hereinafter prescribed; and unless there is kept on file and produced on demand of said inspectors of factories a complete and correct list of all the minors under the age of 16 years so employed who cannot read at sight and write legibly simple sentences, unless such child is attending night school as hereinafter provided.—*S. L. '11*, p. 236

54. Age and school certificate — how approved. An age and school certificate shall be approved only by the superintendent of schools or by a person authorized by him in writing; or where there is no superintendent of schools, by a person authorized by the school board; Provided, that the superintendent or principal of a parochial school shall have the right to approve an age and school certificate, and shall have the same rights and powers as the superintendent of public schools to administer the oaths herein provided for children attending parochial schools: Provided further, that no member of a school board or other person authorized as aforesaid shall have authority to approve such certificates for

any child then in or about to enter his own establishment, or the employment of a firm or corporation of which he is a member, officer or employe. The person approving these certificates shall have authority to administer the oath provided herein, but no fee shall be charged therefor. It shall be the duty of the school board or local school authorities to designate a place (connected with their office, when practicable) where certificates shall be issued and recorded, and to establish and maintain the necessary records and clerical service for carrying out the provisions of this act. —*S. L. '11*, p. 236

55. Proof of age. An age and school certificate shall not be approved unless satisfactory evidence is furnished by the last school census, the certificate of birth or baptism of such child, the register of birth of such child with a town or city clerk, or by the records of the public or parochial schools, that such child is of the age stated in the certificate: Provided, that in cases arising wherein the above proof is not obtainable, the parent or guardian of the child shall make oath before the juvenile or county court or any officer thereof as to the age of such child, and the court may issue to said child an age certificate as sworn to.—*S. L. '11*, p. 237

56. Employment ticket. The age and school certificate of a child under 16 years of age shall not be approved and signed until he presents to the person authorized to approve and sign the same a school attendance certificate, as hereinafter prescribed, duly filled out and signed. A duplicate of such age and school certificate shall be filled out and shall be forwarded to the state factory inspector's office. Any explanatory matter may be

printed with such certificate, in the discretion of the school board or superintendent of schools. The employment and the age and school certificates shall be separately printed and shall be filled out, signed and held or surrendered as indicated in the following forms:

School Certificate.

(Name of school.) (City or town and date.)

This certifies (name of minor) of the.....th grade, can read and write legibly simple sentences. This also certifies that according to the records of this school, and in my belief, the said (name of minor) was born at (name of city or town), in (name of county), on the (date) and is now (number of years and months) old.

(Name of parent or guardian.)
(Residence.)

(Signature of teacher).....grade.

(Name of principal.)

Evening School Attendance Certificate.

(Date.)

This certifies that (name of minor) is registered in and regularly attends the.....evening school. This also certifies that according to the records of my school and in my belief the said (name of minor) was born at (name of city or town), on the.....day of (year), and is now (number of years and months) old.

(Name of parent or guardian.)
(Residence.)

(Signature of teacher.)

(Signature of principal.)

Age and School Certificate.

This certifies that I am (father, mother, guardian or custodian) of (name of minor), and that (he or she) was born at (name of town or city), in the (name of county, if known) and state and county of.....on the (day of birth and year of birth) and is now (number of years and months) old.

(Signature of parent, guardian or custodian.)

(City or town and date.)

There personally appeared before me the above named (name of person signing) and made oath that the foregoing certificate by (him or her) signed is true to the best of (his or her) knowledge. I hereby approve the foregoing certificate of (name of child) height (feet and inches), weight....., complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified.

Owner of Certificate. This certificate belongs to (name of child in whose favor it is drawn) and is to be surrendered to (him or her) whenever (he or she) leaves the service of the corporation or employer holding the same; but if not claimed by said child within thirty days from such time it shall be returned to the superintendent of schools, or where there is no superintendent of schools, to the school board. (Signature of person authorized to approve and sign, with official character authority) (town or city and date.)

Illiteracy. In the case of a child who can not read at sight and write legibly, simple sentences, the certificate shall continue as follows: after the

word sentences: "I hereby certify that (he or she) is regularly attending the (name of public or parochial evening school)." This certificate shall continue in force just as long as the regular attendance of said child at said evening school is certified weekly by the teacher and principal of such school.

Evening School. In any city or town in which there is no public or parochial evening school, an age and school certificate shall not be approved for a child under the age of 16 years who can not read at sight and write legibly simple sentences, the certificate of the principal of a public or parochial school shall be prima facie evidence as to the literacy or illiteracy of the child.—*S. L. '11*, p. 239

57. Schooling required. No person shall employ any minor over 14 years of age and under 16 years, and no parent, guardian or custodian shall permit to be employed any such minor under his control who can not read at sight and write legibly simple sentences, while a public evening school is maintained in the town or city in which such minor resides, unless such minor is a regular attendant at such evening school.—*S. L. '11*, p. 239

58. Duties of state inspectors of factories. The state inspector of factories, his assistants or deputies, shall visit all mercantile institutions, stores, offices, laundries, manufacturing establishments, bowling alleys, theatres, concert halls or places of amusement, factories or workshops, and all other places where minors are or may be employed in this state, and ascertain whether any minors are employed contrary to the provisions of this act. Inspectors of factories may require that age and

school certificates, and all lists of minors employed in such factories, workshops, mercantile institutions and all other places where minors are employed as provided for in this act, shall be produced for their inspection on demand. And, provided, further, that upon written complaint to the school board or local school authorities of any city, town, district or municipality, that any minor (whose name shall be given in such complaint) is employed in any mercantile institution, store, office, laundry, manufacturing establishment, bowling alley, theatre, concert hall or place of amusement, passenger or freight elevator, factory or workshop, or as messenger or driver thereof, contrary to the provisions of this act, it shall be the duty of such school board or local school authority to report the same to the state inspector of factories.—*S. L. '11*, p. 240

59. Hours of labor. No person under the age of 16 years shall be employed or suffered or permitted to work at any gainful occupation more than forty-eight hours in any one week, nor more than eight hours in any one day; or after the hour of 8:00 o'clock in the evening. Every employer shall post in a conspicuous place in every room where such minors are employed, a printed notice stating the hours required of them each day of the week, the hours of commencing and stopping work, and the hours when the time or times allowed for dinner or other meals begins and ends. The printed form of such notice shall be furnished by the state inspector of factories, and the employment of any such minor for longer time in any one day so stated shall be deemed a violation of this section.—*S. L. '11*, p. 240

60. Prima facie evidence of a child's employment. The presence of any person under the age of 16 years in any manufacturing establishment, factory or workshop shall constitute prima facie evidence of his or her employment therein.—*S. L. '11*, p. 240

61. Enforcement of the provisions of this act. It shall be the special duty of the state factory inspector to enforce the provisions of this act and to prosecute all violations of the same before any magistrate or any court of competent jurisdiction in this state. It shall be the duty of the state factory inspector, assistant state factory inspector and deputy state factory inspectors under the supervision and direction of the state factory inspector, and they are hereby authorized and empowered to visit and inspect, at all reasonable times, and as often as possible, all places covered by this act; provided, that this act shall not be construed to repeal any law of this state imposing duties or responsibilities upon any other officer or person to make inspections or bring prosecutions for the violation of any school law or any other law of this state for the protection of children.—*S. L. '11*, p. 241

62. Child exempted—how. Any child may be exempted from the provisions of this act concerning employment of children in any concert or theatrical exhibition or performance in any place where intoxicating liquors are not sold, and between the ages of fourteen and sixteen, from any other provisions of this act, except the provisions of section three, on the following conditions: Any such child, its parent or person seeking to employ such child shall file an application in writing with

the city superintendent of schools if there be any such city superintendent of schools—and if not, then with the county superintendent of schools, or any person deputized by them to receive and act upon such application, stating his or her age, residence, address, school attendance, grade, names of parent, parents or guardian, and in detail the nature of employment sought, the number and character of the performances, the kind of work required and the name of the employer and such facts as may be required to enable such person to pass intelligently upon such application. Within not less than 48 hours of the filing of such application, it shall be the duty of such officer to hear and determine such application, and if the same shall be granted, such officer granting the same, shall issue a written permit to such child, stating therein his reasons for such permit. If such application is refused, the child or the person making same for the child shall be entitled upon demand, within 24 hours after such refusal, to be furnished with a written statement of the reasons of such officer for refusing to issue such permit. An appeal may be taken from the decision of such officer so passing upon such application to the county or juvenile court of the county in which such application is made, upon such child, its parent or guardian or any person interested in the protection of such child filing a brief written petition with the clerk of said court, with a copy of such refusal to grant such permit; provided, such appeal is taken within ten days after the refusal to issue such permit. No fee shall be charged for any such application or on account of any such

appeal. No permit shall be granted under the provisions of this section to any child to be employed in any concert or theatrical exhibition or performance unless it shall be made to appear that suitable provisions have been made by the employer of such child for the protection of the moral and physical health and the education of such child. The person passing upon such application or any court before whom such matter may be brought for final determination, may, as a condition to granting such permit, make such reasonable terms and conditions as shall seem necessary and proper for safeguarding the moral and physical health of such child and giving it such educational advantages as may seem to be for its best interests. And it shall be lawful to attach as a condition to any such permit mentioned in this section a written promise of the employer of such child to comply with the terms thereof and a bond or undertaking to the people of the state of Colorado in a penal sum to be fixed by the court, not exceeding two thousand dollars, with one or more sureties may be required by the court of such employer conditioned that he will faithfully carry out the terms and conditions upon which such permit may be granted. Permits or copies certified to as correct by the authorities issuing the same granting exemptions from this act for children to appear in any concert or theatrical performance shall be kept on file at the box office of concert halls or theatre in which any such child may appear under such permits. All such permits shall be subject to inspection by the humane society and probation officers and factory inspectors.

Any person may apply to the county or juvenile court to have the exemption permitted by this act revoked by such court by filing with the clerk of the court a short petition setting up the facts showing that the conditions of the permit granting such exemption have been violated, or that it is not for the best interest of such child to have such permit or exemption. Whereupon, the court shall issue a summons or notice to such child and to at least one of its parents or guardian, if there be such parent or guardian in the county, requiring them to appear before such court within not less than forty-eight hours to show cause why the prayer of such petition should not be granted or such permit or exemption should not be revoked. During that part of the months of June, July and August when the public schools are not in regular session, children over twelve years of age shall be entitled to exemptions from the provisions of this act, permitted by section fifteen, upon complying with the conditions and receiving the permit provided for in said section. —*S. L. '11*, p. 241

Note. Section 15 above referred to is section 62 herein.

63. Penalties—first offense. Whoever, having under his control a child under the age of 16 years, permits such child to be employed in violation of the provisions of this act, shall for each offense be fined not less than five dollars nor more than twenty-five dollars, and shall stand committed until such fine and costs are paid. A failure to produce to the inspector of factories, his assistants or deputies, any age and school certificates or lists required by this act, shall constitute

a violation of this act, and the person so failing shall, upon conviction, be fined not less than five dollars nor more than fifty dollars for each offense. Every person authorized to sign the certificate prescribed by section 7 of this act, who certifies to any materially false statement therein, shall be guilty of a violation of this act, and upon conviction be fined not less than five dollars nor more than one hundred dollars for each offense, and shall stand committed until such fine and costs are paid. Any person, firm or corporation, agent or manager, superintendent or foreman of any firm or corporation, whether for himself or for such firm or corporation, or by himself or through sub-agents or foreman, superintendent or manager, who shall violate or fail to comply with any of the provisions of this act, or shall refuse admittance to premises, or otherwise obstruct the factory inspector, assistant factory inspector or deputy factory inspector in the performance of their duties, as prescribed by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars, nor more than one hundred dollars for each offense, and shall stand committed until such fine and costs are paid.

It is the intention and purpose of this act to extend personal responsibility to the president and general manager of any corporation for violation of this act by any foreman, superintendent or sub-manager or sub-agent.—*S. L. '11*, p. 243

Note. Section 7 above referred to is section 54 herein.

64. Penalties—second violation. Any person, agent, firm or corporation who shall be convicted of a second violation of any provision of this act, shall be fined in a sum not less than one hundred dollars, or more than five hundred dollars or be imprisoned in the county jail for not to exceed ninety days or by both such fine and imprisonment, in the discretion of the court.—*S. L. '11*, p. 244

DELINQUENT CHILDREN

65. Definition of terms—application of act—evidence. This act shall apply only to children sixteen years of age or under, not inmates of a state institution, or any institution incorporated under the laws of the state for the care and correction of delinquent children. The words "delinquent child" shall include any child sixteen years of age or under such age who violates any law of this state or any city or village ordinance; or who is incorrigible, or who knowingly associates with thieves, vicious or immoral persons, or who is growing up in idleness or crime, or who knowingly visits or enters a house of ill-repute, or who knowingly patronizes or visits any policy shop or place where any gaming device is, or shall be, operated; or who patronizes or visits any saloon or dram shop where intoxicating liquors are sold; or who patronizes or visits any public pool room or bucket shop; or who wanders about the streets in the night time without being on any lawful business or occupation; or who habitually wanders about any railroad yards or tracks, or jumps or hooks on to any moving train, or enters any car or engine without lawful authority; or who habitually uses vile, obscene, vulgar, profane or indecent language, or is

guilty of immoral conduct in any public place or about any school house. Any child committing any of the acts herein mentioned shall be deemed a juvenile delinquent person, and shall be proceeded against as such in the manner hereinafter provided. A disposition of any child under this act, or any evidence given in such cause, shall not in any civil, criminal or other cause or proceeding whatever in any court be lawful or proper evidence against such child for any purpose whatever, excepting in subsequent cases against the same child under this act. The word "child" or "children" may mean one or more children, or the word "parent" or "parents" may mean one or both parents when consistent with the intent of this act.—*R. S.* 586

66. Penalty. Any person who shall be convicted of violating any of the provisions of the preceding sections of this act, shall be fined not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding three months, or both, in the discretion of the court; and upon conviction for a second or any subsequent offense, shall be fined not exceeding two hundred dollars, or be imprisoned in the county jail not exceeding six months.—*R. S.* 603

67. Delinquent girls under eighteen. From and after the passage of this act, any law of this state defining delinquency or concerning contributory delinquency shall, for the protection of girls, be held to include all girls under the age of eighteen years.—*S. L.* '11, p. 298

PHYSICAL EXAMINATION

68. State superintendent prepare suitable test card. The state superintendent of public instruction shall prepare or cause to be prepared suitable test

cards, blanks, record books, and other needful appliances and supplies to be used in testing the sight, hearing and breathing of pupils in the public schools, and the necessary instructions for their use; and shall furnish the same free of expense to every public school in the state. The teacher or principal in every public school, or where there is no principal, the county superintendent, shall, during the first month of each school year, test the sight, hearing and breathing of all pupils under his charge, such examination to be made by observation, without using drugs or instruments, and without coming in contact with said child; and keep a record of such examinations according to the instructions furnished and make a written report of such examinations to the state superintendent of public instruction as he may require.—*S. L. '09*, p. 490

69. Teacher report defectiveness. Every teacher in the public schools shall report the mental, moral and physical defectiveness of any child under his supervision, as soon as such defectiveness is apparent, to the principal or, where there is no principal, to the county superintendent. Such principal or county superintendent shall promptly notify the parents or guardian of each child found to be defective, of the child's defectiveness, and shall recommend to such parents or guardian that such child be thoroughly examined as soon as possible by a competent physician or surgeon with special reference to the eyes, ears, nose, throat, teeth and spine. If the parents or guardian of such child shall fail, neglect or refuse to have such examination made and treatment begun within a reasonable time after such notice has been given, the said principal or superintendent shall

notify the state bureau of child and animal protection of the facts; Providing, however, That whenever it shall be made to appear to the said principal or superintendent, upon the written statement of the parent or guardian of said child, that such parent or guardian has not the necessary funds wherewith to pay the expenses of such examination and treatment, the said principal or superintendent shall cause such examination and treatment to be made by the county physician of the district wherein said child resides; and it shall be the duty of such county physician to make such examination and treatment, and if he be unable to properly treat such child he shall forthwith report such fact to the county commissioners of the county, with his recommendation.—*S. L. '09*, p. 490

70. Auditor draws warrant—biennial expense not to exceed one thousand dollars. The state auditor is hereby directed to draw his order for such sums and at such times as the state superintendent of public instruction may require to carry out the provisions of this act. The total expenses under this act shall not exceed one thousand dollars in any biennial period ending November 30.—*S. L. '09*, p. 491

COMPULSORY EDUCATION

71. Children sent to school—exception—appeal.

That in all school districts of this state, all parents, guardians and other persons having care of children shall instruct them, or cause them to be instructed, in reading, writing, spelling, English grammar, geography and arithmetic. In such districts, every parent, guardian or other person having charge of any child between the ages of eight and sixteen years, shall send such child to a public, private or parochial school for the entire school year during which the public schools are in session in such districts; Provided, however, That this act shall not apply to children over fourteen years of age where such child shall have completed the eighth grade, or may be eligible to enter any high school in such district, or where its help is necessary for its own or its parent's support, or where for good cause shown it would be for the best interests of such child to be relieved from the provisions of this act; Provided, further, That if such child is being sufficiently instructed at home by a person qualified, such child shall not be subject to the provisions of this act; and Provided, further, That if a reputable physician within the district shall certify in writing that the child's bodily or mental condition does not permit its attendance at school, such child shall be exempt during such period of disability from the requirements of this act. It shall be the duty of the superintendent of the school district, if there be such superintendent, and, if not, then

the county superintendent of schools, to hear and determine all applications of children desiring for any of the causes mentioned herein to be exempted from the provisions of this act, and if upon such application such superintendent hearing the same shall be of the opinion that such child is for any reason entitled to be exempted as aforesaid, then such superintendent shall issue a written permit to such child, stating therein his reasons for such exemption. An appeal may be taken from the decision of such superintendent so passing upon such application to the county court of the county in which such district lies, upon such child making such application and filing the same with the clerk or judge of said court within ten days after its refusal by such superintendent, for which no fee to exceed the sum of one dollar shall be charged, and the decision of the county court shall be final. An application for release from the provisions of this act shall not be renewed oftener than once in three months.—R. S. 530

Law does not prohibit a pupil from being expelled.

1. The compulsory attendance law does not prohibit a pupil from being expelled from public school, in proper cases.

Parents cannot avoid law by sending children away.

2. When a boy's parents live in a school district they cannot avoid the provisions of the compulsory law by sending their son to another locality, the child and the parents being exactly as liable to the provisions of the law as if they were keeping him in town and he was not attending school.

Demands of law not met by teaching German.

3. The demands of a compulsory education law would not be met in case a child attended a private school in which the German language was used, as the intent of the law is that the child shall receive for the time specified equivalent

instruction to that given through the public schools, which the law requires shall be taught in the English language.

Instruction at home.

4. The law provides that a child who does not attend the public school shall be taught at home in such branches as are usually taught in the public schools, subject to the same examinations as the pupils of the district in which the child resides. While the law states that the child should be instructed by some person qualified, nothing is given in regard to a legal qualification, such as obtaining a teacher's certificate.

Instruction in private schools.

5. The compulsory school law requires that children between the ages of eight and sixteen, attending a private school, should receive such instruction as would be an equivalent to that given in the public schools. It is the duty of the truant officer to investigate such cases and require whatever statements may be necessary concerning the work.

Does not apply to deaf and blind.

6. Attendance is not compulsory at the state school for the deaf and blind.

72. Children under 14 years not employed—penalty for employing. No child under the age of 14 years shall be employed by any person, persons, company or corporations during the school term and while the public schools are in session, unless the parent, guardian or person in charge of such child shall have fully complied with section one of this act. Every such employer shall require proof of such compliance, and shall make and keep a written record of the proof given, which shall be subject to the inspection of the truant officer, superintendent of schools, or any school director of the district. Any employer employing any child contrary to the provision of this section, shall be fined not less than twenty-five nor more than one hundred dollars. —R. S. 531

73. Minors between 14 and 16 must read and write—duty of employer—penalty. All minors over the age of 14 years and under the age of 16 years who can not read and write the English language, shall attend school at least one-half day of each day, or attend a public night school, or take regular private instruction from some person qualified, in the opinion of the county superintendent of schools, in which such district or the greater portion of the same lies, until such minor obtains a certificate from such superintendent that he or she can read at sight and write legibly, simple sentences in English. Every employer employing or having in employment any such minor shall exact as a condition of employment the school attendance or instruction required by this section, and shall on request of the truant officer, furnish the evidence that such minor is complying with the requirements of this section. Every employer failing to comply with the requirements of this section as to any minor employed by him or in his employ, shall be fined not less than twenty-five dollars, and not more than one hundred dollars; Provided, That any employer with the approval or consent of the county superintendent of schools may make provision for the private instruction of minors in his employ.

—R. S. 532

74. Truant—who is—juvenile disorderly person. Every child within the provisions of this act who does not attend school, as provided in section one of this act, or who is in attendance at any public, private or parochial school, and is vicious, incorrigible or immoral in conduct, or who is an habitual truant from school, or who habitually wanders about

the streets and public places during school hours without any lawful occupation or employment, or who habitually wanders about the streets in the night time, having no employment or lawful occupation, shall be deemed a juvenile disorderly person, and be subject to the provisions of this act.

—R. S. 533

School directors must enforce law.

1. It is the duty of the school board to enforce the compulsory law. Complaint of its violation may be made by any elector of the district.

75. Truant officer—powers—duties—record. To aid in the enforcement of this act, the board of school directors in districts of the first and second class shall have power, and it shall be their duty, to appoint one or more truant officers whose compensation shall be fixed by the board appointing him. The truant officer shall be vested with police powers, and shall have authority to enter workshops, factories, stores and all other places where children may be employed, and in the way of investigation or otherwise, to enforce this act. The truant officer shall institute proceedings against any officer, parent, guardian, person or corporation who shall violate any of the provisions of this act, and shall otherwise discharge the provisions of this act, and perform such other services as the county superintendent of schools or the board of directors of the school district may deem necessary to preserve the morals and secure the good conduct of school children, and to enforce this act. The truant officer shall keep a record of his transactions for the inspection of the county superintendent of schools and of the directors of the school district,

and suitable blanks shall be provided for his use by the secretary of the school district.—*R. S.* 534

76. Truancy officer in third class districts. The board of school directors in school districts of the third class in this state shall appoint a truancy officer whose powers and duties shall be the same as those prescribed by law for truancy officers in school districts of the first and second class. His compensation shall be fixed by the board appointing him and may be by the day for the time actually consumed in the discharge of his duties as such officer. A member of the school board may be appointed truancy officer.—*S. L.* '11, p. 250

77. Truant officer—duties—conviction of parent—penalty—bond—defense. The truant officer shall examine into any case of truancy within his district, and shall warn the parent, guardian, or others in charge of the child of the final consequences of truancy if persisted in. When any child between the ages of eight and fourteen years, or any child between the ages of fourteen and sixteen years, who can not read and write the English language, or is not engaged in some regular employment, or any child between the age of fourteen years and sixteen years who has been discharged from employment to obtain instruction or schooling, is not attending school without lawful excuse and in violation of the provisions of this act, the truant officer shall notify the parent, guardian, or other person in charge, of the fact, and require such person to cause the child to attend some recognized school within five days from the date of the notice, and it shall be the duty of such person so

to cause its attendance at some recognized school. Upon failure to do so, the truant officer shall make complaint in the county court of the county in which such child lives, against the parent, guardian or other person having such child in charge, and upon conviction, the parent, guardian or other person in charge, shall be fined not less than five dollars nor more than twenty dollars, or the court may, in its discretion, require the person so convicted to give a bond in the penal sum of \$100, with sureties to the approval of the judge of such court, conditioned that he or she will cause the child under his or her care to attend some recognized school within five days thereafter, and to remain at school during the term prescribed at law. And upon the failure or refusal of the parent, guardian or other person to pay such fine or furnish such bond according to the order of the court, the said parent, guardian or other person shall be imprisoned in the county jail not less than ten days nor more than thirty days. For violation of the bond, suit may be brought in any court of competent jurisdiction, in the name of the school district, and the amount recovered shall go to the school fund of the district. If the parent, guardian or other person shall prove his inability to cause the child to attend a recognized school, it shall be a defense, but the child shall be deemed a juvenile disorderly person within the meaning of section 4 of this act.—R. S. 535

Note. Section 4 above referred to is section 74 herein.

Truant officers.

1. The compulsory education law applies to children in the state between the ages of fourteen and sixteen, who cannot read and write the English language, or who are not

engaged in some regular employment; and therefore truant officers of the state are required to act with reference to such children, when the circumstances demand, as with children under the age of fourteen; also, county courts are required by law to take jurisdiction of such cases.

Funds of district used to enforce law.

2. The funds of the school district may be used to pay the expenses of procedure when it becomes necessary to compel parents to send children to school.

78. Juvenile disorderly person—commitment—term—expense. Whenever a child shall be a juvenile disorderly person within the meaning of this act, the truant officer, or any school teacher, or other reputable person, may make complaint in the county court of the county in which such child resides. The county court shall hear and determine such complaint, and if it is determined that such child is a juvenile disorderly person within the meaning of this act, he or she shall be committed to a children's home, if eligible, or to the boys' industrial school or to the girls' industrial school, or to some other training school, taking into account the years of the child with reference to the institution selected. Any child committed to a children's home, on its being shown to the judge of said court that it is incorrigible and vicious, may be transferred to the industrial school or other proper institution. No child committed to any reformatory shall be detained beyond its majority, and may be discharged sooner or paroled by the trustees or board of control under rules and restrictions applicable to other inmates. Any order of commitment may be suspended by the judge of the county court during such time as the child may regularly attend school and properly conduct itself. The expense of the transportation of

the child to the juvenile reformatory, and of the costs of the case in which the order of commitment is made, shall be paid by the county from which the child is committed.—*R. S.* 536

79. Child unable to attend school—relief. When any truant officer is satisfied that any child within the requirements of this act is unable to attend school because required to work at home or elsewhere in order to support itself or help or support others legally entitled to its services, the truant officer shall report the case to the authorities charged with the relief of the poor, who shall thereupon afford such relief as will enable the child to attend school; Provided, That such child shall not be required to attend more than three hours a day during school days. In case the child or its parents or guardians neglect or refuse to take advantage of such provision made for its instruction, such child may be committed to a children's home or juvenile reformatory, as hereinbefore provided.—*R. S.* 537

80. Violation—penalty. Any person who violates any provision of this act for which a penalty is not herein provided, shall be fined not more than fifty dollars.—*R. S.* 538

81. Second conviction—penalty—trial by jury. Every person who, after having been convicted once of violating any of the provisions of this act shall be convicted a second time of a similar offense, may, in addition to the punishment by way of fine elsewhere provided for, be imprisoned not less than 10 days nor more than 30 days; Provided, That in all cases arising under this act in which a fine or

imprisonment may be a part of the judgment, trial shall be by jury if not waived.—*R. S.* 539

82. Not apply to districts without accommodations. This shall not apply to school districts in which there are not sufficient accommodations in the public schools to seat children compelled to attend under the provisions of this act.—*R. S.* 540

COUNTY SUPERINTENDENT

83. **Election—oath—bond—term of office.** There shall be elected in each county, at the general election in the year one thousand eight hundred and seventy-seven, and biennially thereafter, a county superintendent of public schools, who shall take office on the second Tuesday of January next succeeding that in which such election shall be held. He shall hold his office for two years, and until his successor shall be elected and qualified. Before entering upon the duties of his office, he shall take the oath prescribed by the constitution, and execute a bond payable to the people of the state of Colorado, with two or more sureties, to be approved by the board of county commissioners, in penalty of not less than two thousand dollars, to be increased at the discretion of said board, conditioned upon the faithful performance of the duties of his office and the delivery of all moneys and property as such superintendent to his successors, which bond shall be filed in the office of the county clerk.—*R. S. 5877*

Qualifications.

1. In addition to other qualifications, a person to be eligible to the office of county superintendent must have resided in the county at least one year preceding his election.

2. If the county superintendent fails to turn over to the county treasurer moneys received by him as required by law, and also does not turn over to his successor the records of the office, the matter should be called to the attention of the county commissioners. They may, by law, proceed in a civil action for the recovery of any moneys due the county.

3. The county superintendent is also liable upon his bond for the improper performance of his duty.

84. Act till successor qualified. When the term of any sheriff, * * * or other county officers shall expire, as now provided by law, it shall be lawful for such officer, whether re-elected or not, and his deputies, to continue to perform all the duties of such office until his successor shall be duly qualified as required by law.—*R. S.* 1355

85. Failure to qualify—vacancy—appointment. Should the superintendent-elect fail to qualify as aforesaid, or should there occur a vacancy in said office, the board of county commissioners shall at their next meeting after such vacancy or failure to qualify occurs, appoint an eligible and suitable person, who shall qualify within ten days after his appointment, and who shall continue in office until the next general election thereafter. Should such appointee fail to qualify, as aforesaid, another appointment shall be made in the same manner, until the vacancy shall be filled by appointment or election.—*R. S.* 5878

86. When office becomes vacant. Every county office shall become vacant on the happening of either of the following events before the expiration of the term of office:

First—The death of the incumbent.

Second—His resignation.

Third—His removal.

Fourth—His ceasing to be an inhabitant of the county for which he was elected or appointed.

Fifth—His conviction of any infamous crime, or any offense involving a violation of his official oath.

Sixth—His refusal or neglect to take his oath of office, or to give or renew his official bond, or to deposit such oath and bond within the time prescribed by law.

Seventh—The decision of a competent tribunal, declaring void his election or appointment.—*R. S.* 1359

87. Classification of counties to regulate salaries. For the purpose of regulating the amount of compensation of county superintendents of schools, the counties of the state are divided into seven classes as follows:

The City and County of Denver, El Paso and Las Animas Counties shall be the first class; Pueblo, Weld, Boulder, Fremont and Teller Counties shall be the second class; Conejos, Delta, Garfield, Gilpin, Huerfano, Lake, Larimer, Mesa, Montrose, and Otero Counties shall be the third class; Chaffee, Clear Creek, Douglas, Eagle, Elbert, Jefferson, Gunnison, La Plata, Ouray, Rio Grande, Pitkin, Park, Prowers and Saguache Counties shall be the fourth class; Bent, Custer, Cheyenne, Kit Carson, Logan, Montezuma, Morgan, Routt, San Miguel and Yuma Counties shall be the fifth class; Archuleta, Baca, Costilla, Grand, Kiowa, Lincoln, Mineral, Phillips, Rio Blanco, San Juan, Sedgwick, Summit and Washington shall be the sixth class; Dolores and Hinsdale shall be the seventh class. County superintendents of schools shall receive the following compensation, to be paid quarterly out of the county treasury, to wit: In counties of the first class, an annual salary of twenty-eight hundred dollars; in counties of the second class, an annual salary of two thousand dollars; in counties of the third class, an annual salary

of twelve hundred dollars; in counties of the fourth class, an annual salary of eleven hundred dollars; in counties of the fifth class, an annual salary of eight hundred dollars; in counties of the sixth class, an annual salary of five hundred dollars; in counties of the seventh class, an annual salary of one hundred dollars; in all but first and second class counties, boards of county commissioners may allow mileage not to exceed ten cents per mile for distance necessarily and actually traveled in the performance of duty, not to exceed an aggregate of three hundred dollars per annum in any county.

—*R. S.* 2575

Note. Counties of Jackson, Crowley and Moffat are in the fifth class for compensation of county superintendent. *S. L.* '09, p. 436; *S. L.* '11, pp. 281, 520.

County superintendent not entitled to compensation—when.

a. There is nothing in the law imposing a duty upon county superintendents to attend a district normal, and the county superintendent who does so is not entitled either to mileage or a per diem compensation, although he may be a member of the executive committee of the normal district.

—*Stevens v. Sedgwick Co.*, 5 *C. A.* 115

88. Expenses of county superintendents—office hours. The commissioners shall provide him with a suitable office at the county seat, and all necessary blank books, stationery, postage, expressage and other expenses of his office, not otherwise provided for, which last mentioned expenses shall be paid for from the county fund. He shall keep his office open for the transaction of official business such days each week as the duties of the office may require.

—*R. S.* 5886

Necessary expenses.

1. As to what might be considered necessary expenses other than those enumerated, would be a matter for the county commissioners to determine.

89. Deputy—how paid. If for any cause the superintendent is unable to attend to the duties of his office, he may appoint a deputy, who shall take the usual oath or affirmation of office, and who may exercise all the functions of county superintendent, but such deputy shall draw no salary from the public fund; Provided, That the superintendent may receive a per diem for the services of such deputy.
—R. S. 5879

Courts interfere with discretion of officer—when.

a. The statutes vest in the county superintendent of schools a large discretion as to the services necessary to be performed by him in discharge of his official duty, and when he renders an account of his services and mileage to the county commissioners made out and verified as required by law, no authority exists in the board to reject any item or charge upon inspection merely unless it clearly appears therefrom that such item is incorrect or illegal; and courts are not disposed to interfere with the exercise of mere discretionary authority as every reasonable intendment is made in favor of the acts of public officers who are sworn to perform their official duties correctly so long as they appear to be acting in good faith with due care and discretion and within the limits of their conceded powers.—*Smith v. Jefferson Co.*, 10 C. 17

Deputy county superintendent—pay.

b. There is no provision of law, except in counties of the first class, authorizing the payment of a deputy or assistant county superintendent, and the board of county commissioners have no discretion in the matter and cannot pay for such services from the county funds.—*El Paso Co. v. Finch*, 8 C. A. 401

Fractions of day not recognized.

c. The law does not recognize fractions of days, and where a public officer's compensation is fixed by a per diem for the time necessarily devoted to the duties of his office, such officer is entitled to the daily compensation for each day on which it becomes necessary to perform any substantial official service regardless of the time occupied.—*Smith v. Jefferson Co.*, 10 C. A. 17; *Garfield Co. v. White*, 16 C. A. 516

Deputy—compensation.

1. A county superintendent may employ some one to do the work incidental to his office, the person thus employed to be remunerated by the county superintendent, except that in counties of first class such assistant may be paid from county treasury.

2. Deputy county superintendents, except in counties of first class, can only receive a *per diem*, such as may be fixed by county superintendent and allowed by the county commissioners, and a failure to provide mileage leads to the conclusion that it was not intended that deputy superintendents should receive mileage at all.

3. A county superintendent of a county of the first class may employ a deputy, whose salary shall be fixed by the board of county commissioners, and who shall be paid from the county treasury.

Deputy not necessarily resident of county.

4. Since there is no statutory law requiring the deputy or a county superintendent to be a resident of such county where there is a joint district practically inaccessible to the county superintendent of the one county, but easy of access to the county superintendent of the other county, the latter can be appointed a deputy of the former for the purpose of visiting such school in compliance with the law.

90. Deputies and assistants of county superintendent—compensation. Deputies and assistants may be employed by the sheriffs, county clerks, county treasurers, county assessors and county superintendents of schools, under the direction of the board of county commissioners for said counties respectively, and clerks of the district court under direction of the judge of such court, and shall be paid salaries out of the fees, commissions and emoluments of the office wherein employed (except employes of county assessor and of county superintendent, who shall be paid out of the county treasury), the compensation and time of service to be fixed by the board, the selection of said deputies and employes to be made by the officer authorized to employ them; Provided,

That the provisions of this section relating to the county superintendents of schools shall apply only in counties of the first class.—*R. S.* 2580

Deputy not necessarily resident of county.

1. Since there is no statutory law requiring the deputy or a county superintendent to be a resident of such county, where there is a joint district practically inaccessible to the county superintendent of the one county, but easy of access to the county superintendent of the other county, the latter can be appointed a deputy of the former for the purpose of visiting such school in compliance with the law.

91. County superintendent's annual report. On the first Tuesday of September in each year, the county superintendent shall make a report to the superintendent of public instruction for the school year ending June 30 next preceding, which report shall contain an abstract of the reports made to him by district secretaries, and such other matters as the superintendent of public instruction may direct, and shall be in such form and upon such blanks as the superintendent of public instruction shall furnish. The county superintendent shall retain a copy of all such reports and file the same in his office.—*R. S.* 5880

92. Penalty for failure to report. If the county superintendent fails to make a full and correct report to the superintendent of public instruction, as provided by law, and shall, after written request or notice from the superintendent of public instruction, or from the board of county commissioners, delay more than ten days after the service of such notice to make such report, he shall forfeit the sum of one hundred dollars, which sum the board of county commissioners may deduct from any money due him; said forfeit may, however, be recovered by suit, upon his official bond.—*R. S.* 5882

93. Administer oaths. The county superintendent shall have power, and is hereby authorized, to administer oaths and affirmations to school directors, teachers and all other persons in official matters relating to schools; but shall receive no fee for so doing.—*R. S.* 5883

94. Duties of county superintendents. It shall be the duty of the county superintendent to exercise a careful supervision over the schools of his county, to visit each school at least once during each quarter it is in session, to see that all the provisions of this act are observed and followed by teachers and school officers; to examine the accounts of the district officers to see if such accounts are properly kept, and all district funds properly accounted for; to keep, in a good and substantial bound book, a record of his official acts, and of other matters required by law to be recorded; to obey the legal instructions and decisions of the superintendent of public instruction. He shall also keep a record of the registers, record books and order books furnished to the several districts of his county; and it shall be his duty to hold county teachers' associations whenever, in his judgment, the interests of the school work demand it; the records of the county superintendent's office shall be open to the inspection of any citizen of the county, and within one week from the close of each school year he shall publish in some newspaper published in the county, if there be such a paper, a statement of the apportionment of school funds for the year preceding.—*R. S.* 5881

County superintendents sue in official capacity.

a. County superintendents have the right to sue in their official capacity, and may maintain such actions as are necessary to the fulfillment of the duties of their offices;

and to this end may bring an action to restrain a board of directors from employing a teacher without a certificate.—*Catlin v. Christie*, 15 C. A. 291

Electors fix boundaries of new district.

b. After a petition to organize a new school district out of a portion of one or more old districts has been presented to the county superintendent, and he is determined that the school interests will be best promoted by such organization, the sole power to determine the organization of such district and the boundaries thereof is vested in the electors; and such a district cannot be organized, or its proposed or established boundaries changed by the board of directors, the county superintendent, or the state board of education.—*People v. VanHorn*, 20 C. A. 215

Sale of school house—when void.

1. A sale of a school house, unless authorized by vote of the electors of the district, is void and may be set aside in the proper proceedings instituted by any elector of the district or by the county superintendent.

Separate reports sent—to whom.

2. In a district where there are two schools, the district teachers should send in separate reports to the county superintendent and secretary.

County superintendent may teach.

3. There is nothing in the school law of this state to prevent a county superintendent from teaching in his county on account of his holding that office.

County superintendent not entitled to salary as secretary.

4. The law provides that the county superintendent shall be ex-officio a member and secretary of the county high school committee; and therefore, all services performed by him as said secretary is by virtue of his office of county superintendent and for which he is entitled to no further compensation than his salary as superintendent.

Duties.

5. It is necessary to publish the apportionment made to each district in some newspaper published in your county within one week of the close of each school year.

6. More than any other person, the county superintendent is the one to look after that portion of the school fund arising from fines, forfeitures, etc. (Section 177 herein.) He should examine the books of the county treas-

urers, records and fee books of justices of the peace and clerks of courts, to ascertain whether or not the fines have been collected, and if collected, whether they have been placed to the credit of the proper fund and paid over.

Can refuse examination papers from another county.

7. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county superintendent of another county, as this is a mere matter of comity.

Illegal expenditure of funds—protest—suit to recover.

8. Any elector of the district or the county superintendent of the county, through legal process, may prevent the board from paying out money as wages to a teacher when she does not possess the necessary certificate.

9. The county superintendent has the right and it is his duty to protest against the registering of a school warrant when he has reason to suspect fraud, and if he has proof of fraud in connection with the warrant, he has the same right as an elector of the district to bring proceedings to stop the payment of the warrant.

10. When funds are used in violation of the law, any elector of the district or any county superintendent has the right at any time after said funds have been so used, to bring suit to recover the same, the members of the school board that signed the illegal warrants being liable for the amount involved.

Powers.

11. The county superintendent's signature is of no legal value in drawing warrants.

12. As between school directors and the county superintendent, the latter has advisory powers only in arranging course of study, selection of books and grading of schools.

13. A county superintendent has the right to demand the resignation of any member of a school board who persistently violates the law, and the superintendent or any elector of the district has the right to institute proceedings for the same purpose, but the courts alone have power to remove such officer.

14. Where a county superintendent calls a county institute or teacher's association, he has not the right to rule that the district must pay the teacher the same as if she had taught school, although the school board has the right

to allow the teacher such time and pay her for it upon request of the county superintendent, but the authority in the matter rests with the district board.

15. The county superintendent is not authorized by law to apportion from the general school fund a per capita amount to a district high school for the pupils attending from other districts.

16. If the board of directors of a district refuse to grant a school, the county superintendent would have no power to compel it to do so.

17. If the school board is not informed as to cases of truancy, it is the duty of the county superintendent to take the matter up with the board.

18. It is not only the right but the duty of a county superintendent to visit the schools of a joint district. She would have equal right, in the criticism of the school, with the county superintendent in whose county the school house was located.

19. It is not within the power of the county superintendent to declare an election illegal, as it is the function of the courts to determine that matter.

20. The county superintendent cannot serve as a member of a school board, for the general rule of law is that one person can not hold two offices that are incompatible.

21. By section 195 herein, the county superintendent becomes ex-officio secretary of the county high school committee, and by section 207 becomes ex-officio a member of the union high school committees.

95. Appoint directors. The county superintendent shall appoint directors for any district which fails to elect, as provided in section 44, and shall fill vacancies that may occur in any board of directors by reason of death, removal from office or from the district, resignation or otherwise, except in the boards of directors of districts of the first class, and the officers so appointed shall hold office only until the ensuing regular election.—*R. S. 5884*

Note. Section 44 above referred to is section 142 herein.

Vacancies on board—how filled.

1. The appointment of persons to fill vacancies in districts of the second and third classes is solely with the

county superintendent. If a director is absent from his district 30 consecutive days, it is a valid reason for appointing his successor in office.

2. Where a division of a school district places a member of the school board in the new district it works a vacancy in the board of the old district, and does not make such person a member of the board in the new district. A full board must be chosen in the new district and all vacancies in the old district filled by appointment made by the county superintendent.

3. Vacancies in school boards of the second and third classes must be filled by appointment made by the county superintendent, and the person so appointed holds the position until the next annual school election.

First class districts.

4. The statutes give boards of directors of districts of the first class the entire authority to declare and fill vacancies, and with that authority, by necessary implication, goes the authority to declare vacancies, excluding the idea that a county superintendent may have that authority. The county superintendent has no right whatever to hold that a vacancy exists in the board of a district of the first class until such vacancy has been declared by the board itself, or by the courts.

Failure to hold annual election.

5. In case a school district has not held its annual meeting to elect officers and vote a tax and a special election is not called within ten days, it becomes the duty of the county superintendent to appoint to the vacant positions, and the duty of the county commissioner to levy the tax for the district. This is in accordance with the latter part of section 379 of the school law.

Director must reside in district.

6. The law requires that a person who desires to be a candidate for a school director must reside in the district, and it necessarily follows that, in order to remain such director after election, he must continue to reside therein; and when he permanently removes from his district, he ceases at that instant to be a director.

96. Boundaries of school districts—record—prepare maps. It shall be the duty of the county superintendent to ascertain the boundaries of each

school district in his county, and to make and keep a record of the same in a suitable bound book, which record shall show definitely the boundaries of each district. In case the boundaries are found to be conflicting or incorrectly described, he shall harmonize the same and make a report of such action to the board of school directors whose districts are affected thereby. District officers shall have access to such records for the purpose of examination, making copies, or for other legitimate purposes. The county superintendent shall prepare, or have prepared, a map of the county, showing the correct boundaries of the districts.—*R. S.* 5885

Recording boundaries ministerial duty.

a. The recording by the county superintendent of a description of the boundaries of a newly organized school district and preparing a map of the same is purely a ministerial duty, and may be enforced by a writ of mandamus.—*People v. VanHorn*, 20 C. A. 215

Boundaries of district.

1. District boundaries can only be established as specified in the school law; they cannot be fixed by agreement on the part of members of the school boards.

2. A county superintendent has not the right, after boundaries are established in a new district, to record "amended boundaries" for all the districts, upon his own motion, changing them from what they were at first.

97. County superintendent compare census list—ascertain number of blind and deaf mutes. The census list of the several districts shall be carefully examined and compared by the county superintendent, and if the name of the same person be found upon more than one list he shall strike said name from all lists except that of the district in which such person was residing in good faith on the 10th day of April (February) aforesaid. The residence

of an unmarried person of school age shall, in all cases, be held to be identical with the bona fide residence of the parent or guardian of such person; Provided, That such parent or guardian be a resident of the state. If the county superintendent find upon any census list the names of any persons who he believes were not residents in good faith of such district, as aforesaid, he shall notify the secretary certifying the list, and if said secretary shall not establish the correctness of the list within fifteen days after such notification, such names shall be stricken from the list. At the time of taking the annual census, the secretary shall use reasonable diligence to ascertain the number of blind and deaf mute persons resident in the district, between the ages of four and twenty-two years, with the name and postoffice address of each. Said items shall be embodied in his annual report to the county superintendent.—*R. S.* 5939

Note. Time of taking census changed to February by section 115 herein.

Note. County superintendents report on June 1 in each year to superintendent of school for deaf and blind the names of persons in their counties entitled to admission to such school, section 277.

Note. Census defined, section 242.

Residence defined.

1. The word "residing," as used in section 240, has reference to a permanent residence, and a person's permanent residence is his voting place.

2. If persons spend the winter in town, voting in the town in the fall and return to their homes in another district less than thirty days previous to a school election, they are not entitled to vote.

3. That place is considered the residence of a person in which his habitation is fixed, and to which, whenever absent, he has the intention of returning; so a person should not be held to have lost his residence on account of leaving

home and going into another county or state for temporary purposes merely, with the intention of returning.

4. Residence under the school law means a person's real home, not a temporary abiding place; and when people move into a town with children at the beginning of school, expecting to return to their former home at the close, they cannot claim residence, and the school board has a right to charge tuition.

5. If a family move into a school district for school purposes, and during the school year remove therefrom, they are not residents of such district, within the meaning of the school law.

6. If a person is holding a homestead claim in good faith, his residence is in the school district in which the homestead is located.

7. The fact that a person pays taxes in two counties does not give him the right to send children to school in both counties; as a person's residence can only be in one place, the permanent home determines the proper school district.

8. It would not be legal to enroll the persons of school age belonging to the state industrial school in Jefferson county upon the census lists of the school districts where the schools are located, providing such persons have a residence elsewhere. The names of such persons would appear upon the census lists and would draw from the general school fund for the benefit of the districts in which is their true residence, and the state makes its own special provision for the education of such persons in the industrial schools.

Children's residence, where.

9. In the case of a family residing in good faith upon a homestead on the 10th day of February, for the purpose of proving up on the same, the children of school age should be listed in the district in which the homestead is located, although the family, for the purpose of attending school, may reside during school months in another district. However, if the parents vote in the latter district, they are not residing upon the homestead in good faith, and in such case the children should be listed in the district where the parents vote.

10. If the mother votes in a certain district, living there with the children, that would be her residence, and the children should be enrolled in such district.

11. In the case of families living in one school district, but sending children to school in another district, the chil-

dren must be listed to the district in which the parents reside.

12. A child who is living with a *bona fide* resident of a district, and dependent upon such resident for a living, is entitled to attend school in such district free, though the parents of such child are living in another district.

13. If parents own no home in a particular district, but rent while the children go to school, and return to a ranch which they own in another district as soon as school is out, the district in which the ranch is located should enroll the children upon the census list.

Minor's residence, where.

14. An unmarried person under twenty-one can claim residence where the parents reside, whether absent from home at school or at work.

15. An emancipated minor has a right to declare his residence, and is entitled to all the school privileges of the district of which he is a *bona fide* resident.

16. Deaf mutes and blind persons between the ages of six and twenty-one should be included in the school census.

Renter's residence, where.

17. If renters renting by the year, and having no other home, send children to school, the district in which they are residing in a rented house should enroll the children.

18. If renters rent by the month, leaving when school is out, and having a fixed home elsewhere, the children should be enrolled in the district where the fixed home is located; but if they have no home elsewhere, although leaving when school is out, the children should be enrolled in the district where they rent.

Retain residence, how.

19. A person may retain his residence in a district if, at the time of leaving the district, it was his intention to return.

98. Apportionment of county school fund. The county superintendent shall apportion the general school fund of the county among the several school districts in accordance with the provisions of sections seventy-two and seventy-three of this chapter, quarterly, to-wit: On the first Monday in January, April, July and October, in each year, and he may

apportion the same at other times if there be sufficient money in the treasury to require it. He shall certify each apportionment promptly to the county treasurer, and shall also notify the secretary of each district of the amount placed to the credit of his district.—*R. S. 5888*

Note. Sections 72 and 73 above referred to are sections 99 and 100 herein.

Counties own general fund until when.

a. The counties, and not the school districts, are owners of the general school fund until, at least, it is accredited to the several districts.—*Cooke v. School Dist.*, 12 C. 453

Transfer of funds.

1. If territory is added to a district after the annual census has been taken, the names of persons of school age residing therein should be added to the census list and the district given its per capita for such additional names.

Basis of apportionment.

2. According to the school law the county superintendent apportions the general fund among the districts according to the number of persons of school age, as shown by the census lists and reports of the districts for the school year immediately preceding, and what the per capita will be depends upon the amount of funds in the treasury and the number of children within your county.

99. Apportionment of school fund—basis. In apportioning the general fund, as directed in section nineteen of this chapter, the county superintendent shall base the July apportionment, in each year, on the census lists and reports of the secretaries of the several districts for the school year next preceding, and he shall base all apportionments on said lists and reports for a period of one year, except in the case of the apportionment to new districts, as provided in section thirty-two of this chapter.—*R. S. 5889*

Note. Sections 19 and 32 above referred to are sections 98 and 140 herein.

For new district.

1. In regard to the distribution of funds upon the creation of a new district, a ruling or decision of the county superintendent should be taken thereon, and if interested parties are not satisfied an appeal can be taken, as provided in the school law.

100. Apportionment according to number of school age. The county superintendent shall apportion the funds aforesaid among the districts entitled to the same, according to the number of persons of school age, as shown by the census lists and reports of the several districts for the school year immediately preceding, as provided in section seventy-two.—*R. S. 5890*

Note. Section 72 above referred to is section 99 herein.

Apportionment in case of removal.

1. The laws do not permit the transfer of the per capita in case of pupils being listed in one district and immediately moving to an adjoining district.

COUNTY TREASURER

101. Duties of county treasurer. It is hereby made the duty of the county treasurer in each county, to keep a separate account with each school district in his county, to place to the credit of each the amount of money as certified to by the county superintendent, as provided in section nineteen, and to pay over the money so collected, upon the presentation of the legally-drawn warrants or orders of the district officers entitled to draw the same; Provided, That if the county superintendent shall notify the county treasurer, in writing, that there has been a failure on the part of any board of directors to comply with the law, and that said money should be withheld from said board of directors, he shall retain the same until further notice from the county superintendent; on or before the 5th day of July in each year, he shall render, to the county superintendent of schools, a statement of the receipts and disbursements on account of the several districts, of all the school funds which have passed through his hands during the school year next preceding, and at the same time he shall render to each district secretary a statement of receipts and disbursements of such district. All money which shall become forfeited by any district shall be put into the general school fund, and be re-apportioned as other moneys.

