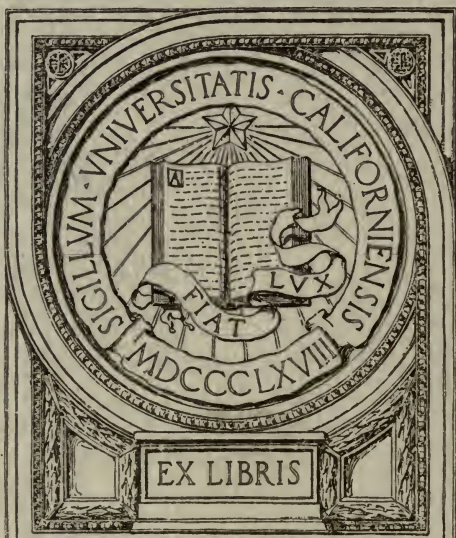


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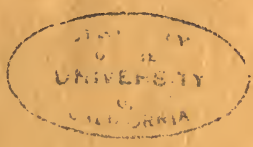
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School Laws

of the

STATE OF MONTANA

Comprising all the Laws in force pertaining to Public Schools,
State Educational Institutions, School Lands and Public
Lands appropriated to the use of the State
Educational Institutions.



Compiled at the office of the
SUPERINTENDENT OF PUBLIC INSTRUCTION
OCT. 1911.
PUBLISHED BY AUTHORITY



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THE
LAW
OF
CALIFORNIA

Compiled at the office of the
SUPERINTENDENT OF PUBLIC INSTRUCTION

OCT. 1911.

PUBLISHED BY AUTHORITY



M93

1911.

State of Montana,
Department of Public Instruction.

This Pamphlet contains the School Laws of the State in
force to date.

W. E. HARMON,
Superintendent of Public Instruction.

Helena, Montana, Oct., 1911.

TO .VINU
AMORILLAO

THIS VOLUME IS STATE PROPERTY.

And is for the use of the School Officers of School
District No., County of, State
of Montana.

School officers on retiring from office, are required by law to deliver this volume, with all other books and documents of an official character, to their successors in office. The Clerk is the proper custodian of this book.

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Ex-Officio.

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ALBERT J. GALEN, Attorney General.

W. E. HARMON, Sup't Public Instruction, Sec.

By Appointment.

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General School Law of the State of Montana.

PROVISIONS OF THE ENABLING ACT.

Section 4. * * * And said (constitutional) conventions shall provide by ordinance irrevocable without the consent of the United States and the people of said states * * * * *

Fourth. That provisions shall be made for the establishment and maintenance of systems of public schools, which shall be open to all children from said states, and free from sectarian control.

Section 10. That upon admission of each of said states into the Union, sections numbered 16 and 36 in every township of said proposed states, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any Act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity land to be selected within said states in such manner as the Legislature may provide, with the approval of the Secretary of the Interior; Provided, that the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military or other reservations of any character, be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to, and become a part of the public domain.

Section 11. That all the lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than ten (10) dollars per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulation as the Legislature shall prescribe, be leased for periods of not more than five years, in

quantities not exceeding one section to any one person or company; and such lands shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

Section 13. That 5 per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the Union, after deducting all the expenses incident to the same, shall be paid to the said states to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states respectively.

Section 14. That the lands granted to the Territories of Dakota and Montana by the act of February 18, 1881, entitled "An Act to Grant Lands to Dakota, Montana, Arizona, Idaho and Wyoming for University Purposes," are hereby vested in the states of South Dakota, North Dakota and Montana, respectively, if such states are admitted into the Union as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have been selected by either of said Territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than ten (10) dollars per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof to be used exclusively for university purposes. * * * None of the lands granted in this section shall be sold at less than ten (10) dollars per acre; but said lands may be leased in the same manner as provided in Section 11 of this act. The schools, colleges, and universities provided for in this act shall forever remain under the exclusive control of said states, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. * * *

Section 16. That 90,000 acres of land to be selected and located as provided in Section 10 of this act, are hereby granted to each of said states except to the State of South Dakota, to which 120,000 acres are granted for the use and

support of agricultural colleges in said states, as provided in the acts of Congress making donations of lands for such purposes.

Section 17. That in lieu of the grant of land for purposes of internal improvement made to new states by the eighth section of the act of September 4, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 28, 1850, and Section 2479 of the Revised Statutes making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

* * * To the State of Montana: For the establishment and maintenance of a School of Mines, 100,000 acres; for State Normal Schools, 100,000 acres; for Agricultural Colleges, in addition to the grant hereinbefore made for that purpose, 50,000 acres; for the establishment of a State Reform School, 50,000 acres; for the establishment of a Deaf and Dumb Asylum, 50,000 acres; for the public buildings at the Capital of the State, in addition to the grant hereinbefore made for that purpose, 150,000 acres.