—R. S. 5900

Note. Fees for collecting taxes, section 109 herein.

Note. Report fines collected, section 151 herein.

Note. Section 19 above referred to is section 98 herein.

Counties own general fund until when.

a. The counties, and not the school districts, are owners of the general school fund until at least it is accredited to the several districts—*Cooke v. School District*, 12 C. 453

Legal custodian of school funds.

1. The county treasurer is the only legal custodian of the school funds. The district treasurer has no legal right to hold in his possession any of the general, special or bond fund, nor have the directors of a school district any legal right to issue orders on the county treasurer, except in favor of those parties to whom the district is legally indebted. In the payment of school bonds, the district treasurer has control of the funds only during the times of advertising and subsequent payment.

2. Funds of first class districts must remain in the hands of the county treasurer and be drawn upon through warrants made out by the district board, as in districts of the third class. The law makes no provisions for the handling of the funds.

Keep account school funds.

3. The law does not require the county treasurer to keep several accounts of the special fund of a district.

4. A county treasurer can legally pay only such warrants as are issued against the school fund of the current year.

5. All moneys remaining to the credit of any district on June 30 should remain to the credit of such district and can not be turned into the general school fund of the county for reapportionment.

Penalties—fines.

6. As a rule the money for schools derived from fines, penalties, etc., should be turned into the general school fund of the county unless otherwise expressly provided by statute, rather than into that of a particular district; although fines assessed by justices of the peace may, in some cases, go to the credit of the school district in which the action occurred.

7. The county treasurer is responsible if moneys are turned into the wrong fund by him. It is his duty to place money collected from fines, forfeitures, etc., to the fund designated by law.

102. County treasurer certify moneys to county superintendent—pay over—failure—penalty. The county treasurer shall, on or before the first day of January, April, July and October, of each year, certify the amount of said tax which shall have been collected, and the amount of any other county school money, then in the county treasury, to the county superintendent, and shall render him a statement of the amount uncollected. The amount unpaid shall be collected at any subsequent time, as delinquent taxes, are collected, and shall be certified to the county superintendent, as aforesaid. Should the treasurer fail at any time to pay over the tax, as herein provided, he shall forfeit the sum of one hundred dollars, and double damages, to be collected on his official bond; suit to be brought by the county superintendent, for the benefit of his county [school fund].—*R. S.* 5899

Note. County treasurer pay school warrants or orders, sections 100, 101, 103.

103. Treasurer keeps separate accounts—warrants. It shall be the duty of the county treasurer to open and keep separate accounts with each school district in his county, and hold the funds of each district, subject to the legal warrants of the president, as provided by section 53 of this chapter. If the legal warrant of any school district in his county be presented to the county treasurer when there are no funds in his hands to the credit of the district fund against which the warrant is drawn, he shall endorse such warrant "No funds," and said warrant shall draw interest from the date of such endorsement at the same rate as county warrants in like condition. The treasurer shall keep

a list of all warrants so endorsed, and shall pay them whenever there is sufficient money to the credit of the proper fund in the order of such endorsement. The interest on such warrants shall stop when the treasurer shall give notice that he has funds to pay the same; Provided, It shall not be lawful for the officers of any district to issue warrants at any time in an amount in excess of the tax levy for the current year.—*R. S. 5901*

Note. Duties of county treasurer, in matters of school funds, section 101.

Note. See following section as to time of payment.

Note. Section 53 above referred to is section 114 herein.

Legal notice.

1. A legal notice, under this section, is a publication for twenty days in some newspaper, published at the county seat of such county.

Warrants.

2. The total amount of school warrants issued must not exceed the amount of tax levy for the current year. The "current year" is identical with the fiscal year, beginning December 1st and ending November 30th. Warrants in excess of revenue for current year are void.

3. "It shall not be lawful for the officers of the district to issue warrants at any time in any amount in excess of the tax levy for the current year."

4. The words "tax levy" must be construed to mean "the revenue of the district," including the county fund, the state fund and the fees derived from fines and penalties.

5. If a school district, on account of some unforeseen casualty or expense, or for some unexpected failure of revenue, should incur an expense in excess of the revenue, it would be its duty to levy a sufficient amount of tax the following year to pay such indebtedness, in addition to its expenses for said year.

6. "No warrants can be issued in excess of the revenue, but a certificate of indebtedness should be issued, payable out of the revenues of the succeeding year, and it would be the duty of the board during the succeeding year to draw a warrant for its payment."

7. When school district warrants are sold at a bank or elsewhere and a discount is charged, the holder of the warrant must bear the loss. It is not legal for the school board to make up the discount.

8. In regard to the method of raising money to build a school building, the law prohibits the issuing of warrants in excess of the revenues of the district for the current year; therefore an arrangement for issuing warrants payable in one, two and three years, the qualified voters to vote a levy to be collected in one, two and three years to pay the warrants, would not be legal. The voters have no authority to vote a levy except for the current year.

9. A teacher having agreed upon a stipulated salary, can receive the same only by warrants drawn by the district secretary and must take them for what they are worth. It would not be proper for the board to make up any discount thereon by an additional warrant. The board might however increase the salary at a regular meeting so as to cover such deficiency.

10. A county treasurer can legally pay only such warrants as are issued against the school fund of the current year.

104. County treasurer cancel all paid school orders. That it shall be the duty of county treasurers to cancel all paid school orders, with a proper cancelling stamp, showing the date of payment.
—R. S. 5902

School orders cancelled when paid.

1. Sections 108 and 118 herein provide that school orders, when paid by the county treasurer, shall be stamped as cancelled and returned to the school district treasurer, who shall send with the same the proper blank upon which due receipt may be made.

105. County treasurer render quarterly statement to school board. That it shall be the duty of county treasurers to render to the secretary of each board of school directors, quarterly, an itemized statement of account of their respective district, showing:

(a) The numbers and amounts of all orders paid and charged against the accounts of the respective districts;

(b) The amounts of money received and credited to the accounts of the respective districts;

(c) The balance due said district at the end of each quarter.—*R. S. 5903*

106. Pay school orders as registered. It shall be the duty of the county treasurer of each county in this state, when there are sufficient funds to the credit of any school district, or to the credit of any school fund of any such district, to pay in full the principal and interest of any orders which may be on such fund, in the order of their registration, and if at any time there shall be \$200 in the hands of such treasurer, to the credit of any such fund, it shall be his duty to cause to be published in some newspaper, published at the county seat of such county, for twenty days, a notice that certain school orders (describing same by numbers and amounts) will be paid upon presentation, and at the expiration of said twenty days' advertisement such orders shall cease to bear interest.—*R. S. 1326*

107. County treasurer furnish blanks to district board. That the said county treasurers shall enclose with each quarterly statement, a proper blank upon which the secretary of each respective board of directors may report to their county treasurer that said canceled orders and statements have been received and found correct.—*R. S. 5904*

108. Failure to publish call—penalty. Whenever the treasurer of the state of any county, city, town or school district shall have in his hands any

moneys applicable to the payment of any state, city, town, county or school district warrant, and shall fail or neglect for thirty days to publish a call as provided by law for the presentation and payment of warrants, he shall be deemed guilty of a misdemeanor and, upon conviction, shall be liable to a fine not less than ten nor more than three hundred dollars.—*R. S.* 1826

109. Treasurer's fees—school taxes. The county treasurer shall charge and receive the following fees and commissions: * * * * *

Upon all school taxes in counties of the first class, one per cent.; in counties of the second class, one per cent.; in counties of every other class, one per cent. on school taxes, and two per cent. on town and city taxes. * * * —*R. S.* 2537

DIRECTORS

110. **Directors—classification of districts—election.** There shall be elected in each school district in the manner prescribed by statute a board of directors. The number of members that shall constitute such board of directors shall be determined as follows: The school districts shall be classified into first, second and third classes. Districts containing a school population of one thousand or more shall be denominated districts of the first class; districts containing a school population of less than one thousand and more than three hundred and fifty shall be denominated districts of the second class; and districts containing a school population of three hundred and fifty or less shall be denominated districts of the third class.

At the regular election in 1913, as provided by statute, and every six years thereafter, there shall be elected by ballot in all districts of the first class, two directors; and at the regular election in 1915, and every six years thereafter, two directors; at the regular election in 1917 and every six years thereafter, one director. The term of office of all directors in said school districts of the first class shall be six years and until their respective successors shall have been elected and qualified.

Boards of directors and boards of education of districts of the first class shall, at the first meeting after such election, elect a president, a secretary and a treasurer, each of whom shall hold office for the term of two years, and until their respective

successors are elected and qualified; Provided, That in districts of the first class the president shall be a member of the board. The secretary and treasurer may or may not be members of the board.

In districts of the second and third classes the board shall consist of three directors, a president, a secretary, and a treasurer, one of whom shall be elected annually for a term of three years on the first Monday in May, and notice for such election when posted shall specify the name of the office to be filled and the length of term; Provided, That, at all school elections held after the passage of this act, the length of term shall be so specified that the term of the president shall expire in 1914 and every three years thereafter; that of the treasurer shall expire in 1915 and every three years thereafter; and that of the secretary shall expire in 1916 and every three years thereafter.

In districts of the first class and second class the boards, after organization, shall exercise all the power given to the electors of school districts of the third class as specified in section 5955 of the Revised Statutes of the State of Colorado of 1908.—*S. L. '11*, p. 587

Note. Section 5955 above referred to is section 148 herein.

Note. "No person except a qualified elector shall be elected to any civil or military office in the state."—*Colo. Const.*, Art. VII, § 6.

First class districts—directors—when elected.

Note. Section 142 herein provides that the regular election for electing members of school boards in first class districts shall be held biennially on the first Monday in May, 1911, and section 110 provides that at the regular election in 1913, and every six years thereafter, there shall be elected two directors; in 1915, and every six years thereafter, two directors; in 1917, and every six years thereafter, one director; and that the terms of office of all directors of first class districts shall be six years. This

means that the vacancy occurring by the expiration of the present five-year-term director, expiring in 1912, must be filled by the board until the regular election of 1913, at which time another five-year term will have expired. Two directors can then be elected for six years, in accordance with present law. In 1914 another five-year term expires, to be filled by the board until the regular election of 1915, when another expires, and two members can be elected for six years. In 1916 the last five-year term expires, and the vacancy must be filled until the regular election of 1917, when the fifth member of the board is elected for six years.

Directors—second and third class districts—election.

Note. Prior to the enactment of section 110 herein second and third class districts were grouped under three general heads, on account of the fact that like officers were elected in different years. This classification will no longer exist after 1913, as the present law provides that the term of the president in all second and third class districts shall expire in 1914; that of the treasurer in 1915, and that of secretary in 1916. Until the election of 1914, however, the various officers should be elected in the different groups at the general school election in the years and for the periods of time, as follows:

In the first group, organized prior to March 20, 1877, in 1912, a president for two years; if a vacancy in office of treasurer, a treasurer for three years; if a vacancy in office of secretary, a secretary for one year. In 1913, a treasurer for two years; if a vacancy in office of president, a president for one year; if a vacancy in office of secretary, a secretary for three years.

In the second group, organized between March 20, 1877, and April 4, 1887, in 1912, a secretary for one year; if a vacancy exists in office of president, a president for two years; if a vacancy in office of treasurer, a treasurer for three years: In 1913, a president for one year; if a vacancy in office of treasurer, a treasurer for two years; if a vacancy in office of secretary, a secretary for three years.

In the third group, organized since April 4, 1887, in 1912, a treasurer for three years; if a vacancy in office of secretary, a secretary for one year; if a vacancy in office of president, a president for two years: In 1913, a secretary for three years; if a vacancy exists in office of president, a president for one year; if a vacancy in office of treasurer, a treasurer for two years.

In new districts a board elected at other than a general election holds over until the regular election, at which time a president shall be elected whose term expires in 1914, a treasurer whose term expires in 1915. If such regular election is in 1912, a secretary for one year only; but if such election is in

1913 or later, a secretary should be elected whose term expires in 1916, or every three years thereafter.

Mandamus against school district.

a. In an action of mandamus against a school district and the individual directors to compel them to admit petitioner to the office of director, to which he claims to have been elected, the school district has no interest in the controversy and is not injured by the judgment in petitioner's favor.—*School District v. Flanigan*, 28 C. 431.

Director—who may become.

1. The length of residence required in Colorado to constitute eligibility to the office of school director is twelve months.

2. The fact that an elector is not a taxpayer does not disqualify him from holding office, either by election or by appointment.

3. The fact that two members of a school board are of one family, and the further fact that another member became a resident of the district for the sole purpose of becoming an officer, so long as he is an actual resident, would not affect the regularity of the organization of the board.

4. There is nothing in the laws of Colorado to prevent a person who fills the office of district judge from also filling that of school director, the two offices belonging to an entirely different class.

5. The mayor of a town may also legally hold the office of school director, inasmuch as the duties of mayor and school director do not conflict.

6. The county superintendent cannot serve as a member of a school board; for the general rule of law is that one person cannot hold two offices that are incompatible.

No vice-president authorized.

7. There is no provision of law authorizing the election of a vice-president in any class district.

Witness fees not allowed.

8. School directors are not legally entitled to witness fees in a case where the district is a party.

Secretary and treasurer—offices distinct.

9. The law makes distinct specifications in regard to the separate offices of secretary and treasurer in a first class district, making those offices as distinct as in third class district, where different persons must be elected as to the two offices. The business of the district could not

be legally transacted with one person acting in the two capacities.

111. Directors qualify within twenty days—vacancies—treasurer's bond and report—oath of office
The directors shall each, within twenty days after his or her election, appear before some officer authorized to administer oaths, and take oath that he or she will faithfully perform the duties of his or her office required by law, which oath shall be filed with the county superintendent; and, in case of failure so to qualify, his or her office shall be deemed vacant, and the county superintendent shall appoint a suitable person, who shall qualify immediately. If the amount of money liable to come into the hands of the treasurer, in the discharge of his official duties, exceed twenty dollars at any one time, he shall be required to give bond in double the amount of money liable to come into his hands, said bond to be approved by, and filed with, the county superintendent. The directors-elect shall take office immediately after qualifying, as aforesaid; Provided, That any district treasurer, who shall refuse to give bond as above, when required to do so by the other members of the board, shall be disqualified from receiving any money on district account until a satisfactory bond is executed. The oath of office required in this section may be administered by a president of a school board; and it is hereby made the duty of the district treasurer of all first class districts to publish, semi-annually, in some newspaper published within the county wherein such district may be located, a complete and full report of all receipts and expenditures of the said district's funds.—*R. S.* 5922

Oath of directors.

1. All school directors are required by law to file an oath of office with the county superintendent. This applies to all districts in Colorado, including those organized in cities existing under a special charter.

2. The term of office of a school director does not extend until his successor is duly elected and qualified, but expires with the annual school election day at the close of the term for which he was elected or appointed.

3. Failure of a school director to file oath within the time required by law does not create a vacancy in the office; *Provided*, he has taken the required oath before the proper officer within the required time.

4. The secretary of a school district of the second or third class cannot administer the oath of office to the president. The oath may be administered by the president of any school board, or by the county superintendent and, of course, by any person such as notary public, justice of the peace, etc., qualified by law to administer oaths.

5. It is lawful for a president of one school district to administer the oath of office to the board of another school district.

Directors qualify in twenty days.

6. The law provides that the directors shall qualify within twenty days after their election, and as there is no provision that directors who are elected to succeed themselves shall not file a new oath of office, such oath should be filed.

7. A person elected to the office of director of a school district cannot legally qualify after the expiration of twenty days from election. By operation of the law, in case of failure of the director-elect to qualify within twenty days, the office becomes vacant, and the county superintendent should fill the vacancy.

Vacancies—how filled.

8. Vacancies in the board of directors in districts of the second or third class, through failure to qualify, or through absence from the district, death, resignation, removal or otherwise, are to be filled by appointment of the county superintendent until the ensuing regular election, at which time the vacancies shall be filled for the unexpired terms, not for regular full terms.

9. To fill a vacancy on the school board in a joint district, the county superintendents of such district should

confer, since their duties are joint and equal in such district, and appoint as a member of the board some one living in the district who would prove satisfactory to both counties.

Bond of directors.

10. A county superintendent is the proper person to approve of the official bond of a school director, and if a person elected to that office cannot give a satisfactory bond, it works a vacancy in the board after twenty days from his election.

11. A county superintendent has authority to require a district treasurer to give bond in double the amount of money liable to come into his hands, if such amount exceeds twenty dollars.

Directors must reside in district.

12. The law requires that a person who desires to be a candidate for a school director must reside in the district, and it necessarily follows that in order to remain such director, after election he must continue to reside therein, and when he permanently removes from the district he ceases at that instant to be a director.

112. Regular meetings of board—special—adjourned. The regular meeting of each board shall be held on the last Saturday of March, June, September and December. The board may, however, hold such other regular, special or adjourned meetings as they may from time to time determine, or as may be specified in their by-laws.—*R. S. 5923*

Meeting place—notice of meeting.

1. If the school board chose to revoke its rules concerning the place where a school meeting must be held, it would have a right to do so.

2. A meeting of a school board cannot be properly held unless reasonable notice has been given to all members.

SPECIAL DISTRICT MEETINGS.

113. Special meetings in districts of third class. In any district of the third class, the board of directors may at any time call a special meeting of

the electors of such district, for any of the purposes specified in section sixty-two of this act, and it shall be their duty to call such meeting if petitioned so to do by ten legal voters of the district. Notices, specifying the time, place and object of such meeting, shall be posted in three public places, one of which shall be at the place of meeting, at least twenty days prior to the time of holding such meeting.--R. S. 5954

Note. Classes of districts—election of directors, section 110.

Note. Section 62 above referred to is section 148 herein.

Purpose of meeting.

1. The above section provides relief for electors in case the board fails to make necessary provision for the school.

2. The question of whether two or more contiguous school districts shall unite may be voted on at the annual school meeting in May, provided the necessary notice for a special be given—that is, notices stating the purpose of the meeting must be posted at least twenty days before such annual meeting; and the notices for the annual meeting will be sufficient if, in addition to the notice of the election, a statement that the question of uniting with such contiguous district or districts will be voted upon.

3. It is illegal to transact any business at a special meeting, except that for which such meeting was called.

4. The location of a school house is for no definite time. A vote may be taken on the question of moving the school house as often as a meeting for the purpose can be legally called.

5. It is illegal for two members of the board to transact business that has not been decided upon at a regular or special meeting of the board. If the specifications in regard to the digging of the well were definitely stated at a regular or special meeting, it would be necessary to call another meeting of the board to change those specifications.

6. If a special school meeting has been legally called in a school district for the purpose of voting upon any question or questions mentioned in said notice, a majority vote of those present decides the matter submitted.

Notice of special meetings.

7. The law provides that notices specifying the time, place and object of special meeting shall be posted in three public places, one of which shall be at the place of meeting, at least twenty days prior to the time of holding such meeting. This does not apply however to special elections for election of directors, the latter being governed by section 110 herein.

8. A notice calling a special meeting is legal, even though the date of the notice has been omitted, if the notice has been posted the required number of days.

9. More than one question can be voted upon at a special meeting of the electors of a third class school district; *Provided*, Each question is separately stated in the notice of such meeting.

Who may call.

10. At a regular meeting of a school board, two members of said board, constituting a quorum, can legally call a special meeting.

Valid though not reported to county superintendent.

11. In the case of a special meeting legally held the business there transacted would not be invalidated through the failure of the secretary to send a formal report to the county superintendent of the business thus transacted, although it is the duty of the secretary to send such a report.

Taxes—when illegal.

12. In the call or notice of special or annual school meeting it is illegal to specify the amount of a proposed levy and to require electors to vote for or against the levy thus proposed, without discussion or amendment.

114. President sign orders—appear in suits—absence—vacancies. The president, when present, shall preside at all meetings of the board and of the district; shall sign all orders on the county treasurer for the payment of money; *Provided*, That no orders shall be drawn upon the county treasurer except in favor of parties to whom the district has become lawfully indebted. He shall appear in behalf of his district in all suits brought by or against

the same, but when he is individually interested, this duty shall be performed by the secretary, and in the absence of the president the secretary shall preside at board and district meetings. Absence from the district of any school officer, when prolonged beyond thirty consecutive days, may be held to work a vacancy in said office, which may be filled according to law.—*R. S.* 5934

Secretary execute appeal bond.

a. The provision that the president of a school board shall appear in behalf of the district in all suits, does not prevent a secretary from executing an appeal bond, as a district may designate other agents than the president.—*School Dist. v. Erskin*, 1 C. 367

Auditing of bills against district.

1. The auditing of bills against a school district must be performed by the board of directors at a meeting thereof, and vouchers or warrants issued for the payment of such bills are legal only when issued by a vote of a majority of the board at such meeting and signed by the president.

District warrants.

2. When school district warrants are sold at a bank or elsewhere and a discount is charged, the holder of the warrant must bear the loss.

3. A teacher, having accepted a stipulated salary, can receive that salary only by warrants drawn by the district secretary, and takes them at their face value. It would not be proper for the board to simply supplement, by an additional warrant, the shrinkage of irregular warrants on account of the discount in the market. The deficit may be made good by the board, at a regular meeting, voting to advance the salary so as to cover the shrinkage in value of the depreciated warrants.

4. A warrant sent to, and receiving the signature of, a director while absent from the state is legal.

Suits against district.

5. If a suit is brought against a district, it is the duty of the directors to defend it and to employ an attorney if necessary, who may be paid from the district's funds; but if the suit is against the board of directors, or any of them,

for failure to comply with the law, any cost for defense must not be charged against the district.

Vacancies.

6. Vacancies in the board of directors in districts of the second or third class, through failure to qualify, or through absence from the district, death, resignation, removal or otherwise, are to be filled by appointment of the county superintendent until the ensuing regular election, at which time the vacancies shall be filled for the unexpired terms, not for regular full terms.

7. Absence from the district of any school officer when prolonged beyond thirty consecutive days may be held to work a vacancy in said office and gives the county superintendent a right to appoint some one else in his place. The fact that his absence was unavoidable and that his family remain in the district does not change the condition.

8. If a director is absent from a district for thirty days, no matter whether he still retains his residence in the district and expects to return to the district, the county superintendent should appoint a person to fill his place, if he considers that the educational interests of the district suffer through the absence of the original director.

9. When a school director of a third class district removes his family from the district, going with them himself, but retaining his postoffice address in the district and coming into said district once in thirty days only, he ceases to be a *bona fide* resident of such district and his office becomes vacant.

10. If the director has permanently removed from the district, and the county superintendent refuses to declare a vacancy, or appoint a successor, such action by the board or county superintendent could be appealed to the state board of education as in other cases.

115. Duties of secretary—bond. Before entering upon the duties of his office, the secretary shall execute a bond, with two securities, in the penal sum of five hundred dollars in districts of the first and second classes, and the penal sum of one hundred dollars in districts of the third class, conditioned upon the faithful discharge of his official duties and the delivery of all district property pertaining to his office over to his successor, within

ten days after a demand is made for the same by a qualified successor, said bond to be approved by and filed with the county superintendent. The secretary shall record all proceedings of the board and of district meetings in a book, or books, kept for that purpose; shall preserve copies of all reports made to the state or county superintendent; shall file all papers transmitted to him by other school officers pertaining to the business of the district; shall draw and countersign all warrants or orders issued by the board; shall keep a register or stub of all orders drawn, showing the number of the order, date, amount, in whose favor and for what purpose drawn. Immediately after the election of one or more directors according to law, he shall transmit to the county superintendent a statement giving the name and post office address of the president, secretary and treasurer, respectively, of the boards of directors. Between the tenth day of February and the first day of March, in each year, the secretary, or some person, authorized by him, shall take a census of all persons over six years and under twenty-one years of age who were bona fide residents of the district on the tenth day of February aforesaid. The names so listed shall be arranged alphabetically, and be so classified as to distinguish between male and female. The census list shall be sworn to as correct by the person taking the same, and, if such person be other than the secretary, shall be certified by the secretary, and shall be forwarded to the county superintendent on or before the first day of April of the current school year. In districts of first and second classes a copy

shall be delivered to the principal teacher, or superintendent of the district, and in all cases a copy shall be retained in the office of the secretary.—*S. L. '11*, p. 577

Census showing one thousand—directors—election—appointment.

Note. That portion of section 129 of the School Laws Annotated included in brackets has been amended by implication by sections 110 and 142 herein, so that, in case the census of 1912 should show a thousand or more children of school age in a second class district, it would be the duty of the two hold-over members on the first Monday in May to appoint three members of the board to serve until the regular election of 1913, at which time two members shall be elected for six years, one member for four years and one member for two years. In case the census showed such number of children in 1913, then two members shall be elected for six years and one for four years. If such showing were made in 1914, then three members should be appointed until the regular election of 1915; and then and thereafter the same procedure as above should be followed, and all vacancies occurring in even years should be filled only until the next regular biennial election, and then elected in numbers and for periods of time to correspond with the provisions of section 110 herein.

Duties of secretary.

1. The secretary is the proper custodian of the books, papers and documents of a district school board, and is the one authorized to draw all warrants issued by the board, these to be countersigned by the president and treasurer.
2. It is not the duty of the secretary of the board to draw a warrant unless the order for such warrant appears upon the written records of the board.
3. If a secretary of a school board should falsify his records, he would violate his bond.

Census list.

4. The census list may be sworn to before any officer authorized to administer oaths.
5. The names of all persons of school age must be included in the census. The law makes no exception in regard to married persons.
6. Regarding the census list sworn to be correct by the secretary of the school board, there is no alternative but to accept the same unless the matter is taken into court and a false affidavit was proved.

Residence in district—how determined.

7. The fact that the head of a family pays a tax in a certain school district does not of itself give his children the privileges of the school in that district.

8. Children may attend school free of charge only in the district in which their parents or guardians are *bona fide* residents.

9. If the home of a family is certified to be in a district, and if the children have been listed upon the school census of that district, the children would have the right to attend the school without tuition, even if the family spends a large part of the year elsewhere. In the case of pupils attending before the family moves into the district for the winter, the same rule would apply.

10. If the home of a family is certified to be in a district, and if the children have been listed upon the school census of that district, the children would not have the right to attend in another district, without paying tuition.

11. An emancipated minor has a right to declare his residence, and is entitled to all the school privileges of the district of which he is, *bona fide*, a resident.

12. In the case of families living in one school district, but sending children to school in another district, the children must be listed in the district in which the parents reside, and not in the district in which they attend school.

13. Where a family resides regularly a part of the year in one district and a part of the year in another, the residence for school purposes should be the one held in good faith on the 10th day of February.

14. That place shall be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

15. A person shall not be considered or held to have lost his residence who shall leave his home and go into another state or territory or county of this state for temporary purposes merely, with the intention of returning.

16. A non-resident of a school district is one whose permanent dwelling place is not within the boundaries of that district.

17. The residence of a minor is the residence of his parents or guardian.

18. If a family move into a school district for school purposes and during the school year remove therefrom, they are not residents of such district, within the meaning of the school law.

19. A person may retain his residence in a district, if, at the time of leaving the district, it was his intention to return.

20. The word "residing," as used in the school law, has reference to a permanent residence.

21. An unmarried person under twenty-one can claim residence where the parents reside, whether absent from home, at school or at work.

22. Every unmarried person under twenty-one is entitled to draw school money.

23. The fact that a person pays taxes in two counties does not give him the right to send children to school in both counties in which the taxes are paid: as a person's residence can only be in one place, and the permanent home determines the proper district.

24. Residence under the school law means a person's real home, not a temporary abiding place; and when people move into a town with children at the beginning of school, expecting to return to their former home at the close, they cannot claim residence, and the school board has a right to charge tuition.

25. A child who is living with a *bona fide* resident of a district and dependent upon such resident for a living is entitled to attend school in such district free, though the parents of such child are living in another district.

26. If parents own no home in a particular district, but rent while the children go to school there, and return to a ranch which they own in another district as soon as school is out, the district in which the ranch is located should enroll the children upon the census list.

27. If renters renting by the year and having no other home send children to school, the district in which they are residing in a rented house should enroll the children.

28. If renters rent by the month, leaving when school is out, and having a fixed home elsewhere, the children should be enrolled in the district where the fixed home is located; but if they have no home elsewhere, although leaving when school is out; the children should be enrolled in the district where they rent.

29. If the mother votes in a certain district, living there with the children, that would be her residence and the children should be enrolled in such district.

30. A person of school age cannot be enrolled in the school census of a district in which he does not reside, though his father is employed and boards in said district and claims his residence therein, when it appears that such

person of school age has never actually been in said district and when he actually lives in a foreign country or state or when he is properly enrolled in any other school district in this state.

31. It would not be legal to enroll the persons of school age belonging to the state industrial school in Jefferson county upon the census lists of the school district or districts where the school is located, providing such persons have a residence elsewhere. The names of such persons would appear upon the census lists and would draw from the general school fund for the benefit of the districts in which is their true residence, and the state makes its own special provision for the education of such persons in the industrial schools.

32. If the married woman referred to owns a home in the district, pays taxes on the same, and makes her home there during the greater portion of the year and has her children on the census list, she is entitled to send her children to the school in that district without paying tuition, although her husband may live on a farm in another district.

33. Indian children of school age, living within the boundaries of a school district, should be included in the census list, but Indian children attending the Indian school should not be included in the district in which the Indian school is located, but in the districts in which their parents live.

Census of deaf and blind.

34. Deaf mutes and blind persons between the ages of six and twenty-one should be included in the school census.

Annexed territory—census.

35. If territory is added to a district after the annual census of that district has been taken, the names of persons of school age residing in the annexed territory should be added to the census list of the enlarged district and the latter given its per capita for the total number.

Apportionment of school fund based on census.

36. The apportionment of the general school fund for the year beginning July 1st annually is based on the census list prepared, taken between the 10th day of February and 1st of April preceding, and there is no exception to this rule, except in case of formation of new districts; nor is there any provision whereby this fund can be transferred

from one district to another after said census has been taken.

116. Further duties of secretary—report. The secretary shall keep an accurate account of the expenses incurred by the district, and shall present the same to the board whenever called upon. He shall give the required notice of all regular and special meetings, as herein authorized. On or before the first day of August of each year he shall make out and file in the office of the county superintendent, a report of the affairs of his district. Said report shall be made upon blanks prepared by the superintendent of public instruction containing such items of information as the said superintendent shall require, including the following, viz.:

First—The number of persons, male and female, each, in his district, between the ages of six and twenty-one years.

Second—The number of schools and the branches taught in each.

Third—The number of pupils in each school.

Fourth—The number of teachers employed, in each school, and the compensation of each per month.

Fifth—The number of days the school was taught during the year then past and by whom.

Sixth—The number of pupils enrolled during the year; the average daily attendance.

Seventh—The average cost of school per month for each pupil, based upon the total enrollment, and also the average cost, based upon the average daily attendance. In estimating these averages the secretary shall take account of the teachers' wages; all current expenses, and six per cent. interest upon a

fair valuation of all property belonging to the district.

Eighth—Text books used in each school.

Ninth—The number of volumes in the library of each school.

Tenth—The aggregate amount paid teachers during the year, and the average monthly pay of teachers.

Eleventh—The number of public school houses, and the estimated value of each.

Twelfth—The amount raised by tax in the district during the year for school library.

Thirteenth—The amount raised by subscription or by other means than by tax.

Fourteenth—The amount of special tax levied for the support of schools and for building sites, and furniture.

Fifteenth—The amount of money on hand at the beginning of the year then past.

Sixteenth—The amount of money received from all other sources than those herein specified.

Should the secretary fail to file his report, as above directed, he shall forfeit the sum of one hundred dollars, and shall make good all loss resulting to the district from such failure.—R. S. 5936

Secretary give notice.

1. A meeting of a school board cannot be properly held unless reasonable notice has been given to all members.

2. The secretary of the board would have no authority to post notices calling a meeting at any other than the regular place of meeting without the consent of at least one of the other members of the board.

Valid though not reported to county superintendent.

3. In the case of a special meeting legally held, the business there transacted would not be invalidated through

the failure of the secretary to send a formal report to the county superintendent of the business thus transacted, although it is the duty of the secretary to send such a report.

Special tax levy.

4. The special tax levy should be made previous to sending in the annual report of the secretary of the district. The levy can be certified to legally by two members of the board.

Secretary violate bond.

5. If a secretary of a school board should falsify his records, he would violate his bond.

117. Secretary exhibit quarterly report to board. That it shall be the duty of each secretary of the boards of school directors to exhibit said quarterly report to the board at its first regular meeting after the receipt of said report for the inspection of said board and that the board shall examine said quarterly report and canceled orders and instruct the secretary to report the correctness, or incorrectness, if any be found, upon the blank furnished by the county treasurer.—*R. S. 5905*

Note. For report referred to, see section 106.

118. Secretary keep quarterly reports and canceled orders on file for six years. That it shall be the duty of each secretary of the several boards of school directors, and their successors, to keep on file for a term of six years, all quarterly reports and canceled orders received from county treasurers, and at the end of said period to cancel by fire, all canceled orders, filing the quarterly reports for such period for future reference.—*R. S. 5906*

119. Secretary render statement—books open for inspection. The secretary shall render a statement of the condition of the finances, as shown by the books, at any time when required by the school

board, and his books shall always be open for inspection.—*R. S.* 5937

Notice for special tax.

1. It would be legal for you to vote a special tax at an annual meeting by giving the legal notice; *Provided*, That such special tax, together with any other special taxes levied for the given year, does not exceed the levy allowed to a district of your class.

120. Failure of secretary to report—duty of superintendent of public instruction. Whenever a district secretary fails to file his annual report and census list with the county superintendent, according to law, thereby rendering it impossible for the said superintendent to apportion to such district any part of the general fund for the ensuing year, if it can be shown to the satisfaction of the superintendent of public instruction that such report and census list were prepared and reasonable diligence used to place the same in the hands of the county superintendent, and that such report and census list failed to reach said superintendent by reason of some accident or extraordinary occurrence; and if it be further shown that a public school was maintained in such district for not less than the minimum time required by the state constitution; and if it be also shown that duplicates of the missing papers have been placed in the hands of the county superintendent, or in his office, then the superintendent of public instruction shall direct the county superintendent to apportion to such district its per capita share of the general fund distributed during the remainder of the year, as provided in section seventy-two.—*R. S.* 5938

Note. Section 72 above referred to is section 99.

Note. Report of secretary, section 116.

Failure to make annual report.

1. A school district having kept up its organization and maintained a four months' school during the year, cannot be annulled for simply failing to make the annual report as this failure is chargeable to the secretary and if any damage ensues to the district he should be held on his bond.

121. Treasurer countersign warrants—render accounts—failure—penalty. It shall be the duty of the treasurer to countersign all warrants drawn by the president and secretary on the county treasurer, in favor of parties to whom the district has become lawfully indebted, and to keep an account of the same. He shall take charge of all moneys received by him on account of the district from the county treasurer, as provided in sections ninety-one and ninety-two of this act, and pay out the same as therein provided. He shall render a statement of the finances of the district, as shown by the records of his office at the close of each school year, and at any other time when required by the board. For a failure to perform any of the duties of his office when directed by the board, or for refusing or neglecting to deliver to his legally qualified successor all money, books, or other district property in his possession or care, within ten days after the same shall have been demanded by such successor, he shall be liable on his bond, and shall make good any loss resulting to the district from such failure or neglect. —R. S. 5940

Note. Sections 91 and 92 above referred to are sections 22 and 31.

Warrants—signing of.

1. The secretary is the one authorized to draw all warrants authorized by the board; and the president and treasurer should countersign the same.

2. A warrant drawn for a lawful indebtedness against the district is valid, although not countersigned by the district treasurer; but a county treasurer who pays a warrant not countersigned by the district treasurer, does so at his own risk, and if such warrant is not drawn for a lawful indebtedness, he is liable on his official bond.

3. It is the duty of each member of the board of directors to sign all warrants drawn on the county treasurer in favor of parties to whom the district is lawfully indebted; but if any director refuses so to do there is no way to compel him except by mandamus proceedings in the courts. If, however, the county superintendent be cognizant of the fact and certifies that the warrant was drawn in payment of a legal debt, the county treasurer would be justified in paying such warrant although signed by only two directors, one of whom must be the president.

4. In regard to the method of raising money to build a school building, the law prohibits the issuing of warrants in excess of the revenues of the district for the current year; therefore an arrangement for issuing warrants payable in one, two and three years, the qualified voters to vote a levy to be collected in one, two and three years to pay the warrants, would not be legal. The voters have no authority to vote a levy except for the current year. It would, therefore, only be possible to raise the money by voting bonds for the amount if the electors do not wish to levy the whole tax in one year.

Warrants drawn for what purpose

5. Since no warrant is valid if drawn in favor of a person to whom the district is not lawfully indebted, the district has no authority to incur the debt for the payment of which the warrant mentioned was drawn.

6. The only legal restrictions placed upon school directors in the matter of issuing warrants are that they must be issued to persons to whom the district is legally indebted, and the total amount issued must not be in excess of the special tax levied for the current year.

7. A county treasurer can legally pay only such warrants as are issued against the school fund of the current year.

County treasurer custodian of school funds.

8. The county treasurer is the only legal custodian of the school funds. The district treasurer has no legal right to hold in his possession any of the general, special or bond

fund, nor have the directors of a school district any legal right to issue orders on the county treasurer, except in favor of those parties to whom the district is legally indebted. In the payment of school bonds, the district treasurer has control of the funds only during the times of advertising and subsequent payment.

9. Funds of first class districts must remain in the hands of the county treasurer and be drawn upon through warrants made out by the district board, as in districts of the third class. The law makes no provision for the handling of the funds.

Legality of interest bearing warrants.

10. The courts have never passed an opinion concerning the question of taxation of interest bearing school warrants. It cannot, therefore, be stated at this time, what rule prevails, it being for the courts hereafter to interpret this question.

122. Delinquent officers—penalties. No superintendent or district officer shall receive any of the compensation, who has neglected or refused to perform any duty required by law, and any district officer so neglecting or refusing, when specially directed by a majority of the district board, shall be deemed guilty of a misdemeanor, and it shall be deemed a violation of law for any person to draw or sign a warrant for the payment of such delinquent officer, and any person so signing a warrant shall be liable in double the amount of such warrant.
—R. S. 5941

123. Powers of directors. Any school board shall have power to make such by-laws for their own government and for the government of the public schools under their charge, as they may deem expedient, not inconsistent with the provisions of this act, or the instructions of the superintendent of public instruction. District boards of the first class shall also have power to fill any vacancy which

may occur in the board, until the regular election, at which time the vacancy shall be filled for the unexpired term. —R. S. 5924

Note. County superintendents fill vacancy, except in first class districts, section 95.

Filling vacancy.

1. In a first class district, when a vacancy occurs after the advertisement of the regular election, any person desiring to become a candidate for director may do so by filing a written notice of such intention with the secretary of the board at least eight days prior to the day of holding election. If the vacancy occurs after eight days before election the board should fill the vacancy until the next regular election.

Powers of board.

2. A school board has a legal right to require such qualifications of teachers as seem to them to be for the best interests of the school, provided such qualifications do not conflict with those required by the state.

3. The statute gives boards of directors of first class districts entire authority to fill vacancies, and with that authority, by necessary implication, goes the authority to declare vacancies, excluding the idea that a county superintendent may have that authority. The county superintendent has no right whatever to hold that a vacancy exists in the board of a district of the first class until such a vacancy has been declared by the board itself, or by the courts.

4. If the school board chose to revoke its rules concerning the place where a school meeting must be held, it would have a right to do so.

124. Powers of school boards. Every school board, unless otherwise especially provided by law, shall have power, and it shall be their duty:

First—To employ or discharge teachers, mechanics and laborers, and to fix and order paid their wages; to determine the rate of tuition for non-resident pupils, and to fix the compensation to be allowed the secretary for the time necessarily spent in the service of the district, as required by law, or

as directed by the board; Provided, It shall be unlawful to pay any other member of the board, from the district funds, for his services as a member of such board.

Second—To enforce the rules and general regulations of the state superintendent, to fix the course of study, the exercises and the kind of text books to be used; Provided, That but one kind of text book of the same grade or branch of study shall be used in the same department of a school, and that after the adoption of any book, it shall not be changed in less than four years, unless the price thereof shall be unwarrantably advanced, or the mechanical quality lowered, or the supply stopped.

Third—To provide for school furniture, and for everything needed in the school house, or for the use of the school board.

Fourth—To rent, repair and insure school houses.

Fifth—To build or remove school houses, and to purchase or sell school lots, when directed by a vote of the district so to do.

Sixth—To hold in trust for their district all real or personal property for the benefit of the school thereof.

Seventh—To suspend or expel pupils from school who refuse to obey the rules thereof, and to exclude from school, children under six years of age.

Eighth—To determine the number of teachers that shall be employed, and length of time over and above three (3) months that the school shall be kept; to fix the time for the opening or closing

of schools, and for the dismissal of primary pupils before the regular time for closing the schools.

Ninth—To provide books for indigent children, on the written statement of the teachers that the parents of such children are not able to purchase them, and to furnish free text books for the use of all pupils, when authorized to do so by a majority vote of the district, as expressed at any regular or special meeting.

Tenth—To require all pupils to be furnished with the proper and suitable books as a condition of membership in school.

Eleventh—To exclude from school and school libraries all books, tracts, papers and other publications of an immoral or pernicious tendency.

Twelfth—To require teachers to conform to the law.

Thirteenth—To make an annual report, as required by law, to the county superintendent, on or before the first day of August of each year, in the manner and form and on the blanks prescribed and furnished by the superintendent of public instruction.

Fourteenth—To make a report directly to the state superintendent, whenever instructed by him so to do.

Fifteenth—Whenever a pupil resides remotely from the school house in his district, and where a school house is more accessible in an adjoining district or county, such pupil shall be permitted to attend that school which is the most accessible, and be granted the same privileges as a resident of that district. Provided, The board may refuse to admit

pupils from other districts upon the ground of insufficient room. In such case, the directors of the district wherein the said pupil resides shall pay a reasonable tuition to the district wherein the school is the most accessible, which said tuition shall be agreed upon by the two school boards affected; Provided, however, If they do not agree, the county superintendent or superintendents of the county or counties in which such district or districts so affected are located shall settle the price of tuition. In case said two superintendents can not agree on the tuition to be paid, then the state superintendent of public instruction shall fix the sum of said tuition. Provided, further, That whenever any pupil outside a high school district desires to attend a high school within the county where such pupil resides, and such pupil shall possess the necessary qualifications for admittance thereto, the necessary tuition fees charged for the attendance of such pupil by said high school shall be paid by the school district in which such pupil resides, not exceeding \$2.50 per month.—*R. S. 5925, amended S. L. '09, p. 488*

Note. State board of health may prescribe text-book on hygiene, section 5010.

Certificate obtained after commencement of school.

a. A teacher who at the time of her employment has a first grade certificate in full force in another county upon which her county superintendent agrees to issue a certificate of like grade, but does not do so until after the commencement of her school, is entitled at least to compensation from the date of such like grade certificate if she proceeds with the school.—*School Dist. v. Ross, 4 C. A. 493*

Lien law not apply school buildings.

b. The provisions of the mechanics lien law cannot be applied to public school buildings.—*Florman v. School Dist., 6 C. A. 319*

School property held in trust.

c. All school property within the district is held by the board of directors in trust for the district for the benefit of the school.—*Florman v. School Dist.*, 6 C. A. 319

Injunction not lie to prevent discharge of teacher.

d. Since school boards have power to summarily dismiss teachers for cause, injunction will not lie to restrain them from so doing, for if wrongfully dismissed the teacher's remedy is an action for damages.—*School Dist. v. Carson*, 9 C. A. 6

Ratification of contract.

e. Where a school board enters into a contract with a teacher and for ten weeks accepts her services and pays her wages, such action constitutes a ratification of the contract and the board is estopped from asserting its invalidity.—*School Dist. v. Stone*, 14 C. A. 211

Contract not made at formal meeting.

f. Under the law authorizing a school board to employ teachers, it is not absolutely necessary that the contract be made at a formal meeting, and a contract agreed to by all members of the board and executed and signed by a majority of the board is binding, although not done at a regularly convened meeting.—*School Dist. v. Stone*, 14 C. A. 211

Certificate—not collaterally attacked except.

g. In an action by a teacher for wages under a contract, his certificate from a county superintendent cannot be collaterally attacked except for fraud.—*School Dist. v. Stone*, 14 C. A. 211

County superintendents sue in official capacity.

h. County superintendents have the right to sue in their official capacity, and may maintain such actions as are necessary to the fulfillment of the duties of their offices; and to this end may bring an action to restrain a board of directors from employing a teacher without a certificate.—*Catlin v. Christie*, 15 C. A. 291

Teacher discharged need not appeal.

i. A public school teacher engaged for a specific term, who is discharged without cause, need not rely upon the statutory right of appeal from the decision of the board, but may bring action to recover in the courts; and the rule in the teacher's hand-book that the tenure of office of all teachers, regardless of contract, shall be at the pleasure of

the board, is no defense to such action.—*School Dist. v. Hale*, 15 C. 367

Teacher discharged for cause only.

j. A teacher cannot be dismissed from the public schools without due notice and upon good cause shown, and when an action is brought to recover damages therefor the board can only justify by showing proper cause for dismissal in accordance with the statute.—*School Dist. v. McComb*, 18 C. 240

Revoking certificate after discharging.

k. A school board of a first class district after discharging a teacher has no authority to revoke a certificate theretofore issued to him so as to prevent his recovery for the unexpired term.—*School Dist. v. Shuck*, 49 C. 526

Appointment and acceptance create contract.

l. A resolution of the directors appointing plaintiff a teacher for the ensuing school year and an acceptance of the appointment create a contract, and the requirement in the resolution that teachers must after a designated date hold a first grade certificate, is not a limitation but simply renders the employment subject to termination after such date if not complied with.—*Nash v. School Board*, 49 C. 555

Hire Teachers.

1. A school board has the sole right to engage a teacher for the district; and the fact that a majority of the tax payers sign a petition making a protest against the selection made by the board can in no way affect the legal right or action of the board in appointing a teacher.

2. If a teacher receives from the secretary of a school board, in pursuance of an order of the board, a letter notifying him of the length of term and salary, such notification would stand in law as a contract, should the teacher accept.

3. A verbal promise given to a teacher by members of the school board at other than a regular meeting is not legally binding upon the board; and the board would have a right to engage another person at a regular meeting.

4. There is nothing in the school law of Colorado to prevent a board of directors in a first class district from making a contract with a teacher or superintendent for a term exceeding the school year.

5. When a teacher enters into a contract with a board of directors to teach a certain number of months, it is understood that customary vacations may intervene, even though not specified in the contract, and the teacher is not

entitled to compensation for such vacation, he being required to teach the full number of months specified in the contract excluding such vacation; this, however, does not include legal holidays coming within the school week, for which the teacher is entitled to pay without teaching unless otherwise expressly stated in the contract.

6. There is no law requiring a teacher to have a physician's certificate of good health; this matter is governed by the rules made by the board of directors.

7. School boards, in districts of the first class, have entire control of the examination and licensing of applicants to teach in their districts. They also have a legal right to renew certificates without examination. One member of a school board cannot legally employ a teacher except when ordered to do so by the board at a regular or special meeting.

8. If a teacher has been employed to teach a certain department of a school, the school board would not have the right to close another department and require one teacher to do the work of both departments, unless such an arrangement had been made in the contract entered into between the teacher and the board.

9. The only way by which a teacher's salary can be legally increased during the term for which she is employed would be at a regular or special meeting of the school board.

10. The law provides that an applicant for a teacher's certificate must not be less than eighteen years of age; and it would be illegal to grant a certificate if the applicant did not meet that requirement, and illegal for a school board to employ a teacher under such circumstances.

11. An oral contract made between a teacher and a school board is as binding as a written one if it can be proven.

12. The laws of Colorado do not make it illegal for members of school boards to vote for relatives of any degree as teachers.

13. A school director cannot legally become a teacher in the district in which he holds that office. See section 2606, General Statutes of Colorado, 1883, page 82.

14. The power to employ or discharge teachers rests solely with the school board, and not with the county superintendent or directly with the electors of the district. This applies also to vacancies that may occur by reason of sickness or any other cause.

15. A district board has not, in law or equity, a right to deliberately create a condition for the purpose of taking

advantage of the emergency clause in that section of the statute which provides for granting and endorsing teachers' certificates.

16. It is illegal for a board of directors to employ a person to teach who has no certificate, as no legal contract can be made between the board and such person; and the fact that no salary is drawn would not make the transaction legal. A school so taught could not be considered a public school, nor could the months so taught be counted in, or reported as, months of public school work. School directors cannot officially employ a teacher to teach a private school; and there is no way whereby public school work and private school work can be combined, or private school work legalized as public school work, or a private teacher be considered a public school teacher.

17. Every member of a school board has an equal voice in employing teachers; and the decision of a majority rules in this as in all other matters.

18. One member of a school board cannot legally employ a teacher, even though a meeting has been called for the purpose and notice of it sent to other members of the board. If the failure to attend arises from a deliberate intention to prevent a legal meeting of the board such members can be compelled to attend by legal process.

19. A teacher is not required to do janitor work in this state unless the contract into which he has entered with the district board distinctly states that such shall be the case.

20. A contract between a teacher and his substitute is not binding upon the board of directors.

21. The appellate courts of this state have never decided the question of the legality of a school board to contract with teachers before the annual election establishes a new board of school directors.

22. In case two members of the board at a legally held meeting of the board voting a certain sum as the teacher's salary, written notice of such action being sent to the teacher, the notice is binding upon the board and equal to a contract.

23. If a school board makes a legal contract either verbal or in writing with a teacher, providing for his reelection and specifying the salary he is to receive, the board could not at a later meeting change its action.

Teacher's report.

24. No part of the last month's salary of a teacher should be paid until the reports required by law are made and filed according to specifications.

School furniture and supplies.

25. No member of a district board has any right whatever to purchase coal or other school supplies, without being ordered to do so by a majority vote of the members.

26. A school board of a district of the third class has a legal right to purchase desks for a school building without a vote of the electors of the district.

27. School directors of a district of the third class may purchase an organ for the use of the school and pay for it out of the special fund. The general fund cannot be used for that purpose, unless there is a balance remaining after paying all expenses necessary to support a public school for ten months in any one year.

Discharge teachers.

28. Two members of a school board at a legally called meeting have a right to dismiss a teacher; but a teacher having a contract with the board cannot be dismissed without good cause.

29. It is not legal for a school board to retain a teacher whose certificate has expired if the term of school for which such teacher is employed extends more than one month after such expiration, as the law definitely states that a new certificate shall be secured. The endorsement of the certificate should read "Good" until the next regular county examination.

30. In order to sustain charges of immorality or incompetency, specific acts must be shown and supported by affidavits or witnesses. If satisfied that the charges can be sustained by proof, the proper course for the board is to bring the matter to the attention of the county superintendent, with the request that he revoke such teacher's certificate.

31. If a teacher employed in the schools is incompetent to give instruction in any of the subjects provided in the course of study for that district, the board of directors would have cause for discharging such teacher.

32. A school board may dismiss a teacher for incompetency or immorality. A county superintendent may revoke a certificate of any kind at any time for immorality, incompetency or any just cause.

33. The laws of this state make it impossible for a school board to discharge a teacher without some cause that would be considered in the courts a sufficient reason for breaking the contract between the teacher and the school board. Incompetency, immorality, drunkenness, etc., are the reasons that have been held sufficient.

Fix salary.

34. A teacher employed at a stipulated salary, can be paid only by warrants drawn by the district secretary, and must take them for what they are worth. It would not be proper for the board to make up any discount by an additional warrant. The board might, however, increase the salary at a regular meeting so as to cover such deficiency.

35. When school district warrants are sold at a bank or elsewhere and a discount is charged, the holder of the warrant must bear the loss.

36. A teacher's only recourse against a school board that refuses to issue a warrant for salary is through the courts.

37. When a county superintendent calls a county institute or teachers' association, he has not the right to rule that the district must pay the teacher the same as if she had taught school, although the school board has the right to allow the teacher such a day and pay her for it upon the request of the county superintendent, but the authority in the matter rests with the district board.

38. A certificate to teach cannot be revoked by a county superintendent without having good and sufficient reasons for so doing. Alleged exorbitant wages named in a contract between the teacher and the directors of a district would not be lawful reason for revoking a certificate unless fraud of some kind could be shown.

39. The directors of a district have no legal right to make a contract with a teacher to pay wages in excess of the revenues for the year.

40. A teacher can draw her wages during the time that a school is closed on account of an epidemic.

Compensation allowed secretary.

41. While the law states that district boards shall fix the amount of the secretary's salary, if the secretary rendered his services without such salary being fixed, or without demanding it at the time, he could not later claim it.

42. The secretary is the only officer of a district school board whom the law allows to draw pay for his services, and his pay is fixed by the board.

43. A school board has the right to fix the compensation to be allowed the secretary for the time necessarily spent in the service of the district; provided, always, that the board's provision for such compensation is just and reasonable and in compliance with the law.

44. If a secretary of a school board should falsify his records, he would violate his bond.

Powers of board.

45. As the president of the board is a member of the board, with all of the privileges to which such members are entitled, he can, although the presiding officer of the board, make or second a motion, state it from the chair, and vote on the same.

46. The length of residence required in Colorado to constitute eligibility to the office of school director is twelve months.

47. A school board does not have to carry out all motions made and carried at the annual meeting of electors unless such motions cover matters upon which the electors are entitled to pass.

Illegal action by board.

48. If the electors of a district are dissatisfied with the action of the board, they have the privilege of enjoining the board from taking said action.

49. The law gives the right to the school board to say how many months of school shall be held in excess of the months required by law, and also the right to fix the salaries of the teachers employed. The electors have no right, legally, to call a meeting to vote upon either of these questions, and if such a meeting was held, the school board could not be compelled to attend, or to act in accordance with the action taken through the meeting.

50. A school board has no authority to employ an interpreter in Mexican districts to help out a teacher who does not understand the Spanish language.

51. A member of the school board may be compelled by legal process to perform the duties of his office as specified in the law. Any elector of the district, member of the school board or the county superintendent can institute the proceedings.

52. A member of a school board may be removed for malfeasance in office, by action taken in the courts.

53. It is illegal for two members of the board to transact business that has not been decided upon at a regular

or special meeting of the board. If the specifications in regard to the digging of the well were definitely stated at a regular or special meeting, it would be necessary to call another meeting of the board to change those specifications.

54. Directors of third class districts have no authority to sell property of the district unless instructed to do so by the electors. A sale without such direction is illegal.

55. If the actions of the board do not meet the approval of the electors, the latter may either have redress through the courts, or, in certain cases, may appeal to the county superintendent and from him to the state board of education.

56. If the school board of directors refuse to carry out the valid instructions of the electors of the district, they can be compelled to do so by court proceedings in the nature of a writ of mandamus.

Vaccination authorized by county board of health.

57. If the school board has demanded that the pupils of a school be vaccinated, its action being authorized or required by the county board of health, pupils should comply with the requirements made. The county board of health is expected to act in accordance with the rules and regulations of the State Board of Health, and also to see that all necessary precautions are taken in the schools of their counties to guard against contagious diseases.

Tuition.

58. Section 124 herein provides that when a pupil *resides remotely* from the school house in his district, and a school house is *more accessible* in an adjoining district, he shall be permitted to attend the latter and be granted the same privileges as a resident pupil. This right is mandatory on both boards of directors, and can only be defeated on the ground of insufficient room in the latter district, and the board of his district is obliged to pay the tuition agreed upon by the two boards, or, upon their failure to agree, that fixed by the county superintendent.

59. The payment of tuition for the school privileges afforded to children attending outside of their own district is a matter which the boards of the respective districts must arrange between themselves; and if they cannot agree then the county superintendent must decide.

60. A person, having attained the age of twenty-one years, is not thereby debarred from school privileges, but the board may require tuition of him. This ruling applies

to those who may have been under the age of twenty-one at the time the last school census was taken.

61. If the home of a family is certified to be in a district, and the children have been listed upon the school census of that district, the children would have the right to attend the school without tuition, even if the family spends a large part of the year elsewhere. In the case of pupils attending before the family moves into the district for the winter, the same rule would apply.

62. If a district is the declared home of the family, and the children have been previously listed upon the census list, they would have the right to attend the school without tuition, even if the remainder of the family were at present residing elsewhere.

63. A resident's objection to the attendance at school of a child from another district is of no effect, provided the board of directors is willing to permit such attendance.

64. In regard to whether a person living in a district where there are two schools has a right to send his children to either, the matter should be controlled by the local board of directors the same as is done in cities where the boards control the sending of children to the different city buildings.

65. The school board of a district has the right to exclude children from other districts on account of lack of room, and to require tuition for pupils who live outside the district.

Fix course of study—special branches—admittance.

66. It is the duty of the teacher to teach whatever branches may be specified by the school board, since that body is given the right to establish a course of study for the school of its district. If the teacher has failed to teach the branches requested by the board, it would probably not be sufficient reason for the board refusing to sign the warrant for her services as teacher for the time she has been employed in the school, yet it is possible that it might be held as sufficient grounds for the dismissal of said teacher.

67. The school board of a district has the right to forbid the reading of the Bible in the schools of the district, under the provisions of section 124 herein, which provides that the school board shall have power to fix the course of study, the exercises and the text books to be used in the schools of the district.

68. Article IX, section 7, of the constitution of Colorado, prohibits the use of public school money for the teaching of sectarian tenets or doctrines. It is therefore

unlawful for a board of directors to require a teacher to devote any part of any school day to religious instruction.

69. A school board would have the right to require work above the eighth grade to be done, providing there was nothing in the contract made with the teacher which would give her the right to object to doing such work.

70. Since the school board has full authority to make rules and regulations concerning the management of the schools in a district, the board would have the right to fix the times when beginners might be permitted to enter the schools.

71. A school board has the right to make the regulations concerning the admittance of pupils to a certain grade of the school when the fall term commences, said pupils having failed to pass the examination given in the spring, and also to authorize the principal to make such rules and regulations and to enforce them as if made by the board as a body.

72. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a special certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

73. A teacher cannot be required to teach instrumental music in a school, as the branch is not one included in the requirements of a common school course.

74. As between school directors and the county superintendent, the latter has advisory powers only in arranging course of study, selection of books and grading of schools.

75. According to the school law of this state, the board of directors of a school district has the right to prescribe the course of study for the school, but cannot be compelled by parents to include higher grades than the eighth. If the board prescribes that certain high school or ninth or tenth grade studies shall be taught, it may be done, but it is not expected that such work shall be a part of the course in the district school if it interferes with the work of the lower grades.

76. The law does not permit the establishment of a high school in an ordinary third class district, nor does it prohibit the introduction of certain branches that are termed high school branches, but the law gives the entire authority in regard to fixing the course of study to the board of directors. The teacher would have no right to introduce high school work in the school unless so instructed by the school board.

Text books.

77. In case of a new district formed from one in which text books are furnished free, the question of supplying free text books in such new district must be submitted to a vote of the people.

78. If a school board purchase books to be used by the pupils of the district, such books are for the use of pupils attending school within such district, and for no other. If residents of the district see fit to send their children into adjoining districts, they cannot compel the district in which they reside to furnish the text books for their children.

79. The board of directors must furnish books for all pupils when instructed to do so by a majority vote of the electors voting as expressed at any regular meeting or special meeting called for that purpose.

80. The fact that a district has voted to furnish free text books to its school children, and has done so for a number of years, does not permanently bind the district so to furnish the text books. If brought up in the manner prescribed by law, the district may again vote upon the matter.

81. When a pupil leaves a school where free text books are furnished, he has no right to take home with him and keep text books belonging to the district.

82. Colorado does not have a uniformity of text books. The school law provides that the board of directors in the different districts may determine the kind of text books to be used.

83. County officials have no authority to purchase text books for the schools of the county, using school money for that purpose, nor have such officials the right to adopt text books for use in such schools and require the various districts to pay for the same. The school board determine the kind of text books to be used, and can only furnish free text books for the use of all pupils when authorized to do so by the majority vote of the district.

84. In order to vote on the question of free text books at the annual school election, it will be necessary to include in the annual election notice, a statement specifying the time of such voting.

School houses—rent—repair—build—remove.

85. The district board has the right in emergencies to permit the location of the school to be changed temporarily, although it is expected that in this as in all other matters the welfare of the whole district will be considered.

86. The site for a school building in districts of the third class can be selected or changed only by majority vote of the electors at annual meeting, or at a special meeting legally called.

87. When the electors of a school district, at a legal meeting, vote to erect a building on the school site of the district to be used as a teacher's residence, and vote a special tax for that purpose, such action legally authorizes the directors of the district to contract for the erection of such a building.

88. Directors of first and second class districts have a right to sell a school building when directed so to do by the electors at a special meeting called for that purpose. Such sale should be made in the manner prescribed by the directors, which should be at public sale after proper advertisement.

89. The power to fix the site for school houses necessarily includes the power to fix the location of the school, and after a majority of the voters of the district (third class) have decided to have the site of the school house in a certain portion of the district, it would hardly be held as within the power of the board to defeat the will of the electors by establishing a school in some other place.

90. Under certain conditions other buildings than the school house may be used for school purposes if the board so desires.

91. School must be held in a building situated within the boundaries of the district.

92. The departments of a school cannot be legally considered as separate schools.

93. While a school board would, if they felt so disposed, have a right to establish a summer school, they would not have the right to limit the attendance to those pupils recommended by the teachers, and some others, and require those who desire to attend the school without the recommendation to pay their own tuition. It would, however, be legal to establish such a school for certain grades, limiting the attendance to the specified grades.

94. The directors of third class districts have no authority either to build a new school house or an addition to an old one unless directed to do so by a vote of the electors.

95. If a majority of the legal voters of a third class district at a special meeting legally called decide that a school house shall be moved, it becomes obligatory on the part of the board to move the building. If they do not,

the voters can compel them by mandamus to move it. The school house does not have to stand thirty days after the majority of voters have decided to move it.

96. A board of directors of a third class district cannot sell, remove or tear down a school house unless so directed by a vote of the electors.

97. The directors of a school district cannot legally purchase a school site without a favorable vote of the electors.

98. The qualified electors when assembled at a special meeting, duly called, have the power to fix the site for the school house, taking into consideration the wants and necessities of the people of each portion of the district. There is no authority in law giving the privilege to build upon school land without first receiving a grant from the state land board. Upon application to the register of such board, accompanied with plat and field notes of the survey, one acre will be granted your district for school purposes.

99. When a building is to be used for school purposes the board has no authority to build such addition or school room except when directed to do so by a vote of the district.

100. A district board, having already constructed and furnished a school building, may subsequently erect a coal house or other simple outbuilding, for the convenience of the school, without a special vote of the electors, the outbuilding to be considered an appurtenance or appendage of the school building.

101. If the electors of a school district have voted the specifications in regard to building a school house, the site being definitely selected, the board of directors could not legally change these specifications, and it would be necessary to call another meeting of the electors if thought desirable to make a change.

102. In building a school house the board of directors must keep within the appropriation of the electors. If it is desired to spend more money than the original appropriation, a meeting of the electors must be held to determine whether they will authorize the additional expenditure.

103. The law does not specify the manner in which a school board shall proceed in the matter of building a school house or whether such board shall advertise for bids or not. The board is permitted to exercise discretion in the matter, having in view at all times the best interests of the district.

104. A school board has the right to lease a building for school purposes for one or more years.

105. Whether the directors build one or more school houses is purely a matter to be determined by the electors of the district, such authority being conferred upon them by the statutes, and the county superintendent has no authority to control such discretion.

106. The board of directors, in leasing an unused school house, have the power to insert in the lease the purpose for which said building shall not be used.

107. The question of constructing a high school building in a district of the first class must be submitted to a vote of the qualified electors of the district.

108. If the question of the selling or the minimum selling price of the school house was not determined by the electors, it would be wiser for the directors to sell at public sale.

Custodians of school property.

109. The board of directors is custodian of the school property, and may permit the use of the school house for other than strictly school purposes, if such purposes are not detrimental to the morals of the community or injurious to the school buildings. Should any money be derived from such sources, it should be considered part of the school fund. If the school property is being injured or the purpose for which the building is used is improper, any elector can take legal proceedings to remedy such matters.

110. A district board has the control of the school house, and cannot be compelled to open the house for other than school purposes, even though the citizens of the district so request.

111. As the school board of any district has the control of the school house, if the board sees fit to permit the use of the school house for a subscription school it has the right to do so. It may also permit the use of the text books owned by the district. It has no right to permit the use of the district's firewood or to in any way make an expenditure of the district's money for the subscription school.

112. If the directors authorize the use of the school house for election purposes, the teacher is entitled to pay for time thereby lost.

Suspend or expel pupils.

113. In the absence of any rules and regulations prescribed for the government of the schools by the board of directors, it is within the power of the teacher to make such reasonable rules and regulations, and to enforce them, in the same manner, subject always to the supervision of the board of directors.

114. It is the right and duty of a school board to exclude from a public school a boy of school age who is an imbecile.

115. It is the duty of the board of directors to see that school children are vaccinated when required to do so by the local board of health.

116. Under the constitution and laws of this state the board of directors of any district have power to establish reasonable rules and regulations for the government of the schools under their charge, for controlling the conduct of teachers and pupils, not only while in the school room, but while going to and from the school, and such reasonable rules and regulations may be enforced by suspension, expulsion or corporal punishment, as the board of directors may determine.

117. The power to expel or suspend a pupil from the privileges of the schools of Colorado is conferred by law solely and exclusively on the school board, and no teacher has the right to perform that act.

118. A teacher has power to temporarily suspend a pupil, at least long enough to notify the board of the causes, and ask that such pupil be suspended; and the board would be justified in acting upon such recommendation, although the teacher would have no power himself to make such suspension.

Number of teachers—time employed.

119. The law gives school directors the sole power to arrange the length of the term, number of teachers to be employed, grade of work to be done, etc., in the public schools of the district.

120. A school board has the right legally to appropriate money to carry on a second or third school to be located in various parts of the school district when the location of the school population seems to demand such an arrangement to justly provide educational privileges for the greatest possible number of children residing in the district.

121. If a teacher is engaged by the year at an annual salary, vacations are not deducted. If he is employed by the month, and paid a fixed sum per month, vacations are deducted, if there is no contract to the contrary. A teacher could just as lawfully claim pay for the long summer vacation as for the customary holiday vacation.

122. A teacher cannot be legally dismissed before the expiration of the time for which she is engaged "without good cause shown," and if so dismissed she can collect full

salary; *Provided*, She holds herself in readiness to fulfill her part of the contract.

123. The board of directors has no right to deduct from a teacher's salary for legal holidays occurring during the school term.

124. A teacher may collect salary for the number of months specified in the contract entered into with the board of directors of the school district where he teaches; *Provided*, The directors have not contracted with the teacher to pay wages in excess of the revenues for the year.

125. If a teacher is ready to begin school at the time specified in his engagement, and owing to neglect of duty on the part of the school board, cannot do so, he is not compelled to make up the time thus lost, but is entitled to his salary from the time specified in such engagement.

126. There is no law authorizing a teacher to draw his salary for the two weeks spent in attending the normal institute.

127. If the board of directors closes the term of school before the expiration of the time contracted for, the teacher being ready to fulfill his part of the contract, the board is liable for the teacher's salary for the full term agreed upon.

128. If, with the consent of the directors, a teacher holds school on a legal holiday to make up for a day lost, the teacher is entitled to pay for the full month.

129. The teacher has a right to her hour's intermission at noon, providing she teaches the requisite six hours through the day. She is required to teach school from 9 a. m. until 4 p. m., unless the board gives her permission to finish at an earlier hour.

130. When a teacher begins work without having entered into a definite verbal or written contract with the school board which employs her, she has a right to leave the school at any time, and the school board has the right to discharge her at the end of the first month's work, and also to employ another teacher.

131. A school board cannot compel a teacher to make up time lost during the time a school was closed because of the prevalence of a contagious disease; *Provided*, Said teacher holds himself in readiness to teach, subject to the order of the board.

132. To be entitled to his salary for the day, the teacher should remain in the school room after the hour of opening, both forenoon and afternoon, a sufficient time to determine that no pupils will be in attendance.

133. Under a written contract with a school board to teach a stated length of time, a teacher is entitled to com-

pensation for the full time, although the school should lapse by reason of the residents leaving the district; provided the teacher has fulfilled her part of the contract and expresses her willingness to complete the requirements of her agreement.

134. A teacher is under no obligation to make up time lost when school is closed for the purpose of repairing buildings. If a teacher absents himself a day or more from his work, he himself being responsible for the loss of time, he must make good the loss of time or forfeit his pay.

135. A teacher is not entitled to receive pay for the time lost while attending a teachers' examination.

136. The point of the teacher's failure to hold himself in readiness to teach is not sufficient cause for refusing to pay him for the time the school was quarantined, since he was there when his services were required and the board suffered no actual damage by his absence.

Furnish clothing for indigent children.

137. There is no law authorizing the school board to pay from the fund the board of children who live a distance from the school. It is the duty of the school board, however, if the parent, by reason of poverty, cannot properly clothe the child, to furnish necessary clothing and pay for the same out of the school fund by warrant, drawn as in other cases, but even this fact must be shown to the satisfaction of the board.

Use of district funds.

138. The school funds cannot be legally used for defraying the expenses of a singing school.

139. A school board cannot legally loan the money of the district.

140. A school board cannot legally contract for the work of instructing high school pupils to be done by a private party or corporation and pay for it out of public school funds.

141. A director of a school board has no right whatever to draw money from the funds of a school district to pay for his child's board while attending school in another district. Any member so misappropriating the funds of the district can be compelled by process of law to refund the money.

142. When funds are used in violation of the law, any elector of the district or any county superintendent has the right, and it is his duty, at any time after said funds have been so used, to bring suit to recover the same, the mem-

bers of the school board that signed the illegal warrants being liable for the amount involved.

143. If an attorney is employed to defend an action brought against the district, then the district must pay his fees; but if brought against the individual directors, they must pay their own attorneys' fees.

144. The law makes no provision whereby the board of directors of a district can appropriate school money to pay special teachers for the pupils of said district who are unable to attend the regular school.

145. In regard to payment for transportation of pupils to and from school, there is no direct provision of the law authorizing such action, except in consolidated districts; but it might properly be done by unanimous consent of all the electors paying school tax. There is no law authorizing the school board to pay from the fund the board of children who live a distance from the school; but the board can, however, upon a unanimous vote of the tax-paying electors, pay for such board from the special fund.

Special levy.

146. In any district of the third class a levy on taxable property must be made by the qualified voters when assembled at any regular or special meeting, and such levy cannot be made by board of directors.

147. There is no limit to the special levy in first and second class districts.

148. When the electors have voted a definite special levy for building a school house, the board cannot spend in building said school house more than the proceeds of said special levy, unless so directed by the electors.

149. The right to levy a 1-10 of a mill tax for library purposes in school districts rests entirely with the school board. A vote of the electors of the district is not necessary for this purpose.

Debts.

150. A member of the board has no authority to contract any indebtedness against the district, as contracts of such indebtedness can only be made by a majority of the board at a regular meeting.

151. A debt can only be contracted by a majority of the members of the board at a regular meeting, or at a special meeting called for that purpose; and as the auditing of bills is entirely separate from contracting them, it follows that they must be performed at different times.

Payment—general fund.

152. It is legal to draw on the general fund to pay the janitor who is employed in a school.

153. The general fund may be used for building, furnishing or erecting additions to school houses, or for improving the school house, sites or lots, only after the expense of maintaining the school for a period of ten months is one year shall actually have been paid.

154. The general fund may be used only for teachers' wages and necessary current expenses until the school has been conducted for a period of ten months in one year.

155. All moneys remaining to the credit of any district on June 30 should remain to the credit of such district, and cannot be turned into the general school fund of the county for reapportionment.

Payment—special fund.

156. Insurance premiums and attorney's fees are not expenses "incidental to the support of a public school," and therefore must not be paid from the general fund, but from the special fund only.

157. If any surplus funds remain in the special fund over what is necessary to meet the regular current expenses of the district, such surplus may be used to pay past indebtedness.

Contracts other than teachers'.

158. A school board can legally let a contract to a man whose wife is a member of the school board, as the fact that the wife is a member—and is, therefore, excluded from being a party to a contract with the district—would in no way affect the husband, who is not a member of the school board.

159. A contract made and agreed to by the majority of a school board at a regular meeting, of which due notice has been given, is a legal contract if properly entered into in all respects. It is not in the power of one member of a board to block the action of the board by his refusal to do his duty.

160. A contract made with the president and treasurer of a school board would be legal, even if there is a vacancy in the office of secretary; and a warrant signed by the above-named members under the circumstances mentioned should be considered a sufficient warrant for recognition by the county treasurer.

161. When a contract is reduced to writing, it is supposed to express the intention of the parties; and when such intention is clear it cannot be changed by oral evidence.

Board of health.

162. The authority of the board of health is paramount to that of a school board, and if the board of health passes a regulation requiring vaccination of pupils as a prerequisite to admission to the school, it is the duty of the school board to carry into effect such regulation.

163. A by-law providing that any pupil infected with smallpox, scarlet fever, diphtheria or any other contagious disease, should be excluded from the school would certainly come within the powers of the board under the statutes. There can be no reason why a by-law providing that a well-recognized preventive must be resorted to, under pain of exclusion from school, would not be equally within the powers of the school board.

125. Directors make financial statement. It shall be the duty of the boards of directors of all school districts in school districts of the first and second class in the several counties of this state to publish semi-annually, within twenty days after the close of business June 30th and December 31st of each year, a complete report of the financial conditions of said school district, showing all receipts and disbursements from each and every fund, so itemized as to give the general public definite information as to the financial condition of said district; such publication shall be made once in a newspaper of general circulation printed and published within said district; Provided, That if there be no newspaper published within said district, then such publication shall be made once in a newspaper having a general circulation within said district.
—S. L. '11, p. 582

126. Directors make financial statement in districts other than first and second. It shall be the duty of the boards of directors of all school districts

in districts other than aforesaid to publish a complete report annually of the financial condition of their districts within twenty days after the close of business, June 30th of each year, showing all receipts and disbursements from each and every fund, so itemized as to give the general public definite information as to the financial condition of said district; such publication shall be made once in a newspaper printed and published in said district; provided that if there be no newspaper published in said district, then such publication shall be made once in a newspaper having a general circulation within said district.—*S. L. '11*, p. 583

127. Penalty for failure to publish. The members of any school board who shall fail or refuse to make such publication as aforesaid, shall be subject to a fine not to exceed one hundred dollars for each offense.—*S. L. '11*, p. 583

DRINKING CUPS IN SCHOOLS.

Note: Chapter 125, Sess. Laws '11, page 333, provides that it shall be unlawful for any person or board having charge of public places, including schoolhouses, to furnish any cup, or permit any cup, or other receptacle, to be used promiscuously as a common drinking cup, or to allow the same to remain in any such public place unless there shall be adequate provision for thoroughly sterilizing the same; and provides that any person violating such law shall be deemed guilty of a misdemeanor and be fined in a sum not less than five nor more than two hundred dollars.

DISTRICTS

DISTRICTS, OFFICERS AND ELECTIONS

128. School districts to be bodies corporate. Each regularly organized school district heretofore formed, or that may be formed, as provided in this chapter, is hereby declared to be a body corporate, by the name and style of "School District No....., in the county of....., and State of Colorado," and in that name may hold property and be a party to suits and contracts, the same as municipal corporations in this state.—*R. S. 5913*

Lien law not applicable school buildings.

a. The provisions of the mechanics lien law cannot be applied to public school buildings.—*Florman v. School Dist.*, 6 C. A. 319

School property held in trust.

b. All school property within the district is held by the board of directors in trust for the district for the benefit of the school.—*Florman v. School Dist.*, 6 C. A. 319

Districts established one year.

1. If a district has exercised the rights and enjoyed the privileges of a legally and regularly established district for one year it is, according to law, a legal district.

129. Legal school district—when second class districts become first class. Every school district in the state which now exercises the prerogatives of a school district, and the legality of whose organization has not been legally denied, and which has a board of directors, duly qualified according to law, and has exercised the rights and enjoyed the privileges of a legally and regularly established district for one year, shall be, and is hereby declared to be,

a legal school district, and all district officers shall hold office until their successors are qualified. When school districts of the second class shall attain a school population of one thousand or more, as shown by the annual census, at the next regular election thereafter, as provided in section 44 of this act (there shall be elected one director for three years, and one director for four years, and one director for five years, and annually thereafter one director for five years), as provided for in districts of the first class; and the persons so elected, together with the directors whose official terms have not expired, shall constitute the new board, which board shall enter upon the duties prescribed by law for boards of directors of districts of the first class.—*R. S. 5916*

Note. Section 44 above referred to is section 142 herein.

Census showing one thousand—directors—election—appointment.

Note. That portion of section 129 of the School Laws Annotated included in brackets has been amended by implication by sections 110 and 142 herein, so that, in case the census of 1912 should show a thousand or more children of school age in a second class district, it would be the duty of the two hold-over members on the first Monday in May to appoint three members of the board to serve until the regular election of 1913, at which time two members shall be elected for six years, one member for four years and one member for two years. In case the census showed such number of children in 1913, then two members should be elected for six years and one for four years. If such showing were made in 1914, then three members should be appointed until the regular election of 1915; and then and thereafter the same procedure as above should be followed, and all vacancies occurring in even years should be filled only until the next regular biennial election, and then elected in numbers and for periods of time to correspond with the provisions of section 110 herein,

First class falling below one thousand.

1. If a district was organized as a first class district at one time and should later fall below a thousand in the school population, there is no provision of law for changing the number of electors or from biennial to annual election.

130. Legal districts—what constitutes. All school districts now formed, or which may hereafter be formed, which shall continue to exercise, undisputed, the prerogatives, and enjoy the privileges of a legally formed district, for the period of one year next succeeding the election of its officers, shall be deemed to be a legally formed district, and its legality shall not thereafter be questioned.—*R. S.* 5917

School district operating one year.

a. The provision of law that any school district which shall exercise the undisputed prerogatives and enjoy the privileges of a legally organized district for a year shall be deemed to have been legally established is a wholesome and legitimate statute of limitations entirely within the power of the legislature, and if a school district brings itself within such terms its organization cannot be questioned.—*Shaw v. Lockett*, 14 C. A. 413

ORGANIZATION OF DISTRICTS, ETC.

131. Organization of new districts—petition—unorganized territory. For the purpose of organizing a new district out of a portion of one or more old districts, the parents of at least ten children of school age residing within the limits of the proposed new district, shall petition the county superintendent, in writing, which petition shall describe the boundaries of the proposed district, and the names of all children of school age residing in such proposed district at the date of said petition; and said list of names shall be held to be the census list of said district until the next regular census shall be taken, and if any names are found on said list, and also on other census list for the current year, if the county superintendent is satisfied [that] the children so named are bona fide residents of the proposed district, he shall strike such names from the

lists of the old districts, when the organization of the new district is complete. If, in the judgment of the county superintendent, the school interest of the districts affected by the proposed change will be best promoted by said change, he shall direct some one of the petitioners who is a legal voter, to notify each elector residing within the district so to be formed, by personal service as far as convenient, and to post a notice in three public places in said new district, that such petition has been made, and that a meeting will be held, naming the time and place for such meeting, to determine the question of the proposed organization. People living upon unorganized territory may organize themselves into a school district at any time, without a petition, if a majority of the legal voters residing within the proposed district shall so decide at a meeting, of which reasonable notice has been given to all resident voters, and which meeting shall be conducted as is now provided by law for the organization of new districts; Provided, That, in addition to the copy of the proceedings now required by law, the secretary shall also transmit to the county superintendent a certified list of all children of school age who are residents in good faith in said district at the date of the organization, which list shall be held to be the census list of said district until the next regular school census.—*R. S. 5907*

Mandamus not control discretion.

a. Mandamus will not lie to control the discretion of a public school official.—*Keefe M. & I. Co. v. School Dist.*, 33 C. 513

State board cannot change boundaries.

b. The state board of education has no power, upon appeal from the county superintendent, to change the bound-

aries of a school district as established by the electors.—*People v. VanHorn*, 20 C. A. 215

Electors fix boundaries new district.

c. After a petition to organize a new school district out of a portion of one or more old districts has been presented to the county superintendent, and he is determined that the school interests will be best promoted by such organization, the sole power to determine the organization of such district and the boundaries thereof is vested in the electors; and such a district cannot be organized or its proposed or established boundaries changed by the board of directors, the county superintendent or the state board of education.—*People v. VanHorn*, 20 C. A. 215

Organization—number of children.

1. A new district, with fewer than ten persons of school age residing therein, cannot be legally organized out of a portion of one or more old districts.

2. Renters renting by the year, and having no other home, may send their children to the school in the district in which they reside, and that district may enroll them; or, in other words, they can be counted among the ten necessary to form the district.

3. In the organization of a new district, it is legal to take cognizance of persons of school age residing within the limits of the proposed new district, whether the said persons are on the census list or not.

4. The law provides for no definite number of children in order to organize a school district from unorganized territory, nor is there any limitation on the size of the district.

Territory—size—valuation—children.

5. No district shall hereafter be divided for the purpose of forming a new district—

a. Unless it contains an area of more than nine square miles and has forty children of school age, and the portion remaining contains not less than twenty children of school age;

b. Or has an assessed valuation of more than \$20,000 and forty children of school age, and the portion remaining contains twenty persons of school age.

Organization—voters—petitions.

6. At the meeting held for the purpose of determining whether or not a new district shall be organized, only those living within the boundaries of the proposed new district

have a right to vote. Those living in the district or districts from which the new district is to be formed have no voice in the matter.

7. A two-thirds vote of the electors of the proposed new district is necessary in order to organize a new district from old districts.

8. It is not required by law that the petitioner for territory to be annexed to a school district should be the owner of such territory.

9. Organized territory cannot be legally detached from one district and added to another by the county superintendent without a petition from the residents of the territory, except in cases where the boundaries are conflicting.

10. A portion of unorganized territory may be annexed to a school district by the county superintendent upon petition of the majority of the legal voters resident within the territory to be so annexed.

11. More than one section of unorganized territory may be added to the district upon petition to the county superintendent of a majority of the legal voters within the territory.

Organization optional with county superintendent.

12. In the matter of the presentation of a petition for the organization of a new district, the statute leaves it entirely to the discretion of the county superintendent whether or not he will call such meeting, or whether or not the best interest of the districts will be promoted by such change. The matter is not subject to review by the state board of education, unless it appears that there is an absolute abuse of such discretion.

13. It is not within the province of the state superintendent to take any part whatever in the organization of a new school district, but as a member of the state board of education she may pass upon the legality of such organization on appeal from the decision of the county superintendent.

14. The matter of organizing new school districts is one mainly in the discretion of the county superintendent of schools, subject to the provisions of section 132 of the school law, providing that no city or town shall hereafter be divided into two or more districts, and the districts of the first class shall not be divided except upon a vote of the electors of the district, and that no district shall be divided for the purpose of forming a new district unless it contains more than nine square miles, or an assessed valuation of \$20,000 and forty children of school age, nor unless the re-

maining portion of the district shall contain twenty or more persons of school age.

15. The county superintendent has the right to exercise his own discretion in regard to the annexation of a portion of one district to another.

16. The county superintendent is under no obligation to transfer territory from one district to another, even though a petition as prescribed by law has been presented to him asking for such transfer. He will change boundary lines only when in his judgment the educational interests of the districts affected will thus be best promoted.

132. New districts—how organized—election of directors. The qualified electors of such proposed new district when assembled in accordance with the notice above required, shall organize by electing a chairman and secretary. Every legally qualified elector, and none other, shall be entitled to vote at such meeting. After the organization of such meeting, as above mentioned, a vote shall be taken by ballot on the question whether or not the proposed district shall be organized. Those in favor of organization shall vote "yes," and those opposed "no." If two-thirds of the legal voters so voting are found to be in favor of such organization, and not otherwise, the meeting shall proceed to elect by ballot a board of directors of said district, who shall hold office until the ensuing regular election, as provided in section forty-four of this act. The secretary of said meeting shall immediately transmit to the county superintendent a copy of the proceedings of the meeting, upon receipt of which, if the proceedings are found to have been in accordance with law, he shall establish and number such district and enter a record of the same, and of the proceedings of the meetings, as provided in section twenty-four of this act; Provided, If such organization of

a new district works great hardship to any head of a family, a statement of the facts may be submitted to the superintendent, and two disinterested persons, one to be named by the superintendent and one by the person affected, and if, in their judgment, good cause be shown for the transfer, he may be transferred to another district; Provided, further, That no district shall hereafter be divided for the purpose of forming a new district, unless it contains an area of more than nine square miles or has an assessed valuation of more than twenty thousand dollars and forty children of legal school age, nor shall a district be divided, if by so doing the remainder of the district shall be found to contain less than twenty persons of school age, and, when practicable, the district shall conform to government lines; Provided, also, That no city or town shall hereafter be divided into two or more districts, nor shall the districts of the first class be divided, except upon a vote of the electors of the district, submitted at an annual election, a majority of all the votes cast being in favor of such division.—R. S. 5908

Note. Sections 24 and 44 above referred to are sections 96 and 144 herein.

Two-thirds vote necessary to organize.

1. A two-thirds vote of the electors of the proposed new district is necessary in order to organize a new district from old districts.

Territory—size—valuation—children.

2. No district shall hereafter be divided for the purpose of forming a new district—

a. Unless it contains an area of more than nine square miles and forty children of school age, and the portion remaining contains not less than twenty children of school age;

b. Or has an assessed valuation of more than \$20,000 and forty children of school age, and the portion remaining contains twenty persons of school age.

3. As to whether, in counting the number of pupils left in a district after a division has been made, the count is made from the present actual residents or from the number contained in the last census list, clearly it is expected that twenty persons shall actually be shown to be residing in the district after the division is made.

Term of office in new district.

4. Members of a school board elected in a new district at other than a general election hold over until the next regular election, at which time a president should be elected whose term expires in 1914, a treasurer whose term expires in 1915, and if such regular election is in 1912, a secretary should be elected for one year only; but if such election is in 1913 or later, a secretary should be elected whose term expires in 1916 or every three years thereafter.

5. When new school districts are formed out of an old district, that portion of the old district that retains the original number should be considered the old district, and any member of the school board residing in that part of the old district that continues to exist as the old district should fill out his full term for which he was originally elected.

Family transferred back to old district.

6. If the organization of a new district works a great hardship to any head of a family, a statement of such facts should be made to the county superintendent, who, with two disinterested persons—one selected by him and one by the person affected—shall decide whether such family shall be transferred back into the old district.

Text books—vote of people.

7. In case of a new district formed entirely from one in which text books are furnished free, the new district should be entitled to its pro rata share thereof; but the question of supplying additional free text books in such new district must be submitted to a vote of the people.

133. Uniting two or more districts—territory annexed or detached—unorganized territory. Two or more contiguous districts may be united into one district. For the purpose of effecting such union, each district shall, at a special meeting legally

called for the purpose, determine by ballot whether or not a majority of the legal voters assembled are in favor of such union. Those in favor will vote "yes" and those opposed "no." If a majority of the voters present in each district vote in favor of a union, a union meeting shall be called by giving at least ten days' public notice, at which meeting the organization shall be perfected by the election of officers and other necessary proceedings, in the same manner as provided for the organization of districts in section twenty-eight of this chapter: Provided, That where a first class district is joined in such union with a district, or districts, of a lower class, the board of directors of such first class district shall be held to be the board of directors for the united district, and the members thereof shall be entitled to serve the unexpired portion of their respective terms as such directors of said united district; and the board or boards of directors of the lower class districts in said united districts shall cease and determine upon notice from the county superintendent of schools that such districts have been united under the provisions of this act. Upon receiving notice from the county superintendent of such union of districts, it shall be the duty of the county treasurer to transfer all funds belonging to said districts to the credit of the new district thus formed. Provided, That when one or more of the districts so united, previous to the time of being united, shall have incurred a bonded indebtedness, such districts alone shall be subject to the same, and that none of the other districts uniting under this act shall be held in any manner subject to such

indebtedness or interest thereon. A portion of unorganized territory may be annexed to a school district, or a portion of one district may be detached from said district and annexed to a contiguous district, by the county superintendent, upon petition, in either case, of a majority of the legal voters resident within the territory to be so annexed, subject, always, to the limitation of section twenty-eight.

Provided, That when there are children of school age, residing upon unorganized territory, and a majority of the legal voters of such territory shall neglect or refuse, after being given thirty days' notice in writing by the county superintendent, to petition to be annexed to a contiguous district, the county superintendent may attach such unorganized territory to a contiguous school district in the same manner as though such petition had been presented to him.—*S. L. '11*, p. 580

Note. Section 28 above referred to is section 132 herein.

Uniting upon petition of legal voters.

1. A portion of unorganized territory may be annexed to a district by the county superintendent upon petition of the majority of the legal voters resident within the territory to be so annexed; or if a majority shall neglect or refuse to present such petition after thirty days' notice, in writing, the county superintendent may act as though such petition had been presented.

2. More than one section of unorganized territory may be added to the district upon petition to the county superintendent of a majority of the legal voters within the territory.

3. A county superintendent has a right to detach a portion of one district therefrom and attach it to a contiguous district upon petition of a majority of the legal voters residing within the territory to be so annexed with the consent of the voters remaining in said district or of those residing in the district to which the territory is to be annexed.

4. It would be illegal to detach property from a certain school district for the purpose of making it unorganized

territory, since the only provision made for detaching territory is upon petition requesting that it be attached to some other district.

5. Organized territory cannot be legally detached from one district and added to another by the county superintendent without a petition from the residents of the territory, except in cases where the boundaries are conflicting.

6. When a school district has been annulled and its territory is being annexed to other districts, people wishing to become members of other districts may petition to have land other than their own, and on which no one is residing, annexed with their land to other districts.

Uniting contiguous districts—vote—notice.

7. Colorado has no law permitting any of its districts to be united with adjoining districts in other states.

8. The question of whether two or more contiguous school districts shall unite may be voted on at the annual school meeting in May, provided the required notice for a special meeting be given; that is, notices stating the purpose of the meeting must be posted at least twenty days before such annual meeting. The notices of the annual meeting will be sufficient if, in addition to the notice of the election, a statement that the question of uniting with such contiguous district or districts will be voted upon.

Debts of detached territory.

9. Territory annexed to a school district is liable for the debts of the district from which it was detached to the extent of the tax already levied against such territory at the time of the division of the district, and this applies to bonded indebtedness as well.

Transferring of territory.

10. A tenant may be set over to an adjoining district, even if the owner of the land objects to it, if done in accordance with the provisions of above section.

11. Unoccupied land can only be transferred from one district to another when transferred with other territory upon which people reside.

12. No provision is made for simply detaching territory from a district, so that a person who cannot send a child to a school held in the district will be exempted from paying the special tax.

13. The county superintendent cannot transfer territory from one district to another, except when both districts are located in the county of which he is superintendent.

14. There is no reason why the territory of a duly annulled district should not be annexed to an organized district, regardless of whether the latter was bonded at that time or not, as only the property of the new district which was included in the original territory of the bonded district, would be liable for the payment of the bonds.

Annexed territory—census.

15. If territory is added to a district after the annual census of that district has been taken, the names of persons of school age residing in the annexed territory should be added to the census list of the enlarged district, and the latter given its per capita for the total number.

134. Organization of joint districts. A joint school district may be formed from territory belonging to two or more contiguous counties. For the purpose of organizing a joint district, the same preliminary steps shall be taken, and the same course pursued, as is provided for the organization of other districts, in sections twenty-seven and twenty-eight. Such district shall be designated as “Joint District No., of the counties of and,” and shall be so numbered that it shall have the same number in all the counties from which it is formed. The petition required by section twenty-seven shall be made to each county superintendent interested, who shall unite in forming such districts; Provided, That the school census, the record of attendance at school, the assessing of property, the collection of taxes, and all other acts which from their nature should be separately kept or done, shall be kept and done, and the reports thereof made, as if each portion of said joint district belonging to each county were an entire district in the respective counties. The teachers of such joint district shall have a certificate from the superintendent of the county in which the

school house is located. No joint district shall be annulled except by the consent of the county superintendents of the counties in which such district is located; Provided, That when any joint district desires to be annulled for the purpose of forming separate districts, it shall require a majority of the voters constituting said joint district, at a meeting called for such purpose.—R. S. 5911

Note. Sections 27 and 28 above referred to are sections 131 and 132 herein.

Deputy not necessarily resident of county.

1. Since there is no statutory law requiring the deputy of a county superintendent to be a resident of such county, where there is a joint district practically inaccessible to the county superintendent of the one county but easy of access to the county superintendent of the other county, the latter can be appointed a deputy of the former for the purpose of visiting such school in compliance with the law.

Territory attached or detached.

2. Territory belonging to a joint district cannot be detached from or attached to an adjoining district without the consent of all the county superintendents interested in such joint district.

Formed by dividing counties.

3. In the organization of new counties by the general assembly the county lines, in a few cases, divided organized school districts into two parts, leaving the district in two counties; in such case the district should be considered as a joint district.

Elections.

4. The general law in regard to the election of school directors applies to a joint district just as to any other.

Who may vote.

5. All legal voters who are residents in a joint district may vote upon any questions pertaining to school matters of said district, save in the matters of bonds, which requires a voter to be also a taxpayer.

Secretary's bond—warrants.

6. In a joint district the secretary of such district should file a bond in both counties and the board should draw warrants on each county treasurer.

135. When a new district shall be entitled to public school money—proviso. No new district, formed as provided in sections twenty-seven and twenty-eight of this chapter, shall be entitled to any portion of the public school money until a school has actually commenced therein, and unless within six months from the establishment of such district a school be opened and maintained, as required by law, the action making such district shall be void, and all actions had by such district, acting as a body corporate, shall cease and determine, and all taxes which may have been levied in the old district or districts out of which the new one was formed, shall be valid and binding upon the real and personal property of the new district, the same as if said new district had never been organized; Provided, That the county superintendent may, for good cause, extend the said six months to eight months; said time of limitation shall begin to run from the time of the meeting at which it was voted to organize the district; whenever any district shall, for the period of one year, fail to maintain a school and to keep up its organization of officers, and to make annual report as required by law, the county superintendent may declare such district annulled, and annex its territory to adjoining district or districts.—*R. S. 5910*

Note. Sections 27 and 28 above referred to are sections 131 and 132 herein.

School actually commenced.

1. A new district is entitled to no portion of the public school fund until a school is actually commenced therein. This, however, would not necessarily exclude a district whose school might be found to be located outside of the district line through accident, if the school had been commenced in good faith.

2. A new school district, as soon as its organization is complete, is entitled to its share of the special fund standing to the credit of the old district, of which it was formerly a part; also to receive each month its share of the uncollected special tax; providing, always, that a school has been commenced in the district in good faith.

Failure to open school within six months.

3. Failure to open a school in a newly organized district within six months from the date of organization makes void all proceedings pertaining to the formation of the district, unless the time for opening a school therein be extended to eight months by the county superintendent.

Territory attached and detached.

4. Territory annexed to a school district is liable for the debts of the district from which it was detached to the extent of the tax already levied against such territory at the time of the division of the district.

5. Territory detached from a district which has been bonded is not released from taxation to pay both principal and interest of such bonds. Such detached territory is liable for such taxation until the bonds have been fully discharged, the same as if it had remained a part of the original district.

6. Lands to which title has not been obtained from the government at the time school bonds are issued by a district of which such lands form a part are not subject to tax for the payment of such bonds. Hence, if said lands are set off or detached from the district before title is perfected, they are not subject to a bond tax in the original district when title is complete.

7. A remote part of the district cannot take steps after bonds have been voted, and before they are issued, to set itself apart and form a new district, thus avoiding its liability for interest and principal on the bonds.

Annulment of district.

8. According to the law, whenever any district shall, for a period of one year, fail to maintain a school and keep up its organization of officers, and to make an annual report

as required by law, the county superintendent may declare such district annulled, and annex its territory to adjoining district or districts, but such action must be taken by county superintendent before such district ceases to exist.

9. There is no law providing for the annulling of a portion of a district that it may become unorganized territory, and it does not seem good policy to do so.

10. If a district is entirely deserted and has failed to make its annual report, etc., as specified in section 135 of the school law annotated, the county superintendent should declare it annulled, and annex it to an adjoining district simply by declaring it so added, and making the proper record. The act of uniting the two originates and concludes with the county superintendent, subject only to the restrictions specified in the law.

11. A district may be annulled when, for the period of one year, it has failed to maintain a school, keep up its organization of officers, and make its annual report as required by law.

When not annulled.

12. "Whenever any district shall, for a period of one year, fail to maintain a school and keep up its organization of officers and to make its report as required by law, the county superintendent may declare such district annulled and annex the territory to an adjoining district or districts." Therefore the mere fact that school has not been held in a district is not sufficient to warrant the county superintendent in annulling the district.

13. A school district, having kept up its organization and maintained a four months' school during the year, cannot be annulled for simply failing to make the annual report, as this failure is chargeable to the secretary, and if any damage ensues to the district he should be held on his bond.

14. Four months of school in each school year are necessary in order that a district may hold its organization. Three months of school are necessary to entitle a district to its share of the public funds. This practically makes four months of school necessary in each district.

15. A district in which there are no pupils of school age residing may keep up an organization for an indefinite time by electing officers and making all necessary reports.

16. If the county superintendent does not declare the district annulled, and it maintains a public school at least three months of the school year, it shall be entitled to the school fund for that year. This does not conflict with the

decisions referred to, since a district is not annulled, except as the county superintendent declares it so.

Disposition of fund—when district annulled.

17. If a school district has failed to hold school for one year, and has failed to keep up its organization, the funds belonging to such district should be turned into the county general fund, unless its territory is attached to another district, in which case the money should be transferred to the district to which it is attached.

CONSOLIDATED DISTRICTS.

136. Consolidation defined. For the purpose of this act the word "consolidation" is hereby defined as providing for the abolishment of certain adjoining school districts and their organization into one special school district, and for the conveyance of pupils to one consolidated school.—*S. L. '09*, p. 492

137. School boards may submit question. The school boards of two or more adjoining school districts may submit the question of consolidation, and upon the petition of not less than one-fourth of the qualified electors of such school districts, must submit such question to a vote of the qualified electors of such districts. For the purpose of determining the question, the secretary of the school board in each district affected shall, by giving legal notice, call a special meeting to be held at the usual place of holding school district elections. The legally qualified electors when assembled in accordance with the notice above specified shall vote by ballot for or against such consolidation. Those in favor will vote "For consolidation"—Yes, those opposed, "For consolidation"—No. If at said election more votes are cast against the proposition for consolidation than for it the question shall not be again submitted

to the electors of said adjoining districts for a period of one year.—*S. L. '09*, p. 492

1. There is no statute which makes several districts, consolidated under the act of 1909, liable for the bonded indebtedness of one of the districts. It seems that the property originally bonded will have to pay the indebtedness due.

138. Call meeting to organize district. If a majority of the electors vote in favor of consolidation it shall then be the duty of the school board in the district affected which has the largest school enumeration to call a union meeting by giving at least twenty days' public notice in each district affected, at which meeting the organization of the consolidated district shall be perfected by the election of officers and other necessary procedure. After the organization of the union meeting is completed by the election of a chairman and secretary it shall proceed to elect, by ballot, a board of directors for such consolidated district, consisting of a president, a secretary and a treasurer, who shall be held to constitute the board of directors of such consolidated district until the next annual school election, at which election one president shall be elected for a term of three years, one secretary for two years and one treasurer for one year, and annually thereafter a person to fill the vacancy occurring. Provided, That when a district of the first class is joined with a district or districts of a lower class the board of directors of said first class district shall be held to be the board of directors of the consolidated district and shall serve out the term for which they were elected.—*S. L. '09*, p. 492

139. Purchase site—erect building—transport children. As soon as the organization of a special

school district as herein contemplated shall have been perfected and its officers elected, it shall be the duty of the school board of such consolidated school district, if necessary, to purchase a site and erect a suitable building thereon, and said school board is hereby required to maintain and support a graded course of instruction, and may include a high school course of not less than two years, and may at its discretion furnish transportation to and from school to all pupils living one mile or more from the consolidated school or building. Said distance to be measured from the enclosure immediately surrounding their residence to the school house property along the public highway, provided, that the person or persons employed for the purpose of transporting the pupils to and from school shall be required to give a reasonable bond for the faithful performance of duties as prescribed by the school board.

—S. L. '11, p. 579

140. When new district entitled to share of funds—apportionment. When a new district is formed from one or more old ones, the school funds remaining to the credit of the district, after providing for all outstanding debts, excepting debts incurred for building and furnishing school houses, shall be divided as follows: The basis of division for the school fund shall be the school population, as shown by the last school census before the division of the district or districts occurred, and shall apply such funds as remain to the credit of said old district or districts at the time of the organization of said new district, and each district shall receive funds in proportion to its per cent. of the said census. In case of division, each district shall own

and hold all permanent property, such as sites, school houses and furniture, situated within its boundaries. All division of funds under this provision shall be made by the county superintendent, and when there are unpaid special taxes on the county tax book belonging to a district at the date of its division, the county treasurer, upon being notified of such division by the county superintendent, shall retain all money received in payment of said special tax until the same shall be apportioned by the county superintendent, whose duty it shall be to apportion said money monthly, between the fractions of the divided district, according to the location of the property on which said tax was levied. At the first apportionment after the organization of a new district, the county superintendent shall apportion to such district its per capita proportion of the general fund, but no money, either from the general or special fund, shall be paid out of the county treasury on account of such district until a school [house] shall have been begun therein in good faith.—R. S. 5912

When district cannot be annulled.

1. The above section of the school law provides for distributing any school funds remaining to the credit of a district when a new one is formed from one or more old ones; but there is no law providing for the payment of the indebtedness of a district in case it should be disorganized and wiped out of existence. The legislature never intended that a school district should be disorganized until all its outstanding obligations are provided for. The superintendent may declare the district annulled, and at the same time provide, in the order in which it was contracted, for the payment of such indebtedness by the district to which the territory should be attached, providing such district should consent thereto. He certainly should not make an order annulling the district until some provision is made for the pay-

ment of its outstanding warrants; and if he has done so, in any case it could not have the effect to cancel such indebtedness or make it invalid.

Teacher's contract.

2. When a school district has been divided, in the division of funds between the old district and the newly organized district the clause in above section which states that "after providing for all outstanding debts, etc.," cannot be interpreted to mean contracts made with teachers for certain months of school which are yet untaught. No debt exists for the months of teaching which are yet to come.