* * * That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided for in this act. The lands granted by this section shall be held, appropriated and disposed of exclusively for the purpose herein mentioned, in such manner as the Legislatures of the respective states may severally provide.

Section 18. That all mineral lands shall be exempted from the grants of this act. But if sections 16 and 36, or any subdivision or portion of any smallest subdivision thereof in any township shall be found by the Department of the Interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands and said states, in lieu thereof, for the use and benefit of the common schools of said states.

Section 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unsurveyed and un-

appropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said states the number of acres in each heretofore donated by Congress to said territories for similar objects.

CONSTITUTIONAL PROVISIONS.

(August 17th, 1889.)

PREAMBLE.

We, the people of Montana, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a State government, do, in accordance with the provisions of the Enabling Act of Congress, approved the 22nd of February, A. D. 1889, ordain and establish this Constitution.

ARTICLE V.

The Legislative Department.

Section 26. The Legislative Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

* * * * *

13. Providing for the management of common schools.

ARTICLE VII.

Executive Department.

Section 1. The Executive Department shall consist of a * * Superintendent of Public Instruction, each of whom shall hold his office for four years, or until his successor is elected and qualified, beginning on the first Monday of January next succeeding his election, except that the terms of office of those who are elected at the first election, shall begin when the state shall be admitted into the Union and shall end on the first Monday of January, A. D. 1893. The officers of the Executive Department, excepting the Lieutenant Governor, shall during their terms 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 in this Constitution and by the laws of the State. * * * * *

Section 3. No person shall be eligible to the office of * * Superintendent of Public Instruction, unless he shall have

attained the age of thirty years at the time of his election.
 * * * In addition to the qualifications above prescribed, each of the officers named shall be a citizen of the United States, and have resided within the State or Territory two years next preceding his election.

Section 4. Until otherwise provided by law, the * * * Superintendent of Public Instruction, shall quarterly as due, during their continuance in office, receive for their services compensation which is fixed as follows. * * * * *

Superintendent of Public Instruction, two thousand five hundred dollars per annum.

* * * The compensation enumerated shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office, and the salary of no official shall be increased during his term of office. No officer named in this section shall receive for the performance of any official duty, any fee for his own use, but all fees fixed by law for the performance by any officers of any official duty, shall be collected in advance, and deposited with the State Treasurer quarterly to the credit of the State. No officer mentioned in this section shall be eligible to, or hold any other public office, except member of State Board of Education during his term of office.

ARTICLE IX.

Elective Franchise.

Section 10. Women shall be eligible to hold the office of County Superintendent of schools or any school district office and shall have the right to vote at any school district election.

ARTICLE X.

State Institutions.

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

ARTICLE XI.

Education.

Section 1. It shall be the duty of the Legislative Assembly of Montana to establish and maintain a general, uniform and thorough system of public, free common schools.

Section 2. The public school fund of the State shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the State by the general government, known as school lands; and those granted in lieu of such lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the State from the general government for general education purposes, or where no other special purpose is indicated in such grant; all estate or distributive shares of estates that may escheat to the State; all unclaimed shares and dividends of any corporation incorporated under the laws of the State, and all other grants, gifts, devises or bequests made to the State for general educational purposes.

Section 3. Such public school fund shall forever remain inviolate, guaranteed by the State against loss or diversion, to be invested, so far as possible, in public securities within the State, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law.

Section 4. The Governor, Superintendent of Public Instruction, Secretary of State and Attorney General shall constitute the State Board of Land Commissioners, which shall have the direction, control, leasing and sale of the school lands of the State and the lands granted or which may hereafter be granted for the support and benefit of the various State educational institutions, under such regulations and restrictions as may be prescribed by law.

Section 5. The interest on all invested school funds of the State, and all rents accruing from the leasing of any school lands, shall be apportioned to the several school districts of the State in proportion to the number of children and youths between the ages of six and twenty-one years, residing therein respectively, but no district shall be entitled to such distributive share that does not maintain a free public school for at least three months during the year for which distributions shall be made.

Section 6. It shall be the duty of the Legislative Assembly to provide by taxation, or otherwise, sufficient means in connection with the amount received from the general school fund, to maintain a public, free, common school in each organized district in the State, for at least three months in each year.