141. Districts may hold real estate—proviso. It shall be lawful for any school district in this state to take and hold, under the provisions of any law now or hereafter in force providing for the exercise of the right of eminent domain, so much real estate as may be necessary for the location and construction of a school house and convenient use of the school; Provided, That the real estate so taken otherwise than by the consent of the owner thereof, shall not exceed in districts of the first class, three acres, if real estate be unplatted, and not exceeding one block if real estate be platted, and in districts of all other classes, not exceeding one acre.—*R. S. 5914*

Note. Chapter 31 referred to is the chapter on "Eminent Domain."—*R. S., chap. xlv.*

Qualified fee in land.

a. A conveyance of land to a school district by a quit-claim deed, subject to condition that the land should be used for school purposes, and when not so used should revert to grantor, vests a qualified fee in a district, and until it ceases to use the same for school building the grantor is divested of all interest in the land.—*D. & S. F. R'y Co. v. School Dist., 14 C. 327*

Power to condemn.

1. Upon showing that such action is necessary for the location and construction of a school house and convenient use of the school, directors may, under the "Eminent

Domain Act," condemn land as above provided, and the owner must accept the amount of damage awarded.

2. Section 15, article 11, of the constitution, gives the right, and chapter 45 of Revised Statutes provides a complete plan, of procedure for condemning private property for public use.

Belongs to school district.

3. When land has been taken by a school district under the provisions of the "Eminent Domain Act," if it has been used for school purposes and no other, it belongs to the school district, and not to an individual who has recently made purchase of the quarter section of which such acre is a part. The individual purchasing the land cannot collect rent from the district and cannot demand pay for the land.

Title obtained through individual.

4. A school district cannot perfect a title to land, as this is the power of an individual only. Before the district purchases the land the patent should be issued to some one, otherwise the title would be insecure.

Building on school land.

5. There is no authority in law giving the privilege to build upon school land without first receiving a grant from the state land board. Upon application to the register of such board, accompanied with plat and field notes of the survey, one acre will be granted your district for school purposes.

ELECTIONS

142. Annual elections—notice posted—publication—ballot. The regular election for electing members of school boards or boards of education shall be held biennially in each school district of the first class, and annually in each school district of the second and third classes on the first Monday in May, beginning with the year 1911, at which time it shall be lawful in school districts of the third class to transact any business pertaining to schools and school interests.

The secretary of each school board shall cause written or printed notices to be posted, specifying the day and the place or places of such election, the boundaries of election precincts, if any, and the time during which the ballot box or boxes shall be kept open, not less, however, than three hours in districts of the second and third classes, and further specifying at what hour and place any other business shall be transacted. In districts of the first class the ballot box or boxes shall be kept open from seven o'clock a. m. to seven o'clock p. m. Said notices shall be posted in at least three public places in the district, and additionally at each school house, at least six days prior to the time of election; and in districts of the first class, said notice shall be published weekly for the four weeks next preceding such election, in some newspaper published in the district, and if there be no paper published in such district, then in a paper published in an adjoining district; provided that in those districts having a school population of more than three thousand

the said notice shall be posted as aforesaid at least eight weeks previous to the time of election and published in a newspaper as aforesaid once each week for a period of eight weeks next preceding such election. If the secretary shall fail to give such notice, then any two legal voters residing in the district may give such notice over their names, and such election may be held after the day fixed by this act for such election.—*S. L. '11*, p. 588

First class district—section amended.

Note. Section 142 herein provides that the regular election for electing members of school boards in first class districts shall be held biennially on the first Monday in May, 1911. Section 110 provides that at the regular election in 1913, and every six years thereafter, there shall be elected two directors; in 1915, and every six years thereafter, two directors; in 1917, and every six years thereafter, one director; and that the term of office of all directors of first class districts shall be six years. This means that the vacancy occurring by the expiration of the present five-year-term director, expiring in 1912, must be filled by the board until the regular election of 1913, at which time another five-year term will have expired, and two directors can then be elected for six years, in accordance with the present law. In 1914 another five-year term expires, to be filled by the board until the regular election of 1915, when another expires, and two members can be elected for six years. In 1916 the last five-year term expires, and the vacancy must be filled until the regular election of 1917, when the fifth member of the board is elected for six years.

Directors—second and third class districts—election.

Note. Prior to the enactment of Section 110 herein second and third class districts were grouped under three general heads, on account of the fact that like officers were elected in different years. This classification will no longer exist after 1913, as the present law provides that the term of the president in all second and third class districts shall expire in 1914, that of the treasurer in 1915 and that of the secretary in 1916. Until the election of 1914, however, the various officers should be elected in the different groups at the general school election in the years and for the periods of time, as follows: In the first group, organized prior to March 20, 1877, in 1912, a president for two years; if a vacancy in office of treasurer, a treasurer for three years; if a

vacancy in office of secretary, a secretary for one year. In 1913, a treasurer for two years; if a vacancy in office of president, a president for one year; if a vacancy in office of secretary, a secretary for three years.

In the second group, organized between March 20, 1877, and April 4, 1887, in 1912, a secretary for one year; if a vacancy exists in office of president, a president for two years; if a vacancy in office of treasurer, a treasurer for three years. In 1913, a president for one year; if a vacancy in office of treasurer, a treasurer for two years; if a vacancy in office of secretary, a secretary for three years.

In the third group, organized since April 4, 1887, in 1912, a treasurer for three years; if a vacancy in office of secretary, a secretary for one year; if a vacancy in office of president, a president for two years. In 1913, a secretary for three years; if a vacancy exists in office of president, a president for one year; if a vacancy in office of treasurer, a treasurer for two years.

In new districts, a board elected at other than a general election holds over until the regular election, at which time a president shall be elected whose term expires in 1914, a treasurer whose term expires in 1915, and if such regular election is in 1912, a secretary for one year only, but if such election is in 1913 or later, a secretary should be elected whose term expires in 1916 or every three years thereafter.

Census showing one thousand—directors—election—appointment.

Note. That portion of section 129 of the School Laws Annotated, 1912, included in brackets has been amended by implication by sections 110 and 142 herein, so that, in case the census of 1912 should show a thousand or more children of school age in a second class district, it would be the duty of the two hold-over members on the first Monday in May to appoint three members of the board, to serve until the regular election of 1913, at which time two members shall be elected for six years, one member for four years and one member for two years. In case the census showed such number of children in 1913, then two members should be elected for six years and one for four years. If such showing were made in 1914, then three members should be appointed until regular election of 1915; and then and thereafter the same procedure as above should be followed, and all vacancies occurring in even years should be filled only until the next regular biennial election, and then elected in numbers and for periods of time to correspond with the provisions of section 110 herein.

Annual election—place—time—notice.

1. The regular annual election for members of school boards is held on the first Monday in May throughout the

state. Any business pertaining to schools and school interests may be transacted at that time. Notice, however, must be given of the "time and place" of voting such business.

2. It is not possible for school districts of the third class to have more than one voting place.

3. The question of whether two or more contiguous school districts shall unite may be voted on at the annual school meeting in May, provided the required notice for a special meeting be given—that is, notices stating the purpose of the meeting must be posted at least twenty days before such annual meeting; and the notices of the annual meeting will be sufficient if, in addition to the notice of the election, a statement that the question of uniting with such contiguous district or districts will be voted upon.

Moving building—vote.

4. In order to vote upon the question of moving a school building, at an annual election, such contemplated business should be stated in the notice. The majority vote necessary to carry the same refers to the voters present, and not to all the electors of the district.

5. If on account of unforeseen circumstances the place designated in the notice cannot be used for holding the election, the nearest accessible place should be utilized and a trustworthy elector stationed at such designated polling place during voting hours to direct those desiring to vote to the new polling place.

6. The result of a school election must stand as announced by the judges until set aside by the courts in a contest proceeding.

Polls open three hours.

7. A school election in second and third class districts at which the polls are not kept open three hours and the voting done by ballot is illegal.

8. It is unlawful for the ballot box for voting on the question of bonding the district to be open at the same time as the one for the election of school officers.

Judges of election.

9. The fact that there were but two judges at a school election would not invalidate the election, if legally conducted in other respects.

Tax levy reconsidered—when.

10. While the law does not permit the changing of a tax levy made at the annual meeting in May and certified

to by the school board of the district, the district would have a right to call a special meeting to vote an additional special tax of two or any other number of mills that would be inside the limit up to which a third class district is permitted to levy.

School board when not bound by action of electors.

11. A school board does not have to carry out all motions made and carried at the annual meeting of electors, unless such motions cover matters upon which the electors are entitled to pass.

143. Electors — directors — qualifications — publish names—ballots—registration—county clerk furnish—judges—challengers—watchers — fraudulent—voting—oaths—certificate—taxpayers — bribery—fraud. Every elector qualified to vote at a general election, having been a resident of the school district for thirty days next preceding the date of election shall be entitled to vote at school elections, provided that he has been first duly registered as hereinafter provided in this act, for districts having a school population of more than three thousand.

In districts of the first and second classes any person who may desire to be a candidate for the office of school director shall file a written notice of such intention with the secretary of the school district in which he resides at least eight days prior to the date for the holding of the election of school directors, provided that in districts of the first class the said candidate or candidates, in addition to filing such written notice shall also file a certificate of nomination signed by not less than fifty qualified electors of said district, which certificate of nomination shall contain the name of the office for which such person or persons is nominated, the name,

Post Office address and residence of each of such persons, and if in a city the street number of residence and place of business, and the secretary of said school district shall, for five consecutive days preceding the day of said election publish in some daily newspaper published in said district, or when no daily newspaper is published in such district, then by posting a printed or written notice in not less than five public places in such district and at each school house in such district, the names of all candidates who have been nominated as above provided.

In districts of the first and second classes the said secretary shall have printed ballots prepared bearing the names of all candidates so nominated, which names shall be arranged in alphabetical order, according to the surnames of the candidates; and on the ballot shall be printed such words as will indicate the number of directors or members of the board of education to be elected. All such ballots shall be uniform in every respect and of sufficient length and width to allow all the names of the candidates to be printed in clear plain type, and so as to give each elector an opportunity to designate by a cross-mark (X) in a sufficient margin at the right of the name of each candidate, his choice of candidates. There shall be printed on the back of each ballot the following endorsement:

“Official Ballot of School District No..... in the County of and State of Colorado,” together with the date of the election and a facsimile of the signature of the secretary of the school district.

In school districts having a school population of more than three thousand, no person shall hereafter be permitted to vote at any school election, without first having been registered in the manner required by the provisions of this act.

Any person possessing all the qualifications of an elector in any school district, whose name appears on the registration list made according to law for the general election of county officers in the county in which the school election precinct in which such person resides is situated next preceding any school election in such district shall be entitled to vote at such school election.

In school districts having a school population of more than three thousand, any person possessing all the qualifications of an elector, whose name does not appear upon the registration list of the voting precinct, in which he resides, made according to law for the next preceding general election of county officers in his county may, not less than thirty days, nor more than sixty days prior to the time of any school election, appear before the county clerk of the county in which he resides, or if the district is not located in the county seat, appear before the secretary of the school board of the district in which he resides, and, upon making oath before said county clerk or district secretary of his qualifications as an elector, and answering to said county clerk or district secretary all the questions required by law to be answered for registration for a general election, cause his name to be placed upon the registration list for such school election by said county clerk or district secretary.

The county clerk of each county wherein there shall be one or more school districts having a school population of more than three thousand shall prior to the time of holding any election in said school district make a full and complete copy of the registration list of the qualified voters of each school election precinct as the same shall be designated and bounded by the board of directors or the board of education of any such school district having a school population of more than three thousand, which list shall contain the names of the qualified voters according to the registration list made for the next preceding general election of county officers, together with such changes, additions and amendments as shall have been made by said county clerk in making new registrations as provided by this act, and shall certify the same under his hand and official seal, and shall deliver the same to the secretary of such school district not less than five days prior to the time of the holding of an election in said school district.

The said school district shall pay to the county clerk as his fee for making and certifying said registration lists the sum of one cent for each and every name therein contained or added thereto by new registration.

In districts of the first and second classes the board of directors or board of education may, not less than sixty days prior to the time of the holding of any school election divide the district into such number of election precincts as they shall see fit and fix the boundaries of the same, and in each case they shall designate one voting place in each

of said election precincts. Immediately upon so dividing said districts the secretary of any school district having a school population of more than three thousand shall certify to the county clerk of the county in which the said district is situated the limits and boundaries of said election precincts. Whenever the board of directors or board of education shall divide a district into election precincts they shall, prior to the time of holding such election, appoint three judges for each of the said election precincts, each of whom shall be a qualified elector of the school election precinct for which he is appointed, who shall not be members of the school board.

In school districts of the third class the directors or members of the board of education shall act as judges, and each voter shall prepare his own ballot by writing the name of the candidate or candidates for whom he wishes to vote on a piece of paper.

In case one or more judges of election shall be absent at the time and place stated in the notice for the opening of the polls and ballot boxes, one or more duly qualified electors shall be chosen by viva voce vote of the qualified electors present to fill the vacancy or vacancies.

Any person offering to vote at any school election in any district may be challenged by any legally qualified elector of the district and thereupon the judges of election or one of them may require him to answer, under oath, such questions touching his qualifications as a voter as they see fit. One of the judges shall administer to him the oath, as follows:

“I do solemnly swear or affirm that I am a citizen of the United States; that I have resided in this state for one year immediately preceding this election; in this county ninety days and in this school district thirty days. That I am twenty-one years of age and that I have not previously voted at this election, so help me God.”

If the person so challenged shall refuse to make such oath or affirmation, his vote shall be rejected. Each candidate voted upon at any school election in any school district shall have the right to appoint in each school election precinct any person who is a qualified elector of such school district, to remain with the polling places during the casting and counting of votes and the declaration of the result thereof. Such watcher may also act as challenger when there is reason to believe that any person about to vote is not entitled to vote at such election precinct. If any elector shall vote more than once or having voted once shall offer to vote again at any school election or shall deposit or offer to deposit in the ballot box at any school election more than one ballot, he shall be deemed guilty of a crime and upon conviction thereof he shall be fined not less than fifty dollars and shall be imprisoned in the county jail for not less than three months.

Prior to the time of any school election, the secretary of each school district of the first class shall provide ballot boxes and cause to be prepared two duplicate poll-books for each voting place in his district. On the first page of said poll-books shall be printed a blank form of oath, to be taken by each of the judges of election, substantially as follows:

“I,, do solemnly swear (or affirm) that I will perform the duties of judge of election according to law, and to the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting same; that I will not try to ascertain how any electors shall vote, and if in the discharge of my duties such knowledge comes to me, I will not disclose the same unless required to do so in some court of justice, so help me God.”

.....
 Subscribed and sworn to before me this.....
 day ofA. D.

 Judge.”

The said oath shall be taken and subscribed by each of the judges of election before any votes shall be received. Any of the judges of election shall have the power and authority to administer said oath.

The next succeeding several pages of said poll-book shall contain in one column, a series of numbers beginning with the number one and in an adjoining column, spaces opposite said numbers, in which a judge of election shall write the names and addresses of the electors as they respectively present themselves for voting. On one of the latter pages of said poll-books shall be printed a blank form of certificate of return, substantially as follows:

“To the Board of Education of School District No. in the County of, in the State of Colorado:

At an election held at.....in election precinct No. of said school district on the day of A. D....., the following named persons received respectively the number of votes placed opposite their names for the office of director or member of the board of education of said school district, to-wit:

A. B. received.....votes.

C. D. received.....votes.

E. F. received.....votes.

G. H. received.....votes.

The whole number of votes cast was.....

The number of excess ballots was.....

The number of unused ballots.....

J. K.,

O. P.,

L. M.,

Judges.”

In school districts having a school population of more than three thousand, when any elector appears for voting he shall give his name and place of residence to one of the judges. If his name shall be found on the registration list, and if the judges shall be satisfied that he is a qualified elector, his name and address shall be entered by the judge of election having charge of the poll-books in the column prepared for that purpose provided that it shall be entered in each poll-book opposite the same number. The other judge shall thereupon write on the back of a blank ballot with ink, or indelible pencil, the number opposite that an elector's name in the poll-book, together with his (the judge's) initials, and shall hand the ballot to the elector, who

shall retire with it within the enclosure and prepare it for casting by marking a cross (X) opposite the names of those candidates for whom he desires to vote, or by drawing a line or lines through the names of those candidates for whom he does not wish to vote or by otherwise indicating his choice. After having prepared his ballot, the elector shall return the same to the judge from whom he received it, so folded as to expose the number and initials written on the back thereof by the judge, but not disclose the marks on the face thereof indicating the elector's vote. That judge shall examine the number and the initials on the back of said ballot, and if they indicate that it is the same one which was issued to that elector, the judge shall again write his initials on the back of the same, and return it to the elector, who shall deposit it in the ballot-box.

Provided, however, that at all elections held for voting upon a proposition to create or contract a debt by loan for the purpose of erecting or furnishing school buildings, or purchasing school grounds, only such qualified electors of the district shall vote thereat as shall have paid a school tax in such district for the year next preceding such election.

If any person shall falsely personate a voter and shall vote under the name of such voter he shall be deemed guilty of a crime and upon conviction thereof, he shall be fined not less than fifty dollars and shall be imprisoned in the county jail for not less than three months.

It shall be unlawful for any person, directly or indirectly, by himself or through any other person,

(a) To pay, loan or contribute, or offer or promise to pay, loan or contribute, any money or other valuable consideration to or for any voter to vote or refrain from voting at any school election provided by law, or to induce any voter to vote or refrain from voting at such election for any particular person or persons, or to induce such voter to go to the polls, or remain away from the polls at such election, or on account of such voter having voted or refrained from voting for any particular person, or having gone to the polls or remained away from the polls at such election.

(b) To give, offer or promise any office, place or employment, or to promise or procure or endeavor to procure any office, place or employment, to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at any school election provided by law, or to induce any voter to vote or refrain from voting at such election for any particular person or persons.

(c) To advance or pay, or cause to be paid, any money or valuable thing to or for the use of any person, with the intent that the same or any part thereof shall be used in bribery at any school election provided by law, or to knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part, expended in bribery at any such election.

Any person convicted of any of the offenses mentioned in paragraphs (a), (b) and (c) of this act shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or im-

prisonment in the county jail for not less than six months nor more than one year, or by both fine and imprisonment.

If any elector at any school election shall be guilty of wilful and corrupt false swearing or affirmation by any oath or affirmation prescribed by law in the conduct of such election, such person shall be deemed guilty of perjury and upon conviction thereof shall be punished by a fine of not less than fifty dollars or to exceed five hundred dollars or imprisonment in the county jail not to exceed one year.

If any judge or clerk of a school election shall knowingly and wilfully permit any person to vote at any school election who is not entitled to vote thereat, or shall knowingly and wilfully permit any persons to vote more than once at such election, or shall knowingly and wilfully permit any person to deposit more than one ballot in the ballot box at such election, or shall be guilty of any fraud in the conduct of any such election, or shall knowingly permit the commission of any fraud or deceit on the part of any other person in the conduct of such election, such judge or clerk shall be deemed guilty of a crime, and upon conviction thereof shall be fined not less than fifty dollars and shall be imprisoned in the county jail for not less than three months.—*S. L. '11*, p. 589

Note. See Qualifications of Electors, article VII, section 1, constitution.

Change of residence.

a. To constitute a change of residence qualifying one to vote, the abandonment of the old residence must be actual, and the mere intention to change the domicile, un-

accompanied by an actual removal, does not constitute such change.—*People v. Turpin*, 49 C. 234

Qualifications of electors.

1. If persons spend the winter in town, voting in the town in the fall, and return to their homes in another district less than thirty days previous to a school election, they are not entitled to vote, since their action in voting in the November election is a declaration of their residence in the town.

2. Every person, male or female, over the age of twenty-one (21) years, who shall be a citizen of the United States, and shall have resided in this state twelve (12) months immediately preceding the election at which he offers to vote, in the county ninety (90) days, and in the district thirty (30) days, shall be a legal voter at an annual school election.

3. In third class districts—that is, districts having under 350 school population—the provision of section 143, requiring eight days' notice of candidacy, is not applied. It is only in districts of the first and second class—districts having over 350 school population—that candidates are required to file written notice of such intention with the secretary of the school district at least eight days prior to the day of holding the annual election.

4. The fact that an elector is not a taxpayer does not disqualify him from holding office, either by election or by appointment.

5. There is nothing illegal in a man and his wife being members of the same school board. Since more than one director may be elected from the same family.

When election illegal.

6. An election is not illegal simply because some persons were not permitted to vote, even if it is shown that such persons had a right to vote. If the ballots excluded would change the result of the election there would be strong grounds for contesting the election. The law does not provide for the imposing of fines upon members of school boards who have not allowed persons to swear in their votes.

7. If the candidate who received the twenty votes was not a qualified elector, his election was invalid, and a special election should be called by the board within ten days and notice be given as required for regular election.

Judges of election must take oath.

8. A school board of a first class district can not legally appoint any one to act as judge of a school election without requiring such person to take the oath for the same.

Legal voter.

9. If you are not a resident of the district you could not legally be elected as a director of that district.

10. Actual residence determines one's voting place. The fact that a person has "taken up" a homestead, but is not at the time he offers to vote located upon his homestead, does not deprive him of the right to vote in the place of his actual residence; but if a person is holding a homestead claim in good faith, he must retain his residence in the school district in which said homestead is located.

11. A person who has lived in a district for over a year and a half and who, after teaching six weeks in the district, goes away for a certain time, expecting to return, is entitled to vote in such district if possessed of the other legal qualifications.

When an elector not a taxpayer can vote.

12. Any person not a taxpayer, but otherwise a legal voter, is entitled to vote at a regular or special district school meeting upon all matters coming before such meeting, except upon a proposition to contract a debt by loan.

13. It is not necessary that an elector voting to place free text books in a school should have been a taxpayer in the school district for the year preceding the election.

14. It is not necessary that one should be a taxpayer to vote on the question as to where a school is to be held or a school building is to be erected. Any legally qualified elector has a right to vote on all questions save those relating to bonded indebtedness.

Must be taxpayer to vote on bonds.

15. All legal voters who are residents in a joint district may vote upon any questions pertaining to school matters of said district, save in the matter of bonds, which requires a voter to be also a taxpayer.

Who may challenge oath.

16. A person residing outside of the boundaries of a proposed new district has no legal right to challenge a voter residing within the same.

17. The president of a school board, when acting as a judge of election, can administer the oath to a challenged voter, the fact that the president requires the oath being equivalent to a challenge.

Procuring site for school house.

18. The proposition to build a school house includes procuring a site therefor. The interpretation of the law relative thereto is: *First*, that a vote is necessary; *second*, that if the land were purchased without such a vote, the sale would be invalid; *third*, section 143 of the school law, will govern the qualifications of voters.

Who may be director.

19. A person cannot legally be elected a director who is not a resident of the district.

20. The laws of Colorado do not in any way prohibit a saloonkeeper from holding office as a school director, if he has been elected to that office in a legal manner.

21. More than one director may be elected from the same family.

Candidacy—when vacancy occurs.

22. In the first class district, when a vacancy occurs after the advertisement of the regular election, any person desiring to become a candidate for director, may do so by filing a written notice of such intention with the secretary of the board at least eight days prior to the day of holding the election. If the vacancy occurs after eight days before election, the board should fill the vacancy until the regular election.

144. Counting votes—special election—excess ballots—disposition of poll books—canvass of votes—contest. Immediately after the close of the polls the judges shall open the ballot box and proceed to count the votes polled, and shall continue to count without adjournment until finished. If, for any cause, no election be held at the regular time, or if, upon counting the votes, there be a tie vote for any one or more of the officers, a special election shall be called by the board within ten days, and notice thereof given as required in section 5918

of the revised statutes of the state of Colorado of 1908, as hereby amended. A failure to give the prescribed notice of such special election shall render the election void.

If in school districts of the first class it shall be found that the number of ballots in the box or boxes exceeds the number of names entered in the poll books, the judges of election without unfolding the ballots, shall examine the endorsement on the backs of the same, and, if in their opinion any one or more of them is spurious, they shall be separated from the others unopened, and shall not be counted, but shall be enclosed in a package by themselves, marked "excess ballots" and returned to the ballot box. A record of the number of such excess ballots shall be made and certified to the board of directors or board of education in the certificate of returns.

As soon as all the ballots shall have been counted the judges shall make out the certificate of returns in each poll-book in duplicate, under their hands, stating the number of votes cast, the number of excess ballots, and the number of unused ballots and the number of votes received by each candidate in both words and numerical figures.

One of the poll-books, together with the registration list of voters, shall be enclosed and sealed under cover, and forthwith delivered by one of the judges to the secretary of the board of education or board of directors of said school district.

After the ballots have been counted they shall be returned to the ballot box, together with one of the poll-books; the ballot box shall thereupon be

closed, locked and sealed by the judges of election and shall forthwith be returned to the secretary of the board of directors or board of education of that school district by one of the judges other than the one designated to return the poll-books and registration list. If the judges of election can not agree upon the question of which of them shall return the poll-books and registration list, and which the ballot box, all three of the judges shall return both together.

Upon receiving the ballot box and the poll-books and registration list the secretary of the board of directors shall give his receipt therefor. Immediately upon receiving all the returns of election the secretary shall call a meeting of the board of directors or board of education to meet not more than twenty-four hours later. At such meeting the board of directors or board of education shall proceed to open and examine the said certificate of returns and shall canvass the votes cast, and it shall be the duty of the said board immediately upon the conclusion of such canvass to make out and deliver a certificate of election to the candidates who shall receive the highest number of votes, or where there is more than one vacancy to be filled, to those candidates who shall receive the highest number of votes, which said certificate shall be signed by the president and secretary of the board and bear the impression of the corporate seal of the board.

The board of education shall preserve the ballot boxes unopened and intact until thirty days prior to the next school election, when the secretary shall open the same and burn their contents, unless the

board shall be required to produce them in court of justice.

Proceedings to contest the election of any person declared duly elected as a member of the board of education of any district in this state may be instituted by any qualified elector of such school district. Such proceedings shall be instituted within ten days after the votes cast at such election are canvassed.

The county court of the county wherein a school district shall be situated shall have jurisdiction for the adjustment of all contests for the office of director or member of the board of education of any school district. In such cases the rules of practice and procedure in contested elections for the office of sheriff shall apply, as far as applicable.

—S. L. '11, p. 596

Tie vote—special election.

1. In the case of there being a tie in the vote of two candidates for the same position at a school election, it would be necessary to hold a special election for the office, in accordance with the rules provided for special meetings.

2. At a school election, in case of a tie vote, it is the intent of the school law to provide that notice of another election shall be posted within ten days.

3. In the matter of calling a second special meeting for the election of directors in case of a tie vote, the law contemplates no such action. In case a special election is not called within ten days after the time of holding the regular annual meeting, or in case a special meeting is duly called within the ten days, but a tie vote is cast, no other meeting for the election of directors can be called, and the vacancy should be filled by the county superintendent.

4. In districts of the second class in case there is no regular nominee an election can not be legally held, and a special election should be called by the board within ten days, or in case of the failure of the board to have prop-

erly called such a special election, the county superintendent should appoint.

Power of judges.

5. The judges must determine who is legally elected. They have the power to throw out an illegal vote, providing it is done before a signed report of said election is transmitted to the school board, or the final decision is given. A special meeting is only called in case of a tie, and must be within ten days after the election.

Contests—question for courts.

6. The result of a school election must stand as announced by the judges until set aside through legal proceedings contesting the election. An election contest is a question for the courts to decide.

7. The county superintendent has no authority to set aside an election, as it can only be done by the courts, and the county court of your county will have jurisdiction in the matter.

When county superintendent fills vacancy.

8. If the annual election of school directors is not held, and a special election is not called within the required ten days thereafter, it then devolves upon the county superintendent to fill vacancies by appointment.

Old board not hold over.

9. If an election of school directors is not held, the old board does not hold over. The law provides that, within ten days after election, notice should be posted of another election.

Continued meeting.

10. When a meeting follows after the ballot box has been closed at an annual meeting, it may be regarded as simply a continuation of the first meeting.

145. Applies to all school elections. The general provisions of sections 44, 45, 46, shall be applicable to all school elections, whether general or special, or for whatever purpose held.--R. S. 5921

Note. Sections 44, 45 and 46 above referred to are sections 143 and 144.

ELECTORS

146. Qualifications of electors. Every person over the age of 21 years, possessing the following qualifications, shall be entitled to vote at all elections:

First—He shall be a citizen of the United States.

Second—He shall have resided in this state one year immediately preceding the election at which he offers to vote; in the county, 90 days; in the city or town, 30 days; and in the ward or precinct, 10 days.—*R. S.* 2146

Note. Section 143 also requires that a person voting at a school election, in addition to the above qualifications, must reside in the school district thirty days previous to the school election. See also, article X, section 1, of constitution.

147. Women vote—qualifications. That every female person shall be entitled to vote at all elections, in the same manner in all respects as male persons are, or shall be entitled to vote by the constitution and laws of this state, and the same qualification as to age, citizenship, and time of residence in the state, county, city, ward and precinct; and all other qualifications required by law to entitle male persons to vote shall be required to entitle female persons to vote.—*R. S.* 2147

148. Powers of electors at meetings. The qualified electors of districts of the third class, when assembled at any regular or special meeting shall have power:

First—To appoint a chairman and secretary in the absence of the regular officers.

Second—To adjourn from time to time, as occasion may require.

Third—To fix the site for each school house, taking into consideration in doing so the wants and necessities of the people of each portion of the district.

Fourth—To order such tax on taxable property of the district as the meeting shall deem sufficient for any of the following purposes: To pay teachers; to purchase or lease a suitable site for a school house or school houses; to build, rent or purchase a school house or school houses; and to keep in repair and furnish the same with the necessary fuel and appendages; for procuring libraries for the schools, books and stationery for the use of the board and district meetings, and to defray all other contingent expenses of the district.

Fifth—To direct the sale or other disposition to be made of any school house, or the site thereof, and of such other property, real or personal, as may belong to the district, and to direct the manner in which the proceeds arising therefrom shall be applied.

Sixth—To transact generally such business as may tend to promote the cause of education, in accordance with the provisions of this act.

Seventh—To adopt any rules of order for the government of district meetings not incompatible with the provisions of this act, and to alter and change the same from time to time, as occasion may require.—*R. S.* 5955

Livery stable certain distance from school.

a. An ordinance prohibiting a livery stable in any block in which a school building is situated, or in any block opposite such a block, without reference to the manner in which such stable is constructed, kept or used, and without specifying distance, cannot be considered as

reasonable, and so is invalid.—*Phillips v. City of Denver*, 19 C. 179

Electors levy special tax.

b. The power to levy a special tax in a school district of the third class is by statute vested in the electors thereof and cannot be exercised by the board of directors.—*County Comrs. v. R. R. Co.*, 3 C. A. 398

Lien law not apply school buildings.

c. The provisions of the mechanics lien law cannot be applied to public school buildings.—*Florman v. School Dist.*, 6 C. A. 319

Who may vote.

1. Any person not a taxpayer, but otherwise a legal voter, is entitled to vote at a regular or special district school meeting upon all matters coming before such meeting, except upon a proposition to contract a debt by loan.

2. All legal voters who are residents in a joint district may vote upon any questions pertaining to school matters of said district, save in the matter of bonds, which requires a voter to be also a taxpayer.

3. It is not necessary that one should be a taxpayer to vote on the question as to where a school is to be held or a school building is to be erected. Any legally qualified elector has a right to vote on all questions save those relating to bonded indebtedness.

Site of school house determined by electors.

4. The site for a school building in districts of the third class can be selected or changed only by vote of the electors taken at the annual meeting, or a special meeting legally called for that purpose.

5. A board of school directors can not legally change the site for a school building which has been selected by a legal vote of the electors of such district.

6. When the electors of a school district, at a legal meeting, vote to erect a building on the school site of the district to be used as a teacher's residence, and vote a special tax for that purpose, such action legally authorizes the directors of the district to contract for the erection of such a building.

7. The law does not require that a school house shall be placed on a public road.

8. The school board of a third class district has no right to move school buildings unless directed to do so by vote of the electors of the district.

9. The power to fix the site for school houses necessarily includes the power to fix the location of the school, and after a majority of the voters of the district (third class) have decided to have the site of the school house in a certain portion of the district, it would hardly be held to be within the power of the board to defeat the will of the electors by establishing a school in some other place.

10. No petition is necessary to bring the question of selecting a site for a school house before the electors concerned.

11. The location of a school house is for no definite time, and a vote may be taken on the question of moving the school house as often as a meeting for the purpose can be legally called.

12. A school district has not a legal site if the school is on what was formerly government land, but which land has since been filed on under homestead law.

Building of school house, determined by board.

13. In building a school house the board of directors must keep within the appropriation of the electors. If it is desired to spend more money than the original appropriation, a meeting of the electors must be held to determine whether they will authorize the additional expenditure.

14. The law does not specify the manner in which a school board shall proceed in the matter of building a school house or whether such board shall advertise for bids or not. The board is permitted to exercise discretion in the matter, having in view at all times the best interest of the district.

15. A sale of a school house, unless authorized by vote of the electors of the district, is void and may be set aside in the proper proceedings instituted by any elector of the district or by the county superintendent.

16. The proposition to build a school house includes procuring a site therefor. The interpretation of the law relative thereto is: *First*, that a vote is necessary; *second*, that if the land were purchased without such a vote, the sale would be invalid; *third*, section 143 of the school law will govern the qualifications for voters.

17. The board has no authority to build a school house except when directed to do so by a vote of the district; the fund remaining in the treasury can not be used for building a school house, except upon a vote of the electors.

18. School must be held in a building situated within the boundaries of the district.

19. The electors of the district have the power to direct the sale of the school house and the site and to empower the board to sell to the county commissioners at the stated offer if they are so inclined; and there is no law requiring it to be advertised and sold if the electors wish to make a private sale.

20. The electors of a district are the only persons who have power to levy tax for the purpose of building school houses.

21. Directors of first and second class districts have a right to sell a school building when directed so to do by the electors at a special meeting called for that purpose. Such sale should be made in the manner prescribed by the electors, which ordinarily should be at public sale after proper advertisement.

22. The building of a school house as permitted by vote of the electors at the last meeting would be lawful if the meeting was a legal meeting, even though the vote was taken in reconsideration of the question as previously passed upon.

23. The electors of a district when assembled at the regular annual school meeting in a district of the third class have a right to instruct the school board as to what the material of a new school building shall be.

Taxes.

24. In regard to the method of raising money to build a school building, the law prohibits the issuing of warrants in excess of the revenues of the district for the current year; therefore an arrangement for issuing warrants payable in one, two and three years, the qualified voters to vote a levy to be collected in one, two and three years to pay the warrants, would not be legal. The voters have no authority to vote a levy except for the current year and it would, therefore, only be possible to raise the money by voting bonds for the amount if the electors do not wish to levy the whole tax in one year.

25. In any district of the third class a levy on taxable property must be made by the qualified voters when assembled at any regular or special meeting, and such levy can not be made by board of directors.

26. The law requires a majority vote for a special tax levy and the amount of the levy should be fixed by the electors at a regular or special election.

Special levy.

27. After a levy is made for a special purpose in a school district, and is also made by the county commissioners, warrants may be drawn to the amount of the revenue for the current year.

28. There is no limit to the special levy in first and second class districts.

29. There is no law authorizing the levy of a tax for a sinking fund, but section 148 of the school law does authorize the levying of a tax for building purposes. The law has been interpreted to mean that the tax levied under it must be for a specific purpose, as for building a school house, purchasing a site, etc.

30. The special tax levy should be made previous to sending in the annual report of the secretary of the district. The levy can be certified to legally by two members of the board.

31. In the call or notice of a special or annual school meeting it is illegal to specify the amount of a proposed levy and to require electors to vote for or against the levy thus proposed, without discussion or amendment.

32. When the electors have voted a definite special levy for building a school house, the board can not spend in building said school house more than the proceeds of said special levy, unless so directed by the electors.

33. While the law does not permit the changing of a tax levy made at the annual meeting in May and certified to by the school board of the district, the district would have a right to call a special meeting to vote an additional special tax of two or any other number of mills that would be inside the limit up to which a third class district is permitted to levy.

34. According to legal decisions in this state, a special tax can be voted at other than the annual meeting. Paragraph 4, section 148, of the school law has been interpreted, in connection with the introduction of such section to authorize this.

35. A vote of the electors authorizing a tax levy for building purposes is not sufficient. The vote should include both the amount of tax levy and the authority to erect a school building.

Free text-books by vote of people.

36. In case of a new district formed from one in which text books are furnished free, such new district should be entitled to its pro rata share of those on hand and the question of supplying additional free text books

in such new district must be submitted to a vote of the people.

37. The board of directors must furnish books for all pupils when instructed to do so by a majority vote of the electors of their district, as expressed at any regular meeting or special meeting called for that purpose.

38. In regard to a district board furnishing free text-books, the provisions of the law mean that a majority of the votes cast upon the question of providing free text-books for the district shall govern, and not a majority of all the electors residing in the district.

39. The fact that a district has voted to furnish free text-books to its school children, and has done so for a number of years, does not permanently bind the district so to furnish the text-books. If brought up in the manner prescribed by law, the district may again vote upon the matter.

Tuition.

40. Section 124 herein provides that when a pupil resides remotely from the school house in his district, and a school house is more accessible in an adjoining district, he shall be permitted to attend the latter and be granted the same privileges as a resident pupil. This right is mandatory on both boards of directors, and can only be defeated on the ground of insufficient room in the latter district, and the board of his district is obliged to pay the tuition agreed upon by the two boards, or, upon their failure to agree, that fixed by the county superintendent.

EXAMINATIONS

149. **Examination of teachers—deputy—compensation.** On the third Thursday in August, December and March in each year he shall meet all persons, of not less than eighteen years of age, desirous of passing an examination as teachers, in some suitable room at the county seat, notice of which shall be given in some newspaper in the county, or in case there is no paper published in the county he shall give such notice as may by him be deemed necessary, at which time he shall examine all such applicants in orthography, reading, writing, arithmetic, English grammar, geography, history, and constitution of the United States and the constitutions of Colorado, civil government, physiology, natural sciences, theory and practice of teaching, and the school law of the state. If the applicant is to teach in a school of high grade, the examination shall extend to such additional branches of study as are to be pursued in such school. If satisfied of the competency to teach and of the good moral character of the applicant, he shall give such applicant a certificate, as provided in the following section, but he shall not issue a certificate except one of like grade unless the applicant be examined at the regular state examinations. He may, however, in case of emergency, recognize county teachers' certificates issued in this or other states by endorsing thereon the word "Good" until the next regular county examination; Provided, That the certificates so endorsed shall be in full force at the date of such en-

dorsement, and shall not be renewed, extended, nor show a previous endorsement thereon. If the attendance upon the examination at the county seat shall work a great hardship to five or more teachers in the county, the county superintendent may provide for such teacher or teachers to take the examination at some convenient place, and the county superintendent may appoint some suitable person to conduct such examination, who shall without delay report to the county superintendent the written answers of each applicant. Such person shall be entitled to five dollars (\$5.00) per day for conducting such examination, and such services shall be certified by the county superintendent to the county commissioners. —*R. S.* 5991

Note. For teaching languages other than English and music and drawing, see section 383, decision 1.

Normal school diploma.

a. A state normal school diploma licenses the holder to teach in the public schools of this state until annulled by the state superintendent or suspended by a county superintendent, and is evidenced of a vested continuing right to teach in any public school in the state and cannot be superseded or modified by any mandate or order of a school board.—*Nash v. School Board*, 49 C. 555

Teachers' examinations in higher grades.

1. The law implies that teachers in second and third class districts who are to teach the higher grades should be examined in such branches at the regular county examination.

2. An applicant examined in five high school subjects should receive a high school certificate for such branches using the same basis of grading as in other county examinations.

3. The fee for the examination is one dollar, no matter how many subjects are taken.

4. The grade of a county certificate would in no way affect the grade of a teacher's high school certificate.

Time of examination.

5. Examinations for teachers' certificates cannot be taken at any time except at those times prescribed by law for public examinations.

Age of applicant.

6. The law provides that an applicant for a teacher's certificate must not be less than eighteen years of age, and it would be illegal to grant a certificate to one under such age, and illegal for a school board to employ a teacher under such circumstances.

7. When an applicant of lawful age presents himself for the county examination the county superintendent has no course other than to receive and grade the papers and report the same to the superintendent of public instruction; but he may refuse to grant a certificate on proof of immorality, incompetency, drunkenness or like cause.

Rules governing examination.

8. The state superintendent makes rules governing county examinations; and the questions issued therefor are divided into sections, one of which, by direction of the state superintendent, shall be presented at the beginning of each of four different sessions; and in order that all applicants may have an equal opportunity, and to avoid the possibility of any being informed in advance of the nature of the examination, the county superintendent is instructed to break the seal of each section at the opening of the session for which it is prescribed, and in the presence of all applicants.

9. The rules governing county examinations of teachers definitely state that an average of ninety with no branch below seventy shall be required for a first grade; and an average of eighty with no branch below sixty for a second; and an average of seventy per cent. with no branch below sixty for a third grade certificate; and each certificate should show such grading, and a certificate if not issued in accordance therewith would be invalid.

Regular examination only.

10. A county superintendent has no right whatever to give a personal or oral examination to an applicant, even though such applicant has been requested to take a school and has no certificate.

11. The county teachers' examination cannot be taken in parts, either for purpose of raising previous marking or of taking balance of examination at future time, since

the whole examination must be taken at one time in order to obtain a certificate.

12. The state superintendent has no right to provide for any examination other than those specified by the law.

Permits not granted.

13. There is no law authorizing the giving of a temporary permit or certificate, and it would be illegal to employ any person to teach in the public schools of the state unless such person shall have a certificate.

Endorsements.

14. It is not legal for a school board to retain a teacher whose certificate has expired if the term of school for which such teacher is employed extends more than one month after such expiration.

Held to include normal school diplomas from other states.

15. The county superintendent may in case of emergency recognize county teachers' certificates of any grade issued in this, or other states, by endorsing thereon the word "Good" until the next regular county examination; provided, that such certificate shall be in full force at the date of such endorsement, and shall not be renewed, extended, nor show a previous endorsement thereon, and an emergency may be said to exist whenever there is a vacancy in any school in the county, and no teacher holding a valid certificate who is qualified to teach that particular school can be obtained therein; but this does not mean that other conditions might not arise which would warrant the county superintendent in declaring an emergency.

16. Circumstances created for a certain purpose do not constitute an emergency, and should not be construed as such within the meaning of this section.

17. There is nothing that can be done in the case of an expired certificate, as only certificates in full force can be endorsed in case of emergency.

18. The laws of Colorado do not give county superintendents the slightest authority to recognize district certificates in any way; and such certificates are valueless so far as entitling their holders to a right to teach in other schools of the county.

19. Since the law provides that the certificate issued by the boards of districts of the first class must be of the same grades and under the same conditions as those specified in sections 149 and 47 of the school law, it follows that equal requirements must be made in districts

of the first class as in other districts, and the board would not have the right to exempt the candidates from examination in one or more of the subjects specified in section 149 of the school law.

20. The endorsement of a first grade certificate until the next examination will not invalidate it in the county where issued.

21. The endorsement or renewal of certificates and the issuing of like grade certificates are in all cases optional with the county superintendent.

22. A certificate of like grade from one county cannot be endorsed by a county superintendent of another county, but if the first certificate upon which the like grade was issued is still in force another like grade certificate upon it can be issued in another county.

23. It is impossible for a county superintendent who has endorsed a certificate to issue a renewal of the same. Any renewal of a certificate must be made in the county where the certificate was first issued.

24. The time for which an endorsed certificate is good is simply that specified by the endorsement. Section 383 applies to such cases excepting that the teacher does not have the right to take advantage of the one month provision.

25. The state superintendent has no right to endorse certificates; that is a matter which rests with the county superintendent.

26. It is a violation of the law to endorse county teachers' certificates issued in this, or any other state, if the certificate be not in full force at the date of each endorsement; and should the board employ a teacher with such a certificate, all claim to compensation on the school fund for the term will be forfeited.

Superintendent may appoint deputy.

27. Since the bar examinations are conducted in connection with the regular county examination of teachers, the law governing the latter examination would also apply to the former; and if attendance at the county seat works a great hardship to five or more teachers in the county, the law permits the county superintendent to provide an examination for them at some convenient place, to be conducted by some suitable person.

28. The state superintendent has no authority whatever to authorize county superintendents to appoint deputies outside of the state; nor has he any right to send questions to any individuals outside of this state so that

the county teachers' examination could be taken elsewhere than in Colorado.

29. If a county superintendent desires to obtain a certificate to teach in the county in which he resides, he is advised to appoint a deputy to conduct the examination and pass upon the answers given to the questions propounded; also, to issue a certificate in accordance with the result of the examination.

Special certificate for high school.

30. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a teacher's certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

Teacher not entitled to pay for time lost attending.

31. A teacher is not entitled to receive pay for the time lost while attending a teachers' examination.

State superintendent cannot excuse from examination.

32. The state superintendent has no authority to excuse a person from taking an examination.

Failure.

33. When a teacher holds a first grade certificate, and also one of "like grade," the fact that she fails to pass an examination in either county would not affect the standing of the first grade already obtained by her.

Eighth grade.

34. There is no specific law governing the eighth grade county examinations. The matter is entirely under the management of the county superintendent.

Answers filed.

35. The law requires that the written answers of all applicants be placed on file for three months, the same subject to the order of the state board of education.

Appeal.

36. Neither the state superintendent of public instruction nor the state board of education has the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county superintendent of another county, as this is a mere matter of comity between county superintendents. Therefore, whenever a teacher appeals from the refusal of a county superintendent to accept such papers and mark them and issue

a certificate thereon, the board of education has no other course than to dismiss the appeal.

[Note. The following section is a portion of the law passed by the eighteenth general assembly and referred by petition, and will be voted upon by the people at the general election in 1912. If carried, it will supersede section 149 herein.]

149a. On the third Thursday in August, December, and March in each year the county superintendent shall meet all persons, of not less than eighteen years of age (who shall have completed a four years' High School course, or its equivalent in training or experience, and) who are desirous of passing an examination as teachers, in some suitable room at the county seat, notice of which will be given in some newspaper in the county, or in case there is no paper published in the county he shall give such notice as may by him be deemed necessary, at which time he shall examine all such applicants in orthography, reading, writing, arithmetic, English grammar, geography, history and constitution of the United States and the constitution of Colorado, civil government, physiology, natural sciences, theory and practice of teaching, and the school law of the state, to which shall be added agriculture and horticulture and American literature for a first grade certificate; and agriculture and horticulture for a second grade. If the applicant is to teach in a school of high grade, the examination shall extend to such additional branches of study as are to be pursued in such school. If satisfied of the competency to teach and of the good moral character of the applicant, he shall give such applicant a certificate, as provided in the following section, but he shall not issue a certificate except one of like grade unless the applicant be examined at the regular state examinations. He

may, however, in case of emergency, recognize county teachers' certificates issued in this or other states by endorsing thereon the word "Good" until the next regular county examination; Provided, That the certificate so endorsed shall be in full force at the date of such endorsement, and shall not be renewed, extended, nor show a previous endorsement thereon. If the attendance upon the examination at the county seat shall work a great hardship to five or more teachers in the county, the county superintendent may provide for such teacher or teachers to take the examination at some convenient place, and the county superintendent may appoint some suitable person to conduct such examination, who shall without delay report to the county superintendent the written answers of each application. Such persons shall be entitled to five (5) dollars per day for conducting such examination, and such services shall be certified by the county superintendent to the county commissioners.—*S. L. '11. p. 628*

Scholastic examination—bar.

Note. The law under which the rules for admission to practice law in this state were formulated will be found in 3 Mills' (Rev.), 206-206b. This law does not enter into details, but empowers the supreme court, by virtue of its provisions, to designate the character of the examination to which applicants must submit.

The rules governing admission to the bar of Colorado, adopted by the supreme court September 13, 1897, and amended May 4, 1898, make the following provision:

"(c) Applicants who are not members of the bar, as above prescribed, shall present a thirty-count certificate from the regents of the university of the state of New York, or shall satisfy said committee that they graduated from a high school or preparatory school whose standing shall be approved by the committee, or were admitted as regular students to some college or university, approved as aforesaid, or before entering upon said clerkship or attendance at a law school, or within one year there-

after, or before September 13, 1899, they passed an examination before the state superintendent of public instruction, in the following subjects: English literature, civil government, algebra to quadratic equations, plane geometry, general history, history of England, history of the United States, and the written answers to the questions in the above-named subjects shall be examined as to spelling, grammar, composition and rhetoric. The said examinations shall be conducted in connection with the regular county examination of teachers."

Note. Those desiring to take this examination must notify the state superintendent of public instruction at least thirty days previous to the regular county examination, giving their full name and address and the county in which they wish to take the examination.

Preliminary examination—dental.

Note. Each student seeking admission to any college of this association shall have completed an accredited high school course or shall successfully pass an examination the equivalent of such high school course.

This examination and the examination and verification of all certificates shall be conducted by a state superintendent of public instruction, or his appointee.—National Association of Dental Faculties.

Applicant for admission to bar.

a. A committee for examining applicants for admission to the bar is not justified in refusing an examination for a student of the state university, if in all other respects he is qualified, merely because he failed to pass the law examination of such institution.—*People ex rel. v. Carr*, 21 C. 525

FINES

150. Justice report—fines. Every justice of the peace or other magistrate by whom any fine or penalty has been imposed which under the statute should be paid into the general school fund, shall at the next regular quarterly meeting of the board of county commissioners submit an itemized report showing date of trial, title of case, nature of offense and amount of fine, giving amounts collected, amounts uncollected, and accompany said reports with receipts from the county treasurer for amounts so collected and paid over to him.—*R. S. 3874*

151. County treasurer render statement. The county treasurer, at the time of rendering to the county superintendent of schools his quarterly certificate of taxes collected (as provided in section sixty-six of chapter XCVII being general section three thousand and sixty-one of the general statutes of the state of Colorado) shall show separately in said certified statement the amounts received from fines and by whom paid in.—*R. S. 3875*

FINES UNDER FEDERAL STATUTES.

152. For the willful setting on fire of timber and underbrush on public domain. Whoever shall willfully set on fire, or cause to be set on fire, any timber, underbrush, or grass upon the public domain, or shall leave or suffer fire to burn unattended near any timber or other inflammable material, shall be fined not more than five thousand dollars, or imprisoned not more than two years, or both.—*Federal Criminal Code, 52*

153. Fine for leaving unattended fires in or near forest timber. Whoever shall build a fire in or near any forest timber, or other inflammable material upon the public domain shall, before leaving said fire, totally extinguish the same; and whoever shall fail to do so shall be fined not more than one thousand dollars, or imprisoned not more than one year or both.—*Federal Criminal Code, 53*

154. Fines collected paid to public school fund. In all cases arising under the two preceding sections the fines collected shall be paid into the public school fund of the county in which the lands where the offense was committed are situated.—*Federal Criminal Code, 54*

FLAGS

155. Directors purchase flag—flagstaff—display. The school directors of the several school districts in this state may purchase or cause to be purchased a suitable American flag of standard bunting, not less than eight by twelve feet in size, and they may erect and maintain or cause to be erected and maintained upon each public school building or the grounds belonging thereto, a suitable flagstaff with the necessary appliances for displaying said flags, and may cause said flag to be displayed upon said staff upon all national and state holidays, the first and last days of each school term, and such other occasions as such school directors shall prescribe.—*R. S. 5928*—

Directors to purchase and display U. S. flag.