Section 7. The public free schools of the state shall be open to all children and youth between the ages of six and twenty-one years.

Section 8. Neither the Legislative Assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university or other literary, scientific institution controlled in whole or in part by any church, sect or denomination whatever.

Section 9. No religious or partisan test of 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; nor shall attendance be required at any religious service whatever, nor shall any sectarian tenets be taught in any public educational institution of the state; nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex.

Section 10. The Legislative Assembly shall provide that all elections for school district officers shall be separate from those elections at which State or County officers are voted for.

Section 11. The general control and supervision of the State University and the various other State educational institutions shall be vested in a State Board of Education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of eleven members, the Governor, State Superintendent of Public Instruction and Attorney General, being ex-officio, the other eight members thereof, shall be appointed by the Governor subject to the confirmation of the Senate, under the regulation and restrictions to be provided by law.

Section 12. The funds of the State University and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be prescribed by law, and shall be guaranteed by the State against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties, shall be devoted

to the maintenance and perpetuation of these respective institutions.

ARTICLE XIII.

Public Indebtedness.

Section 6. No city, town, township or school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding three per centum of the value of the taxable property therein, to be ascertained by the last assessment for the State and County taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of, such city, town, township or school district shall be void; Provided, however, that the Legislative Assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the taxpayers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.

ARTICLE XVII.

Public Lands.

Section 1. All lands of the State that have been, or that may hereafter be granted to the State by Congress, and all lands acquired by gift or grant, or devise, from any person or corporation, shall be public lands of the State, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised; and none of such land, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such a manner as may be provided by law, be paid or safely secured to the State; nor shall any lands which the State holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of, except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States. Said lands shall be classified by the Board of Land Commissioners, as

follows: First, lands which are valuable only for grazing purposes. Second, those which are principally valuable for the timber that is on them. Third, agricultural lands. Fourth, lands within the limits of any town or city or within three miles of such limits; Provided, That any of said lands may be re-classified whenever, by reason of increased facilities for irrigation or otherwise, they shall be subject to different classification.

Section 2. The lands of the first of said classes may be sold or leased, under such rules and regulations as may be prescribed by law. The lands of the second class may be sold, or the timber thereon may be sold, under such rules and regulations as may be prescribed by law. The agricultural lands may be either sold or leased, under such rules and regulations as may be prescribed by law. The land of the fourth class shall be sold in alternate lots of not more than five acres each, and not more than one-half of any one tract of such lands shall be sold prior to the year of one thousand nine hundred and ten (1910).

Section 3. All public lands may be disposed of in such manner as may be provided by law.

STATUTORY PROVISIONS.

TITLE III.

Education.

- Chapter I. State Board of Education.
- Chapter II. State University of Montana.
- Chapter III. School of Mines of Montana.
- Chapter IV. Agricultural College of Montana.
- Chapter V. State Normal School.
- Chapter VI. State Text Book Commission.
- Chapter VII. Public Schools.

CHAPTER I.

State Board of Education.

- Section 642. Membership.
- Section 643. Appointment and term.
- Section 644. Oath.
- Section 645. Officers.
- Section 646. Quorum.
- Section 647. Meetings.
- Section 649. State diplomas.
- Section 650. Life diplomas.
- Section 651. Graduate of state normal school.
- Section 652. Revocation of diploma.
- Section 653. Expenses.
- Section 654. Membership.
- Section 655. Appointment and term.
- Section 656. Oath.
- Section 657. Officers.
- Section 658. Quorum.
- Section 659. Meetings.
- Section 660. Powers and duties.
- Section 661. State diplomas.
- Section 662. Life diplomas.
- Section 663. Graduate of state normal school.
- Section 664. Revocation of diploma.
- Section 665. Expenses.

642. (Sec 1510.) **Membership.**—The State board of education shall consist of eleven members, of which number the governor, state superintendent of public instruction and attorney general shall be ex-officio members. (Act approved March 10, 1895).

Hillburn v. St. P. R. Co., 23 Mont. 243; 58 Pac. 556.

643. (Sec. 1511.) **Appointment and Term.**—The governor shall appoint, by and with the advice and consent of the senate, the remaining eight members of the board. The persons first

appointed under the provisions of this title shall hold office for the following terms: Two shall be appointed for the term of two years from the first day of February, 1893; two for the term of three years from the first day of February, 1893; two for the term of four years from the first day of February, 1893; and two for the term of five years from the first day of February, 1893. The successors shall be appointed for the term of four years, and until their successors are appointed and qualified. (Act approved March 11, 1895).