1. Pursuant to custom now established in several states of the union, the governor of this state proclaims June 14th as Flag Day, and all the public schools of the state are requested to observe the day in exercises of a patriotic character.

156. Each department keep flag. Every school within this state may have placed and kept in a conspicuous position in each department thereof at least one American flag of standard bunting, not less than three by five feet in size.—*R. S. 5929*

157. Expense of purchasing and care of flag. It shall be lawful for the school directors of each school district in this state to pay for said flags and staffs and to provide for the proper care and maintenance of the same, from any special school funds which they may have in their hands or which may be subject to their order, or to include the expense

thereof in the next annual estimate for school expenses, or in any tax levy for school purposes; and the expense thereof for any public school shall be met by said directors or other officers charged with the duty of raising or appropriating any money for school purposes as any other necessary expenses or expenditures for school purposes are raised.—*R. S.* 5930

158. Applies to all institutions. This act shall be held to apply to all institutions directly or indirectly under the control of the state of Colorado or any of its officers, and it shall be the duty of such officer to see that this act is complied with.—*R. S.* 5931

159. Injury to flag. Any person who shall wilfully injure, deface, or destroy any flag, flagstaff, or other material placed in any room or building or upon any building or school grounds for the carrying out of this act, shall be deemed guilty of a misdemeanor and punished accordingly.—*R. S.* 5932

160. Superintendent of public instruction publish act. It shall be the duty of the superintendent of public instruction to publish this act in connection with the school law of this state.—*R. S.* 5933

161. Display of flag other than United States—exception. It shall be unlawful to display any flag upon any state, county or municipal buildings in this state, except the flags of the United States; Provided, however, That whenever any foreigner shall become the guest of the United States, or of the state of Colorado, or of any city of this state, or upon the occasion of the visit of any foreign minister, envoy or ambassador in his official or representative capacity, the flag of the country of which such person

shall be a citizen may be displayed upon such public buildings; and it shall be unlawful to display the flag of any anarchistic society upon any public or private building or in any street procession or parade within the state of Colorado.—*R. S.* 2597

162. Violation. Any violation of this act is hereby declared a misdemeanor and shall be punished by a fine of not less than fifty nor more than five hundred dollars.—*R. S.* 2598

STATE FLAG.

163. State flag adopted—description of. That a state flag be and the same is hereby adopted to be used on all occasions when the state is officially and publicly represented, with the privilege of use by all citizens upon such occasions as they may deem fitting and appropriate. Said flag shall consist of three alternate stripes to be of equal width and at right angles to the staff, the white stripes being the middle one, the proportion of the flag being a width of two-thirds of its length. At a distance from the staff end of the flag of one thirty-sixth of the total length of the flag, there shall be a circular red C, of the same color as the red in the national flag of the United States. The diameter of the letter one-sixth of the width of the flag. The inner line of the opening of the letter C shall be three-fourths of the width of its body or bar, and the outer line of the opening shall be double the length of the inner line thereof. Completely filling the open space inside the letter C shall be a golden disk; attached to the flag shall be a cord of gold and silver, intertwined, with tassels one of

gold and one of silver. All penalties provided by the laws of this state for the misuse of the national flag shall be applicable to the said state flag.—*S. L. '11*, p. 611

FUNDS

GENERAL SCHOOL FUNDS.

164. General school fund for building purposes—proviso. It shall be illegal for any school board to appropriate or cause to be used any money belonging to the general school fund, for the purpose of building, furnishing or erecting additions to any school house, or for the purchase or improvement of any school house, site or lot; Provided, That if any portion of the aforesaid school fund remains to the credit of any district after the payment of all expenses necessary to the support of a public school for a period of ten months in any one year, in said district, it shall be lawful for the district board to use such balance for any of the purposes provided for in section 51 of this chapter.—*R. S. 5898*

Note. Section 51 referred to in this section is section 124.

Note. Public contracts, section 235.

Legal use of general fund.

1. The general fund may be used only for teachers' wages, and necessary current expenses, until the school has been conducted for a period of ten months in one year.

2. The general fund may be used for building, furnishing or erecting additions to school houses, or for improving the school house, sites or lots, only after the expense of maintaining the school for a period of ten months in one year shall actually have been paid.

3. It is legal to draw on the general fund to pay the janitor who is employed in a school.

Illegal use of school funds.

4. A school board cannot legally loan the money of the district.

5. The school funds cannot be legally used for defraying the expenses of a singing school.

6. Insurance premiums and attorney's fees are not expenses "incidental to the support of a public school," and therefore must not be paid from the general fund.

7. A director of a school board has no right whatever to draw money from the funds of a school district to pay for his child's board while attending school in another district. Any members so misappropriating the funds of the district can be compelled by process of law to refund the money.

8. The school board has no right to use the school funds in the employment of attorneys or other expenses to antagonize the action of a board of health.

9. A school board cannot legally contract for the work of instructing high school pupils to be done by a private party or corporation and pay for it out of public school funds.

10. There is no provision of the school law allowing a pro rata share of the school fund to be used for the private teaching of one of the pupils within a district.

For what purposes special funds may be used.

11. School directors of a district of the third class may purchase an organ for the use of the school and pay for it out of the special fund. The general fund cannot be used for that purpose.

12. Bonds cannot be voted for sinking an artesian well; but if the district has sufficient money in its special fund, it may use that money for such a purpose on a vote of the electors.

Two schools of five months do not meet requirements.

13. Two schools in one district, holding a five months' session each, do not conform to the requirements of the law as prescribed in section 164.

Money not turned into general fund.

14. All moneys remaining to the credit of any district on June 30 should remain to the credit of such district and cannot be turned into the general school fund of the county for reapportionment.

EMERGENCY FUND.

165. Permanent school emergency fund. There is hereby created a "Permanent School Emergency or Call Fund." Said fund shall be under the control of the state superintendent of public instruction as hereinafter provided.—*S. L. '11, p. 142*

166. Fund to be transferred from general school income fund. There is hereby transferred and set over from the general school income fund to the "Permanent School Emergency or Call Fund" the sum of forty thousand dollars for the purpose of carrying out the provisions of this act.—*S. L. '11*, p. 142

Note. The governor approved the above section to the amount of twenty thousand dollars.

167. Treasurer to be custodian of fund. Said "Permanent School Emergency or Call Fund" shall remain in the hands of the state treasurer and any interest earned thereon or arising from the investment thereof shall be credited to said fund and become a part thereof.—*S. L. '11*, p. 142

168. Fund when used. When on account of unavoidable misfortune or casualty any public school district in this state is in financial distress and the special school tax and apportionment of the school funds are not sufficient to provide proper and necessary school facilities in such school district, the superintendent of public instruction may with the approval and consent of the governor and attorney general order the payment from the "Permanent School Emergency or Call Fund," to such public school district of such an amount as may be necessary to provide necessary school facilities in said public school district.—*S. L. '11*, p. 143

169. Payments when made. Payments shall be made from the "Permanent School Emergency or Call Fund" only upon the presentation of sufficient and satisfactory evidence that the school district making application for relief under the provisions hereof is by reason of unavoidable misfortune or casualty, in financial distress and that the special school

tax and apportionment of school funds are not sufficient to provide proper and necessary school facilities in such public school district, and that such financial distress will continue for at least one school year unless relieved under the provisions hereof.—*S. L. '11*, p. 143

170. Amount expended in one year. The amount to be expended from the "Permanent School Emergency or Call Fund" in any one year for all purposes shall not exceed the total sum of twenty thousand dollars.—*S. L. '11*, p. 143

Note. The governor approved of the above to the extent of ten thousand dollars instead of twenty thousand dollars.

171. Gifts—contributions. Any appropriation hereafter made and any gifts or contributions to the "Permanent School Emergency or Call Fund" shall be subject to all the provisions of this act.—*S. L. '11*, p. 143

172. Vouchers approved by governor and attorney general. The auditor is hereby authorized to draw his warrant on the state treasurer in payment of any voucher issued against the "Permanent School Emergency or Call Fund," signed by the superintendent of public instruction and approved by the governor and attorney general.—*S. L. '11*, p. 143

Note. The attorney general holds that no moneys can be used from above fund for building purposes.

173. Moneys under act congress—apportionment. That all moneys to which the various counties of the state of Colorado are now or may hereafter become entitled under the act of congress of May 23, 1908, or other acts, in which counties a forest reserve, or any portion thereof is situated, shall at the beginning of each fiscal year and every

six months thereafter be awarded and apportioned through the proper state officials of this state to such counties in proportion to the area of the forest reserve in each county; and such apportionment of said funds shall be determined by the state auditor, and the state auditor is authorized and directed to draw warrants upon the state treasurer in favor of the county treasurer of each county for the amount due each county under the apportionment and made direct to the county treasurers of said counties, and in accordance with the so-called agricultural appropriation act of congress, approved May 23, 1908, and the county commissioners of said county shall direct the said fund to be credited as follows, to-wit: Not less than 5 per cent. of said sum shall be expended for either roads or school funds in the discretion of the board of county commissioners.—*S. L. '09, p. 35*

NORMAL INSTITUTE FUND.

174. Applicant for teacher's certificate pay fee.

Each applicant for a teacher's certificate at any regular county examination, and each successful applicant for a renewal or endorsement of a certificate, or for the issue of a like grade certificate, shall pay for the privilege of such examination, renewal, endorsement or issue of like grade certificate, a fee of one dollar, which shall be collected by the county superintendent of schools and forwarded, with his report of each examination, to the superintendent of public instruction.—*R. S. 5992*

Fee, when not required.

1. There is no law authorizing a county superintendent to charge a fee of \$1, or any other sum, for registering a certificate issued by the state normal school.

2. Teachers' certificates issued by board of directors of first class districts are reported to the county superintendent, but they are not renewed or endorsed, therefore, no fee would be charged for the registration of said certificates.

Fee, to whom paid.

3. The fee paid to a county superintendent by an applicant, whose papers are to be forwarded to another county may be sent direct to the state superintendent and not forwarded to the other county superintendent. The county superintendent of any county should send the money to the state superintendent for all applicants taking the examination under his supervision.

4. When an examination is taken the fee should be paid to the county superintendent where the examination is held prior to delivering to such applicant the examination questions.

Fee for duplicate certificate.

5. A fee should be charged for issuing a duplicate certificate the same as in original issuing of certificates.

175. Fees turned into state treasury constitute normal institute fund. All fees thus collected and remitted to the superintendent of public instruction shall be turned over to the state treasurer and shall constitute a state normal institute fund.--R. S. 5993

176. Apportionment of normal institute fund. At the time of apportioning the state school fund in July of each year the superintendent of public instruction shall apportion a state normal institute fund equally among the normal institute districts of the state, and the sum accredited to each normal institute district shall be transmitted to the custodian of the normal institute fund thereof in the same manner as each county's apportionment of the state school fund is now transmitted to the county treasurer; and each district's apportionment of the state normal institute fund shall be applied and expended in the same manner and for the same purposes as

the fund of each normal institute district has heretofore been applied and expended.—R. S. 5892

PENAL FUND.

177. What fines paid to school fund—accounts—collector failing to pay—penalty—duty of superintendent. All fines, penalties and forfeitures provided by this act may be recovered by action of debt, in the name of the people of the state of Colorado, for the use of the proper school district or county, and shall, when they accrue, belong to the respective districts or counties in which the same may have been incurred; and the county treasurers, for their counties, are hereby authorized to receive and cause to be placed to the proper credit such forfeitures. Except as otherwise provided by law, all sums of money derived from fines imposed for violation of orders of injunction, mandamus and other like writs, or for contempt of court, shall be paid into the school fund of the county wherein the contempt of such violation was committed; and the clear proceeds of all fines collected within the several counties of the state for breach of the penal laws, and all funds arising from the sale of lost goods and estrays shall be paid over in cash by the person collecting the same, within twenty days after the collection, to the county treasurer of the county in which the same have accrued, and shall be by him credited to the general county school fund. He shall indicate in such entry the source from which such money was derived. Any officer or person collecting or receiving any such fines, forfeitures or other moneys, and refusing and [or] failing to pay over the same, as required by law, shall forfeit double

the amount so withheld and interest thereon at the rate of five per cent. per month during the time of so withholding the same; and it shall be a special duty of the county superintendent of schools to supervise and see that the provisions of this section are fully complied with, and report thereupon to the county commissioners semi-annually or oftener, if required by them.—*R. S. 5897*

Note. The "act" above referred to means original "school act."

Note. County treasurer make report of fund, section 151.

Note. Justice report fines, section 150.

Duties of county treasurer in regard to funds.

1. The county treasurer is responsible for placing moneys in the wrong fund. It is his duty to place moneys collected from fines, forfeitures, etc., to the fund designated by law.

2. Unless otherwise expressly provided by statute, the moneys from fines, penalties and forfeitures, should be turned by the county treasurer into the general school fund of the county rather than into that of a particular district; although fines assessed by justices of the peace may, in some cases, go to the credit of the school district in which the action occurred.

Duties of county superintendent in regard to fund.

3. More than any other person, the county superintendent is the one to look after that portion of the school fund arising from fines and forfeitures. He should examine the books of the county treasurers, records and fee books of justices of the peace and clerks of courts, to ascertain whether or not the fines have been collected, and if collected, whether they have been placed to the credit of the proper fund and paid over.

Disposition of fines.

4. This section provides that the clear proceeds of all fines collected within the several counties of the state for breach of the penal laws shall be paid over in cash by the person collecting the same within twenty days after its collection to the county treasurer, to be by him credited to the general county school fund.

5. Unless otherwise specifically provided for by law, the fines collected for breach of the game and fish laws should be placed to the credit of the general county school fund.

FUNDS NOT LOANED OR INVESTED.

178. Officer not convert or use funds. If any officer appointed or elected by virtue of the constitution of this state, or any law thereof, as an officer, agent or servant of an incorporated city, town, municipal township, school district, or county, or other subdivision of this state, shall convert to his own use in any way whatever, or shall use, by way of investment in any kind of property or merchandise, or shall make way with or secrete any portion of the public funds or moneys, or any valuable securities by him received for safe-keeping, disbursement, transfer, or for any other purpose, or which may be in his possession, or over which he may have the supervision, care or control, by virtue of his office, agency or service, or under color or pretense thereof, every such officer, agent or servant shall, upon conviction, be punished by imprisonment not less than five years.—*R. S.* 1821

179. Officer not loan funds. No such officer, agent or servant shall loan out, with or without interest, any money or valuable security received by him, or which may be in his possession or keeping, or care or control, by virtue of his office, agency or service, or under color or pretense thereof, and any such officer, agent or servant, so loaning such money or valuable security, on conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year, or by a fine not less than five hundred dollars.—*R. S.* 1822

180. No benefit from deposit of funds. If any such officer, agent or servant shall make any contract or agreement with any person or persons, bodies or body corporate, or other association, by which such officer, agent or servant is to derive any benefit or advantage, directly or indirectly, from the deposit with such person or persons, body or bodies corporate, or other association, of any moneys or valuable securities held by such officers, agents or servants, by virtue of his office, agency or employment, such contract shall, as to such officer, agent or servant, be utterly null and void; but the person or persons, body or bodies corporate, or other association, shall be liable to the county, city, town, township or school district where funds are deposited, in an action for the recovery of all such benefits or advantage as would, by the terms of such contracts or agreement, have accrued to such officer, agent or servant; and payment to the officer, agent or servant shall not protect the person or persons, body or bodies corporate, or other association, against an action of recovery brought by the county, city, town, township or school district whose funds are so deposited.—*R. S.* 1823

181. Penalty. Any such officer, agent or servant who shall make any such contract or agreement as described in the last section of this act, or who shall receive any benefit or advantage, directly or indirectly, from the deposit of any money or valuable security held by him as such officer, agent or servant, or over which he has control, care or supervision, by virtue of his office, agency or service, shall, upon conviction thereof, be punished by im-

prisonment in the penitentiary not less than one year or by fine not less than five hundred dollars.
—R. S. 1824

182. Permanent funds from sale of school-lands—how invested. Permanent funds arising from the sale of the school lands of the state of Colorado remaining uninvested may be loaned out by the treasurer of the state of Colorado at the direction of the state board of land commissioners to the state military board “provided the total loans so made shall at no time exceed the military poll-tax collected in the preceding biennial period,” for the purpose of purchasing or acquiring lands, buildings, tenements and appurtenances, or erecting buildings necessary for use as armories for the organized militia of the state of Colorado; such necessity for the acquiring of said lands, buildings, tenements and appurtenances or erection of buildings for use as armories for the organized militia of the state of Colorado shall be determined by the state board of land commissioners and said state military board.

Said loans may be directed by said state board of land commissioners in such amount or amounts, and upon such terms as to payment and rate of interest thereon, not exceeding five per centum per annum, as may be mutually determined by said board of land commissioners and said state military board, and shall be secured by mortgage or deed of trust upon said lands, buildings, tenements and appurtenances so acquired or erected for armories, which said lands, buildings, tenements and appurtenances shall be free and clear of liens and incum-

brances, save and except the loans made to it out of the said permanent fund as herein provided.—*S. L. '11*, p. 599

183. Permanent fund reimbursed from military poll-tax fund. The permanent fund arising from the sale of school lands of the state of Colorado shall be reimbursed by the military board from the military poll-tax fund at a rate of not less than ten thousand dollars per annum.—*S. L. '11*, p. 600

HAZING

184. Hazing unlawful. It shall be unlawful for any person to engage in any of these practices commonly called "Hazing" or in any acts of torturing, tormenting, or in any way maltreating a fellow inmate, employe or student.—*R. S. 1661*

185. Punishment for hazing. Any person found guilty of the violation of the provisions of the first section of this act shall be deemed guilty of a misdemeanor and shall upon conviction be fined not less than five nor more than fifty dollars.—*R. S. 1662*

186. Punishment for hazing in educational institutions. Any officer, teacher, or student connected with any of the state institutions of this state who shall be found guilty of violating the provisions of this act, shall, if a teacher or employe, be dismissed from the further service of such state institution, and if a student, his conviction shall work expulsion from the state institution he may be attending, in perpetuum.—*R. S. 1663*

187. Hazing—jurisdiction of justice of the peace. Any justice of the peace of the county wherein any of the offenses herein described may be committed shall have jurisdiction of complaints coming within the provisions of this act.—*R. S. 1664*

GARNISHMENTS

188. School districts subject to garnishment. That all counties, school districts and municipal corporations shall be subject to garnishment upon writs of attachment and execution in the same manner that private corporations and persons are now, or may hereafter be subject to garnishment under such writs.—*S. L. '11*, p. 445

189. Provisions apply to all salaries, wages, etc. That it is hereby declared that no provision of this act is contrary to public policy, and that the provisions of this act are meant to apply to all salaries, wages, credits, moneys and all choses in action, whether the collection of the same might be enforced by any action in court, by the writ of mandamus, or in any manner whatsoever.—*S. L. '11*, p. 445

Note. School districts subject to garnishment, see garnishments, section 188 herein.

HIGH SCHOOLS

COUNTY HIGH SCHOOLS.

190. Counties classified. For the purposes of this act the several counties of this state shall be classified with reference to population and divided into five classes as provided by sections 2565, 2566 and 2567 of the revised statutes of Colorado, 1908, as follows:

The city and county Denver, unless otherwise provided in the charter thereof, shall be first class; El Paso, Teller and Pueblo counties shall be second class; Boulder, Fremont, Lake, Pitkin, Las Animas and Weld counties shall be third class; Adams, Arapahoe, Chaffee, Clear Creek, Conejos, Costilla, Delta, Douglas, Eagle, Garfield, Gilpin, Gunnison, Huerfano, Larimer, La Plata, Logan, Mesa, Montrose, Morgan, Ouray, Otero, Park, Prowers, Jefferson, Rio Grande, Routt, Saguache, San Miguel and San Juan counties shall be fourth class; Archuleta, Baca, Bent, Cheyenne, Custer, Dolores, Elbert, Grand, Hinsdale, Kiowa, Kit Carson, Lincoln, Montezuma, Mineral, Phillips, Rio Blanco, Sedgwick, Summit, Washington and Yuma counties shall be fifth class. The counties of the fourth class shall be divided into two divisions, known as "A" and "B."

The counties comprising division "A" shall be Adams, Arapahoe, Chaffee, Clear Creek, Conejos, Douglas, Garfield, Gilpin, Gunnison, Huerfano, Jefferson, Larimer, La Plata, Mesa, Otero, Ouray and San Miguel; and the counties comprising division "B" shall be Costilla, Delta, Routt, Eagle, Logan,

Montrose, Morgan, Park, Prowers, Rio Grande, Saguache and San Juan.—*S. L. '09*, p. 397

191. Petition for organization—county superintendents—submission to voters. On the petition of fifty voters having the qualifications hereinafter prescribed, of any county of the second, third fourth or fifth class, the county superintendent of public schools of such county shall give notice not less than twenty days before any regular meeting now or which may hereafter be provided by law, for electing members of school boards in the respective districts of the state, that the question of organizing the county into one high school district for high school purposes, will be submitted to the qualified voters of the respective school districts in the county, at such meeting. Qualified voters of a joint school district who may reside in any county proposing to organize as aforesaid, shall be entitled to vote at said meeting.—*S. L. '09*, p. 398

Note. For different kinds of public schools and how maintained, see note 1, section 238.

High schools—kinds.

Note. There are three kinds of high schools authorized by the laws of this state—county high schools, union high schools, and district high schools—and each is entirely separate and distinct from the others. While county and union high schools may be composed of all class districts, a district high school can be maintained only in a first or second class district, although there is no law to prevent a third class district from adding certain of the so-called high school branches. Section 206 provides that no district shall be taxed for more than one kind of high school without its consent. When a county high school is being organized, districts with a high school, or in a union high school district, may vote against the county high school. If a majority vote against such organization, such district shall be excluded from the county high school district.

County high schools—how maintained.

Note. County high schools are maintained by their quota of the general school fund and from a tax levy, not to exceed four mills, made by the county commissioners and collected as other taxes.

192. Election notices posted twenty days—contents. The county superintendent shall cause to be posted in the manner hereinafter prescribed, notices in each school district in the county, that such petition has been made and that at the next regular meeting for electing members of school boards, the question of organizing the county into one high school district for high school purposes, will be submitted to the qualified voters of the district. The secretary of each school board shall, under the direction of the county superintendent, cause written or printed notices to be posted in his district, specifying the purpose, the day and the place or places of such election, and the time during which the ballot box or boxes shall be kept open, not less, however, than three hours. The time and place specified in such notice shall be the same time and place at which the regular election of members of the school board shall be held. Said notices shall be posted in at least three public places in the district, one of which shall be the school house, if there be one, at least twenty days previous to the time of such election.—*S. L. '09*, p. 398

193. Who may vote—form of ballot—judges. Every legally qualified elector of his district entitled to vote for members of school boards, and none other, shall be entitled to vote at such meeting upon such question of organization. After the organization of the meeting for the election of members of

the school board, the qualified electors shall proceed to vote by ballot on the question whether or not the proposed high school district for high school purposes, shall be organized. Those in favor of organization shall vote "For the organization," and those opposed, "Against the organization." The ballots upon the question of organization shall be deposited by the voters in a separate ballot box to be provided by each school district for said purpose. The president, secretary and treasurer of the district school board shall act as judges of the election and should any of the judges be absent at the opening of the polls, the electors present shall appoint a legal voter to fill the vacancy.—*S. L. '09*, p. 398

194. Canvass—certificates sent county superintendent. Immediately after the closing of the polls the judges shall open the ballot box and proceed to count the votes polled, and the counting thereof shall be commenced and continued until finished before the judges shall adjourn. As soon as all the ballots shall have been counted, the judges shall make out a certificate under their hands certifying the whole number of votes cast upon the question of organization and the number of votes cast for organization and the number of votes cast against organization. Said certificate, together with the ballots cast upon the question, shall then be enclosed and sealed up under suitable cover, and directed to the county superintendent of the county in which such election is held, and the packet thus sealed shall be sent by registered letter, where practicable, otherwise it shall be conveyed by one of the judges of the election, to be determined by lot if

they cannot agree otherwise, within three days after the closing of the polls.—*S. L. '09*, p. 399

195. County superintendent announce result—call directors—elect committee. On the tenth day after the close of the election, or sooner if all the returns be received, the county superintendent of the county shall proceed to open the said returns and determine the result of the election therefrom. Said county superintendent shall make and permanently preserve in his office a record of the total number of votes cast upon the said question of organization, and the number of votes cast for organization and against organization. If it shall appear from such record that the majority of the votes cast on the question of organizing the county into one high school district for high school purposes, shall be in favor of such organization, the county superintendent of public schools of such county, shall by notification by mail and by publication where practicable, call a meeting of the directors of the respective districts of said county, which meeting shall be held at the office of said county superintendent not later than thirty days after the election herein provided for. Such meeting shall be organized by the election of a temporary chairman and secretary, and the directors present shall then proceed to elect by ballot from among the members of said boards of directors, four persons, who with the county superintendent of public schools as an ex officio member, shall be known as the high school committee. No two members of any board of directors shall at the same time be members of the high school committee, except in counties where there are less than

four districts. Immediately after its election as aforesaid, the committee shall select from its members a president and a treasurer. The county superintendent of schools shall be ex officio the secretary of the committee.—*S. L. '09*, p. 399

County superintendent has vote—need not give bond.

1. The county superintendent has a vote as a member of a county high school committee. This also involves his voting whether there is or is not a tie.

2. A county superintendent need not give bond as secretary of the county high school committee, since his bond as county superintendent covers all obligations imposed upon him as an official.

County superintendent has no vote selecting high school committee.

3. The law in regard to county high schools gives the county superintendent no authority to vote with the directors of the county in selecting a high school committee, even in the case of a tie vote. But the selection of the member of such committee should be by a majority vote of all the legal votes present.

County superintendent not entitled to salary as secretary.

4. The law provides that a county superintendent shall be ex-officio a member and secretary of the county high school committee; and therefore all services performed by him as said secretary is by virtue of his office of county superintendent and for which he is entitled to no further compensation than his salary as superintendent.

196. Term of members of high school committee—vacancy—how filled. The term of office of each member of the high school committee shall expire simultaneously with the expiration of his term of office as a director of the school district wherein he resides, and the vacancy thus created shall be filled by the directors of the various school districts of the county, at a meeting held at the office of the county superintendent not later than thirty days after the occurrence of the vacancy. The secretary

of the committee shall give each director at least ten days' notice by mail of the holding of such meeting. All vacancies caused in any other manner than by expiration of term of office shall be filled by appointment by the county superintendent of public schools.—*S. L. '09*, p. 400

Expiration of office.

1. The tenure of office as a member of the county high school board expires with the expiration of the term of office of the member of the board in the district where he has been elected to office. The fact of his re-election in the district would not necessarily mean the continuance of his office as a member of the high school board. His continuing to hold the position would be entirely dependent upon the fact of his being again selected to the joint school board after his re-election as a member of the district board.

2. In case an appointment to fill a vacancy in a county high school committee is made, it holds only until the next election, and not until the appointee's term as director of the school district is concluded.

197. Meetings of committee—regular—special.

The regular meetings of the high school committee shall be held on the first Saturday of March, June, September and December in each year, and special meetings may be held upon call of the president or secretary of the committee or upon request of any two members thereof.—*S. L. '09*, p. 400

Twenty days' notice of special meeting.

1. It will be necessary to give twenty days' notice of the special meeting called for the purpose of voting upon the question of supplying free text books for the county high school, and notices should be posted in the various school districts composing the county high school district as is required in the case of a special district meeting or election.

198. High school district a body corporate.

Each regularly organized high school district here-

tofore formed, or that may be formed, as provided in this act, is hereby declared to be a body corporate, by the name and style of "..... county high school district in the state of Colorado," and in that name may hold property and be a party to suits and contracts, the same as municipal corporations in this state.—*S. L. '09*, p. 400

199. May hold real estate. It shall be lawful for any high school district in this state to take and hold, under the provisions of any law now or hereafter in force providing for the exercise of the right of eminent domain, so much real estate as may be necessary for the location and construction of a high school building or buildings and convenient use of the high school.—*S. L. '09*, p. 401

200. Powers and duties of committee. Every high school committee, unless otherwise provided by law, shall have the power, and it shall be their duty:

First—To employ or discharge teachers, mechanics and laborers, to fix and order paid their wages, and to determine the rate of tuition for non-resident pupils.

Second—To enforce the rules and general regulations of the state superintendent, to fix the course of study, the exercises and kind of text books to be used; Provided, That but one kind of text book of the same grade or branch of study shall be used in the same department of a high school, and that after the adoption of any book, it shall not be changed in less than four years, unless the price thereof shall be unwarrantably advanced, or the mechanical quality lowered, or the supply stopped.

Third—To provide for school furniture, and for everything needed in the high school building, or for the use of the high school committee.

Fourth—To rent, repair and insure high school buildings.

Fifth—To build or remove high school buildings, and to purchase or sell school lots when directed by a vote of the high school district so to do.

Sixth—To hold in trust for their high school district all real or personal property for the benefit of the high school thereof.

Seventh—To suspend or expel pupils from the high school who refuse to obey the rules thereof.

Eighth—To determine the number of teachers that shall be employed and the length of time in each year during which the high school shall be kept, and to fix the time for the opening or closing of the high school.

Ninth—To provide books for indigent children on the written statement of the teachers that the parents of such children are not able to purchase them, and to furnish free text books for the use of all pupils, when authorized to do so by a majority vote of the high school district, as expressed at any regular or special meeting.

Tenth—To require all pupils to be furnished with the proper and suitable books as a condition of membership in the high school.

Eleventh—To exclude from the high school and its libraries all books, tracts, papers and other publications of an immoral or pernicious tendency.

Twelfth—To require teachers to conform to the law.

Thirteenth—To make an annual report, as required by law, to the county superintendent, on or before the first day of August of each year, in the manner and form and on the blanks prescribed and furnished by the superintendent of public instruction.

Fourteenth—To make a report directly to the state superintendent whenever instructed by him so to do.

Fifteenth—Whenever a pupil resident in one high school district desires to attend the high school in another high school district, such pupil shall be permitted to do so; Provided, That the high school committee may refuse to admit pupils from other high school districts upon the ground of insufficient room.—*S. L. '09*, p. 401

Powers of committee.

1. The county high school committee would not have the authority to hire the county superintendent to teach in such high school, such superintendent still holding office as county superintendent, which makes him a member of the county high school committee.

2. A county high school committee has not the authority to furnish free text books to the pupils attending the school unless a majority vote of the electors of the county has been cast in favor of such action.

3. The county high school district has the right to levy a one-tenth mill tax for library purposes, just as any other district has.

4. The county may be bonded for the expenses of building just as any school district may be bonded.

5. It is the duty of the high school committee to certify to the board of county commissioners the amount of tax to be levied for county high school purposes, and it then becomes the duty of the county commissioners to levy the tax. If the high school committee fails to perform its duty, it may be required to do so by *mandamus*.

Principal cannot be county superintendent.

6. In the case of the principal of a county high school being elected county superintendent, he could not legally hold both positions.

Principal has no authority over county schools.

7. The principal of a county high school has authority only over such high school rooms, and has no control over the country schools in the same district.

Special certificate to teach in high schools.

8. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a special certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

Warrants not drawn till levy made.

9. Warrants cannot be legally drawn and registered on the county high school fund before the levy has been made.

How county high school supported.

10. Persons attending the county high school will not draw state and county funds from the quarterly and semi-annual apportionments as a separate amount for the benefit of the high school. Their names are to be included in the various districts where they reside, said districts drawing the per capita amount for their names. The high school is expected to be entirely supported by direct taxes.

201. Powers and duties of president. The president, when present, shall preside at all meetings of the high school committee and of the high school district; shall sign all orders on the county treasurer for the payment of money; Provided, however, That no orders shall be drawn upon the county treasurer except in favor of parties to whom the high school district has become lawfully indebted. He shall appear in behalf of his high school district in all suits brought by or against the same, but when he is individually interested this duty shall be performed by the secretary, and in the absence of the

president the secretary shall preside at the committee and district meetings.—*S. L. '09*, p. 402

202. Powers and duties of secretary. The secretary shall keep an accurate account of the expenses incurred by the high school district, and shall present the same to the committee whenever called upon. He shall give the required notice of all regular and special meetings as herein authorized. He shall keep the same records and make the same reports as are now or may hereafter be required by law to be kept and made by secretaries of public school districts.—*S. L. '09*, p. 402

203. Powers and duties of treasurer. The treasurer shall countersign all warrants drawn by the president and secretary on the county treasurer, in favor of parties to whom the high school district has become lawfully indebted, and keep an account of the same. He shall take charge of all moneys received by him on account of the high school district from the county treasurer, as now provided by law, and pay out the same as by law provided. He shall render a statement of the finances of the district, as shown by the records of his office, at the close of each school year and at any other time when required by the committee. The treasurer shall perform such additional and be subjected to such additional obligations as are now or may hereafter be imposed by law upon the treasurers of public school districts.—*S. L. '09*, p. 403

204. Powers and duties same, directors first and second classes. Each high school district heretofore formed or that may be formed, as provided in this act, shall exercise all the powers and perform all

the duties that are at the time of the adoption of this act accorded to and required of directors of first and second class districts throughout the state; Provided, That the amount of tax certified to the county commissioners for the maintenance of the high school in any high school district, shall in no case exceed four mills on the dollar, of the assessed valuation of the high school district.—*S. L. '09*, p. 403

205. Tax levied by county commissioners—collected and paid out by county treasurer on warrant president and secretary. The county commissioners of any county wherein is a high school district heretofore organized according to law, or where any high school district is organized under the provisions of this act, or heretofore organized as a union high school at any county seat, under section 5956 of the Revised Statutes of Colorado of 1908, shall levy annually, at the time of levying taxes for other purposes, a high school tax on all the taxable property of the county, said tax not to exceed four mills on the dollar of the assessed valuation. The high school tax shall be assessed and collected in the same manner as other taxes are assessed and collected and shall be paid out by the county treasurer on warrant drawn by the president and secretary of the high school committee and countersigned by the treasurer thereof.—*S. L. '09*, p. 403

Levy for library.

1. The county high school district has the right to levy a one-tenth mill tax for library purposes, just as any other district has.

206. High school districts subject to provisions of this act. All high school districts organized and now existing under the provisions of chapter 100 of

the Session Laws of Colorado, 1899, being "An act to provide for the establishment and support of high schools in counties of the fourth and fifth classes," approved April 8th, 1899, or under chapter 219 of the Session Laws of Colorado, 1907, being "An act to amend an act entitled an act to provide for the establishment and support of high schools in counties of the fourth and fifth classes," approved April 9th, 1907, are hereby declared to be duly organized high school districts under the provisions of this act, and entitled to enjoy all the privileges and exercise all the powers conferred by this act, and shall hereafter be subject to the provisions of this act; Provided, That no school district in any county shall be taxed without its consent for the support of more than one class or kind of high school, the establishment of which is authorized by law; and in voting on the organization of a county high school district under the provisions of this act, any school district then maintaining a high school or any school districts then organized into a union high school district and maintaining therein a union high school may by voting against the organization of a county high school district be excluded from such county high school district; but if any school district maintaining a high school or districts maintaining a union high school shall, under the provisions of this section, vote against the organization of a county high school district, the ballots cast in such district or districts shall be considered only upon the question of exclusion and shall not be considered in determining the final result upon the question of organizing a county high school district. And pro-

viding, further, That any school district maintaining a high school, or any districts organized into a union high school district and maintaining therein a union high school, may abandon such high school organization and organize under the provisions of this act. —*S. L. '09*, p. 407

• UNION HIGH SCHOOLS.

207. Union high school—how established.

Whenever the school boards of two or more contiguous school districts shall each deem it advisable to establish a union high school, the county superintendent shall, at the request of two of the secretaries of the boards, call a meeting of the boards interested by giving personal notice to each member, which meeting shall elect by ballot from among the members of said boards, if a majority of the members of each board are present, a committee of three, to be known as the high school committee of such union school. The county superintendent shall be, ex officio, an additional member of said committee, and shall preside at the meetings thereof. There shall be elected a secretary of such committee, and if need be a treasurer. In any case in which the county seat of any county shall be all included in one school district the board of such school district shall have the same powers of establishing and organizing a high school as are hereby given to the boards of two or more contiguous school districts, and in such case the high school committee shall be the board of such school district, or such three members as they may select. High schools formed under the provisions of this section shall be open to children from all districts of the county in which they are so

formed, provided, such children are qualified, as hereinafter provided.—*R. S. 5956*

Note. Union high schools in counties of fourth and fifth classes, section 214.

Note. For different kinds of public schools see note 1, section 238, herein.

Union high schools—kinds.

Note. The union high schools authorized by the laws of this state may be conveniently classified under three general headings, according to the method provided for maintaining them:

1. Those organized under section 207 herein from two or more contiguous districts of any class in any class counties, which are maintained by their quota from the general fund; and a deficit, if any, is made up from the several district funds, in proportion to the number of pupils attending from each.

2. Those organized under section 207 herein at any county seat, where the entire town or city is included in one district, which are maintained by their quota from the general fund and from a tax, not to exceed four mills, levied by the county commissioners.

3. Those organized under section 214 herein in counties of the fourth and fifth classes of districts lying adjacent to incorporated towns or cities, and of districts afterward added thereto, which are maintained by a tax, of not less than one nor more than three mills, levied by the county commissioners—the school building to be furnished by the incorporated town or city.

High school committee at county seat.

a. The committee of a high school in a district which includes the county seat consists of either the full board of the school district, or of three members of it as the district board may determine.—*Money v. McCauley*, 44 C. 272

How established.

1. The directors of a third class district have no authority to establish a high school except under the provisions of Section 207 of the School Laws, Annotated, when such district embraces within itself a county seat.

Committee—oath—bond—members.

2. A high school committee shall consist of only three members, and the county superintendent shall be, ex-officio, an additional member of said committee and shall preside at its meetings.

3. The members of the union high school board should give bonds and take oath of office the same as the members of any other board.

4. After the election of the union high school committee the members should meet, organize and elect officers the same as in the first class districts.

208. High school committee—term—vacancies.

The members of said high school committee shall hold the office for and during the term they are members of their respective boards. Any vacancies in said committee, other than such as are caused by the expiration of the term of office, shall be filled by the school board of which the person so vacating was a member. The secretary shall be elected annually, and may receive such compensation as the committee shall deem proper to allow.—*R. S. 5961*

Note. Committee on high schools in counties of fourth and fifth classes, section 218.

209. High school committees—meetings. The regular meetings of the high school committee shall be held on the first Saturday of March, June, September and December of each year, and special meetings may be held at any time upon the call of the county superintendent, or of two members of the committee.—*R. S. 5963*

210. Powers of committee. Said committee shall exercise all the powers and perform all the duties, with reference to said high school, that are accorded to and required of school boards throughout the state, as provided in section fifty of this act, and shall have power to establish and prescribe the qualifications and manner of examination for admittance to the high school.—*R. S. 5964*

Note. Section 50 above referred to is section 124 herein.

Has right of body corporate.

1. A union high school district may be bonded for the purpose of erecting a high school building. The uniting of contiguous districts into one district for a special purpose gives such district, when properly organized, the same right to act as a body corporate as other districts possess.

Powers of board not increased.

2. The circumstance that union high schools have been established does not increase the powers of boards of the third class districts in the matter of erecting high school buildings, but their powers of erecting such buildings must be derived from the electors, as in other cases.

211. How maintained—proportion of school fund—deficit. After the first establishment of such a high school, it shall be maintained until the then next regular apportionment of the county school fund, as follows: Each district which shall have any children attending such high school shall draw from its school fund, and cause to be placed to the credit of [the] high school fund, such part of the whole expenses as shall be proportioned to the number of pupils attendant at such high school from such district, provided, it is with the approval of the directors of said district. After the first year, or part of a year, so as above provided for, the said high school shall, so far as practicable, be rated as a separate district. It shall be entitled to draw from the general, state and county funds its quota for attendance, as provided by section seventy-two of this act, and the deficit shall be made up from the several district funds in proportion to [the] number of pupils from each district who attended said high school during the then past year.—*R. S. 5966*

Note. Section 72 referred to in this section is section 100.

Note. For different kinds of union high schools and how maintained, see note 1, section 207.

Note. For different kinds of public schools and how maintained, see note 1, section 238.

Apportionment of school fund.

1. The amount of the general fund apportioned to a pupil attending a union high school should be credited to such high school and not to the district in which he resides.

Pupils not draw money for common and high school.

2. A pupil cannot be listed as a union high school pupil and also as a pupil of the district in which he resides and draw general school money for both common and union high schools.

212. Forty weeks annually—who may be admitted. The high school may be maintained during forty weeks in each year, and shall be free to all children in the county who are qualified for admission, according to the requirements prescribed by the committee, and all children in the county who are so qualified, and who can pass the examination prescribed by the committee shall be entitled as of right to attend said high school.—*R. S. 5969*

213. Every district contributing have voice in election. Every district in the county which contributes to the support and patronage of said high school shall, by its board of directors, be entitled to a voice in the election of members of the committee.—*R. S. 5971*

UNION HIGH SCHOOLS IN COUNTIES OF FOURTH AND FIFTH CLASSES.

214. Organization. In all counties of the fourth and fifth classes, all school districts lying adjacent to an incorporated town or city may be organized into a union high school district.—*R. S. 5972*

215. How supported—annual levy—building. The county commissioners of each of said counties are required to levy a tax of not less than one or more than three mills upon all taxable property in such high school districts when the same shall have

been organized, for the support of such school. Such levy shall be made annually after the organization of the said district shall have been made, at the same time that other taxes are levied.

It shall be the duty of the school district in which such school or incorporated town is incorporated to provide, at its own expense, a suitable building for the use of such union high school.—*R. S. 5973*

Note. For different kinds of union high schools and how maintained, see note 1, section 207. For different kinds of public schools and how maintained, see note 1, section 238.

216. Addition—outlying district. Any outlying school district not contiguous to such city or incorporated town may, by a majority vote of the duly qualified electors of such district, be added to any such union high school district within the county; and where it is more convenient for the pupil of any school district to attend school in a union high school of another county, such district may be attached, by such vote, to the union high school district of an adjacent county.—*R. S. 5974*

217. No conflict. The organization of these union high school districts shall not affect the organization nor the levy of the regularly organized districts.—*R. S. 5975*

218. School board—how constituted—election. The county superintendent shall, on or before the first day of May, 1903, appoint one member from each of the adjoining or outlying districts composing such union high school districts who shall, together with the members of the regularly organized district in which the building is located, constitute the school board of such union high school district.

Each following year the members of the school board shall be elected at the regular annual meeting of the several districts.—*R. S. 5976*

Committee.

1. The county superintendent is not a member of a union high school committee in a county of the fourth or fifth class, but the board is composed of one member from each of the outlying districts and the members of the regularly organized district in which the building is located.

2. The members of the union high school board should give bonds and take the oath of office the same as the members of any other board.

3. After the election of the union high school committee the members should meet, organize and elect officers the same as in the first class districts.

219. Qualifications to enter—course of study.

The qualifications necessary to enter such union high school shall be a diploma from the county superintendent upon completion of the eighth grade work, or a certificate issued upon grades in lieu of the eighth grade work. The county superintendents of the several counties shall, at their first annual state meeting, appoint a committee of five, who shall formulate a course of study for such union high schools, such course to be uniform in all the grades.

—*R. S. 5977*

DISTRICT HIGH SCHOOLS.

220. Board in first or second class districts may establish high school. The school board of districts of the first and second classes shall have the power to establish a separate high school whenever they shall deem it expedient or necessary and shall have power to determine the qualifications for admission to such school, and shall exercise all the powers with reference to such high school which are accorded to them in relation to the schools of lower grade; Pro-

vided, That no school board shall build or lease any building especially for such high school, unless authorized to do so by a vote of the district, as provided in section sixty-two of this act.—*R. S. 5926*

Note. Section 62 above referred to is section 148.

Note. For different kinds of high schools, see note 1, section 191. For different kinds of public schools and how maintained, see note 1, section 238.

District high schools—how maintained.

1. District high schools are a part of the common school system of their respective districts, and are maintained in the same manner.

HOLIDAYS AND SCHOOL YEAR

221. **School year — month — week — day — national holidays.** The school year shall begin on the first day of July and end on the thirtieth day of June. A school month shall be four weeks, a school week five days, and a school day shall not exceed six hours, excluding the time of intermission at noon. The term "national holiday," in this chapter, shall be construed to mean Thanksgiving day, Christmas day, New Year's day, Washington's birthday, Decoration day, Labor day and the fourth day of July.—R. S. 6013

Holidays and semi-holidays.

Note. In addition to above holidays, the general election day, in November; Colorado day, first day of August; Columbus day, twelfth day of October, and Lincoln's birthday, although not specifically made a holiday as to schools, are considered holidays so far as our public schools are concerned. Arbor day, the third Friday in April; Flag day, in June (proclaimed by the governor), and Good Roads day, the second Friday in May, are designated as semi-holidays, to be observed by special exercises.

Legal holidays—how observed.

1. A legal holiday falling upon Sunday, it is customary to observe Monday.
2. The twenty days of a school month include such holidays as may occur on school days within that month.
3. The time between Christmas and New Year's may be given to the teacher if the school board chooses to do so, but it does not legally belong to him.
4. A school board has the right to determine the time and duration of vacations.
5. Labor Day, being a legal holiday in Colorado, one is not required to teach a day during the month of September to make up for the school day lost.
6. When school opens on the Tuesday following Labor Day, Labor Day is counted as a holiday, and is not required to be made up by teacher.

7. Lincoln's Birthday is considered a legal holiday. When a holiday occurs on Sunday it is customary to observe the following Monday.

8. Established custom provides for the observance of Washington's and Lincoln's birthdays in the public schools by having a patriotic program the day previous to the holiday, and it is so understood and so observed.

Teacher entitled to salary for legal holidays.

9. A teacher is entitled to have as holidays the days designated as such by the laws of Colorado, and is entitled to receive her pay for the same when occurring on school days during her term of school.

10. In the absence of an express provision in a teacher's contract excluding holidays, the teacher is entitled to pay for all holidays coming within the school week included in the period of employment.

11. If, with the consent of the directors, a teacher holds school on a legal holiday to make up for a day lost, the teacher is entitled to pay for the full month.

12. To be entitled to his salary for the day, the teacher should remain in the school room after the hour of opening, both forenoon and afternoon, a sufficient time to determine that no pupils will be in attendance.

Vacation—teachers not entitled to pay.

13. If a teacher is engaged by the year at an annual salary, vacations are not deducted. If he is employed by the month, and paid a fixed sum per month, vacations are deducted, if there is no contract to the contrary. A teacher could just as lawfully claim pay for the long summer vacation as for the customary holiday vacations; this does not, however, refer to legal holidays.

14. A teacher is entitled to pay for New Year's Day, which comes on Monday of the first school week after vacation unless otherwise specially provided in the contract of employment. If the entire week had been made a vacation, then the teacher would be entitled to no compensation for such holiday.

Year.

15. The fiscal year, with reference to which all taxes are levied, and all revenue matters are provided for, begins with December 1st and ends November 30th, while the school year as relating to the making of reports, election of officers and term in which the necessary months of school must be held, is between July 1st and June 30th.

Time to hold organization.

16. The three months' school required by law to hold the organization of a district and secure an apportionment should be held between July 1st and June 30th.

17. The law requires that school shall be taught five days in the week. There is no provision which would make it illegal to hold school on Saturday.

Hour's intermission.

18. The teacher has a right to her hour's intermission at noon, providing she teaches the requisite six hours through the day. She is required to teach school from 9 a. m. to 4 p. m., unless the board gives her permission to finish at an earlier hour.

ARBOR DAY.

222. Arbor day—third Friday in April—how to be observed. The third Friday in April of each year shall be set apart and known as "Arbor Day," to be observed by the people of this state in the planting of forest trees for the benefit and adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of the day so established; Provided, That the actual planting of trees may be done on the day designated, or at such other most convenient time as may best conform to local climatic conditions, such other time to be designated and due notice thereof given by the several county superintendents of schools for their respective counties.—*R. S. 2942*

223. Holiday in schools—how observed. The day, as above designated, shall be a holiday in all public schools of the state, and school officers and teachers are required to have the schools under their respective charge observe the day by planting of trees or other appropriate exercises.—*R. S. 2943*

Legal holiday.

1. While Arbor Day is a legal holiday, it is not a holiday in the sense that the schools may be closed upon that day, since certain observances are required on the part of the schools.

224. Governor issue proclamation—superintendent of public instruction—county superintendents—report. Annually, at the proper season, the governor shall issue a proclamation, calling the attention of the people to the provisions of this act and recommending and enjoining its due observance. The superintendent of public instruction and the respective county superintendents of schools, shall also promote, by all proper means, the observance of the day, and the said county superintendents of schools shall make annual reports to the state forest commissioner of the action taken in this behalf in their respective counties.—*R. S. 2944*

COLORADO DAY.

225. Colorado day—first day in August—commemoration of admission of state—public holiday. That the first day of August of the year 1907, and the first day of August of each and every year hereafter is hereby made a public holiday to be known as "Colorado Day," and such day is hereby set apart for a proper celebration by our people in commemoration of the admission of the state of Colorado into the union.—*R. S. 2945*

226. When first day falls on Sunday—Monday following to be celebrated. That whenever the first day of August falls upon Sunday the following Monday is hereby designated as the day for celebrating such event.

Provided, That this act shall not be construed to affect the making or execution of agreements or instruments in writing, or to interfere with judicial proceedings.—*R. S.* 2946

COLUMBUS DAY.

227. Columbus day—twelfth day of October—legal holiday. The 12th day of October of the present year of our Lord, 1907, and the 12th day of October of each year thereafter is hereby declared a public holiday, to be known as "Columbus Day," and the same shall be recognized, classed and treated as other legal holidays under the laws of this state: Provided, That this act shall not be construed to affect commercial paper, the making or execution of agreements or instruments in writing, or interfere with judicial proceedings.—*R. S.* 2948

ELECTION DAY.

228. Election day in November. Election day in November of each year is hereby made a legal holiday.—*R. S.* 2949

GOOD ROADS DAY.

229. Second Friday in May—holiday. That the second Friday in May of each year shall be set apart and known as Good Roads Day, to be observed by the people of this state in the discussion of public highways and in the construction and repair of the same, for the benefit and advancement of good roads in the state of Colorado, and in such further efforts and undertakings as shall be in harmony with the general character of the day so established.—*S. L.* '11, p. 446

230. Public schools observe. In all public schools of the state, school officers and teachers are required to have the schools in their respective charge observe the day by teaching and educating the children of the schools with respect to the benefits of good roads.—*S. L. '11*, p. 447.

231. Proclamation of governor. Annually at the proper season, the governor shall issue a proclamation calling the attention of the people to the provisions of this act and recommending and enjoining its due observance. The state superintendent of public instruction and the respective county superintendents of schools shall also promote by all proper means the observance of the day, and the county superintendents of schools shall make annual reports to the state highway commissioner of the action in this behalf in their respective counties.—*S. L. '11*, p. 447.