644. (Sec. 1512.) **Oath.**—The persons so appointed as members of the state board of education shall before entering upon the duties of their office, take and subscribe the constitutional oath of office prescribed for civil officers, which shall be filed in the office of the secretary of state. (Act approved March 11, 1895).

645. (Sec. 1513.) **Officers.**—The governor shall be the president of said board, and the superintendent of public instruction shall be the secretary thereof. The state treasurer shall be the treasurer of the board. (Act approved March 11, 1895).

State v. Barret, 26 Mont. 66; 66 Pac. 506. The state treasurer is the treasurer of the state board of education, and is liable, upon the order of the board, to pay out the income derived from the rents of lands granted by the United States, in aid of the state agricultural college.

646. (Sec. 1514.) **Quorum.**—A majority of said board shall constitute a quorum for the transaction of business. (Act approved March 11, 1895).

647. (Sec. 1515.) **Meetings.**—The board shall hold semi-annual meetings at the state capitol on the first Monday in June and December in each year, and may hold special meetings at any time and place they may direct. The president and secretary of the board may also call special meetings of said board at any time and place, if in their judgment the necessity requires it. (Act approved March 11, 1895).

649. (Sec. 1517.) **State Diplomas.**—State diplomas shall be issued to such persons, as have a good moral character, and who have held for one year and still hold in full force and effect, a first grade county certificate with the addition of English literature and mental philosophy, and who shall furnish satisfactory evidence of having been successfully engaged in teaching for at least five years. The term "five years" shall be construed to mean five years of not less than seven months each;

that is, the applicant must have taught a part of each year for five years—not necessarily consecutive years—and in all thirty-five months, of which at least twenty-one months must have been in the public schools of Montana; Provided, That the state board of education shall have the power to add such other studies to those enumerated in this section as they may deem necessary. (Act approved March 11, 1895).

650. (Sec. 1518.) Life diplomas may be issued upon all and the same conditions as state diplomas, except that the applicant must pass a satisfactory examination upon the rudiments of botany, geology, political economy, zoology and general history, and must furnish satisfactory evidence of having been successfully engaged in teaching for at least ten years. "Ten years" shall be construed to mean ten years of not less than seven months each; that is, the applicant must have taught some part of each year for ten years—not necessarily consecutive years—and in all seventy months, of which at least twenty-one months must have been in the public schools of Montana. (Act approved March 11, 1895).

651. (Sec. 1519.) **Graduate of State Normal School.**—A state or life diploma may be granted to any graduate of the state normal school of Montana, or of the state university of Montana, when the said graduate furnishes satisfactory evidence of having successfully taught, after graduation, a public school in this state for sixteen school months. State or life diplomas may be granted to graduates of other educational institutions within or without the state, upon conditions established by the state board of education. (Act approved March 11, 1895).

652. **Revocation of Diplomas.**—Any State or Life Diploma may be revoked by the state superintendent of public instruction for incompetency or immoral conduct on the part of the holder of it, or for any cause that would require the state board of education to refuse to grant it if known at the time the diploma was granted; but, before any such revocation, the holder shall be served with a written statement of the charges against him, and shall have an opportunity for defense before said state board of education. The state superintendent may grant a temporary state certificate, at any time, to any teacher whose experience, qualifications and credentials, in his opinion, entitle such a teacher to either a state or life diploma in Montana.

Such temporary state certificate, however, shall be good and valid in any county in the state only until the next regular meeting of the state board of education; provided, however, that the holder of such certificate shall have it duly registered in the office of the county superintendent of schools of the county in which he is employed to teach before he begins teaching, and, provided, also, that such teacher shall pay for such registration, the sum of one (\$1.00) dollar into the institute fund of such county. (Act approved February 8, 1907). (10th Sess. Chap. 9).

653. (Sec. 1521.) **Expenses.**—The members of said board shall receive no compensation for their services, but shall be allowed their actual traveling expenses incurred in attending the meetings of the board, which expenses and all other expenses, on the certificate of the secretary of the board, shall be audited and approved by the state board of examiners, and paid by warrant of the state auditor on the state treasurer. (Act approved March 11, 1895).

654. (Sec. 1522.) **Membership.**—The State board of education shall consist of eleven members, of which number the governor, state superintendent of public instruction and attorney general shall be ex-officio members. (Act approved March 1, 1893).