INTEREST

232. Rate of interest on school orders and school warrants. County orders and warrants, town and city and school orders and warrants and other like evidences or certificates of municipal indebtedness shall bear interest at the rate of six per centum per annum from the date of presentation thereof for payment at the treasury where the same may be payable, until there is money in the treasury for the payment thereof, except when otherwise specially provided by law, and every county treasurer, town treasurer and city treasurer to whom any such county, town, city or school order or warrant is presented for payment, and who shall not have on hand the funds to pay the same, shall endorse thereon the rate of interest said order or warrant will draw, and the date of such presentation, and subscribe such endorsement with his official signature; Provided, That all such orders and warrants may be made to bear a lower rate of interest than above specified, by special agreement between such counties, towns and cities issuing the same, and the person to whom such orders or warrants are issued.—R. S. 3164

KINDERGARTENS

233. Free kindergartens may be established—cost. The school board of any school district in the state shall have power to establish and maintain free kindergartens in connection with the public schools of said district, for the instruction of children between three and six years of age, residing in said district, and shall establish such courses of training, study and discipline, and such rules and regulations governing such preparatory or kindergarten schools as said board may deem best; Provided, That nothing in this act shall be construed to change the law relating to the taking of the census of the school population, or the apportionment of state and county school funds among the several counties and districts in this state; Provided, further, That the cost of establishing and maintaining such kindergartens shall be paid from the special school fund of said districts, and the said kindergartens shall be a part of the public school system and governed as far as practicable in the same manner and by the same officers as is now, or hereafter may be, provided by law for the government of the other public schools of the state; Provided, further, That teachers of kindergarten schools shall have a diploma from some reputable kindergarten teachers' institute, or pass such examination on kindergarten work as the kindergarten department of the state normal school may direct.—*R. S. 5927*

Establishment of school mandatory.

a. Section 2 Article 9 of the constitution providing for the establishment and maintenance of a system of free

public schools, is mandatory and requires affirmative action by the legislature, and is not a limitation of its power to provide free schools for children under the age of six years.—*In re Kindergarten Schools*, 18 C. 234

Certificates.

1. Under the above provision a Colorado school board may lawfully employ a kindergarten teacher having a diploma from some reputable kindergarten teachers' institute outside of the state of Colorado, and it is not necessary that such teacher shall first pass an examination directed by the kindergarten department of the state normal school.

2. It is illegal to pay from the public fund a kindergarten teacher or assistant who holds no kindergarten certificate.

3. A district of the first class has no authority to issue kindergarten certificates.

4. It would not be legal for a district of the first class to employ a teacher for kindergarten work if the board's certificate is the only credential that she holds in connection with such work.

5. The examination for state kindergarten certificate occurs on the third Thursday, Friday and Saturday in August at the office of the superintendent of public instruction; and a certificate obtained at the state kindergarten examination is good for life, unless revoked by the state board of education.

NORMAL INSTITUTES

234. Normal institutes—time and place—how determined. For the purpose of organizing and maintaining teachers' normal institutes, the state shall be divided into the following institute districts, viz.: The counties of Sedgwick, Phillips, Logan, Yuma, Washington and Morgan to constitute normal district No. one. The counties of Weld, Larimer and Boulder to constitute normal district No. two. The county of Arapahoe to constitute normal district No. three. The counties of Gilpin, Clear Creek and Jefferson to constitute normal district No. four. The counties of Douglas, Elbert and El Paso to constitute normal district No. five. The counties of Kit Carson, Lincoln and Cheyenne to constitute normal district No. six. The counties of Fremont, Custer and Pueblo to constitute normal district No. seven. The counties of Kiowa, Otero, Bent, Prowers and Baca to constitute normal district No. eight. The counties of Huerfano and Las Animas to constitute normal district No. nine. The counties of Saguache, Costilla, Conejos and Rio Grande to constitute normal district No. ten. The counties of La Plata, Montezuma, Archuleta, Dolores and San Juan to constitute normal district No. eleven. The counties of San Miguel, Ouray, Hinsdale, Mesa, Delta, Montrose and Gunnison to constitute normal district No. twelve. The counties of Chaffee, Lake, Park, Pitkin, Eagle, Summit, Garfield, Routt, Rio Blanco and Grand to constitute normal district No. thirteen. Provided, That new counties formed within the

limits of any institute district shall be a part of said district. A normal institute for the instruction of teachers and those desiring to teach may be held annually for a term of not less than two weeks in each normal district of the state. The county superintendents of each institute district shall annually select not more than three of their number as an executive committee, who, with the advice and consent of the superintendent of public instruction and the president of the state normal school, shall determine the time and place of holding such normal institute, and shall select a conductor and instructor for the same. To defray the expenses of said institute the executive committee shall require the payment of one dollar registration fee for each person attending the normal institute, and each county superintendent is hereby authorized to add five per cent. to the averaging standing in examination of teachers who shall attend the normal institute from his county. When a normal institute of not less than two weeks is held in any institute district of the state the executive committee in charge shall certify to the boards of county commissioners of the several counties within the district the number and names of the persons attending said institute from their respective counties, and it shall be the duty of the board of county commissioners of the county where such persons belong to appropriate the sum of two dollars for each person so certified. The funds arising from registration fees and appropriations of county commissioners shall be designated the "normal institute fund," and some county treasurer, whom a majority of the county superintend-

ents of the district shall designate, shall be the custodian of said fund. The executive committee shall, at the close of each institute, transmit to said custodian all funds received by it, as provided in this section, together with the name of each person paying a registration fee. The executive committee shall also report to the several boards of county commissioners in the district, the name and address of the custodian of the "normal institute fund." On the receipt of such notice the several boards of county commissioners shall issue warrants for the appropriations provided in this section, payable to said custodian. It shall be the duty of the superintendent of public instruction, annually, when the executive committee of any normal institute district shall certify that not less than twenty persons have paid the registration fee, and have received instructions during the session of the institute, to certify the same to the auditor of state, who shall forward to the custodian of the "normal institute fund" of such district a warrant on the state treasurer for the sum of fifty dollars, to be paid out of any money appropriated for that purpose. All disbursements of the "normal institute fund" shall be upon the order of the executive committee, and no order shall be drawn on said fund except for claims approved by said committee for services rendered and expenses incurred in connection with the normal institute. It shall be unlawful to pay any one from the institute fund for services as conductor or instructor for such institute, who does not hold a certificate or qualification for such work, issued by the state board of education, upon

the recommendation of the state board of examiners; Provided, That a member of the state normal school faculty shall be ex officio a conductor of normal institutes.—R. S. 5996

Note. Mineral county made a part of normal institute district No. 10 (R. S. 5997); Teller county made a part of the fifth normal institute district (R. S. 5998); Arapahoe and Adams counties, with the city and county of Denver, constitute normal institute district No. 3 (R. S. 132 and 5999); Jackson county attached to the second normal institute district (S. L. '09, p. 436); Crowley county made a part of the eighth normal district (S. L. '11, p. 222).

County superintendent not entitled to compensation, when.

a. There is nothing in the law imposing a duty upon county superintendents to attend a district normal, and the county superintendent who does so is not entitled either to mileage or a per diem compensation, although he may be a member of the executive committee of the normal district.—*Stevens v. Sedgwick Co.*, 5 C. A. 115

Five per cent. credit for attendance.

1. A county superintendent is under no obligation to add five per cent. to the standing of applicants for teachers' certificates who attend the normal institute from a county other than his own, but he may if he so desires.

2. It is not intended by law that the five per cent. for attendance at normal institute shall be added in any county unless the applicant has attended a normal institute in this state during the whole time it is in session.

3. The five per cent allowed an applicant for a teacher's certificate on account of attendance at a normal institute means a straight five per cent of one hundred, and not five per cent of the general average, for otherwise one teacher would receive more credit than another for attending such institute, which is not the intent of the law.

4. The credits which county superintendents are instructed to give to applicants for certificates by reason of attendance at the normal institutes should be given to those persons only who have attended an institute in Colorado.

5. The five per cent credit may be given at any examination during the year immediately following the normal institute, and the county superintendent may use his discretion at which examination this is to be given; *Provided*, That it is only to be given at one examination.

Session.

6. Two weeks' session of the normal institute must be held. If the session is shorter, the county commissioners are under no obligation to pay for teachers attending from their county.

Teacher not paid for attendance.

7. Where a county superintendent calls a county institute or teachers' association, he has not the right to rule that the district must pay the teacher the same as if she had taught school, although the school board has the right to allow the teacher such time and pay her for it upon the request of the county superintendent; but the authority in the matter rests with the district board.

Pay for services as conductor.

8. It shall be unlawful to pay any one from the institute fund for services as conductor or instructor of such institute, who does not hold a certificate or qualification for such work, issued by the state board of education upon the recommendation of the state board of examiners; *Provided*, That a member of the state normal school faculty shall be *ex-officio* a conductor of normal institutes.

Time and place of normal—how determined.

9. The executive committee from each normal institute district with the advice and consent of the state superintendent of public instruction, and the president of the state normal school, shall determine the time and place of holding such normal institute, and select a conductor and instructor for the same.

Certificate not endorsed.

10. A normal institute certificate need not be endorsed. The certificate is good until revoked by the state board of education, or until the expiration of the time specified on the face of the certificate.

Fee.

11. The law requiring a dollar fee for a teacher upon taking the examination, in no way does away with the requirement of the attendance fee for attending a normal institute.

Meeting of committee—by whom called.

12. If the president of an institute executive committee fails to call a meeting of the committee it would be proper for the other two members to call a meeting, giving the president notification of such meeting; and at such meeting

it would be proper to transact the necessary business to establish and maintain a successful institute.

Attendance of county superintendent at district normal not compulsory.

13. There is nothing in this act imposing a duty upon county superintendent to attend a district normal, and a county superintendent who does so is not entitled either to mileage or a per diem compensation, though he is a member of the executive committee of the normal district.

[Note. The following (omitting the title and enacting, repealing and emergency clauses) is the law passed by the eighteenth general assembly and referred by petition, and will be voted upon by the people at the general election in 1912. If carried, it will repeal section 234 herein.]

234a. For the purpose of establishing and maintaining teachers' summer normal school districts and summer normal schools the state shall be divided into the following districts: The northern Colorado district shall consist of the counties of Weld, Logan, Sedgwick, Phillips, Yuma, Washington, Morgan, Adams, Arapahoe, Douglas, Elbert, Lincoln, Kit Carson, Cheyenne, Jefferson, Clear Creek, Boulder, Gilpin, Denver, Larimer and Jackson; the southern Colorado district shall consist of the counties of Teller, Park, Fremont, El Paso, Custer, Pueblo, Huerfano, Las Animas, Otero, Bent, Prowers, Baca and Kiowa; the San Luis Valley district shall consist of the counties of Costilla, Conejos, Rio Grande, Saguache and Mineral; the Montezuma valley district shall consist of the counties of Archuleta, San Juan, La Plata, San Miguel, Dolores and Montezuma; the central western Colorado district shall consist of the counties of Gunnison, Chaffee, Lake, Eagle, Summit, Garfield, Mesa, Pitkin, Delta, Montrose, Hinsdale and Ouray; the northwestern Colorado district shall consist of the counties of Grand, Rio Blanco and Routt.—*S. L. '11*, p. 156

234b. A summer normal school for the instruction of teachers and those desiring to teach shall be held annually for a term of not less than six weeks in each summer normal school district of the state. The county superintendents of each summer normal school district shall annually elect not more than three of their number as an executive committee. The board of trustees of the state normal school at Greeley, together with this committee, shall employ all instructors, determine the time and place of holding each summer normal school, and perform all other functions of a managing board for said summer normal school districts; provided that the summer school for the central western Colorado district shall be held at Gunnison, and the summer school for the northern Colorado district shall be held at Greeley; provided further, that any school of college grade located in any summer normal school district may offer courses for teachers which, if satisfactory to the governing board of said district shall be accepted as fulfilling the minimum requirements for the training of teachers.—*S. L. '11*, p. 157

234c. To defray the expenses of said summer normal schools, a registration fee shall be collected from each person attending the summer normal school. The executive committee of county superintendents shall certify to the boards of county commissioners of the several counties of the state the number and names of the persons attending a summer normal school from their respective counties, and it shall be the duty of the county commissioners of the county where such persons belong to appropriate the sum of \$2.00 for each person so certified.—*S. L. '11*, p. 157

234d. This money, together with all fees collected for the examination of teachers, fees collected from those who attend a summer normal school, and all special appropriations for the support of such schools, shall be forwarded to the state treasurer and shall be designated by him, "The Summer Normal School Fund."—*S. L. '11*, p. 157

234e. All fees collected from each summer normal school district shall be kept separate for the use of that district.—*S. L. '11*, p. 158

234f. The state auditor shall, upon the order of the president of the board of trustees of the state normal school at Greeley, countersigned by the secretary of said board and by the chairman of the executive committee of the summer normal school district in whose favor the warrant is drawn, draw his warrant in favor of the treasurer of the designated district; provided, that moneys appropriated or collected for one summer normal school district shall be used for no other purpose than the legitimate expenses of that district.—*S. L. '11*, p. 158

234g. To assist in effectively carrying out the provisions of this act, the sum of five thousand dollars is hereby appropriated from the general fund out of any moneys not otherwise appropriated, to be used by the trustees of the state normal school at Greeley for the maintenance of summer normal schools in the designated districts.—*S. L. '11*, p. 158

PUBLIC CONTRACTS

235. **Officer not interested in contract.** Whenever any officer of this state or of any county, city, town or school district therein, shall be charged with the duty of making any contract for or on behalf of this state, or of any county, city, town or school district therein shall be obliged to pay any sum of money to any person whomsoever, and whenever any such officer, as a member of any board of auditors, commissioners or directors, or otherwise, shall have any vote or voice in awarding any such contract, it shall not be lawful for any such officer to become in any manner bound for the fulfillment of such contract, or to take or receive any part or portion of the money specified in such contract, or to be in any way, manner or degree, interested in such contract, excepting in his official representative capacity.—*R. S. 4994*

Director not make contract with board.

1. Any member of a board of directors who shall have any voice or vote in awarding a contract cannot lawfully enter into any part in the fulfilling of said contract; nor can he take or receive any part or portion of the money specified in said contract, or be in any way, manner or degree interested in said contract, except in his official representative capacity.

2. A school director cannot legally become a teacher in the district in which he holds that office.

3. A school director has no right to cause his district to be in any way indebted to him unless such director happens to be secretary of the district and compensation has been allowed, in which case he makes out a warrant to himself, and that warrant is signed by the treasurer.

4. Contracts made by a school district with a school director in violation of the law relative to public contracts are void.

School board let contract to husband of director.

5. A school board can legally let a contract to a man whose wife is a member of the school board, as the fact that the wife is a member and is, therefore, excluded from being a party to a contract with the district would in no way affect the husband, who is not a member of the school board.

236. Penalty. Whosoever shall offend against the provisions of this act shall be imprisoned not exceeding six months, and fined not exceeding \$2,000, and shall be removed from office.—*R. S. 4995*

237. Officers dealing in warrants. It shall be unlawful for any county, city, town or school district officer in this state to buy, purchase, trade in or acquire, either directly or indirectly, any county, city, town or school district warrant or any other evidences of county, city, town or school district indebtedness of the county of which he is such officer at the time. Any violation of the provisions of this act shall be adjudged a misdemeanor and punished in the discretion of the court by a fine and not exceeding five hundred dollars, or imprisonment in the county jail for a period of not more than thirty days.—*R. S. 1820*

PUBLIC SCHOOLS

238. Public school defined. A public school is hereby defined to be a school that derives its support entirely, or in part, from money raised by a general state, county or district tax.—*R. S. 6008*

Public schools—kinds.

Note. The public schools of this state consist of the elementary schools and the high schools.

Elementary schools include (a) kindergarten schools and (b) the first eight grades of the public schools.

(a) Kindergarten schools are supported by moneys from the special fund of the respective districts establishing them; but their establishment, like district high schools, are optional with the different districts, and, when established, are free to all children between the ages of three and six years residing within such district.

(b) The first eight grades must be taught in at least one public school in each school district of the state, and be free to all children of school age residing in such district. Such schools are supported by their quota from the general fund and from a special fund raised by a mill levy on all taxable property within the district, not to exceed twenty mills, however, in third class districts.

High schools consist of (a) district high schools, (b) union high schools and (c) county high schools.

(a) District high schools may be maintained in any first or second class district desiring to establish them, but not in third class districts, although the latter may add certain of the high school branches to the first eight grades. Such high schools are free to all children of school age residing within such district, and are supported in the same manner as the eight grade schools.

(b) Union high schools are of three kinds:

(1) When composed of two or more contiguous districts, not including a county seat, or an incorporated city or town in a fourth or fifth class county. Such union high schools are free to all children of school age residing within the county, and are supported by their quota from the general fund. Any deficit is made up by the different districts, in proportion to the number of children attending from each.

2. When the county seat is all included in one district. Such union high school is also free to all children of school age residing within the county, and is supported by its quota from the general fund and by a levy of not to exceed four mills on all the taxable property of the county.

3. When organized from districts contiguous to and including an incorporated city or town in fourth and fifth class counties, the school building to be furnished by such city or town. Such union high schools are free to all children of school age residing within such districts, and are supported by their quota from the general fund and a levy of not less than one nor more than three mills on all taxable property therein.

(c) County high schools are of one kind only, and are established at the county seats unless otherwise ordered by a majority vote of the electors of the entire county. They are free to all children of school age within the county, and are supported by their quota from the general fund and by a levy of not to exceed four mills on all taxable property within the county.

What constitutes a public school.

1. The departments of a school cannot be legally considered as separate schools.

2. Where a school is conducted as a public school, even though supported by other than public school money, it is proper to include the additional term after the five months provided for by the school fund, as if it were also supported by such fund, and the teacher should make her report for the whole time.

3. If a school teacher is engaged to teach a school in a district and is paid even in part from the public school fund, the school is a public school, open to all children eligible to attend school in the district, and such a school must be controlled as any other public school is, even if supported in part by private subscription.

239. Schools taught in English language—hygiene—Spanish—German—humane treatment to animals. The public schools of this state shall be taught in the English language, and the school boards shall provide to have taught in such schools the branches specified in section fifteen of said chapter; and such other branches of learning in other languages as they may deem expedient, including

hygiene, with special reference to the effects of alcoholic stimulants and narcotics upon the human body, and shall cause to be given in each school week two lessons of not less than ten minutes' duration each on the subject of humane treatment to animals; and whenever the parents or guardians of twenty or more children of school age shall so demand, the board of such school district may procure efficient instructors and introduce the German and Spanish languages, or either of them, and gymnastics, as a branch of study into such school; and said district board may, upon like demand of the parents and guardians of children of school age, procure efficient instructors to teach the branches specified in said section fifteen, in the German and Spanish languages, or in either of said languages, as said board may direct.—*R. S.* 6010

Note. Section 15 above referred to is section 149 herein.

Certificates—modern languages—music—drawing.

1. Section 239 provides that, upon the demand of the parents or guardians of twenty or more children of school age, the board of such school district may procure efficient instructors in the German and Spanish languages, or either. It also provides that, upon like demand, the board may procure like instructors to teach the branches required in the public schools in German or Spanish, or either. Section 383 provides that a certificate shall not be required of persons employed to teach music, drawing, or modern languages. From these provisions we infer that no teacher's certificate is required to teach music, drawing, or the German or Spanish language only; but if the teacher is required to teach the common school branches in either German or Spanish, then a county teacher's certificate must first be obtained. It would also logically follow that any person employed to teach any language other than English only should not be required to obtain a county teacher's certificate.

German—when taught.

2. The school board has no right to introduce German without a petition from the parents or guardians of twenty or more children of school age.

3. The demands of a compulsory education law would not be met in case a child attended a private school in which the German language was used, as the intent of the law is that the child shall receive for the time specified equivalent instruction to that given through the public schools, which the law requires shall be taught in the English language.

240. Schools open, to whom. Every public school, except high schools, shall be open for the admission of all children between the ages of six (6) and twenty-one (21) years residing in that school district during at least four school months in each year, and the school board shall have power to admit adults, and children not residing in the district, if they see fit so to do, and to fix the terms of such admission.—*R. S. 6009.*

Who entitled to school privileges.

1. All persons between the ages of six and twenty-one are entitled to all the privileges of the public schools.

2. Children six years of age are entitled to school privileges, and it is the duty of the board of directors to provide adequate accommodations for them.

3. A school board has the right to make a rule that children who become six years of age during the school year shall enter school only at certain times—say at the beginning of the fall, winter or spring term. It is not proper to admit a child who is under six years of age.

4. In the case of a child under school age the parent would have no legal right to send such a child to school, no matter how well advanced or capable the child might be; and the board would have the right to exclude the child from school even though he obey the teacher and does the work well.

Maintain organization.

5. Four months of school in each school year are necessary in order for a district to hold its organization, and three months to entitle it to its share of the public

funds; so this practically makes four months of school necessary in each district.

Directors' power.

6. A school director cannot legally become a teacher in the district in which he holds that office.

Term lengthened by private subscription.

7. If the term of a public school be lengthened by private subscription, the time of such lengthening may be counted toward providing for the length of term required by law.

Summer school.

8. While a school board, if they feel so disposed, have a right to establish a summer school, they have not the right to limit the attendance to certain pupils and others to pay their own tuition; but it would be legal to establish such a school for certain grades; and limit the attendance thereto.

Building—where situated.

9. School must be held in a building situated within the boundaries of the district.

241. Failure to maintain school for three months. Any school district failing to maintain a public school at least three months of any school year, shall not be entitled to receive any portion of the school fund for that year.—*R. S. 5891*

Maintain organization entitle to fund.

1. The three months' school required by law to hold the organization of a district and secure an apportionment should be held between July 1st and June 30th.

2. A district which holds no school, but whose pupils by authority of the school board attend school in another district, the school board paying tuition to such other district, does not comply with the requirement of law, and is not entitled to its pro rata share of the general school fund.

3. No school, except one duly organized according to law, is entitled to recognition as a public school, either in the distribution of funds or in any other official way.

SCHOOL CENSUS

242. Census—school age. A school census is hereby defined to be a census embracing all persons between the ages of six and twenty-one years. School age is hereby defined to be any age over six and under twenty-one years.—*R. S. 6014*

Note. County superintendent examines census, section 97.

Who included in census.

1. Deaf mutes and blind persons between the ages of six and twenty-one should be included in the school census.

2. The names of all persons of school age must be included in the census. The law makes no exception in regard to married persons.

3. It would not be legal to enroll the persons of school age belonging to the State Industrial School in Jefferson county upon the census lists of the school districts where the schools are located, providing such persons have a residence elsewhere.

STATE BOARD OF EDUCATION

243. Who constitutes state board. The superintendent of public instruction, the secretary of state and attorney general, shall constitute a state board of education, of which the superintendent of public instruction shall be president.—*R. S.* 5866

Note. See constitution, article IX, section 1.

244. When board meets—by-laws. The state board of education shall meet at the state capitol on the last Saturday in December in each year, and at such other times and places as may by them be deemed necessary, and shall have power to adopt any rules and regulations not inconsistent with law, for its own government, and for the government of the public schools.—*R. S.* 5867

Normal institute fund.

1. The State Board of Education has no power to require and force county commissioners to perform their duties in relation to the distribution of Normal Institute funds. The interested parties must bring proper proceedings in court to get relief.

245. Grant diplomas—effect. The state board of education is hereby authorized to grant state diplomas to such teachers as may be found to possess the requisite scholarship and culture, and who may also exhibit satisfactory evidence of an exceptional moral character and whose eminent professional ability has been established by not less than two years' successful teaching in the public schools of this state. Such diplomas shall supersede the necessity of any and all other examinations of persons holding the same, by county, city, town, or district

in the state, for the grade of work indicated, unless revoked by the state board of education.—R. S. 5868

Certificates from other states.

1. State certificates issued by other states are not recognized by the law of Colorado. Persons who wish to teach in this state must hold certificates issued upon examination by the proper district, county or state authority.

246. Diploma for eminent service. The state board of education may, in their discretion, issue state diplomas without examination, to those persons who, in addition to good moral character and scholarly attainments have, in the opinion of the state board of education, rendered eminent service in the educational work of the state for a period of not less than six years.—S. L. '09, p. 371

247. Who need not take examination. The state board of education shall grant state diplomas to all persons who shall be teaching in the public high schools of the state of Colorado at the time of the passage of this act and who shall, within a period of six months thereafter, satisfy the state board of education that they have had forty-five months' successful teaching experience in the public high schools of the state of Colorado.—S. L. '09, p. 371

248. Diplomas without examination. The state board of education shall issue state diplomas upon application, without examination, to applicants who shall be graduates of colleges situated within the state of Colorado, which maintain a standard four-year course of collegiate work and require four standard years of high school work or its equivalent for admission, and who shall also exhibit evidence satisfactory to the state board of education of good moral character, and who shall also present evi-

dence satisfactory to the state board of education that they have had twenty-four months of successful teaching experience, and who shall also produce evidence satisfactory to the state board of education of professional training equivalent to at least one-sixth of a standard four years' college course and at least three of the following groups of subjects, one of which shall be Practice Teaching, to-wit:

- (1) General and Educational Psychology.
- (2) History of Education.
- (3) Science and Principles of Education.
- (4) Practice Teaching and Special Methods.
- (5) Organization and Management of Schools.
- (6) Philosophy, Sociology and Anthropology.

—S. L. '09, p. 371

249. Diplomas license to teach for five years. State diplomas, granted under the provisions of this act, shall license the holders thereof to teach in the public schools of any county, city, town or district in the state without the necessity of any other examination, for a period of five years unless sooner revoked by the state board of education, and at the expiration of said time, the same may be renewed for a like period of five years in the discretion of the state board of education, and at the expiration of this time, the same may be renewed for life upon presentation to the state board of education of satisfactory evidence of professional growth and efficiency; Provided, That the state board of education shall issue upon application, without examination, to those persons who possess the qualifications set forth in section 4 of this act, experience in teaching alone excepted, a temporary, non-renewable cer-

tificate to teach for five years in the public schools of Colorado.—*S. L. '09*, p. 371

Note. Section 4 above referred to is section 248 herein.

250. Board may revoke diploma. The state board of education may at any time revoke a state diploma, upon satisfactory evidence that the holder thereof has become unworthy the same; Provided, That before revoking any such diploma, the holder thereof shall have at least thirty days' notice to appear before the state board and refute any charges brought against him.—*R. S. 5870*

STATE BOARD OF EXAMINERS

251. State board of examiners—appointed by board of education. There is hereby created a state board of examiners which shall consist of a state superintendent of public instruction who shall be president of the board, and eight other persons who shall be appointed by the state board of education in the manner following: Immediately upon the passage of this act the state board of education shall appoint two members of said state board of examiners, one of whom shall be recommended to it for that purpose by the president of the state agricultural college, and both of whom shall be citizens of Colorado, actively engaged in educational work, and who are not members of the faculties of either the state agricultural college, the university of Colorado, the state school of mines, or the state normal school, which said members shall hold office until the first day of May, A. D. 1910, and whose respective successors shall in like manner be appointed to hold office for successive terms of four years thereafter.

And the state board of education shall also in like manner appoint two members of said state board of examiners, one of whom shall be recommended to it for that purpose by the president of the university of Colorado, and both of whom shall be citizens of Colorado, actively engaged in educational work, and who are not members of the faculties of either the state agricultural college, the university of Colorado, the state school of mines or the state normal school, which said members shall hold office until the first day of May, A. D. 1911, and whose respective successors shall in like manner be appointed to hold office for successive terms of four years thereafter.

And the state board of education shall also in like manner appoint two members of said state board of examiners, one of whom shall be recommended to it for that purpose by the president of the state school of mines and both of whom shall be citizens of the state of Colorado, actively engaged in educational work, and who are not members of the faculties of either the state agricultural college, the university of Colorado, the state school of mines or the state normal school, which said members shall hold office until the first day of May, A. D. 1912, and whose respective successors shall in like manner be appointed to hold office for successive terms of four years thereafter.

And the state board of education shall also in like manner appoint two members of said state board of examiners, one of whom shall be recommended to it for that purpose by the president of the state normal school, and both of whom shall be

citizens of the state of Colorado, actively engaged in educational work, and who are not members of the faculties of either the state agricultural college, the university of Colorado, the state school of mines or the state normal school, which said members shall hold office until the first day of May, A. D. 1913, and whose respective successors shall in like manner be appointed to hold office for successive terms of four years thereafter.—*S. L. '09*, pp. 369-370

252. Applicants to be examined. The state board of examiners shall, as often as directed by the state board of education, and at least as often as once a year, and after having given due public notice of the same, examine all applicants for state diplomas in such branches and upon such terms as in the judgment of the state board of examiners, shall be requisite to prove the applicant's possession of academic and professional attainments, fully equivalent to those set forth in section 4 of this act.—*S. L. '09*, p. 370

Note. Section 4 above referred to is section 248 herein.

Grades how applied.

1. The grades received on a teacher's high school certificate would not be credited on a state diploma. The applicant for a state diploma must hold at the commencement of the examination, an unexpired first grade certificate. The fact that it had been renewed would not invalidate it.

2. Grades received at a county examination could not be transferred to a state certificate.

Experience required before taking state examination.

3. The two years' teaching experience in Colorado, required before an applicant may take the examination for a state certificate, has been interpreted to mean two full years' work in a graded school where the term is not less than nine months.

Certificates from other states.

4. State certificates issued by other states are not recognized by the law of Colorado. Persons who wish to teach in this state must hold certificates issued upon examination by the proper district, county or state authority.

253. Requirements of applicants. And the state board of education shall grant state diplomas to such persons as shall by virtue of such examination, be found to possess the requisite scholarship and culture, and who shall also exhibit evidence satisfactory to the state board of education, of good moral character.—*S. L. '09*, p. 370

AGRICULTURAL COLLEGE SYSTEM

AGRICULTURAL COLLEGE AT FORT COLLINS

254. College—objects. The following educational institutions, to-wit: the university at Boulder, the agricultural college at Fort Collins, the school of mines at Golden, and the institute for the education of mutes (which shall hereafter be known as Colorado School for deaf and blind) at Colorado Springs are hereby declared to be institutions of the state of Colorado, and the management thereof subject to the control of the state, under the provisions of the Constitution, and such laws and regulations as the general assembly may provide, and the location of said institutions * * * are hereby confirmed. * * * —*S. L. '09*, p. 324

255. Design and objects. * * * The design of the institution is to afford thorough instruction in agriculture, and the natural sciences connected therewith. To effect that object most completely, the institution shall combine physical with intellectual education, and shall be a high seminary of learning, in which the graduates of the common school, of both sexes, can commence, pursue and finish a course of study, terminating in thorough theoretical and practical instruction in those sciences and arts which bear directly upon agriculture and kindred industrial pursuits.—*R. S. 88*

256. Qualifications of students. No student shall be admitted to the institution who is not fifteen years of age, and who does not pass a satis-

factory examination in arithmetic, geography, grammar, reading, spelling and penmanship.—*R. S. 89*

257. Programme. The board and faculty shall make, annually, a programme of theoretical and practical instruction.—*R. S. 90*

258. Duration of Course. A full course of study in the institution shall embrace not less than four years. The state board of agriculture may institute winter courses of lectures for others than students of the institution, under necessary rules and regulations.—*R. S. 91*

259. Academical year—term—suspension. The academical year shall consist of not less than nine calendar months. This academical year may be divided into such terms by the state board of agriculture, as in their judgment will best secure the objects for which the college was founded. The board may, at any time, temporarily suspend the college in case of fire, the prevalence of fatal diseases, or other unforeseen calamity.—*R. S. 92*

260. Labor on farm—hours. Three hours of each day shall be devoted by each male student of the college to labor on the farm; and every female student shall devote three hours of each day to labor in such department of work, as may be assigned them by the board and faculty, and no one shall be exempt, except for physical disability. By a vote of the board of agriculture at such sessions and in such exigencies as demanded, the hours of labor may be increased to four hours or diminished to two hours.—*R. S. 93*

261. Tuition fees—discrimination. The state board of agriculture shall be vested with discretion

to charge tuition or not as they may deem most conducive to the interests of the institution, unless acts of the general assembly making appropriations for its support shall otherwise direct. The board may make discrimination in regard to tuition between students from this state and from other states. One-third of the tuition for the academic term shall be paid in advance, and shall be forfeited in case the student abandons the institution.—*R. S. 94*

262. Board control college and farm—make by-laws and rules. The state board of agriculture shall have the general control and supervision of the state agricultural college, the farm pertaining thereto, and lands which may be vested in the college by state or national legislation; of all appropriations made by the state for the support of the same. The board shall have plenary power to adopt all such ordinances, by-laws and regulations, not in conflict with the law, as they may deem necessary to secure the successful operation of the college and promote the designed objects.—*R. S. 95*

263. Board choose president and tutors—vacancy in presidency. It shall be the duty of the state board of agriculture to choose a president of the state agricultural college before the first academic term of the institution; they shall then proceed to choose such professors, tutors and employes as the necessities of the institution demand. In case of vacancy in the office of president, or in case a suitable man cannot be selected, the senior professor shall perform the duties of the office until the board shall elect a president.—*R. S. 96*

Board employ professors for long term.

a. The state board of agriculture has power to employ professors to teach in the agricultural college, and may make valid contracts for such employment for a definite time of reasonable length. Where a professor was employed for a term of one year and discharged before the end of the term without good cause, he is entitled to recover his salary for the balance of the term; and the fact that the statute gives the board the right to remove such professor does not relieve them from liability for wrongful removal.—*Board of Agriculture v. Meyers*, 20 C. A. 139

Employment extending over term.

b. A professor who is employed under express contract to teach for one year, and continues in the same service without objection after the expiration of the term, is entitled to the same salary as for the preceding year.—*Board of Agriculture v. Meyers*, 20 C. A. 139

264. Board prescribe duties and confer degrees. The board, with the advice of the faculty, shall prescribe the books to be used in the institution, and also confer such degrees or testimonials as are conferred by similar institutions.—*R. S.* 98

265. Faculty how constituted. The president, professors and farm managers shall constitute the faculty of the state agricultural college. The president of the college shall be the president of the faculty. The secretary of the state board of agriculture shall be a member and secretary of the faculty.—*R. S.* 99

266. Wages to students—boarding at cost. The president and secretary, together with the superintendent of the farm, if there be one, and in case there is not one, then, one of the professors to be elected by the faculty, shall constitute a committee to fix the rate of wages allowed to students, and rate of board. In assessing the board, it shall be so estimated that no profit shall be saved to the institu-

tion, and as near as possible at the actual cost. The rates of wages allowed, and rate of charge for board, shall, if practicable, be submitted to the state board of agriculture before they take effect.—*R. S.* 106

AGRICULTURAL COLLEGE AT FORT LEWIS

267. School of agriculture, mechanic arts and household arts. That there is hereby established at the Fort Lewis School in La Plata County a school of agriculture, mechanic arts and household arts upon the grounds heretofore accepted by the governor of the state of Colorado, and now owned and held by the United States.—*S. L. '11*, p. 39

268. State board of agriculture control. That from and after the passage and approval of this act, the state board of agriculture shall take and assume control of the lands, buildings and equipments at Fort Lewis School, now owned and held by the state, and the said lands, buildings and equipment shall thereafter become and be a part of the agricultural college system of the state, and shall be controlled and managed under the same laws, rules and regulations, by the state board of agriculture as the agricultural college at Fort Collins; Provided, That Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils.—*S. L. '11*, p. 40

HORTICULTURE AND FORESTRY

269. Branch school at Grand Junction. That there is hereby established at the Grand Junction Indian School in Mesa County, a school of horticulture, forestry and vocational learning, upon the grounds to be accepted by the governor of the state

of Colorado and now owned and held by the United States. * * * —*S. L. '11*, p. 145

270. State board of agriculture manage. That from and after the passage and approval of this act, the state board of agriculture shall take and assume control of the lands, buildings and equipments at the Grand Junction Indian School, now owned and held by the United States, and the said lands, buildings and equipment shall thereafter become and be a part of the agricultural college system of the state, and shall be controlled and managed under the same laws, rules and regulations, by the state board of agriculture as the agricultural college at Fort Collins; provided, that the Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white people. —*S. L. '11*, p. 146

COLORADO SCHOOL FOR DEAF AND BLIND

SCHOOL LOCATED AT COLORADO SPRINGS

271. Object of institution. There shall be permanently maintained at the city of Colorado Springs, in the County of El Paso, an institution for the support and education of the mute and blind residing within the state of Colorado.—*R. S.* 4313

272. Name of school. Such institute shall be a body corporate under the name of "Colorado School for the Deaf and the Blind." and may sue and be sued, may take and hold real estate by gift, devise or otherwise, for the use and benefit of such school.—*R. S.* 4314

273 Educational institution of the state. That the Colorado School for the Deaf and the Blind, located at the city of Colorado Springs, in the county of El Paso, is hereby declared to be one of the educational institutions of the state of Colorado and has for its object the education of such of the children of the state as cannot, by reason of the impairment of their sense of hearing or of sight, be advantageously educated in the other schools or educational institutions of the state. Said school shall not be regarded or classed as a reformatory or charitable institution.—*S. L.* '09. p. 333

274. Board of trustees—appointment—term. That the management of the institute for the education of the mute and blind, * * * shall be vested in a board of five trustees, to be appointed by the Governor, by and with the advice and consent of the senate, * * * and shall serve for a period

of six years each, and in every case a trustee shall hold his office until his successor is appointed and qualified; Provided, That the superintendent or any other employe of said institute, shall not be a trustee thereof.—*R. S.* 4318

275. Superintendent—appointment. The said trustee shall have charge of the general interests of the institute, and shall appoint for a term of two years at a time, as superintendent of the institute, a person who shall have acquired an easy and ready use of the "Sign Language," such as is commonly used by educated deaf mutes, who shall have had not less than five years' experience in instructing deaf mutes, who shall be familiar with the methods used in their instruction, and who shall possess other qualifications that would in their judgment fit him for such office. * * * —*R. S.* 4319

276. Duties of superintendent—discharge of teachers. The principal executive officer of the institute shall be officially known and designated as the superintendent of said institute. He shall reside in the institute, * * * and shall, with the approval of the trustees, appoint and fix the compensation of all other officers and employes in the institute, and may, at any time, if it be for the benefit of the institute, or in the interest of proper government, discharge any of them from service; Provided, however, That teachers shall not be discharged unless by consent of the trustees. * * * —*R. S.* 4324

277. Admission of pupils—support. Every blind, deaf or mute citizen of the state of Colorado, of sound mind, over six and under twenty-one years of age, shall be entitled to receive an education in said

institute at the expense of the state. All applicants above the age of twenty-one years may be admitted at the option of the board. Each county superintendent of common schools shall report on the first day of June in each year to the superintendent of the school for the education of the deaf and the blind, the name, age and post office address of every blind or deaf person of suitable age, for admission to said school, residing in his county, including all such persons as may be too deaf or blind to acquire an education in the common school. Applicants for admission to said school from other states, if within the ages prescribed by this section, may be admitted upon payment of such sum quarterly, as the board of trustees of said school may determine.—*R. S. 4334*

278. Residents of other states—when admitted.

The residents of other states, or territories, may be admitted to said institute, upon the payment of a sum, in advance, to be fixed by the trustees, of not less than the total cost, per capita, of the inmates for the year immediately preceding the year in which application for such admission is made. A failure on the part of the person so admitted, or his parents, guardian, or friends, to make such payments to the superintendent, promptly, in advance, shall be just cause for immediate dismissal of the pupil; Provided, That no resident of another state, or territory, shall be received or retained to the exclusion of any resident of the state of Colorado; * * * —*R. S. 4335*

279. When counties pay expense. In all cases where persons sent to the institute for the education of the mute and blind are too poor to furnish

themselves with sufficient clothing and pay the expenses of transportation to and from the institute, the judge of the county court of the county where any such person resides, upon the application of any relative, or friend, of such person, or of any officer of his town, or county, may, if he shall deem such person a proper subject for the care of said institute, make an order to that effect, which shall be certified by the clerk of the court to the superintendent of said institute, who shall then provide the necessary clothing and transportation, at the expense of the county, and upon his rendering his proper accounts therefor, semi-annually, the county board shall allow and pay the same out of the county treasury. —*R. S.* 4336

TEACHER—ADULT BLIND

280. Office of state teacher. That the office of state teacher for the adult blind of the state of Colorado is hereby created and established. Said officer shall be either a male or female resident of this state, to be selected and appointed by the state board of education at its annual meeting, the last Saturday in December each year, and shall hold office for one year from said date or until his successor is duly appointed; except, that within fifteen days after the taking effect of this act said state board of education shall duly appoint such officer to hold office until the last Saturday in December, 1911, Provided: that said board in selecting said officer shall make such appointment by virtue only of the appointee's peculiar fitness for the position, competency and experience as a teacher of the blind, good

moral character, and shall where practicable select a non-seeing person as such teacher.—*S. L. '11*, p. 3

281. Duties of teacher. The duties of said officer shall embrace the education and teaching of all adult blind residents of Colorado at their respective homes, under such regulations, directions, and procedure, and in those methods and educational branches as the state board of education shall prescribe. It shall be the duty of said officer to prepare, maintain, and keep a "Register of the Adult Blind of Colorado" which register shall describe their condition, cause of blindness, capacity for education and industrial training, and other material and relevant facts concerning said persons; and the "Board of Control of the Colorado Industrial Workshops for the Blind" and the superintendent of the "Colorado School for the Deaf and Blind" are hereby directed to co-operate with said officer in the preparation and maintenance of said register by furnishing from time to time the names, addresses and such other facts concerning the adult blind in Colorado as may appear on their records or otherwise come to their knowledge. The work of preparing and maintaining said register shall be done in the office of and by the advice and under the direction of the state superintendent of public instruction, where said register shall be preserved and filed, and whose office shall be the general headquarters for the said state teacher of the adult blind.—*S. L. '11*, p. 4

282. Services—report. All the time and services of said officer shall be devoted ratably among the homes of all said adult blind, in the manner and way the state board of education shall prescribe, and he

shall, prior to the first of November of each year, prepare and file with the president of said board, a full and complete report of all of the work commenced or accomplished by his office during the preceding year, Provided: that the state board of education shall have the power at any time to remove said officer, after due hearing, for any reason sufficient to said board, and to appoint another officer for such unexpired term.—*S. L. '11, p. 3*

283. Salary—how payable—expenses. The state teacher of the adult blind of Colorado shall receive a salary of one thousand dollars a year, payable in equal monthly installments by the state treasurer from the same fund provided for the payment of other state officers, and upon due warrants of the state auditor, who is hereby authorized and directed to issue the same upon receipt of properly issued vouchers of the state board of education. Said officer shall also be paid and allowed all traveling and living expenses while away from the place of his residence and traveling within the state in fulfillment of the duties of his office, and also all books and papers necessary for the preparation of said register, and also all necessary teaching equipments and teaching methods, duly approved by the state board of education, not to exceed in all the sum of five hundred dollars for any year, which said expenses shall be evidenced by itemized statements thereof, filed by said officer with the state board of education at the end of each month, and shall be paid monthly by the state treasurer in the same manner as the expenses of the other state officers allowed by the law are paid, and upon due warrants

of the state auditor, which officer is hereby directed and authorized to issue said warrants upon receipt of properly issued vouchers of the state board of education covering said expenses.—*S. L. '11*, p. 3

INDUSTRIAL SCHOOLS

FOR BOYS

284. Industrial school established. There shall be established in this state an institution under the name and style of the "State Industrial School."
—*R. S.* 3027

285. Located—building. The old school of mines building and grounds at or near the city of Golden, in the county of Jefferson, are hereby selected as, and converted into an establishment and site for the state industrial school; * * * —*R. S.* 3028

286. Board of control appointment—term—vacancies. The general supervision and government of said industrial school shall be vested in a board of control, to consist of three members, who shall be appointed by the governor, by and with the advice and consent of the senate during the session of the general assembly, the members of which board shall hold their offices for the respective terms of two, four and six years from the first day of March, A. D. 1881, and until their successors shall be appointed and qualified, said respective terms of office to be designated in their several appointments; and thereafter there shall be one of said board appointed every two years, whose term of office shall continue for six years, or until his successor is appointed and qualified; and whenever any vacancy shall occur in said board, by the death, resignation or otherwise, the governor shall fill the same by appointment, and the appointee shall hold only for the unexpired term of the person whose place he is appointed to fill.
—*R. S.* 3029

287. Biennial report to superintendent of public instruction. The board of control, on the tenth day of November preceding each meeting of the general assembly, shall make a report to the superintendent of public instruction, which report, with that of the officers and instructors of the institution, shall be transmitted to the general assembly with the report of the said superintendent. Said report shall contain a detailed statement of their operations and of all expenditures made by them in behalf of said institution. —*R. S. 3031*

288. Board make rules—appoint superintendent, agents, servants. It shall be the duty of the board of control to prepare and carefully digest and mature a system of government for said industrial school, embracing such rules and regulations as may be deemed necessary for preserving order, for enforcing discipline, for imparting instruction, for preserving health, and generally for the proper physical, intellectual and moral training of the youth committed to said school. And they may appoint a superintendent and such other officers, agents and servants as they may consider necessary to transact the business of said school, and may designate their duties and salaries. —*R. S. 3032*

Note. Hazing in state institutions forbidden.

289. Duty of board to receive boys. It shall be the duty of the board of control to receive, to the extent of the means placed at their disposal, and of the accommodations afforded by the buildings and grounds belonging to said school, all persons committed to their care and guardianship, under the provisions of this act, and to keep the same during

their minority, or until discharged by law, or under the rules of said board.—*R. S.* 3035

290. Commitment to school—term—jurisdiction of courts. When any boy under the age of sixteen years and over the age of ten years shall be convicted of any offense known to the laws of this state, and punishable by fine or imprisonment or both, except such as may be punishable by death or imprisonment for life, the court before whom such conviction shall be had, may at its discretion, sentence such boy to the state industrial school or to such punishment as is now or may hereafter be prescribed by law for the same offense. All commitments to the state industrial school shall be for the term of the boy's minority, unless he shall be sooner discharged by the board of control, as hereinafter provided, and whenever any boy shall be discharged therefrom as reformed or as having arrived at the age of twenty-one years, such discharge shall be a full and complete release from all penalties and disabilities which may have been created by such sentence. The district and county courts and the judges thereof, in their respective counties, shall have exclusive original jurisdiction to try all cases arising under the provisions of this act. All such cases shall be summarily tried before the court or the judge of the court and without the intervention of a jury, unless a jury shall be demanded. Cases arising under this act may be instituted upon the sworn complaint of the district attorney or his deputy, or any credible person. No boy after sentence, shall be confined in any county or city jail, but the officer to whom the

writ of commitment shall be delivered shall at once convey such boy to the state industrial school.

—*R. S.* 3036

291. Parents and guardians may indenture boys to school. Any parent may indenture his or her boy, or any guardian may indenture a male ward, to the state industrial school for such length of time as may be agreed upon by such parent or guardian, and the board of control of said school, on condition that such parent or guardian shall pay the expenses of such boy or ward so indentured as aforesaid, while at said school.—*R. S.* 3037

292. Treatment of boys—board may return—duty of magistrate. Each and every boy who shall be legally committed to said school as provided in this act shall be clothed, fed, disciplined, instructed, employed and governed, under the direction of the board of control of said school, until he either be reformed and discharged, or until he shall have arrived at the age of twenty-one years, and it shall be lawful for said board of control to place in the care of any resident of this state, who is the head of a family, and of good moral character, any of the said boys of said school, on such conditions and with such stipulations as the board may establish; Provided, No boy shall be placed in the care of any person who shall be engaged in the sale of intoxicating drinks or who is in the habit of getting drunk. The board of control shall have power, and it shall be their duty to return any boy to the authorities of the county or city from which he shall have been received, whom said board may deem to be an improper subject for their care and management, or who shall be found to be incorrigible, or whose continuance in

the school they may deem prejudicial to the management or discipline thereof, or who ought in their judgment for any other cause to be returned from said school. In every such case it shall be the duty of said board of control to transmit to the court, magistrate or justice by whom said boy was committed to said school a statement of the reasons of said return, and it shall be the duty of the authorities of the city or county to whom said boy shall be returned to produce said boy before the court, magistrate or justice by whom said boy was committed, or his successor in office, as soon as the same can reasonably be done; and such court, magistrate or justice shall have power thereon to make such order, and have such proceedings as would have been legal in the first instance, and would have been made or had in the case if the boy had not been sent to the industrial school. Said board of control shall also be authorized, when, in their judgment, it may be deemed proper or expedient to give boys leave of absence in writing, with conditions therein expressed, for a limited time or during good behaviour, and in case of misconduct or other satisfactory reasons, they may reclaim and return to the care of the school for such time as he was originally sentenced without other trial or commitment or process of law, any boy granted such leave of absence, and his further detention shall in no way be affected thereby, either to his prejudice or advantage. Said board of control shall also have power to return any boy to his parents or other guardians, when they shall have become bound in sufficient sureties for the good behaviour and care of such boy.