655. (Sec. 1523.) **Appointment and Term.**—The governor shall appoint by and with the advice and consent of the senate the remaining eight members of said board. The persons first appointed under the provisions of this act, shall hold their office for the following terms, viz: Two shall be appointed for the term of two years from the first day of February, 1893; two for the term of three years from the first day of February, 1893; two for the term of four years from the first day of February, 1893; and two for the term of five years from the first day of February, 1893. Their successors shall be appointed for the term of four years, and until their successors are appointed and qualified. (Act approved March 1, 1893).

656. (Sec. 1524.) **Oath.**—The persons so appointed as members of the state board of education shall, before entering upon the duties of their office, take and subscribe the constitutional oath of office prescribed for civil officers, which shall be filed in the office of the secretary of state. (Act approved March 1, 1893).

657. (Sec. 1525.) **Officers.**—The governor shall be the president of said board, and the state superintendent of public instruction shall be the secretary thereof. The state treasurer shall be the treasurer of the board. (Act approved March 1, 1893).

658. (Sec. 1526.) **Quorum.**—A majority of the said board shall constitute a quorum for the transaction of business. (Act approved March 1, 1893).

659. (Sec. 1527.) **Meetings.**—The board shall hold semi-annual meetings at the state capitol on the first Monday of June and December in each year, and may hold special meetings at any time and place they may direct. The president and secretary of the board may also call meetings of said board at any time and place, if in their judgment necessity requires it. (Act approved March 1, 1893).

660. (Sec. 1528.) **Powers and Duties.**—The powers and duties of said board shall be as follows:

1. They shall have the general control and supervision of the state university and the various other state educational institutions.

2. To adopt rules and regulations not inconsistent with the constitution or laws of this state for its own government, and proper and necessary for the due execution of the powers and duties conferred upon them by law.

3. To prescribe rules and regulations for the government of the various state educational institutions.

4. To grant diplomas to graduates of the state university and other state educational institutions, upon the recommendation of the faculties thereof, and may confer honorary degrees upon persons other than graduates, upon recommendations of the faculty of any of said institutions.

5. To adopt and use in the authentication of its acts an official seal.

6. To grant state diplomas, valid for six years, and life diplomas.

7. To keep a record of the proceedings.

8. To make an annual report on or before the first day of January, which shall be printed under the direction of the board.

9. To receive from the state board of land commissioners or other boards, or persons, or from the government of the United

States, any and all funds, incomes and other property to which any of the said institutions may be entitled and to use and appropriate the same for the specific purpose of the grant or donation, and none other; and to have general control of all receipts and disbursements of any of said institutions. (Act approved March 1, 1893).

661. (Sec. 1529.) **State Diplomas.**—State diplomas may be issued to such persons only as have a good moral character and who have held for one year and still hold in full force and effect a first grade county certificate, with the addition of English literature and mental philosophy and who shall furnish satisfactory evidence of having been successfully engaged in teaching for at least five years. The term “five years” shall be construed to mean, for five years of not less than seven months each; that is the applicant must have taught a part of each year for five years—not necessarily consecutive years—and in all thirty-five months, of which at least twenty-one months must have been in the public schools of Montana. (Act approved March 1, 1893).

662. (Sec. 1530.) **Life Diplomas.**—Life diplomas may be issued upon all and the same conditions as state diplomas, except that the applicant must pass a satisfactory examination upon the rudiments of botany, geology, political economy, zoology, and general history, and must furnish satisfactory evidence of having been successfully engaged in teaching for at least ten years. Ten years shall be construed to mean ten years of not less than seven months each; that is, the applicant must have taught some part of each year for ten years—not necessarily consecutive years—and in all seventy months, of which at least twenty-one months must have been in the public schools of Montana. (Act approved March 1, 1893).

663. (Sec. 1531.) **Graduate of State Normal School.**—A state or life diploma may be granted to any graduate of the state normal school of Montana or of the state university of Montana when the said graduate furnishes satisfactory evidence of having successfully taught, after graduation, a public school in this state for sixteen school months. State or life diplomas may also be granted to graduates of other educational institutions within or without the state, upon conditions established by said state board of education. (Act approved March 1, 1893).

664. (Sec. 1532.) **Revocation of Diploma.**—Any state or life diploma may be revoked by the state superintendent for incompetency or immoral conduct but before any such revocation, the holder shall be served with a written statement of the charges against him, and shall have an opportunity for defense before said state board of education. (Act approved March 1, 1893).

665. (Sec. 1533.) **Expenses.**—The members of said board shall receive no compensation for their services but shall be allowed their actual traveling expenses incurred in attending the meetings of the board, which expenses and all other expenses on the certificate of the secretary of the board, shall be audited and approved by the state board of examiners, and paid by warrant of the state auditor on the state treasurer. (Act approved March 1, 1893.)

HOUSE BILL 87.

An Act relating to qualifications of teachers and the granting of teachers' certificates to graduates of the University of Montana.

Be It Enacted by the Legislative Assembly of the State of Montana:

Section 1. Any graduate of the University of Montana shall, on the registry of his diploma together with his University Certificate of Qualification to Teach, in the office of the State Superintendent of Public Instruction, be entitled to teach in the high schools of the State of Montana without other or further examination, for the term of five years after such graduation, and every such graduate shall, on furnishing the State Board of Education satisfactory evidence of having successfully taught in high schools twenty-seven months, be entitled to have said diploma validated as a life diploma.

Section 2. The rules of the Faculty of the University of Montana for the issuance of the University Certificate of Qualification to Teach shall be submitted to the State Board of Education for its sanction.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage.

Approved Feby. 23, 1911.

SENATE BILL 76.

State Board of Education.

Duties and powers of state board of education.

General contracts of state institutions enumerated.

To adopt rules and regulations for state educational institutions.

Text books.

Diplomas.

Honorary degrees.

Seal.

State and life diplomas.

Records.

Annual reports.

Appoint teachers as instructors in county institutes.

To have control of books, records and property of colleges and institutions named.

Appoint the president and faculty of various state institutions.

Proviso.

May confer certain powers on executive board of each state institution named in this Act.

Authority conferred on president and faculty.

Executive boards of institutions, how appointed.

Residence of executive boards.

Powers of executive boards.

Expenditures and contracts limited to \$250.

Vacancies in executive board, to be filled how.

Secretary of executive board, may act as treasurer. Not to be member of Board.

Bond.

Amount of bond.

Treasurer of board the treasurer of the institution.

Meetings of executive board.

Statements and reports and contents thereof.

Statements may be called for by state board of examiners or state board of education at any time.

Reports shall be in triplicate.

Duties of chairman and secretary of executive board.

Matron for state orphans' home.

Treasurer of executive board of agricultural college has authority to receive from state treasurer certain United States apportionments.

How United States apportionments shall be expended.

Treasurer of Agricultural College, when to make detailed statement.

Statement to be reported to secretary of agriculture and secretary of interior of United States and duplicate filed with state board of examiners.

Other detailed statements.

Term of office of members of executive boards.

Proviso.

Oath of office.

Compensation.

Expenses.

Termination of term of office of executive boards, commissioners, trustees and directors hitherto appointed.

State board of examiners shall have supervision and control of all moneys appropriated or received, excepting those received from the United States.

Other powers and duties of state board of examiners.

Donations, grants and gifts, how made.

Revised Codes of 1907. Sections repealed.

An Act relating to the government, management, control and finances of the University of Montana, Montana State Normal School, Agricultural College of Montana, State Orphans' Home, Montana State School of Mines, Montana School for the Deaf and Blind, and State Reform School, and to repeal Sections 648, 672, 692, 693, 694, 695, 699, 700, 701, 703, 704, 707, 708, 735, 736, 737, 776, 1158, 1159, 1160, 1163, 1165, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1262, 1263, and 1264, of the Revised Codes of Montana of 1907.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state board of education, as now created by law shall have power and it shall be its duty:

1. To have the general control and supervision of the university of Montana, Montana State Normal College, Agricultural College of Montana, State Orphans' Home, Montana State School of Mines, Montana School for the Deaf and Blind, and State Reform School.

2. To adopt rules and regulations, not inconsistent with the constitution and the laws of this state, for its own government and proper and necessary for the execution of the powers and duties conferred upon it by law.

3. To provide, subject to the laws of the state, rules and regulations for the government of the affairs of the state educational institutions named in this section.

4. To recommend to the legislature a uniform system of text-books to be used in the public schools of this state.

5. To grant diplomas to the graduates of all state educational institutions, where diplomas are authorized or now granted, upon the recommendation of the faculties thereof, and may confer honorary degrees upon persons, other than graduates,

upon the recommendation of the faculty of such institutions.

6. To adopt and use, in the authentication of its acts an official seal.

7. To grant state diplomas valid for six years, and to grant life diplomas.

8. To keep a record of its proceedings.

9. To make an annual report on or before the first day of January in each year, which may be printed under the directions of the state board of examiners.

10. To appoint and commission experienced teachers as instructors in county institutes.

11. To have, when not otherwise provided by law, control of all books, records, buildings, grounds and other property of the institutions and colleges named in this section.