—R. S. 3038

293. When board may discharge or bind boy.

It shall be lawful for the board of control, whenever in their discretion they may deem anyone of the boys detained in the said institution to have become so far reformed as to justify his discharge, to liberate such boy, or to bind him by articles of indenture for that purpose to be entered into, to any suitable person who will engage to instruct such boy in some proper art or trade, according to the terms of said indenture.—*R. S. 3039*

294. Persons caring for boy—compensation—proviso as to schooling. Any person other than parent or guardian, who will take and care for any boy, as above provided, for one year, having faithfully fulfilled all the conditions prescribed to the satisfaction of the board, if the board of control shall have so agreed, shall be entitled to receive from the funds of the industrial school fifty dollars; at the end of two years, a like sum on like conditions; Provided, Said boy shall be placed at school at least three months in each year; and any boy who is placed in the care of any person as above provided, having remained with said person and faithfully performed the duties required of him by said board for said two years, and until he shall have arrived at the age of twenty-one years, shall be entitled to receive from the funds of said institution one hundred dollars.—*R. S. 3040*

295. All clergymen can impart religious instruction. Equal privileges shall be granted to clergymen of all religious denominations to impart religious instruction to the inmates of said industrial school, and every opportunity shall be allowed such

clergymen to give to the inmates belonging to their respective denominations such religious and moral instruction as said clergymen may desire, and the board of control shall prescribe reasonable times and places, not inconsistent with the proper management of said school, when and where such instruction may be given, and all such instruction shall be open to all who may choose to attend.—*R. S.* 3044

FOR GIRLS

296. Industrial school established. That there is hereby established at or near Denver, Colorado, "The State Industrial School for Girls."—*R. S.* 3046

297. Board of control—appointment—term—vacancies—superintendent. The general supervision and control of said institution shall be vested, as at present, in a board of control, consisting of five members, three of whom shall be women. The board, excepting as hereinafter provided, shall be appointed by the governor, by and with the advice and consent of the senate during the session of the general assembly, and the term of office of each member thereof shall be five years, or until their successors shall be appointed and qualified, their respective terms of office to be designated in their several appointments; and whenever any vacancy shall occur in said board, by death, resignation, or otherwise, the governor shall fill the same by appointment, and the appointee shall hold only during the unexpired term of the person whose place he or she is appointed to fill. One member of said board shall be appointed by the governor as aforesaid during the session of the present general assembly, and every year thereafter there shall be one member ap-

pointed to take the place of the outgoing member. The board shall choose some suitable woman to act as general superintendent, who shall hold her office during the pleasure of the board.—*R. S.* 3047

298. County liable for maintenance—monthly statement rendered. That county from which any girl committed to the state industrial school for girls shall be sent shall be liable for the expense attending the safekeeping, care, maintenance and instruction of such girl until she shall have been finally discharged by the board of control of said school, and shall pay for the same the sum of fifty cents per day for each girl so sent until such final discharge. At its first meeting in every month the board of control of such state industrial school for girls shall, prepare and transmit to the respective boards of county commissioners of the several counties liable for such safe-keeping, care, maintenance or instruction, a certificate showing in detail the persons on whose account such expense was incurred, the amount due on account of each such person respectively for the month preceding, and the said board of commissioners shall allow the said sum so certified against their respective counties, and shall pay the same in cash to the state industrial school for girls, the same as any other current expense of said county.—*R. S.* 3049

299. Powers of board. The members of said board of control shall constitute a body corporate under the name and style of "The Board of Control of the State Industrial School for Girls," with the right to own and hold property, real, personal and mixed; to sue and be sued; and of making and using

a common seal and of altering the same at pleasure.
—*R. S.* 3051

300. Board receive all persons committed. It shall be the duty of the board of control to receive, to the extent of the means placed at its disposal, and of the accommodations afforded by the buildings and grounds belonging to said school, all persons committed to its care and guardianship, under the provisions of this act; and to keep such persons during their minority, or until discharged by law, or under the rules of said board of control.—*R. S.* 3053

301. Under control of board. Each and every girl who shall be legally committed to said school, as provided in this act, shall be clothed, fed, disciplined, instructed, employed and governed under the direction of the board of control of said school, until she either be reformed and discharged according to the rules to be adopted by said board of control, or until she shall have arrived at the age of twenty-one years.—*R. S.* 3054

302. Regulations established by board. The board of control shall make such regulations in regard to the food, clothing and bedding of the inmates as the health and circumstances of each may require; but all rations, clothing and bedding shall be plain and of good quality, and in sufficient quantity for the sustenance of the health and well-being of the inmates.—*R. S.* 3055

303. Rules established by board. It shall be the duty of said board of control, to prepare and adopt from time to time rules and regulations for said institution, for the government of the inmates of the same, looking to their moral, physical, intellectual, social and industrial training. Domestic industries

shall take precedence of trades, and there shall be a thorough education in every branch of household work.—*R. S.* 3056

304. Credit for good behavior. The board of control shall, under a system of marks, or otherwise, fix upon a uniform plan under which it shall determine what number of marks or credits shall be earned by each girl, sentenced under the provisions of this act, as the condition of increased privileges, or of release from its control, which system shall be subject to revision from time to time. Each girl sentenced to said school shall be credited for good personal demeanor, diligence in labor and study, and for results accomplished, and be charged for dereliction, negligence and offenses.—*R. S.* 3058

305. Marks of credit. The board of control shall establish rules and regulations by which the standing of each girl's gain of marks or credits shall be made known to her as often as once a month, and oftener if she shall at any time request it, and may make provisions by which any girl may see and converse with the said board during every meeting thereof.—*R. S.* 3059

306. Release of girls. When it appears to said board that there is a strong or reasonable probability that any girl in said school will live and remain at liberty without violating the law, and that her release is not incompatible with the welfare of society, or detrimental to her own good, then it shall issue to such girl an absolute release from confinement; Provided, That nothing herein contained shall be construed to impair the power of the governor to grant a pardon in any case.—*R. S.* 3060

307. Girls may be placed in homes. It shall be lawful for said board of control to place in the care of any resident of this state, who is the head of a family and of good moral character, any of the said girls in said school, on such conditions and with such stipulations as the board may establish.—*R. S.* 3061

308. Superintendent—duties. The superintendent, under the direction and management of the board, shall have general supervision of said institution.—*R. S.* 3065

309. Superintendent keep daily journal. The superintendent shall keep a daily journal of the proceedings of the institution, in which she shall note every infraction of the rules by any officer, teacher, or employe thereof, which shall come to her knowledge, and make memorandum of every complaint made by any girl of cruel or unjust treatment from her overseer, or other officer of the institution, or the want of good and sufficient food or clothing, and also any infraction of the rules by any inmate, naming her, and specifying the offense, and also what punishment, and the extent thereof, was awarded; which journal shall be laid before the board of control at every stated meeting and at every special meeting when demanded.—*R. S.* 3067

310. Register of girls—contents. When any girl shall be received in said school, the superintendent shall cause to be entered in a register the date of such commitment, the name, age, nativity, nationality, and such other facts as may be ascertained of parentage, early associations, influences, etc., as may seem to indicate the constitutional and acquired defects and tendencies of such

girl, and base upon these an estimate of the then present condition of such girl, and the best probable plan of treatment and classification of said girl; and she shall also enter upon such register, quarterly, or oftener, minutes of the observed improvement or deterioration of character, and notations as to the methods and treatment employed; also all orders or alterations affecting the standing or situation of such girl; the circumstances, if finally released, and any subsequent facts of the personal history which may be brought to the knowledge of the superintendent.—*R. S. 3070*

311. Abstract of record of each girl. An abstract of the record in the case of each girl remaining under the control of the said board of control shall be made semi-annually, considered by the said board of control at a regular meeting, and to be filed with the governor; each abstract shall show the date of commitment, age, the present situation, whether in school or elsewhere; whether any and how much progress has been made, and the reasons for release or continued custody, as the case may be.—*R. S. 3071*

312. Parole of girls. It shall be lawful for the board of control, whenever, in its discretion, it may deem any one of the girls detained in said institution to have become so far reformed as to justify it, to parole such girl, upon such conditions as to the board may seem advisable, and to return such girl to the school upon a violation of the terms of such parole.—*R. S. 3072*

313. Incurrible girl returned home. If any girl shall absent herself, without leave, from the person to whose care and service she has been prop-

erly committed, such girl may be forthwith returned to the said industrial school for girls without further process, and shall forfeit all credits gained by her on account of previous good conduct.—*R. S.* 3073

314. Commitment to school—term. When any girl under the age of eighteen years and over the age of six years shall be convicted of any offense known to the laws of this state and punishable by fine or imprisonment, or both, except such as may be punishable by death or imprisonment for life, the court before whom such conviction shall be had, may, at its discretion, sentence such girl to the state industrial school for girls, or to such punishment as is now, or may hereafter be, prescribed by law for the same offense. All commitments to the state home and industrial school for girls shall be for the term of the girl's minority, unless she shall be sooner discharged by law or the board of control, as hereinafter provided, and whenever any girl shall be discharged therefrom as reformed, or as having arrived at the age of twenty-one years, such discharge shall be a full and complete release from all penalties and disabilities which may have been created by such sentence.—*R. S.* 3074

315. Jurisdiction of courts—summary proceedings. The district and county courts, and the judges thereof, in their respective counties, shall have exclusive original jurisdiction to try all cases arising under the provisions of this act. All such cases shall be summarily tried before the court, or the judge thereof, and without the intervention of a jury, unless a jury shall be demanded; except in cases of high misdemeanors or felonies, the cause

shall be tried by a jury, as provided in the code of criminal procedure.—*R. S.* 3075

316. Peace officers arrest girls frequenting public places. All peace officers in any city, town or county in this state are empowered to arrest all girls habitually wandering around the streets or public places, or anywhere beyond the proper control of their parents or guardian, at unseemly or improper hours. The girl so arrested shall be taken before the court or judge having jurisdiction of the person, as provided in section 32 of this act, and if it shall appear to said court or judge that the said girl is incorrigible, or is growing up in habits of vice and immorality, such girl may be committed to "The state industrial school for girls."—*R. S.* 3076

317. Cause of commitment certified to superintendent. The court or judge by whom any person is committed to the state industrial school for girls, under the provisions of this act, shall certify to the superintendent of said school the cause of such commitment, embracing all important facts connected therewith, and the age of all persons so committed, as near as can be ascertained; the age so certified shall be held to be the correct age of such person for the purposes of this act.—*R. S.* 3077

318. Commitment—return of girl to county. Any girl who shall be convicted of an offense punishable by imprisonment in the state industrial school for girls and who, upon such conviction, shall be sentenced to imprisonment therein, shall be imprisoned according to this act, and not otherwise; and the courts of this state imposing such sentence shall not fix or limit the duration thereof; the term

of such imprisonment of any girl so convicted and sentenced shall be terminated by the board of control as provided in this act, or upon said girl having attained the age of twenty-one years; Provided, That the board of control shall have the power, and it shall be its duty, to return any girl to the authorities of the county or city from which she shall have been received, whom such board may deem to be an improper subject for its care and management, or who shall be found to be incorrigible, or whose continuance in the school the board may deem prejudicial to the management or discipline thereof, or who, in its judgment, for any other cause, should be returned from said school. In every such case it shall be the duty of said board of control to transmit to the court or judge by whom such girl was committed to the school, a statement of the reasons for such return, and it shall be the duty of the authorities of the city or county to whom such girl shall be returned, to produce said girl before the court or judge by whom she was committed, or the judge succeeding in such office, as soon as the same can reasonably be done, and such court or judge shall have power thereupon to make such order, and have such proceedings as would have been legal in the first instance and would have been made or had in case such girl had not been sent to the state industrial school for girls.—*R. S.* 3078

319. Girl sentenced not confined to jail—appeal. No girl, after sentence, shall be confined in any county or city jail, but the officer to whom the writ of commitment shall be delivered shall forthwith convey such girl to the state industrial school for

girls; Provided, Nothing in this act shall be construed to prevent any accused person from taking an appeal from the decision of any court or judge, under such forms as are now or may hereafter be prescribed by law.—*R. S.* 3081

320. Term of commitment. All commitments to the state industrial school for girls shall be for the term of the girl's minority, which shall be until she shall have arrived at the age of twenty-one years. If, through oversight or otherwise, any person be sentenced to imprisonment in, or be committed to the state industrial school for girls for a definite period of time, said sentence, or term of commitment, shall not for that reason be void, but the sentence or commitment of such girl shall be until she is twenty-one years of age, and the girl so sentenced or committed shall be entitled to the benefits and subject to the liabilities of this act the same as if she had been so sentenced or committed until she was twenty-one years of age.—*R. S.* 3082

321. School non-sectarian—all clergymen may impart religious instruction. Equal privileges shall be granted to the clergymen of all religious denominations to impart religious instruction to the inmates of said industrial school for girls and every opportunity shall be allowed such clergymen to give to the inmates belonging to their respective denominations such religious and moral instruction as said clergymen may desire, and the board of control shall prescribe reasonable times and places, not inconsistent with the proper management of said school, where and when such instruction may be given, and all such instruction shall be open to all who may choose to attend.—*R. S.* 3083

STATE NORMAL SCHOOL

322. **Establishment of state normal school.** A state normal school is hereby established at or near the city of Greeley, in the county of Weld and state of Colorado, the purpose of which shall be instruction in the science and art of teaching, with the aid of a suitable practice department, and in such branches of knowledge as shall qualify teachers for their profession; * * * —R. S. 6125

STATE TEACHERS COLLEGE OF COLORADO

323. State normal at Greeley—also known as **state teachers' college**. The State Normal School at Greeley, Colorado, also shall be known and designated as, The State Teachers College of Colorado.—*S. L. '11*, p. 609

324. Trustees—corporate powers—seal—make by-laws. Said school shall be under the control of a board of six trustees; the said board shall be and is hereby declared a body corporate by the name and style of "The Trustees of the State Normal School," and as such and by its said name may hold property for the use of said school, be party to all suits and contracts, and do all things thereto lawfully appertaining in like manner as municipal corporations of this state. The said trustees and their successors in office shall have perpetual succession, shall have a common seal, and may make by-laws and regulations for the well ordering and government of the said corporation and its business not repugnant to the constitution and laws of the state.—*R. S. 6129*

325. Governor appoint trustees—term of office—oath—superintendent of public instruction member.—The governor shall, upon the approval of this act, appoint by the advice and with the consent of the senate, the six trustees mentioned and provided in this act, two of whom shall be appointed for the term of two years, two for the term of four years and two for the term of six years. Their terms of office shall begin from their appointment and qualification, and shall continue for the period for which they shall be so appointed and until their successors are appointed and qualified. Every two years after

the first appointment aforesaid, two trustees shall be appointed in like manner to succeed those whose terms are first thereafter to expire. Every trustee so appointed shall take and subscribe the oath of office prescribed by the constitution of this state before entering upon the duties of his office, which oath shall be placed and kept on file in the office of the secretary of state. The superintendent of public instruction shall be, *ex officio*, a member of the board of trustees of the said state normal school.—*R. S.* 6130

326. Part of public school system — apportionment of funds—supervisory powers over. Said normal school is hereby constituted an integral part of the public school system of this state, and shall stand upon the same basis as to apportionment of state school funds as union high schools, and shall be subject as such to the general supervisory powers vested by the constitution in the state board of education.—*R. S.* 6132

327. Powers of trustees.—Subject to the constitutional powers of the state board of education, the trustees of the state normal school shall have the general supervision of the state normal school, and the control and direction of its funds and the appropriations therefor. They shall have power to appoint a faculty, consisting of a principal and assistant principal, and such other professors as may be required therein; they may also appoint such assistant teachers as are found necessary. They shall also have power to remove said principal or assistant principal, or any professor, teacher or employe in or about said school, and to appoint or employ another or others instead; to fix the salaries of each and to prescribe their several duties. They shall, with the advice and

consent of the faculty, prescribe the various books to be used in said school, the courses of study and instruction, which in no case shall cover a period of less than three years, and shall make all the needful rules, regulations and by-laws for the good government and management of the same.—*R. S.* 6133

328. Qualifications for admission—examination—declaration. The said board of trustees shall prescribe the qualifications for admission of students to said normal school. Every applicant for admission shall undergo an examination by the faculty of said school, and if it shall appear that such applicant is not a person of good moral character, or fails to pass such examination, such applicant shall be rejected. Each applicant, except as hereafter provided, shall, prior to his or her admission, also sign and file with the board of trustees a declaration to engage in the business of teaching in the public schools of this state.—*R. S.* 6139

329. Open to residents of state—other persons—fees. The state normal school shall be open, subject to its regulations, to all persons resident in this state, sixteen years of age and upward, without charge for tuition; and to other persons under such regulations as the board of trustees may prescribe, upon payment of a rate of tuition to be fixed by said board, and without the aforesaid declaration of intention to teach in the public schools of this state, said board of trustees shall also fix the fees for admission of pupils to the practice department of said normal school.—*R. S.* 6140

330. Officers of board—duties—bond. The board of trustees shall elect from among their number, at the first and every succeeding annual meeting of said

board, a president, who shall preside at all meetings and perform such duties as are incumbent upon such office. The board shall also elect a secretary, who shall not be a member of the board, and who shall hold office for the term of one year, and until his successor shall be elected and qualified. The said secretary shall give bond in a sum to be fixed by the superintendent of public instruction for the faithful handling and true accounting and delivery of all moneys and property of said school coming to his hands or control, which bond shall be filed with the secretary of state, after approval of the sureties thereon by the said board of trustees. No secretary elected as aforesaid shall receive into his possession or control any money or property of said normal school until after he shall have executed his bond and the same shall have been approved and filed as aforesaid. The state treasurer shall be, *ex officio*, treasurer of the state normal school.—*R. S.* 6135

331. Diplomas—examination—graduation. The state normal school is authorized to grant diplomas to such students as shall have completed the full course of instruction in said normal school, shall have been recommended by the faculty, and shall have passed a final examination upon the branches embraced in the prescribed course of study; such examination to be conducted by the examining board, consisting of the state superintendent of public instruction, a county superintendent of schools within the state, appointed for the purpose by the governor, and the principal of said school. Such diploma, when signed by the members of said examining board and the president and secretary of the board of trustees, shall be evidence that the receiver thereof is a gradu-

ate of the state normal school, and entitled to all the honors and privileges of such graduates.—*R. S.* 6141

332. Diploma license to teach—license annulled.

The said diploma shall license the receiver thereof to teach in any of the public schools of this state when a certified copy thereof shall have been filed in the office of the county superintendent of schools in the county wherein such graduate is teaching or proposes to teach. Such license may be annulled by the state superintendent of public instruction, who shall give immediate notice thereof to the several county superintendents of the state, and such license may be suspended in any county by the superintendent of schools for such county, pending the action of the superintendent of public instruction.—*R. S.* 6142

Normal school diploma.

a. A state normal school diploma licenses the holder to teach in the public schools of this state until annulled by the state superintendent or suspended by a county superintendent. It is evidence of a vested continuing right to teach in any public school in the state, and cannot be superseded or modified by any mandate or order of a school board.—*Nash v. School Board*, 49 C. 555

Registration of normal school diploma.

1. The law requires that the state normal school diploma, held by one who is to teach in a certain county, shall be presented to the county superintendent for inspection and registration by him, and until this is done the teacher is not legally a teacher in the county, and therefore should not receive her salary until she has fully complied with the law.

333. No fee for diploma. No fee shall be charged or received for any diploma or certificate authorized by this act.—*R. S.* 6143

No fee for registration.

1. No law authorizes a county superintendent to charge a fee for registering a certificate issued by the state normal school.

334. Report of trustees—contents—verification.

The trustees of the state normal school shall make

and file with the state board of education, on or before the first day of August in each year, a report of the affairs and conduct of said normal school during the year last preceding such report. Said annual report shall be made upon blanks prepared by the superintendent of public instruction, approved by the state board of education, and shall include the following, viz.:

First—The number of students enrolled during the preceding year, their sex, age, residence and place of birth.

Second—The attendance each day; the average attendance for each week and term, and during the year; the number of days the school was taught in the year.

Third—The full curriculum of instruction in said school; the classification and departments thereof; the branches taught; time devoted to each; text books and apparatus in use; number of books in the library; requirements for admission and graduation, with dates and requirements for examinations.

Fourth—The number of students in each department and class; number of diplomas granted, and to whom; number, names and residence of graduates; number of suspensions and expulsions, and cause of same.

Fifth—The names and number of teachers in each class and department, length of time each has been employed, and salary paid to each.

Sixth—Names, individual employment and number of all other employes in and about the school, with rate and amount of wages paid to each.

Seventh—A full financial statement, classified and itemized, of the business department of the school

and corporation, covering receipts and expenditures from and by all sources, and in such form as to show the average cost of the school per month for each pupil, and in gross for the year; cash on hand or deficit at the beginning and end of year.

Eighth—An estimate of necessary expenditures, ordinary and special, for the next ensuing year.

Ninth—Such other particulars as the said board of education may require, necessary to a fair and complete showing and fair understanding of all the affairs of said normal school.

Said report shall be signed by the president and secretary of the said board of trustees, and verified by the oath of one or more of their number.
—*R. S.* 6138

NORMAL SCHOOL AT GUNNISON

335. School established at Gunnison. A State Normal School is hereby established at the city of Gunnison, in the county of Gunnison and state of Colorado, the purpose of which shall be instruction in the science and art of teaching, and in such branches of knowledge as shall qualify teachers for their profession; * * * —*R. S.* 6144

336. Management of school. Upon the completion of said (Gunnison Normal School) building, the same shall by said trustees be turned over and delivered to the trustees of the State Normal School at Greeley, and thereafter said school buildings and premises shall form a part of the Normal School system of the state, and shall be controlled and managed under the same laws and by the same board of trustees as have charge of the Normal School at Greeley. —*S. L.* '09, p. 195

SCHOOL OF MINES

337. Located at Golden. The state school of mines, located at Golden, in the county of Jefferson, is hereby declared to be a body corporate under the name of, "School of Mines," and by that name may sue and be sued; may take and hold real and personal property by gift, bequest, devise, or purchase for the state; and may sell and dispose of the same when authorized so to do by law.—*R. S. 6015*

338. Board of trustees—term. There shall be a board of trustees of said school of mines, to be composed of five persons, who shall, except as hereinafter provided, hold their office for a period of four years and until their successors are appointed and qualified. * * * —*R. S. 6016*

339. Control—management. The said board of trustees shall have the control and management of the said school of mines, and of the property belonging thereto, subject to the laws of this state, and may make all needful by-laws and regulations for the government of said board, and for the management and government of said school of mines, not inconsistent with the laws of this state.—*R. S. 6018*

340. Instruction provided for. The said school of mines shall have for its object, to furnish such instruction as is provided for in like technical schools of a high grade, and may, by its board of trustees, confer all degrees appropriate to the courses of study pursued.—*R. S. 6019*

Trustees cannot issue diploma except through faculty.

a. The board of trustees of the school of mines has no authority to issue a diploma to a student of the school except

when required to do so by the school, speaking through its faculty. Mandamus will not lie to compel the trustees to issue such diploma where the student has failed to pass the examination required by the faculty, although the failure may be chargeable to the wrongful conduct of the faculty.—*Steinhauer v. Arkins*, 18 C. A. 49

341. School open to all. The said school of mines shall be open and free for instruction to all bona fide residents of this state, without regard to sex or color, and with the consent of said board, students from other states or territories may receive education thereat upon such terms and at such rates of tuition as the board may prescribe.—*R. S.* 6021

342. Governor appoints trustees with consent of senate. The Governor of this state, with the advice and consent of the Senate, shall, at each regular session of the general assembly to be held after the year 1877, by appointment, fill all vacancies in said board of trustees occurring either by expiration of their term of office or otherwise; and any vacancy occurring in such board when the general assembly is not in session may be temporarily filled by the Governor until the next meeting of the general assembly; Provided, That at all times, at least one member of said board of trustees shall be a graduate of said school of mines upon whom a degree has been conferred by its board of trustees not less than ten years prior to his appointment.—*S. L.* '09, p. 501

STATE HOME FOR DEPENDMENT AND NEGLECTED CHILDREN.

343. State home established. There shall be established in or near Denver, in this state, and maintained by the state, an institution which shall be known as the state home, and it shall be for a home for the children of sound mind and body under sixteen years of age, who are dependent on the public for support; Provided, That the board of control of said home shall have authority to admit, in their discretion, any child dependent or neglected, regardless of its physical condition.—*R. S. 568*

344. Board of control—appointment—term. The general supervision and government of said home shall be vested in a board of control, to consist of five members, who shall be appointed by the governor; the members of which board shall hold their offices for the respective terms of one for two, two for four, and two for six years, from the first Wednesday of April, 1895, and until their successors shall be appointed and qualified; no more than two of whom shall belong to the same political party, and at least two of whom shall be women; said respective terms of office to be designated in their respective appointments; and thereafter there shall be one member of said board appointed every six years, commencing first Wednesday in April * * * by the governor, whose term of office shall continue for six years, or until his or her successor is appointed and qualified * * *—*R. S. 569*

345. Object of home—dependent children received—guardianship. The object of this act is to

provide a temporary home for dependent and neglected children in said home, where they shall be retained only until they can be placed in family homes; Provided, That in the discretion of the board the child may be retained as long as its best interests may require in said home. There shall be received into said home those children who have been declared to be dependent on the public for support, as herein provided, and they shall be retained therein until they are sixteen years of age, unless they shall before that age be sent out as herein provided. The said board may, in their discretion, retain any children in said home after they shall become sixteen years of age, when they shall deem such course for the best interest of such children. The said board are hereby made the legal guardians of the persons and estates of all children admitted to said home pursuant to law; which guardianship shall continue during the minority of such children, except in the cases where, under this act, the guardianship may be cancelled by resolution adopted by said board.—*R. S. 572*

346. Children placed in private homes—contract of apprenticeship. The said board are authorized, and it shall be the duty of said board of control, to use special diligence in placing the children admitted to said home in suitable family homes, which shall be approved as herein provided, on written contracts to remain until they are twenty-one years of age. * * * Such contracts shall provide for the education of the children in the public schools where they reside at least six months in each year; for teaching them some useful occupation; for kind

and proper treatment as members of the families where placed, and for the payment on the termination of the contract, to said board, for the use and benefit of said children, such sum of money as shall be named in the contract; Provided, however, That in the discretion of said board, in the case of children not on indenture and over sixteen years of age, such contract may provide only for wages to be paid to the child or to said board for the benefit of the child and for kind and proper treatment. Every such contract shall contain a clause reserving the right to said board to cancel the same whenever they may deem that the interests of the child require it, and may also contain a clause authorizing the person taking the child to cancel the same at any time, within sixty days from the date of the contract, on returning the child to the home free of expense to said home. All moneys earned by said child or received from an indenture contract shall be turned over to said child when, for any reason, the guardianship of the board shall cease.

—*R. S.* 573

347. Guardianship cease when ward becomes self-supporting—classes of children returned to counties. Whenever any ward of said board who is not indentured has become self-supporting, the said board may, at their discretion, so declare the fact by resolution, and thereupon said guardianship shall cease and the child shall thereafter be entitled to its own earnings. Whenever one or both of the parents of any ward of said board, who is not indentured, have become able to support the child and educate it, the child may by resolution adopted by said board be restored to its parents, in which case the

suitableness of the home shall be certified in the manner herein provided for placing children on indenture, and thereupon the guardianship of said board shall cease. The said board are authorized to return to the counties from which they were sent the following classes of children:

First—Those who have become sixteen years of age, and who for any reason cannot be placed or retained in a family home.

Second—Those who by reason of vicious habits or incorrigibility cannot be placed or retained in family homes.

Third—Those who, in the opinion of said board, based on the certificate of the physician of said home, are of unsound mind or body, or who have some serious physical disability which prevents their being placed in family homes or learning trades. Whenever any child shall be ordered by said board to be returned to its county, as herein provided, the guardianship of said board shall cease, and the child shall thereupon again become a charge on the county from which it was sent; and the superintendent of said home, in returning any child to its county, shall report in writing to the county commissioners of the proper county the action of said board and the reasons therefor.—*R. S. 574*

STATE HOME AND TRAINING SCHOOL FOR MENTAL DEFECTIVES

348. Establish home. There is hereby established the state home and training school for mental defectives. The essential object of said school and home shall be the mental, moral, physical education and training of feeble-minded children and the treatment and care of persons so mentally defective as to be incompetent to care for themselves or their property.—*S. L. '09*, p. 180

349. Management of state home. The management of the said state home and training school for mental defectives shall be under the supervision of a board of three commissioners, who shall be residents and electors of the state of Colorado, who shall have full control thereof, as hereinafter provided. The board of commissioners shall be appointed by the governor, by and with the consent of the senate, * * * and not more than two of the commissioners shall be of the same political party; * * * each commissioner shall be appointed for the term of six years. The governor shall have the power of removal of any commissioner for cause, specifically stated. * * * —*S. L. '09*, p. 180

350. Superintendent — matron — appointment. Within ninety days after appointment, the commissioners shall, with the approval of the governor, appoint a superintendent, who shall be a skilled physician, who has had not less than two years' experience in a similar institution, he shall be competent to direct the medical, hygienic, educational and industrial interests of said state home and training

school; he shall reside at the state home and training school, and shall have a general supervision over its affairs. * * * Said board of commissioners shall in like manner appoint a matron, who shall be an assistant to the superintendent, especially in the caring for females admitted to said state home and training school, she shall have had at least one year's experience in a similar institution, and shall reside permanently at said state home and training school. * * * The superintendent shall, with the approval of the commissioners, appoint such office assistants, teachers, attendants, foremen and other employes, who shall be residents and electors of the state of Colorado, as may be required from time to time. * * * —*S. L. '09*, p. 181

351. Who admitted to state home. There shall be admitted to the state home and training school, feeble-minded persons incapable of receiving instruction in the public schools, also epileptics and feeble-minded adults unable to care for themselves or their property; providing, that the applicant, or his legal guardian shall be a bona fide resident of Colorado. When parents, or feeble-minded persons, are able to pay the whole or any part of the maintenance it shall be required of them. There may be admitted from other states and territories feeble-minded persons; provided, that after all Colorado applicants are cared for there shall be room, and provided, that such non-resident applicants shall not be afflicted with tuberculosis or other contagious diseases, and providing, that the entire expense, including room rent, board and training shall be paid by the parents, state or territory making such application. * * * —*S. L. '09*, p. 182

TRUANT SCHOOLS

352. Truant schools to be established—in what cities. That in cities having a population of 100,000 inhabitants or more, there shall be established, maintained and conducted within two years from the date of taking effect of this act, one or more parental or truant schools for the purpose of affording a place of confinement, discipline, instruction and maintenance of children of compulsory school age who may be committed thereto in the manner hereinafter provided.—*R. S. 5978*

353. Sites—location—furniture—fixtures—no increase of levy. For the purpose of establishing such school or schools, sites may be purchased and buildings constructed or premises rented in the same manner as is provided for in the case of public schools in such cities; but no such school shall be located at or near any penal institution.

And it shall be the duty of the board of education to furnish such schools with such furniture, fixtures, apparatus and provisions as may be necessary for the maintenance and operation thereof; Provided, That nothing in this act shall be construed to permit an increase of the levy for school purposes beyond the limit fixed by law.—*R. S. 5979*

354. Officers—course of instruction. The board of education may also employ a superintendent and all other necessary officers, agents and teachers; and shall prescribe the methods of discipline and the course of instruction; and shall exercise the same

powers and perform the same duties as is prescribed by law for the management of other schools.—*R. S.* 5980

355. No religious instruction in school—religious training. No religious instruction shall be given in such school, except such as is allowed by law to be given in public schools; but the board of education shall make suitable regulation so that the inmates may receive religious training in accordance with the belief of the parents of such children, either by allowing religious services to be held in the institution or by arranging for attendance at public service elsewhere.—*R. S.* 5981

Directors determine use of Bible in school.

1. Neither the constitution of the state nor the statutes touch directly the reading of the Bible or prayer or any other form of religious or devotional exercises, except to forbid that observance or participation shall be compulsory. The spirit of the constitution permits religious exercises in school if nothing sectarian is introduced and the trustees do not object. The laws of the different states bearing on this point differ. In Iowa "neither the electors, the board of directors nor the sub-directors can exclude the Bible from any school in the state." In Missouri, on the other hand, "directors may compel the reading of the Bible." In Dakota "the Bible may be read in school not to exceed ten minutes daily, without sectarian comment." The Cincinnati board of education forbade the reading of the Bible in the public schools of that city. In 1873 the supreme court of Ohio reversed this judgment, and sustained the board, saying "that the management of the public schools, being under the exclusive control of directors, trustees and boards of education, it rested with them solely to determine what instruction should be given and what books should be read therein."

2. The law of Colorado does not specify concerning the reading of the Bible in the public schools, the school boards of the state having the right to specify as to what shall be the practice in the matter.

356. Habitual truant—petition to county court. It shall be the duty of any truant officer or agent of

such board of education to petition, and any reputable citizen of the city may petition the county court of the county to inquire into the case of any child of compulsory school age who is not attending school, or who has been guilty of habitual truancy, or of persistent violation of the rules of the public schools, and the petition shall also state the names, if known, of the father and mother of such child, or the survivor of them; and if neither father nor mother of such child is living, or cannot be found in the county, or if their names cannot be ascertained, then the name of the guardian, if there be one known, and if there be a parent living whose name can be ascertained, or a guardian, the petition shall show whether or not the father or mother or guardian consents to the commitment of such child to such parental or truant school. Such petition shall be verified by oath upon the belief of the petitioner, and upon being filed, the judge of the county court shall have such child named in the petition brought before him for the purpose of determining the application in said petition contained. But no child shall be committed to such school who has ever been convicted of any offense punishable by confinement in any penal institution.—*R. S. 5982*

357. Hearing — commitment — notice to parent.

Upon the filing of such petition the clerk of the court shall issue writ to the truancy officer of the district, directing him to bring such child before the court; if the court shall find the material facts set forth in the petition are true, and if in the opinion of the court such child is a fit person to be committed to such parental or truant school, to be kept there until he or she arrives at the age of fourteen years, unless

sooner discharged in the manner hereinafter set forth, subject to the right of appeal as in cases of misdemeanor in the county courts. Before the hearing aforesaid, notice in writing shall be given to the parent or guardian of such child, if known, of the proceedings about to be instituted, that he or she may appear and resist the same, if they so desire.
—*R. S.* 5983

358. Parent or guardian pay maintenance. It shall be the duty of the parent or guardian of any child committed to this school to pay the actual cost of board of such child and provide suitable clothing upon his or her entry into such school, and from time to time thereafter as it may be needed, upon notice in writing from the superintendent or other proper officer of the school. In case any parent or guardian shall refuse or neglect to furnish such clothing or pay for such board, the same may be provided by the board of education, and such board may have an action against such parent or guardian of said child to recover the cost of such clothing and board, with 10 per cent. additional thereto.—*R. S.* 5984

359. Board of education establish regulations for parole. The board of education of such city shall have power to establish rules and regulations under which children committed to such parental or truant school may be allowed to return home upon parole, but to remain while upon parole in the legal custody and under control of the officer and agents of such school and subject at any time to be taken back within the enclosure of such school by the superintendent or any authorized officer of said school, except as hereinafter provided; and full power to enforce such rules and regulations to retake any such

child so upon parole is hereby conferred upon said board of education. No child shall be released upon parole in less than four weeks from the time of his or her commitment, nor thereafter until the superintendent of such parental or truant school shall have become satisfied from the conduct of such child that, if paroled, he or she will attend regularly the public or private school to which he or she may be sent by his or her parents or guardians, and shall so certify to the board of education.—*R. S. 5985*

360. Monthly report—discharge—recommitment. It shall be the duty of the principal or other person having charge of the school to which such child so released on parole may be sent, to report at least once each month to the superintendent of the parental or truant school, stating whether or not such child attends school regularly, and obeys the rules and regulations of such school; and if such child so released upon parole shall be regular in his or her attendance at school, and his or her conduct as pupil shall be satisfactory for a period of one year from date, on which he or she was released upon parole, he or she shall then be finally discharged from the parental or truant school, and shall not be recommitted thereto, except upon petition as hereinbefore provided.—*R. S. 5986*

361. Violation of parole—penalty—second parole. In case any child released from school upon parole, as hereinbefore provided, shall violate the conditions of his or her parole at any time within one year thereafter, he or she shall, upon the order of the county court, as hereinbefore provided, be taken back to such parental or truant school, and shall not be again released upon parole within the period of three

months from the date of such re-entering; and if he or she shall violate the conditions of a second parole, he or she shall be recommitted to such parental or truant school, and shall not be released therefrom on parole, until he or she shall remain in such school at least one year.—*R. S. 5987*

362. Incurrable — committed to reformatory.

In any case where a child is incurrable and his or her influence in such school shall be detrimental to the interests of the other pupils, the board of education may authorize the superintendent of any officer of the school to represent these facts to the county court by petition; and the court shall have power to commit said child to some juvenile reformatory.—*R. S. 5988*

363. Established in cities over 25,000, under 100,000. The boards of education in cities having a population of over 25,000, and less than 100,000, may establish, maintain and operate a parental or truant school for the purpose hereinbefore specified, and in case of the establishment of such a school, the boards of education shall have like power in their respective cities as hereinbefore expressed; provided, that no board of trustees or board of education under this section shall put this law into effect until submitted to a vote of the people and adopted by a majority vote at some general election, in which case school districts in the same municipality may unite in the establishment and maintenance of one such truancy school.—*R. S. 5989*

UNIVERSITY

364. Studies—qualifications of students. The objects of the university of Colorado, established by law, near Boulder City, in Boulder County, and state of Colorado, shall be to provide the best and most efficient means of imparting to young men and women, on equal terms, a liberal education and thorough knowledge of the different branches of literature, the arts and sciences, with their varied applications. The university, so far as practicable, shall begin the course of study in its collegiate and scientific departments at the points where the same are completed in high schools, and no student shall be admitted who has not previously completed the elementary studies in such branches as are taught in the common schools throughout the state.
—R. S. 6933

Change of location of university.

a. The location of the state university is, by the constitution, established at Boulder, and cannot be changed except by constitutional amendment.—*People v. Regents*, 24 C 175

365. Each county entitled to one pupil free. Each county shall be entitled to send one pupil under the age of 16 years to said university, tuition free; said pupil to be selected by competitive examination before the county superintendent of such county and given to the highest scholarship.
—R. S. 6934

366. Tuition fee. Provided that said university shall charge a reasonable tuition fee for all stu-

dents attending from outside the state, or whose parents reside outside the state of Colorado.
—*R. S.* 6935

367. Religious or irreligious control. The university shall never be under the control of any religious or irreligious denomination or society whatever.—*R. S.* 6936

368. Regents—election—term of office. The university shall be governed by a board of six regents, who shall be elected by the people of the state at a general election. * * * The regents thus elected and their successors in office shall constitute a body corporate to be known by the name and style of the regents of the university of Colorado.—*R. S.* 6937

Note. See article 9, section 12, constitution.

369. Departments — degrees — diplomas. The university shall include a classical, philosophical, normal, scientific, law and such other departments, with such courses of instruction and elective studies as the board of regents may determine, and a department of physical sciences, and the board shall have authority to confer such degrees, and grant such diplomas and other marks of distinction, as are usually conferred and granted by other universities; and the board of regents is hereby authorized to establish a preparatory department, which shall be under the control of said board of regents, as are the other departments of the university. * * *
—*R. S.* 6945

370. Report—contents. The president of the university shall make a report on the first day of September of each year to the board of regents,

which shall exhibit the condition and progress of the institution in its several departments, the different courses of study pursued therein, the branches taught, the means and methods of instruction adopted, the number of students, with their names, classes and residences, and such other matters as he may deem proper to communicate.—*R. S.* 6954

371. Regents report to superintendent of public instruction. The board of regents shall, on the first day of October preceding each meeting of the general assembly, make a report to the superintendent of public instruction, which report, with that of the president, shall be embodied in the said superintendent's report to the general assembly. The report of the board of regents shall contain the number of professors, tutors and other officers, with the compensation of each; the condition of the university fund, and the income received therefrom, and from all other sources; the amount of expenditures and the items thereof; and such other information and recommendations as may be expedient to lay before the general assembly.—*R. S.* 6955

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

372. Election of state superintendent. At the general election, to be held in the year of our Lord one thousand eight hundred and seventy-eight, and every two years thereafter, a state superintendent of public instruction shall be elected by the qualified electors of the state, who shall hold office for the term of two years from the second Tuesday of January next after his election, and until his successor is duly elected and qualified.—*R. S. 5871*

373. Oath and bond of superintendent. Before entering upon his duties he shall take and subscribe the oath of office prescribed by the constitution, and shall also execute a bond in the penalty of five thousand dollars, payable to the state of Colorado, with sureties to be approved by the state auditor, conditioned upon the faithful discharge of his official duties, and the delivery to his successor of all books, papers, documents and other property belonging to the office. Said bonds and oath shall be deposited with the secretary of state.—*R. S. 5872*

374. Duties of superintendent. He shall have an office at the seat of government, where shall be kept an official seal, and all books and papers appertaining to the business of his office. He shall file all papers, reports and public documents transmitted to him by the school officers of the several counties, each year separately, and hold the same in readiness to be exhibited to the governor, or to any committee of either house of the general as-

sembly. Copies of all papers filed in his office, and his official acts, may be certified by him, and when so certified, shall be evidence equally and in like manner as the original papers. He shall decide all points touching the construction of the school laws, which may be submitted to him in writing by any school officer, teacher or other person in the state, and his decision shall be held to be correct and final until set aside by a court of competent jurisdiction, or by subsequent legislation; and said decision, correspondence and instructions may be communicated through the columns of any regularly published periodical that is devoted to the interest of education. He shall prepare lists of questions for the use of county superintendents at the quarterly examination of teachers, and make such suggestions concerning their use as shall tend to secure uniform examinations in the different counties; and he may call to his aid, in the preparation of said questions, such assistance as he may deem proper.—*R. S. 5873*

Note. In regard to books received for use of the supreme court see *R. S. 1428*.

375. Furnish blanks—cost—prepare laws. He shall have a general supervision of all the county superintendents, and of the public schools of the state. He shall prepare, have printed and furnished to teachers and all officers charged with the administration of the laws relating to public schools, such blank forms, registers and books as may be necessary to the discharge of their duties; but he shall not copyright such forms, nor be directly nor indirectly compensated by reason of the sale thereof. All register and blank books so furnished for the use of teachers and school officers shall be charged

to the respective counties at cost, and the county superintendent of schools shall receipt for and distribute the same among the districts of his county as they may require; and the amount so charged against each county shall be deducted from the amount apportioned to such county at the semi-annual apportionment of the state school fund; and the superintendent of public instruction shall certify to the state treasurer the aggregate amount of such deductions, and the treasurer shall thereupon transfer said amount from the school fund subject to apportionment to the general fund. The superintendent of public instruction shall have the laws relating to public schools printed in pamphlet form, and annexed thereto forms for making reports and conducting school business, and shall supply school officers, school libraries and state libraries with a copy each. Said printing to be paid for out of the printing fund, on warrant of the auditor, on bills approved by the superintendent of public instruction, and attested by the secretary of state.

—R. S. 5874

Note. See enabling act, section 14.

Powers in regard to certificates.

1. The state superintendent has no authority to grant a certificate to teach except when directed to do so by a vote of the state board of education, or in cases of appeal or upon state examination.

2. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county superintendent of another county, as this is a mere matter of comity.

3. The state superintendent has no right to authorize the county superintendent to hold a special examination. Examinations for teachers' certificates cannot be held except at the times prescribed by law for public examinations.

4. The state superintendent has no right to endorse certificates, as this is a matter which rests with the county superintendent.

5. The state superintendent has no authority whatever to waive in any manner the requirement for the issuing a certificate to teach, nor to order a county superintendent to change the marking, unless the applicant appeals from the decision of the county superintendent to the state board of education.

6. The state superintendent has no authority whatever to waive in any manner the requirements of law for a license to teach, nor to grant a temporary certificate or permit, nor to authorize a county superintendent to grant such certificate or permit.

7. The laws of Colorado do not give the state superintendent the right to endorse certificates of any kind from other states.

8. The law makes no provision for the writing of a duplicate certificate for the convenience of the person holding a first grade certificate. Special permission may be obtained from the state superintendent by a county superintendent to write a duplicate certificate in case the holder of the original gives proof of its being lost or destroyed.

9. The state superintendent has no authority to excuse a person from taking an examination.

Take no part in organizing district.

10. It is not within the province of the state superintendent to take any part whatever in the organization of a new school district; but, as a member of the state board of education, she may pass upon the legality of such organization when an appeal is taken to the board from the decision of the county superintendent.

11. The state superintendent has no power to establish a school in any locality.

In regard to special elections.

12. The state superintendent has no power to set aside a special meeting of the electors of a district, as this is a question to be decided by the courts.

13. The state superintendent has no authority to call a special school election, since the law provides that it must be called either by the secretary of the board of directors or by two legal voters in the district, as specified in section 144.

No power to compel county superintendent to turn over records and funds.

14. If a county superintendent fails to turn over moneys received by him to the county treasurer as required by law, or fails to turn over to his successor the records of the office, such matters should be called to the attention of the county commissioners, and they may proceed in a civil action for the recovery of any moneys due the county and to compel the delivery of such records. The county superintendent is also liable upon his bond for the improper performance of his duty; but all these are matters over which the state superintendent has no jurisdiction.

376. Biennial report — visits — expenses. He shall, on or before the tenth day of December, in every year preceding that in which shall be held a regular session of the general assembly, report to the governor the condition of the public schools, the amount of state school fund apportioned, and sources from which derived, with suggestions and recommendations relating to the affairs of his office as he may think proper to communicate. It shall be his duty to visit annually such counties in the state as most need his personal attendance, and all counties, if practicable, for the purpose of inspecting the schools, awakening and guiding public sentiment in relation to the practical interests of education, and diffusing as widely as possible, by public addresses and personal communication with school teachers and parents, a knowledge of existing defects and of desirable improvements in the government and instruction of the schools; and he shall open such correspondence as may enable him to obtain all necessary information relating to the system of public schools in other states; and he shall receive out of the state treasury, for actual necessary traveling expenses and other expenses while traveling on the

business of the department, not exceeding five hundred dollars per annum, for which he shall render an itemized bill to the auditor of state, who is hereby authorized to draw his warrant therefor; and all office, fuel, furniture, postage, books, stationery, and other contingent expenses pertaining to his office shall be furnished in the same manner as those of the other departments of the state government.
—*R. S.* 5875

377. Apportionment of school fund. It shall be the duty of the state auditor to notify the superintendent of public instruction of the amount of money in the state treasury to the credit of the public school income fund, on the thirtieth day of June and December in each year. Within fifteen days after receiving such notification, the superintendent of public instruction shall apportion said fund among the several counties of the state, from which reports have been received by said superintendent, as provided in this act, in proportion to the school population as shown by the report of each county for the year next preceding such apportionment, making such deductions as are provided in section nine of said chapter. And the superintendent of public instruction shall certify said apportionment to the state auditor, and upon such certificate the auditor shall draw his warrant on the state treasurer in favor of the county treasurer of each county, for the amount due said county. The superintendent shall also certify to the superintendent of each county the amount apportioned to such county.—*R. S.* 5887

Note. Section 9 referred to in this section is section 375.

Two apportionments.

1. There are only two apportionments of the school fund by the state superintendent during the year—one in January and one in July. Other apportionments, if any, are made by the county superintendents.

378. Assistant librarian—salary. He may employ an assistant librarian, who shall have charge of the state library, under such regulations as may be prescribed by the state librarian, or by law. Said assistant shall receive the annual salary of one thousand dollars for his services.—*R. S.* 5876

TAXES

COUNTY SCHOOL TAXES

379. County commissioners shall cause school tax to be levied. The county commissioners shall, at the time of levying the tax for county purposes, cause to be levied a tax for the support of the schools within the county, of not less than two mills on the dollar, of the assessed value of all taxable property, real and personal, within the county, which tax shall be collected by the county treasurer at the same time, and in the same manner, as state and county taxes are collected, except that it shall be receivable only in cash. It is hereby made the duty of the county superintendent of schools to certify to the board of county commissioners at this time the amount of money needed per capita, to enable each school district in the county to maintain a public school four months in each year, as required by law. In making his estimate, the county superintendent shall not take into consideration districts whose school population shall be less than fifteen, as shown by the school census preceding the time of making the levy. He shall use as a basis for making his estimate the sum of forty dollars per month for the teacher's salary. All other expenses of the school must be provided for by the board of directors by special tax. It is hereby made the duty of the county commissioners to increase the minimum rate of two mills, to what shall be required for the purpose, as stated as above; Provided, That such tax levy shall in no case exceed five mills; Provided, further, If any school district shall fail to certify a

special tax for other expenses of the district necessary to maintaining a public school each year, as provided for in section seventy-seven, the county commissioners shall cause the same to be levied.
—*R. S. 5893*

Note. Section 77 above referred to is section 240 herein.

Tax levy becomes lien when.

a. A tax levy for school purposes does not become a lien upon personal property by virtue of the assessment merely, but only upon seizure, there being nothing in the statute upon the subject.—*McKay v. Batchelor*, 2 C. 591

Property located partly within district.

b. Property located in a school district is alone subject to sale for taxes levied on the property of the district, and where a tract of land lies partly within and partly without the district, that part lying without cannot be sold for taxes.
—*Shaw v. Lockett*, 14 C. A. 413

Apportionment of two mill levy.

1. The above section contemplates that the two mill tax therein provided shall be apportioned among the school districts per capita. The \$40 per month therein provided is established as a basis in estimating the teachers' salaries.

Duties of county commissioners in regard to levy.

2. It is the duty of the board of county commissioners to levy such a rate above two mills as may be necessary to produce the amount needed per capita to enable each school district in the county to maintain a public school four months in each year, as required by law, and as shown by the county superintendent's certificate provided for in the same section, and the board of commissioners can be compelled to do this by mandamus if necessary.

3. The county commissioners have no right whatever to make a general levy of one mill only, since the law plainly states that the minimum rate is two mills, which must be increased by the commissioners to whatever shall be required for the purpose as specified to them by the county superintendent of schools.

Commissioners—no authority to change levies—when certified.

4. The county commissioners have no authority whatever to change levies for special school tax when certified to

by the directors of a district. The levies as certified by the school directors must remain, whatever the action of the commissioners may be as regards valuation.

No annual meeting—county commissioners make levy.

5. In case a school district has not held its annual meeting to elect officers and vote a tax, it becomes the duty of the county superintendent to appoint to the vacant positions, and the duty of the county commissioners to levy the tax for the district.

New levy on consolidation—when.

6. If districts are consolidated between the time of voting on the special tax and making the levy by the county commissioners, a new levy must be determined on for the new district.

Special tax—when voted.

7. It would be legal to vote a special tax at an annual meeting by giving the legal notice.

8. A majority vote to decide a special tax levy for erecting a school building means a majority of the qualified electors *when assembled* at a regular or special meeting.

380. County clerk must levy — officer failing — forfeiture. No county clerk or other person, who shall make out the tax list or assessment roll of any county, shall omit or neglect to levy said tax of two mills, as aforesaid, by reason of the omission of the board of county commissioners to pass a resolution for that purpose. Failure to levy a tax of at least two mills, as above specified, shall be deemed a violation of the law, and the person or persons through whose neglect or refusal the failure so to levy shall occur, shall forfeit the sum of one hundred dollars each, and be liable for all damages resulting from such neglect or failure.—*R. S. 5894*

381. School boards certify amount needed to county commissioners — not exceed twenty mills — duties of assessors and treasurer—tax for library. On or before the day designated by law for the com-

missioners of each county to levy the requisite taxes for the then ensuing year, the school board in each district shall certify to the board of county commissioners a statement showing the aggregate amount, which, in the judgment of said school board, it is necessary to raise from the taxable property of said district, to create a special fund for any of the purposes specified in section 51 of this chapter; said statement shall also show the items composing said aggregate and the purpose to which it is intended to devote each sum so itemized. It shall thereupon be the duty of the county commissioners to levy, at the same time that other taxes are levied, such rate, within the limits allowed by law, as will produce the aggregate amount so certified. The amount of such special tax, which shall be assessed to each tax payer of such district, shall be placed in a separate column of the tax book, which shall be headed "Special School Tax," Provided, in the case of districts of the third class no higher rate than twenty mills per dollar shall be levied. There shall also be a column in said tax book in which shall be designated the number of the school district in which the property is listed. This tax shall be collected in cash only, and placed to the credit of the proper district as fast as collected, and the amount placed to the credit of each district shall be reported to the secretary of such district at the end of every month, and shall be subject to the order of the district board. It is hereby made the duty of the county assessor and county treasurer to so arrange their tax schedules and books as to conform to the above provision; Provided, That the county assessor shall list all property, both real and personal, in the school district in

which the same may be on the first day of May; And provided, further, That the board of any district may include in said certified statement an item for the purchase of books for a library, to be open to the public, under such rules as the district board may deem needful for the proper care of the said library; but no levy made for this purpose shall exceed one-tenth of one mill, and the money accruing therefrom shall be used for the purposes of such library, and for no other purpose whatsoever.—*S. L. '11*, p. 585

Note. Section 51 above referred to is section 124 herein.

Mandamus county commissioners when.

a. Where at a special meeting of the district a resolution is regularly adopted instructing the president and secretary of the board to certify to the county commissioners the levy necessary for a special fund, and such action is duly certified, there is a sufficient compliance with the statute to authorize a proceeding by mandamus to compel the commissioners to levy the tax, and on petition for that purpose by the people, at the relation of the district, the supreme court has original jurisdiction.—*People ex rel v. County Comrs.*, 12 C. 89

Electors levy special tax.

b. The power to levy a special tax in a school district of the third class is by statute vested in the electors thereof, and cannot be exercised by the board of directors.—*County Comrs. v. R. R. Co.*, 3 C. A. 398

Property located partly within district.

c. Property located in a school district is alone subject to sale for taxes levied on the property of the district, and where a tract of land lies partly within and partly without the district, that part lying without cannot be sold for taxes.—*Shaw v. Lockett*, 14 C. A. 413

Certify special twenty mill limit.