12. To choose and appoint a president and faculty for each of the various state institutions named herein, and to fix their compensation; provided, that the person selected and now acting as the head of any of said institutions, and performing the duties of the presiding officer or college president, whether designated as president, superintendent, director, or by any other title or designation, shall hereafter be known and designated as president of such institution, and such president, as well as the faculty of said institution, shall continue to hold their respective positions in accordance with the terms and conditions of their election or appointment.

13. To confer upon the executive board of each of said institutions such authority relative to the immediate control and management, other than financial, and the selection of the faculty, teachers and employees as may be deemed expedient and may confer upon the president and faculty such authority relative to the immediate control and management, other than financial and the selection of teachers and employees as may by said board be deemed for the best interest of said institution.

Section 2. There shall be an executive board, consisting of three members, for each of said institutions, two of whom shall be appointed by the governor, by and with the advice and consent of the state board of education, and the president of such institution shall be ex-officio member of said board and shall be the chairman thereof. At least two of said members shall reside in the county where such institution is located. Said executive board shall have such immediate direction and control,

other than financial, of the affairs of such institution as may be conferred on such board by the state board of education, subject, always, to the supervision and control of said state board.

Said executive boards shall also have and exercise power and authority in contracting current expenses and in auditing, paying and reporting bills for salaries, or other expenses incurred in connection with such institutions, provided, the board of examiners may not limit the power of the executive board in making expenditures or contracts which in no single instance or for any single purpose does not exceed two hundred and fifty dollars. All vacancies occurring in the membership of any of said executive boards shall be filled by appointment by the governor, which appointments shall be referred to the state board of education at its first meeting thereafter for confirmation.

Section 3. The executive board of each of the institutions named in section one of this act shall appoint a secretary of said board, who may also act as treasurer of said board, and who may or may not be a member of said executive board, and such secretary and treasurer shall give bond with good and sufficient surety, for the faithful performance of his duties as such, and for the faithful accounting for and paying over to, and for the use of, said college all moneys received by him as treasurer. Said bond shall run to the state of Montana and shall be in such sum as may be designated by the state board of examiners, and when executed shall be approved by said state board of examiners.

Section 4. The treasurer of each executive board shall be the treasurer of the institution.

Section 5. The executive board of each of said institutions shall meet in regular session at least once in each quarter, and monthly, or oftener, if the business of such institution requires it.

Section 6. Each of such executive boards shall on or before the first Monday in June of each year make a detailed statement and report of all its transactions and of the condition of the institution, including the number of teachers, professors, and employes, with the salary or wages paid to each and a detailed statement of all expenses and disbursements of such institution, which report shall contain such other information or recommendations as may be required by the state board of examiners, or by the state board of examiners and the state

board of education, and the state board of examiners or the state board of education shall have authority to call for a report and statement from such executive boards at any time such board may deem it advisable. All such reports by such executive boards shall be made in triplicate, one copy shall be retained by such board, one copy shall be filed with the state board of examiners and one copy with the state board of education.

Section 7. The duties of the chairman and secretaries of each of said executive boards shall be that usually performed by such officers, or which may be designated by the state board of education or the state board of examiners.

Section 8. The state board of education shall have authority to employ, or to authorize the employment, of a matron for the state orphans' home.

Section 9. The treasurer of the executive board of the agricultural college of Montana shall have the authority to receive from the treasurer of the state of Montana the cash appropriation received from the United States by authority of the act of congress of August 30, 1890, (26 Statutes at Large, page 417), known as the second Morrill Act, and the act of congress of March 4, 1907, (Statutes at Large, page 1281), known as the Nelson Amendment. And such cash appropriation shall be expended by the executive board of said agricultural college, under the general supervision of the state board of education, but only for the purpose for which the same is appropriated by congress.

The treasurer of said executive board of said agricultural college shall also have the authority to receive all moneys appropriated by the act of congress of March 16, 1906 (34 Statutes at Large, page 63), entitled, "An Act to provide for and increase the annual appropriation for agricultural experiment stations, and regulating the expenditure thereof, and such money shall be expended by said executive board under the supervision and direction and control of the state board of education in the manner and for the purpose designated in said act of congress, and as required by section 741 of the Revised Codes of Montana of 1907. The treasurer of the agricultural college of Montana shall, on or before the first day of September of each year, make a detailed statement of the amounts received and disbursed under the provisions of the act of congress of August

30, 1890, and of March 4, 1907, and shall report the same to the secretary of agriculture of the United States and to the secretary of the interior of the United States, as required by said acts of congress, and shall file a duplicate thereof with the state board of examiners of the state of Montana on or before the 10th day of September of each year. Said treasurer shall also make a detailed statement of the amounts of money received and disbursed under the act of congress of March 16, 1906, which report shall be filed with the state board of examiners on or before the 10th day of September of each year, and shall also make such reports to the officers or departments of the United States as are now or may hereafter be required by the laws of the United States.