1. A district board of the third class can legally certify a special tax to the board of county commissioners without a vote of the electors of the district, provided the tax thus certified is not in excess of the amount necessary to support a four months' school.

2. If the directors fail to certify the amount of the special tax levy the county commissioners may make a levy

sufficient to maintain a four months' school, the tax in no case to exceed 20 mills.

3. The 20 mill limit of special taxation applies only to third class districts.

4. In case an assessor should alter a levy certified by a district school board, he is liable civilly and criminally.

Levy for libraries.

5. The county high school district has the right to levy a one-tenth mill tax for library purposes, just as any other district has.

6. Funds raised in accordance with the provisions of this section of the school law must be used solely for the purchase of books for a library which shall be entirely under the control of the school board; and while the section states that the library shall be open to the public, it is my opinion that the law does not contemplate the location of the library anywhere but in connection with the school.

Special levy in first and second class districts.

7. There is no limit to the special levy in first and second class districts.

Special taxes collected on range stock—when.

8. It is lawful to collect special school taxes on range stock in districts where they are located.

Cannot change school tax of resident.

9. The law gives no authority to change the school tax of a resident of one district to another district.

New levy upon consolidation.

10. If districts are consolidated between the time of voting on the special tax and making the levy by the county commissioners, a new levy must be determined on for the new district.

When warrants drawn.

11. After a levy is made for a special purpose in a school district, and is also made by the county commissioners, warrants may be drawn to the amount of the revenue for the current year.

SPECIAL TAX

382. Special tax levy not to be reconsidered. It shall not be lawful for a district or a district board to reconsider the question of the levy of a special.

tax after the same has been certified to the county commissioners, nor shall said commissioners be charged with any discretion in the matter of such levy further than to ascertain if the law has been obeyed.—R. S. 5896

Levy cannot be changed.

1. The board of county commissioners has no authority to change a special tax levy certified by the board of directors.

2. A district board cannot raise a tax levy decided upon by the electors of the school district after it has been certified to the county clerk. The board of commissioners cannot raise this levy if the requirements of the law have been complied with so far as the amount is concerned.

3. The directors cannot change a levy made by the electors of a district, even though it may be insufficient to carry on the regular term of school in the district.

4. When a levy has been made by electors, it is not in the power of the school board to raise the levy made after the same has been certified to the county commissioners. This applies to a third class district. If it is a second class district, the right to make the levy rests entirely with the school board.

5. While the law does not permit the changing of a tax levy made at the annual meeting in May and certified to by the school board of the district, the district would have a right to call a special meeting to vote an additional special tax of two or any other number of mills that would be inside the limit up to which a third class district is permitted to levy. This is not in any way to be considered changing the original levy, but simply voting an additional levy.

6. If districts are consolidated between the time of voting on the special tax and making the levy by the county commissioners, a new levy must be determined on for the new district.

7. There is no provision whereby the levy can be changed that has been certified to by the former county superintendent and ordered by the commissioners.

TEACHERS

383. Must have license — expiration — proviso.

No district board shall employ any person to teach in any of the public schools of the state, unless such person shall have a license to teach, issued from the proper district, county or state authority, and in full force at the date of employment; and any teacher who shall commence teaching in any such school without such license, shall forfeit all claim to compensation out of the school fund for the term so teaching without such license. And if a teacher's license shall expire by its own limitation within a term of employment, such expiration shall not have the effect to stop the school, or stop the teacher's pay; Provided, That a teacher whose certificate so expires, if the term of school for which such teacher is employed extends more than one month after such expiration, shall secure a new certificate, or a renewal of the one held while the same is in force; And, provided, further, That a certificate shall not be required of persons employed to teach either music, drawing or modern languages only. No teacher shall be dismissed without good cause shown, and such teacher shall be entitled to receive pay for services rendered.—*R. S. 5990*

Note. Kindergarten teachers, section 233.

Note. For powers and duties generally see pages 167 and 168 herein.

Note. For different grade certificates see section 47 herein.

Note. For examinations see section 149 herein and decisions thereunder.

Teacher discharged need not appeal.

a. A public school teacher engaged for a specific term, who is discharged without cause, need not rely upon the

statutory right of appeal from the decision of the board, but may bring action to recover in the courts; and the rule in the teachers' hand-book, that the tenure of office of all teachers, regardless of contract, shall be at the pleasure of the board, is no defense to such action.—*School District v. Hale*, 15 C. 367

Teacher discharged for cause only.

b. A teacher cannot be dismissed from the public schools without due notice and upon good cause shown, and when an action is brought to recover damages therefor the board can only justify by showing proper cause for dismissal in accordance with the statute.—*School District v. McComb*, 18 C. 240

Revoking certificate after discharging.

c. A school board of a first class district, after discharging a teacher, has no authority to revoke a certificate theretofore issued to him so as to prevent his recovery for the unexpired term.—*School District v. Shuck*, 49 C. 526

Teacher discharged only upon hearing.

d. Under the law providing that a teacher can be discharged only on good cause shown, there must be a specific accusation, notice and evidence placed before the board in its official capacity, and a hearing given the teacher to refute the charge; and where some of the members of the board, in an unofficial capacity only, inquired around and found some basis for neighborhood rumors of immorality, and upon such evidence the board gave the teacher leave of absence with instructions to clear up the matter, and discharged him upon failure so to do, is not a compliance with the statute, and such discharge is illegal.—*School v. Shuck*, 49 C. 526

Normal school diploma.

e. A state normal school diploma licenses the holder to teach in the public schools of this state until annulled by the state superintendent or suspended by a county superintendent. It is evidence of a vested continuing right to teach in any public school in the state, and cannot be superseded or modified by any mandate or order of a school board.—*Nash v. School Board*, 49 C. 555

Appointment and acceptance create contract.

f. A resolution of the directors appointing plaintiff a teacher for the ensuing school year, and an acceptance of the appointment, create a contract; and the requirement in the resolution that teachers must, after a designated date, hold a first grade certificate is not a limitation, but simply ren-

ders the employment subject to termination after such date, if not complied with.—*Nash v. School Board*, 49 C. 555

Teacher employed without license, how.

g. Although the law prohibits a school board from employing a teacher having no license to teach at the date of such employment, and further provides that a teacher who shall commence teaching without such license shall forfeit all claim to compensation, yet a school board may engage a teacher to begin teaching at a future date conditioned upon her obtaining such license prior to the beginning of the school. When such license is obtained and the school commenced, the engagement ripens into a valid contract.—*Holtz v. School Dist.*, 1 C. A. 40

Certificate obtained after commencement of school.

h. A teacher who, at the time of her employment, has a first grade certificate in full force in another county, upon which her county superintendent agrees to issue a certificate of like grade, but does not do so until after the commencement of her school, is entitled, at least, to compensation from the date of such like grade certificate if she proceeds with the school.—*School Dist. v. Ross*, 4 C. A. 493

Injunction not lie to prevent discharge of teacher.

i. Since school boards have power to summarily dismiss teachers for cause, injunction will not lie to restrain them from so doing, for, if wrongfully dismissed, the teacher's remedy is an action for damages.—*School Dist. v. Carson*, 9 C. A. 6

Certificate not collaterally attacked except.

j. In an action by a teacher for wages under a contract, his certificate from a county superintendent cannot be collaterally attacked except for fraud.—*School Dist. v. Stone*, 14 C. A. 211

Ratification of contract.

k. Where a school board enters into a contract with a teacher, and for ten weeks accepts her services and pays her wages, such action constitutes a ratification of the contract, and the board is estopped from asserting its invalidity.—*School Dist. v. Stone*, 14 C. A. 211

Contract not made at formal meeting.

l. Under the law authorizing a school board to employ teachers it is not absolutely necessary that the contract be made at a formal meeting. A contract agreed to by all members of the board, and executed and signed by a ma-

majority of the board, is binding, although not done at a regularly convened meeting.—*School Dist. v. Stone*, 14 C. A. 211

County superintendents sue in official capacity.

m. County superintendents have the right to sue in their official capacity, and may maintain such actions as are necessary to the fulfillment of the duties of their offices, and to this end may bring an action to restrain a board of directors from employing a teacher without a certificate.—*Catlin v. Christie*, 15 C. A. 291

Certificates—modern languages—music—drawing.

1. Section 239 provides that, upon the demand of the parents or guardians of twenty or more children of school age, the board of such school district may procure efficient instructors in the German and Spanish languages, or either. It also provides that, upon like demand, the board may procure like instructors to teach the branches required in the public schools in German or Spanish, or either. Section 383 provides that a certificate shall not be required of persons employed to teach music, drawing, or modern languages. From these provisions we infer that no teacher's certificate is required to teach music, drawing, or the German or Spanish language only; but if the teacher is required to teach the common school branches in either German or Spanish, then a county teachers' certificate must first be obtained. It would also logically follow that any person employed to teach any language, other than English only, should not be required to obtain a county teachers' certificate.

2. A person cannot be legally employed to teach in the public schools for any length of time, however short, unless such person has a certificate to teach, issued by the proper authorities.

3. An unlicensed person cannot legally be employed as substitute teacher in the public schools of this state.

4. It is held that a teacher may continue school until notice is given of the failure to obtain a certificate.

5. It is illegal to employ a person to teach a public school who has no certificate, as no legal contract can be made between the school board and such a person; and the fact that no salary is drawn would not make the transaction legal.

6. In a district of the first class the school board would have the power to employ a city superintendent, who holds satisfactory evidence of adequate training for the work he is to do, without requiring an examination; but in a second

class district the superintendent would be required to take the examination if he instructs in any of the branches other than music, drawing and modern languages.

Teachers' contracts generally.

7. Two members of the school board in districts of the second and third classes can make a legal contract without the consent of the third member; *providing* such contract is made at a regular meeting, or at a special meeting legally called, and of which all the directors had legal notice.

8. When a teacher begins work without having entered into a definite verbal or written contract with the school board which employs her, she has a right to leave the school at any time, and the school board has the right to discharge her at the end of the first month's work, and also to employ another teacher.

9. A school board can hold a teacher to a contract for the time therein agreed.

10. In case of two members of the board at a legally held meeting of the board voting a certain sum as the teacher's salary, written notice of such action being sent to the teacher, the notice is binding upon the board and equal to a contract.

11. If a school board makes a legal contract, either verbal or in writing, with a teacher, providing for his re-election and specifying the salary he is to receive, the board could not at a later meeting change its action without cause.

12. An oral contract made between a teacher and a school board is as binding as a written one if each party can prove its terms of the contract.

13. Under a written contract with a school board to teach a stated length of time, a teacher is entitled to compensation for the full time.

14. The board of directors has exclusive jurisdiction in the employing and discharging of teachers.

15. A contract between a teacher and his substitute is not binding upon the board of directors.

16. If a teacher is not competent to conduct a school, the school board is not bound by the contract.

17. When a contract is reduced to writing, it is supposed to express the intention of the parties, and when such intention is clear, it cannot be changed by oral evidence.

18. The directors of a district have no legal right to make a contract with a teacher to pay wages in excess of the revenues for the year.

19. If a teacher receives from the secretary of a school board, in pursuance of an order of the board, a letter notifying him of the length of term and salary, such notification would stand in law as a contract should the teacher accept.

20. A verbal promise given to a teacher by members of a school board at other than a regularly called meeting is not in any way binding upon the board; and the members have a legal right to engage some other person when a regular meeting of the board is held.

21. When a teacher enters into a contract with a board of directors to teach a certain number of months it is understood that customary vacations may intervene, even though not specified in the contract; and the teacher is not entitled to compensation for said vacations he being required to teach the full number of months specified in the contract, excluding such vacations; this however does not include legal holidays coming within the school week for which the teacher is entitled to pay unless otherwise expressly stated in the contract.

No compensation without license.

22. It would be illegal for a school board to pay the teacher, unless she was provided with a certificate issued in the county, or with certificate recognized in some way by the county superintendent.

23. Any elector of the district or the county superintendent of the county, through legal process, may prevent the board from paying out money as wages to a teacher when she does not possess the necessary license.

24. It is a violation of the law to endorse county teachers' certificates issued in this or any other state, if the certificate be not in full force at the date of such endorsement. Should the board employ a teacher without a license to teach, all claim to compensation on the school fund for the term will be forfeited.

25. It would be illegal for the school board to pay the teachers unless they are provided with certificates issued in the county or with certificates recognized in some way by the county superintendent. Any elector of the district or the county superintendent can, through legal process, prevent the board from paying out money as wages to teachers without the necessary certificates.

Salary.

26. The only way by which a teacher's salary can be legally increased, during the term for which she is em-

ployed, would be at a regular or special meeting of the school board.

27. A teacher's only recourse against a school board that refuses to issue a warrant for salary is through the courts.

28. A teacher is under no obligation to make up time lost when school is closed for the purpose of repairing buildings. If a teacher absents himself a day or more from his work, he himself being responsible for the loss of time, he must make good the loss of time or forfeit his pay.

29. A school board cannot compel a teacher to make up time lost during the time a school was closed because of the prevalence of a contagious disease; *Provided*, the teacher holds himself in readiness to teach, subject to the order of the board.

30. A teacher can draw her wages during the time that a school is closed on account of an epidemic.

31. A teacher is not entitled to receive pay for the time lost while attending a teacher's examination.

32. If the directors authorize the use of the school house for election purposes, the teacher is entitled to pay for time thereby lost.

33. If a teacher is ready to begin school at the time specified in his engagement, and owing to neglect of duty on the part of the school board, cannot do so, he is not compelled to make up the time thus lost, but is entitled to his salary from the time specified in such engagement.

34. If, with the consent of the directors a teacher holds school on a legal holiday to make up for a day lost, the teacher is entitled to pay for the full month.

35. There is no law authorizing a teacher to draw his salary for two weeks spent in attending the normal institute.

36. The board of directors has no right to deduct from a teacher's salary for legal holidays occurring during the school term.

37. If the board of directors closes the term of school before the expiration of the time contracted for, the teacher being ready to fulfill his part of the contract, the board is liable for the teacher's salary for the full term agreed upon.

38. A teacher may collect salary to the amount of actual damage suffered by the failure of the board of directors to fulfill its part of the contract.

39. A teacher may collect salary for the number of months specified in the contract entered into with the board of directors of the school district where he teaches; *Provided*. The directors have not contracted with the

teacher to pay wages in excess of the revenues for the year.

40. Under a written contract with a school board to teach a stated length of time, a teacher is entitled to compensation for the full time, although the school should lapse by reason of the residents leaving the district; *Provided*, The teacher has fulfilled her part of the contract and expresses her willingness to complete the requirements of her agreement.

41. To be entitled to his salary for the day, the teacher should remain in the school room after the hour of opening, both forenoon and afternoon, a sufficient time to determine that no pupils will be in attendance.

42. A teacher having agreed upon a stipulated salary can receive the same only by warrants drawn by the district secretary, and must take them for what they are worth. It would not be proper for the board to make up any discount therein by an additional warrant. The board might however increase the salary at a regular meeting so as to cover such deficiency.

43. When school district warrants are sold at a bank or elsewhere and a discount is charged, the holder of the warrant must bear the loss.

44. Where a county superintendent calls a county institute or teachers' association, he has not the right to rule that the district must pay the teacher the same, as if she had taught school, although the school board has the right to allow the teacher such time and pay her for it upon the request of the county superintendent. The authority in the matter rests with the district board.

45. The law makes no provision concerning a secretary sending a teacher her warrant, but it would be advisable for the members of the board to sign these warrants at their meeting and send the same to the teacher.

Employment.

46. Since the law gives the board the right to employ and discharge teachers and to fix and order their wages, the electors of the district could have no voice in the matter, and while the patrons of the school would have a right to circulate a petition requesting the board to engage a certain teacher, the board would have the right to ignore the petition if they desired to do so.

47. A school board has the absolute right to engage the teacher, or teachers, for the school district. The fact that a majority of the taxpayers sign a petition making a protest against the selection made by the board cannot

in any way affect the legal right or the action of the board in the matter of the appointment of a teacher.

48. One member of a school board cannot legally employ a teacher except when ordered to do so by board or at a regular or special meeting.

49. If a misunderstanding occurs as to the employment of a teacher and two of the board refuse to enter into a contract with the teacher who was chosen by the other member, the teacher could not legally claim her appointment.

50. In case a summer school is to begin in a district, either before or on the day upon which the annual election is held, it would be legal for a board to engage a teacher for such a school.

Special subjects required.

51. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a special certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

52. It is the duty of the teacher to teach whatever branches may be specified by the school board, since that body is given the right to establish a course of study for the school of its district. If the teacher has failed to teach the branches requested by the board, it would probably not be sufficient reason for the board's refusing to sign the warrant for her services as teacher for the time she has been employed in the school, yet it is possible that it might be held as sufficient grounds for the dismissal of said teacher.

53. If a teacher has been employed to teach a certain department of a school, the school board would not have the right to close another department and require one teacher to do the work of both departments, unless such an arrangement had been made in the contract entered into between the teacher and the board.

54. A teacher cannot be required to teach instrumental music in a school, as the branch is not one included in the requirements of a common school course.

Dismissal.

55. A school board may dismiss a teacher for incompetency or immorality. A county superintendent may revoke a certificate of any kind at any time for immorality, incompetency or any just cause.

56. The laws of this state make it impossible for a school board to discharge a teacher without some cause

that would be considered in the court a sufficient reason for breaking the contract between the teacher and the school board. Incompetency, immorality, drunkenness, etc., are the reasons that have been held sufficient.

57. A teacher cannot be legally dismissed before the expiration of the time for which she is engaged "without good cause shown," and if so dismissed she can collect full salary; *Provided*, She holds herself in readiness to fulfill her part of the contract.

58. Two members of a school board have the right to dismiss a teacher for cause, providing their action is taken at a regular or special meeting of which all members of the board have notice.

59. A teacher cannot be legally dismissed before the expiration of the time for which he is engaged, without good cause shown, unless there is a clause in the contract making provision for such contingency.

60. The school board has in its power to dismiss a teacher for incompetency or immorality. But "no teacher shall be dismissed without good cause shown, and such teacher shall be entitled to receive pay for services rendered." In order to make good charges of immorality specific acts must be declared and supported by affidavits of witnesses. The possession of a proper certificate of qualification is *prima facie* evidence of competency and fitness. The law provides that a county superintendent "may revoke certificate of any grade at any time for immorality, incompetency or any other just cause." If satisfied that the charges can be sustained by proof, the proper course for the board is to bring the matter to the attention of the county superintendent, with a request that he make use of the power granted him by the law.

61. A certificate to teach cannot be revoked by a county superintendent without having good and sufficient reasons for so doing. Alleged exorbitant wages named in a contract between him and the directors of a district would not be lawful reason for revoking a certificate, unless fraud of some kind could be shown.

62. If a teacher employed in the schools is incompetent to give instruction in any of the subjects provided in the course of study for that district, the board of directors would have cause for discharging such teacher.

Expiration of certificate.

63. A teacher cannot legally teach two months after her certificate has expired. In case of the employment of a teacher under such conditions, any elector could make

legal objection to her receiving payment from the school funds, and a school board responsible for the payment of her wages under such conditions would be liable for the amount of the wages.

64. It is not legal for a school board to engage a teacher who has no certificate, or whose certificate has expired, permitting her to open a school, except under the provisions of the law permitting a teacher to teach one month after the expiration of her certificate.

65. Permission to teach one month after the expiration of certificate is for the purpose of providing against closing the school in case of the failure of the teacher to obtain certificate at the last county examination.

Authority over pupils.

66. Respecting the jurisdiction of teachers over pupils on their way to and from school, it has been recognized that the authority over pupils is joint and equal with that of the parent. However, authority over pupils when not on the school premises should be confined to protecting and promoting the welfare of the school. The teacher should seek the co-operation of the parent, if possible, in the government of a child to and from school, for the sake of avoiding unnecessary friction.

Pupils—admittance to grade.

67. A school board has the right to make the regulations concerning the admittance of pupils to a certain grade of the school when the fall term commences, said pupils having failed to pass the examination given in the spring, and also to authorize the principal to make such rules and regulations and to enforce them as if made by the board as a body.

Janitor work not required of teacher.

68. A teacher is not required to do janitor work in this state unless the contract into which he has entered with the district board distinctly states that such be the case.

Married women may teach.

69. While the law does not state that married women living with their husbands shall be allowed to teach, there is no law prohibiting any person eighteen years of age, who can obtain a certificate, from teaching, save when a member of the school board.

Relatives of directors may teach.

70. The laws of Colorado do not make it illegal for members of school boards to vote for relatives of any degree as teachers.

71. The fact that a parent is a director upon the school board would not prevent a daughter who has a legally issued certificate from being eligible to a position as teacher in the district.

Husband and wife teach in same school.

72. The laws of Colorado do not in any way prohibit a husband and wife from teaching in the same school.

384. Teachers to keep register—statistics—blanks. It shall be the duty of the teacher of every public school in this state to keep, in a neat and businesslike manner, a daily register in such form and upon blanks as shall be prepared by the superintendent of public instruction. At the close of each term of school, not to exceed four months, the teacher shall file the summary in such register, and, in ungraded schools, file the register with the secretary of the district, who shall preserve the same; in graded schools the register aforesaid shall be filed with the principal or superintendent of the district, in which case said principal or superintendent shall make an abstract of the summaries of all such registers upon blanks prepared by the superintendent of public instruction, and file the same with the secretary, which shall also be preserved. The teacher, principal or superintendent, as the case may be, who is in charge of the last term of school in any school year, shall file with the secretary a summary of the statistics for the year, as shown by the summarized reports of all the terms during the year. The principal teacher of every public school, within one week after the beginning of each term, shall notify the county superintendent of the date of such beginning and the proposed length of the term. Nothing in this section shall be construed to prohibit any district board from requiring teachers, prin-

cipals and superintendents to keep any additional registers and records of statistics which such board may deem advisable. Until the registers, summaries and abstracts herein above described have been filed as aforesaid, it shall be unlawful for the officers of any district to draw a warrant for the last month's salary of any teacher, principal or superintendent whose duty it is to make and file such register, summary or abstract. All blanks required in the execution of this section shall be supplied by the superintendent of public instruction to county superintendents, and by them to district secretaries.

—R. S. 5995

Forfeiture of salary upon failure to make report.

1. Teachers should submit records of statistics or summaries as required, and unless they are duly filed, they cannot draw the last month's salary.

2. No part of the last month's salary of a teacher should be paid until the reports required by law are made and filed according to specifications.

3. In a district where there are two schools, the district teachers should send in separate reports to the county superintendent and secretary.

4. It is the duty of every teacher to keep a daily register and at the close of each term of school, not to exceed four months, fill the summary in such register, and, in ungraded schools file the register with the secretary of the district, who shall preserve the same.

Jurisdiction of teacher.

5. A teacher has power to temporarily suspend a pupil, at least long enough to notify the board of the causes, and ask that such pupil be suspended, and the board would be justified in acting on such recommendation although the teacher would have no power himself to make such suspension.

6. In the absence of any rules and regulations prescribed for the government of the schools by the board of directors, it is within the power of the teacher to make such reasonable rules and regulations, and to enforce them, in the same manner, subject always to the supervision of the board of directors.

7. A teacher has a right to compel the pupils in the respective grades to take all the studies prescribed for that grade, unless rules of the school board are in existence which would excuse a pupil for valid reasons.

8. It is the teacher's right to establish any regulations for the discipline of the school that are not in conflict with the already established rules of the school board.

9. When a pupil leaves school, taking his books with him, it being understood that he has permanently left the school, his name should be immediately dropped, instead of being counted as a member for three days after his departure.

10. The teacher of a public school has control to a reasonable extent of a child during school hours and while on the school grounds. A child would not have the right to leave the school grounds after he has reached the school in the morning or to leave the grounds at noon if he did not go to his home at noon, but remained in the school house.

11. Respecting the jurisdiction of teachers over pupils on their way to and from school, it may be stated that the legal decisions in the majority of states recognize the authority of the teacher as concurrent—that is, joint and equal—with that of the parents. In some states, decisions have been made which give the school authorities some control over pupils and their conduct after they have reached home from school. However, authority over pupils when not on the school premises should be confined to protecting and promoting the welfare of the school. Such acts only as directly affect harmfully the discipline and teaching of the school should be taken cognizance of. For example, truancy, wilful tardiness, quarreling with other children, the use of indecent and profane language, etc. The teacher should seek the co-operation of the parent, if possible, in such matters, for the sake of avoiding unnecessary friction.

Duties.

12. It is the duty of the teacher to teach high school studies when such studies are prescribed by the board of directors as a part of the course of study at the time of entering into the contract.

13. The teacher has a right to her hour's intermission at noon, providing she teaches the requisite six hours through the day. She is required to teach school from 9 a. m. until 4 p. m., unless the board gives her permission to finish at an earlier hour.

Special teacher.

14. The law makes no provision whereby the board of directors of a district can appropriate school money to pay a special teacher for the pupils of said district who are unable to attend the regular school.

Directors' power over teacher and pupils.

15. Under the constitution and laws of this state the board of directors of any district have power to establish reasonable rules and regulations for the government of the schools under their charge, for controlling the conduct of teachers and pupils, not only while in the school room, but while going to and from the school, and such reasonable rules and regulations may be enforced by suspension, expulsion or corporal punishment, as the board of directors may determine.

Dismissal.

16. In order to make good charges of immorality or incompetency, specific acts must be declared and supported by affidavits or witnesses. If satisfied that the charges can be sustained by proof, the proper course for the board is to bring the matter to the attention of the county superintendent, with the request that he use the power granted him by law.

Physician's certificate not required.

17. There is no law requiring a teacher to have a physician's certificate of good health. This matter is governed by the board of directors.

Unaccepted papers from another county.

18. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county superintendent of another county, as this is a mere matter of comity and is not sanctioned by law.

TEACHERS' RETIREMENT FUND

385. Teachers' retirement fund under control of directors. In every school district of the first class there may be created a school teachers' retirement fund, which shall be controlled by the board of school directors of the school district concerned.

—S. L. '09, p. 512

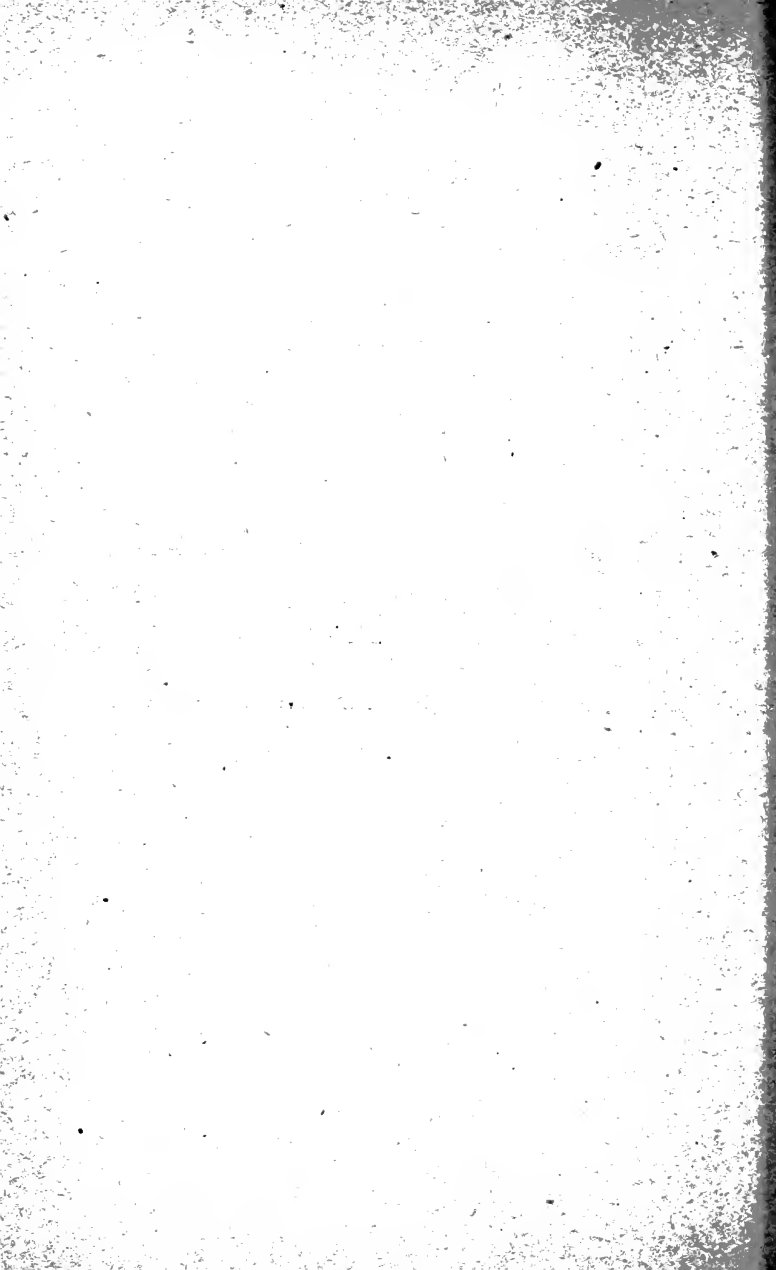
386. Payable to whom. The board of directors in any such district is hereby authorized to establish a public school teachers' retirement fund, and shall be authorized to pay out of such fund a sum not to exceed forty dollars per month to any man teacher sixty years of age or any woman teacher fifty-five years of age, who has been in active service as a teacher for a period of twenty-five years, of which not less than fifteen years shall have been within said school district.

The board of school directors of any such district may also, subject to the above limitations, make provisions for such teachers as may become permanently incapacitated from teaching, while in the service of the district; Provided, however, That the said beneficiary shall have served in the school district for a period of not less than ten years.

Any teacher of such school district coming under the provisions of this act who may, by making application, or by action of the board of school directors, be entitled to receive the benefit from the public school teachers' retirement fund as provided for in this act shall not be entitled to receive benefit while drawing a salary as a teacher in active service.
—S. L. '09, p. 512

387. Mode of securing fund. The moneys for the use of the public school teachers' retirement fund shall be secured by a special levy upon the said school district, such special levy, however, not to exceed one-tenth of one mill, and from any gifts or bequests which may be made to said fund.
—S. L. '09, p. 513

APPENDIX



FORMS

FOR THE USE OF SCHOOL OFFICERS AND TEACHERS

No. 1. Oath of School Officers.

(See §§ 83, 93 and 111.)

STATE OF COLORADO, }
COUNTY OF _____ }

I, _____, do solemnly swear (or affirm) that I will faithfully perform the duties of _____ of school district No. _____, in the county of _____ to the best of my ability; that I will carefully keep and preserve all records, books and other property of the said district that may come into my hands, and deliver the same to my lawful successor in office; and that I will support the constitution of the United States and of the state of Colorado, so help me God.

_____ [SEAL]
Subscribed and sworn to before me this _____ day
of _____, 19____

Note. The foregoing oath should be taken before a county superintendent, notary public, justice of the peace, or some officer duly authorized by law to administer oaths. The county superintendent's oath should be filed with the county clerk within thirty days after his election, and the oath of district officers should be filed with the county superintendent within thirty days after their election.

No. 2. Oath of Judges of Election.

I, _____, do solemnly swear (or affirm) that I will perform the duties of judge of election according to law and to the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting same; that I will not try to ascertain how any electors shall vote, and if in the discharge of my duties such knowledge comes to me, I will not disclose the same unless required to do so in some court of justice, so help me God.

_____ day
Subscribed and sworn to before me this _____ day
of _____, A. D. _____

Judge.

APPENDIX—FORMS

No. 3. Oath of Witness on Appeal to County Superintendent.

You do solemnly swear (or affirm) that in the matter of the appeal of _____ from the decision or order of the board of directors of school district No. _____, of _____ county, Colorado, now being heard by the county superintendent of schools of said county, you will tell the truth, the whole truth, and nothing but the truth, so help you God.

Note. Section 10 provides that this oath may be administered by county superintendent if necessary.

No. 4. Oath of Witness on Appeal Before State Board of Education.

You do solemnly swear (or affirm) that in the matter of the appeal of _____ from the decision of the county superintendent of schools of _____ county, Colorado, now being heard before the state board of education of said state, you will tell the truth, the whole truth, and nothing but the truth, so help you God.

Note. Section 9 provides the state board of education shall have power to administer oaths through its president.

APPENDIX—FORMS

No. 5. County Superintendent's Bond.

(See § 83.)

KNOW ALL MEN BY THESE PRESENTS, That we, _____, _____ and _____, of the county of _____, and state of Colorado, are held and firmly bound unto the people of the state of Colorado, in the full and just sum of _____ dollars, lawful money of the United States, to which payment, well and truly to be made, we bind ourselves jointly and severally, our joint and several heirs, executors and administrators, firmly by these presents.

IN WITNESS WHEREOF, We have hereunto set our hands and seal this _____ day of _____, A. D. 19__

The condition of the foregoing obligation is such, That, whereas, the above bounden _____ was, on the _____ day of _____, A. D. 19__, duly elected (or appointed, if that be the case) county superintendent of schools of the county aforesaid, for the term of two years;

Now, THEREFORE, if the said _____ shall faithfully perform all the duties of said office, according to the laws which now are, or may hereafter be in force, and shall render a just and true account of all money or other property which may come into his hands or under his control as superintendent of the schools of said county, and shall deliver over to his successor in office all moneys, books, papers and property in his hands as such county superintendent, then this obligation shall be void; otherwise it shall remain in full force.

_____ [SEAL]
_____ [SEAL]
_____ [SEAL]

Signed, sealed and delivered in the presence of

Note. The penal sum named in the bond is to be fixed by the board of county commissioners, but in no case shall the sum be less than \$2,000.

APPENDIX—FORMS

No. 6. Petition of Parents and Guardians Who Desire to Form a New District from Parts of One or More Old Ones.

(See § 131.)

To _____,
County Superintendent of Schools of _____ County,
Colorado.

We, the undersigned, residents of district (or districts) No. _____, respectfully represent that we desire to form a new district, with boundaries as follows, viz.: [Here describe the proposed bounds, following government lines as far as practicable.] We further declare that, collectively, we are the parents or guardians of at least ten children of school age, and we hereby certify that the list of names of persons of school age which is attached to and made a part of this petition, is a correct list of all such persons residing in the proposed district.

NAME.	NAME.

NAMES OF PERSONS OF SCHOOL AGE.

--	--

Note. Give postoffice address of signers. The list of children should be carefully filled up by some person interested in the change before the paper is circulated for signatures.

APPENDIX—FORMS

No. 7. Order Directing a Petitioner to Give Notice of Meeting to Form New District.

(See § 131.)

OFFICE OF
COUNTY SUPERINTENDENT OF SCHOOLS,
_____ COUNTY COLORADO.

To _____

You are hereby notified that I have received a petition signed by yourself and others, informing me that you desire to form a new school district of the territory described as follows, to-wit: [Description as above.] In order that the wishes of the residents of said proposed district may be ascertained, you will please notify, by personal service as far as convenient, each elector residing therein, and also post notices in three public places (one of which shall be the place of meeting) that such a petition has been made, and that a meeting will be held, naming the time and place of such meeting, to determine whether such district shall be formed. You will, also, please notify me by mail of the time and place of such meeting.

Respectfully yours,

County Superintendent.

Note. In the formation of a new district, every step should be strictly in accordance with the law, and the notices posted should contain a clear description of the proposed district.

APPENDIX—FORMS

No. 8. Notice for a Meeting to Organize a New District.

SCHOOL DISTRICT MEETING.

TO ALL WHOM IT MAY CONCERN:

WHEREAS, It is proposed to organize a new school district in that part of _____ County described as follows, to-wit: [Description.] Notice is hereby given, as per direction of the county superintendent of public schools of said county, that a meeting of the electors residing within the boundaries aforesaid will be held at _____ on the _____ day of _____, A. D. 19____, at _____ o'clock _____ m., when a vote will be taken by ballot on the question whether or not the proposed district shall be organized. If the vote shall be in the affirmative, a board of directors will then be elected.

By order of _____ County Superintendent of Schools.

Dated _____, 19____

Note. After the organization, a copy of the notice and of the proceedings of the meeting should be sent to the county superintendent.

The ballot box should be kept open long enough to give every elector an opportunity to vote—never less than three hours.

If the proceedings were in accordance with the law, the county superintendent should number and record the district, and notify the secretary of his action.

APPENDIX—FORMS

No. 9. Recording Proceedings of a Meeting Held for the Purpose of Organizing a New School District.

(See §§ 131 and 132.)

On the _____, 19____, _____ day of _____, 19____, a petition, of which the following is a true copy, was made to _____, county superintendent of public school of _____ County, to-wit: (Here copy the petition.) Whereupon the said county superintendent issued an order, of which the following is a copy, to-wit: (Here insert copy of the order.) In obedience to which order the following notice was posted, as required by section 131 of the school law, to-wit: (Here insert a copy of the notice.)

In pursuance of the above notice, the electors of the proposed new school district assembled at _____ at _____ o'clock ____ m. The meeting was called to order by _____, and, on motion, _____ was elected chairman, and _____ secretary. On motion, _____ was elected to act with the chairman and secretary as judges of election. On motion of _____, the electors began to vote by ballot upon the question of forming a new school district. The ballot box remained open for the reception of votes from _____ o'clock ____ m., until _____ o'clock ____ m. Upon counting the ballots it was found that _____ ballots were cast, of which _____ were in favor of the organization and _____ against.

On motion of _____, the meeting proceeded to elect, by ballot, a board of directors. The following are the names of the persons voting: (Here record the names of persons voting.) The ballot resulted in the election of _____, president; _____, secretary, and _____, treasurer, etc., etc.

On motion of _____ the meeting adjourned *sine die*.

Attest: _____, Chairman.
 _____, Secretary.

Note. A copy of the proceedings should be sent to the county superintendent, together with the certificate of some elector, that the notice of the meeting was posted in three public places, as required by law. The person who posted the notice should sign the certificate of posting.

If the district is formed from unorganized territory, the secretary must send with this report a certified list of the names of persons of school age residing in the district.

A permanent record of the proceedings should be made in the secretary's books.

APPENDIX—FORMS

No. 10. Bond to Be Given by the Secretary or Treasurer of Each School District.

(See § 111.)

STATE OF COLORADO, }
COUNTY OF _____ }

KNOW ALL MEN BY THESE PRESENTS, That we, _____, principal, and _____, and _____, sureties, are held and firmly bound unto School District No. _____, in the County of _____, state of Colorado, in the full sum of _____ dollars, lawful money of the United States, to which payment, well and truly to be made, we bind ourselves jointly and severally, our joint and several heirs, executors and administrators, firmly by these presents.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this _____ day of _____, A. D. 19____

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH, That, whereas, the above bounden _____ was, on the _____ day of _____, A. D. 19____, duly elected (or appointed) Secretary (or Treasurer) of School District No. _____, in the county of _____, and state of Colorado, for the term of _____

NOW, THEREFORE, If the said _____ and _____ shall faithfully discharge all the duties of said office, according to the laws which now are, or which may hereafter be in force, and shall faithfully apply all moneys which may come into his hands by virtue of said office, and shall deliver over to his successor in office all moneys, books, papers and property in his hands as said officer, within ten days after the same shall have been demanded by such successor, then this obligation shall be void; otherwise it shall remain in full force.

_____ [SEAL]
_____ [SEAL]
_____ [SEAL]

Signed, sealed and delivered in presence of _____

Note. The penal sum named in the above bond should be at least twice the amount likely to be in the hands of the officer at any one time during the term of office, and the bond must be filed with the county superintendent.

APPENDIX—FORMS

No. 11. Request to Be Made by Ten Legal Voters of a District to the Board of Directors, for the Calling of a Special Meeting.

(See § 113.)

To the Board of Directors of School District No. _____, in _____ County, Colorado:

The undersigned, legal voters of school district No. _____, in _____ County, Colorado, request you to call a special meeting of said district for the purpose of _____

Dated this _____ day of _____, A. D. 19____

NAME.	NAME.

No. 12. Notice of Special Election.

(See §§ 144 and 148.)

Notice—A special meeting of the legal voters of School District No. _____, in the county of _____, called on the written request of ten legal voters (or called by the district board, as the case may be), will be held at (the district school house or other place) on the _____ day of _____, 19____, at _____ o'clock (p. m.), for the purpose of (here specify every item of business that is to be brought before the meeting).

Secretary.

Posted _____, 19____

Note. This notice should be posted at least twenty days previous to the meeting, in three separate public places within the district, and additionally at each school house.

Business not specified in this notice can never be lawfully transacted at such special meeting.

If such special meeting is for election of school officers, the polls should be kept open not less than three hours, and the time of opening and closing should be mentioned.

APPENDIX—FORMS

No. 13. Notice of Annual Election Second and Third Class Districts.

NOTICE IS HEREBY GIVEN, That the annual meeting of the legal voters of school district No. _____, in the county of _____, will be held (at the school house or other place; or, if more than one voting place, specify each place and boundaries of such precincts), on Monday, the _____ day of May, 19____, for the purpose of electing (one or more) directors, as provided by law.

The ballot box will be opened at the hour of _____ m., and close at the hour of _____ m., and at _____ m. the meeting will be organized for the transaction of any other business pertaining to school interests that may be brought before it.

Secretary of School District No. _____
County of _____

Posted April _____, 19____

Note. The secretary of the district should give at least six days' previous notice of the regular meetings of the district (see section 142), and should post the notices in the same manner as for special meetings, and the ballot box must be kept open not less than three hours.

No. 14. Notice of Biennial Election (First Class Districts).

Notice is hereby given, that the biennial election of the legal voters of school district No. _____, in the county of _____, state of Colorado, will be held (mention different polling places and define boundaries of each voting precinct) on Monday, the _____ day of May, 191____, for the purpose of electing _____ members of the board of education as provided by law.

The ballot boxes will be opened at 7 o'clock a. m. and close at 7 p. m. of said day.

Dated April _____, 191____

Secretary of the Board of Education
of School District No. _____
County of _____

Note. This notice shall be posted in at least three public places, and, additionally, published weekly for the four weeks next preceding such election in some newspaper published in the district; and, in districts having a school population of over three thousand, shall be posted and published for a period of eight weeks next preceding such election.

APPENDIX—FORMS

No. 15. Recording Proceedings of a Regular or Special Meeting
of the District.

The regular (or special, as the case may be) meeting of school district No. _____, in _____ county, Colorado, convened at _____, at _____ o'clock (p. m.), pursuant to previous notice given by the district secretary.

The meeting was called to order by the president.

The secretary being absent, on motion of Mr. _____, _____ was elected secretary pro tem.

Mr. _____ moved that a tax of two mills on the dollar be voted for the purpose of building a school house for the district.

Mr. _____ moved to amend by striking out "two" and inserting "five," which was agreed to, and the motion as amended was decided in the affirmative.

Mr. _____ moved that a tax of one mill on the dollar be levied for the purpose of defraying the contingent expenses of the district.

Motion carried.

On motion of Mr. _____ the meeting adjourned
sine die.

President.

Attest: _____,
Secretary.

Note. Forms 9 and 15 are given with a view of assisting the inexperienced. Persons familiar with such duties may vary the form, provided that the proceedings are accurately recorded.

Much depends on the record of the proceedings of the district meeting, hence it should be correctly made and carefully preserved.

Under the law, the voting of a tax for any purpose must be, in each year, "On or before the day designated by law for the county commissioners to levy the requisite taxes for the then ensuing year," and school boards certify the same to the county commissioners.

APPENDIX—FORMS

No. 16. County Superintendent's Notice of Apportionment to the District Secretary.

OFFICE OF
COUNTY SUPERINTENDENT OF SCHOOLS,
_____ COUNTY, COLORADO,

To _____,
Secretary of School District No. _____,
In _____ County:

You are hereby notified that I have this day apportioned to your district the sum of _____ dollars, of the general school fund, which amount has been placed to the credit of your district on the books of the county treasurer.

County Superintendent.

Note. This notice should be sent immediately after each apportionment.

APPENDIX—FORMS

No. 17. Teacher's Contract.

M _____

At a regularly called meeting of the Board of Directors of School District No. _____, in _____ County, Colorado, held this _____ day of _____, 191____, you were employed to teach in the public school of said district for the period beginning Monday, _____ 191____, and ending _____, 191____, at a salary of _____ dollars per school month, payable monthly in school warrants as provided by law.

The conditions of your employment are that you will faithfully observe the rules and regulations adopted by the board for the government of said school; that you will exercise reasonable diligence in looking after the preservation of school buildings, grounds, furniture, books, and all other school property under your jurisdiction; that you will make promptly and correctly all reports of the school required by the county superintendent; that you will keep a correct register of the school, and file the same with the president or secretary of this board or the principal of the school at the close of the school year as required by law; and that you will hold a legal certificate of the _____ grade, issued or endorsed by the county superintendent of the county.

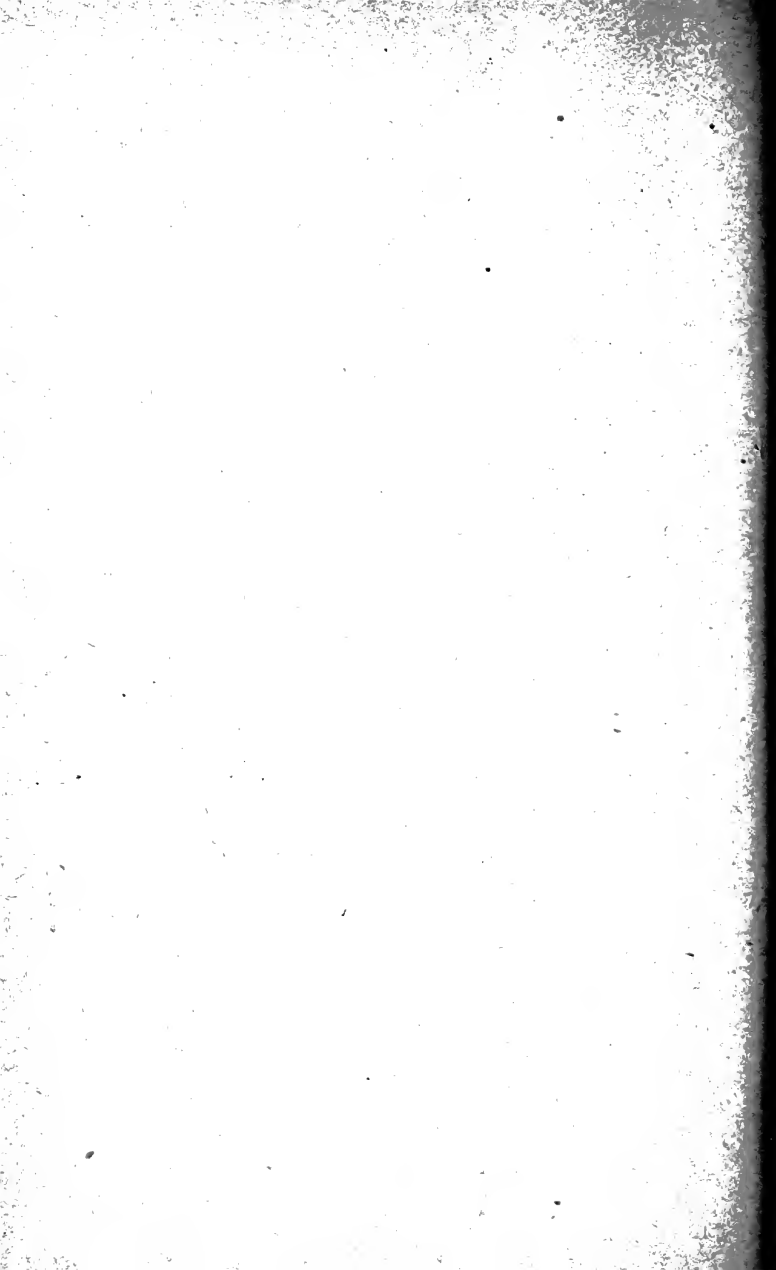
_____,
President.

Attest:

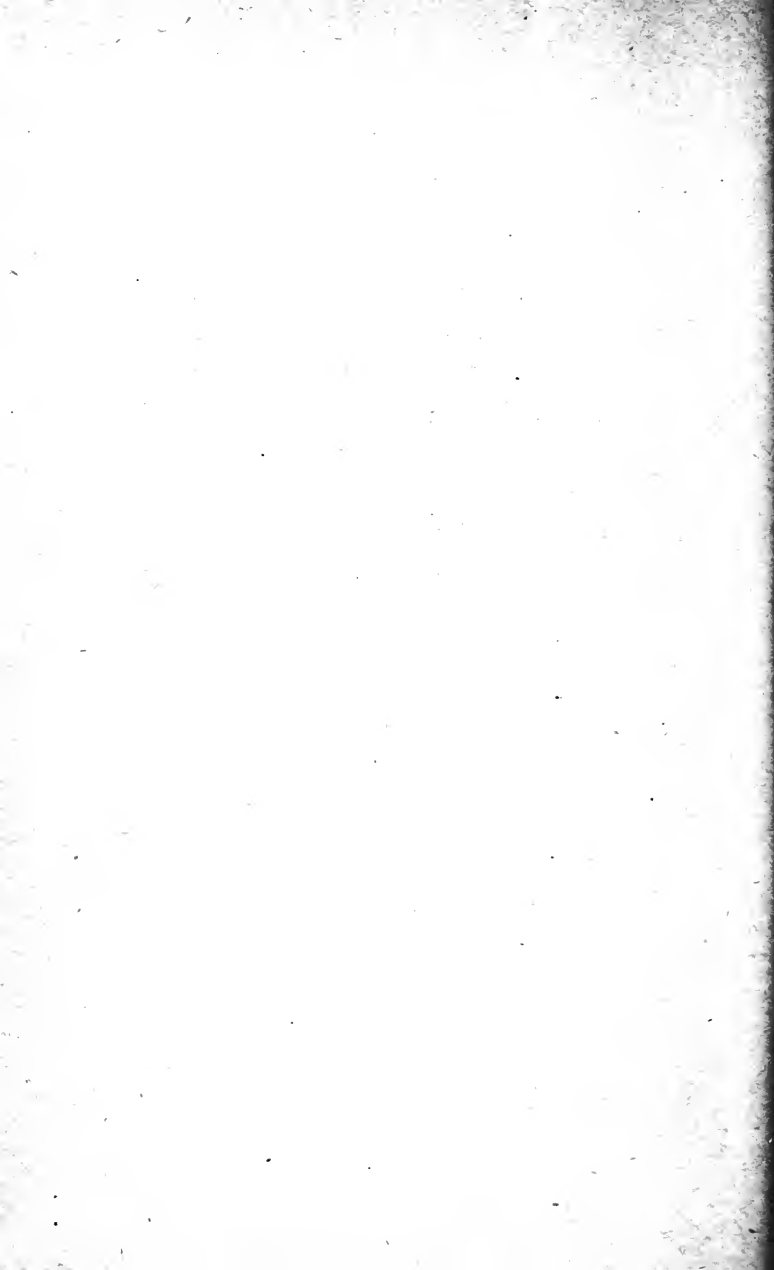
_____,
Secretary.

I hereby accept the above employment upon the conditions stated.

_____,
Teacher.



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Note—Numbers at right refer to sections of the law, enabling act and constitution; numbers at left refer to decisions of the state superintendent; letters to court decisions, except the letter "n" which refers to notes, each appearing under the section of law as numbered at the right; and the Roman numerals refer to articles of the constitution only.

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