Section 10. The ex-officio member of each of said executive boards shall hold his office during his continuance as president of such institution, and the two members appointed by the governor shall hold office for the term of four years from and after the third Monday in April, 1909, unless sooner removed by the governor or by the state board of education; provided, that of the members of the executive board first appointed under the provisions of this act, one shall be appointed for the term of two years and one for the term of four years. Such members shall qualify by taking and filing their oath of office with the state board of education.

Section 11. The members of each of the executive boards, except the chairman, shall receive such compensation for their services as shall be fixed by the state board of education, not exceeding the sum of five dollars for each day actually spent in the discharge of their official duties, and not exceeding the sum of one hundred and twenty-five dollars in any one year for each member, and such members shall also be reimbursed from the amount appropriated by the legislature for the maintenance and support of such institutions all expenses necessarily incurred by them in discharge of their official duties as members of said boards.

Section 12. That the term of office of all trustees, directors, or members of any executive board or commission of any of the institutions named in this act, heretofore appointed, elected or serving as such trustees, directors or member of such executive boards or commissions, shall terminate upon the appointment and qualification of the members of the executive boards

created by this act, and such boards created hereby shall have only such power and authority as is given under the provisions of this Act.

Section 13. The state board of examiners of the state of Montana shall have supervision and control of all expenditures of all moneys appropriated or received for the use of said colleges from any and all sources, other than that received under and by virtue of the acts of congress hereinbefore referred to, and said state board of examiners shall let all contracts, approve all bonds for any and all buildings or improvements, and shall audit all claims to be paid from any moneys, other than that received under and by virtue of the acts of congress herein referred to, but said state board of examiners shall have authority to confer upon the executive boards of such institutions such power and authority in contracting current expenses and in auditing, paying and reporting bills for salaries or other expenses incurred in connection with said institution as may be deemed by said state board of examiners to be to the best interests of said institutions.

Section 14. All donations, grants, gifts or devises made to any of the institutions named herein shall be made to such institution in its legal name, and if made to any officer or boards of such institution the same shall be immediately transferred by such board or officer to such institution.

Section 15. That sections 648, 672, 692, 693, 694, 695, 699, 700, 701, 703, 704, 707, 708, 735, 736, 737, 776, 1158, 1159, 1160, 1163, 1165, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1262, 1263, and 1264, of the Revised Codes of Montana of 1907, and all acts and parts of acts in conflict with this act be, and the same are, hereby repealed.

Section 16. This act shall take effect and be in full force from and after the 15th day of April, 1909.

Approved March 4, 1909.

CHAPTER II.

University of Montana.

- Section 666. University of Montana established.
 Section 667. Control and supervision of same.
 Section 668. No person to use the name of the university of Montana.
 Section 669. The university of Montana established.
 Section 670. Government. Officers.
 Section 671. Duty of state board of education.
 Section 673. Officers of university. Report.
 Section 674. Objects of university.
 Section 675. Course of study.
 Section 676. Qualifications of students. Military instruction.
 Section 677. Charges for tuition.
 Section 678. Endowed professorships.
 Section 679. Appropriations for support of university.
 Section 680. Selection of site.
 Section 681. State university bonds.
 Section 682. Sale of bonds.
 Section 683. Funds pledged as security.
 Section 684. Disposition of proceeds of lands.
 Section 685. Notice of sale of bonds.
 Section 686. Use of proceeds of bonds.
 Section 687. University building commission.
 Section 688. State not liable on bonds.

666. (Sec. 1540.) **University of Montana Established.**—The university of Montana is established and located at Missoula, and has for its object, instruction and education in all the departments of science, literature, art, industrial and professional pursuits.

667. (Sec. 1541.) **Control and Supervision of Same.**—The control and supervision of the state university is vested in the state board of education, which must appoint a president and faculty, and other necessary officers, agents, employes, prescribe their powers and duties, and establish for the government of the university, and for the instruction given therein, such rules not inconsistent with the laws of the state, as may be necessary.

668. (Sec. 1542.) **No Person to Use the Name of the University of Montana.**—The state has exclusive right to the use of the name "University of Montana," and no other institution of learning, or corporation, must use the name of "University of Montana," or "Montana University," or like name, and the attorney general is required to bring an action in the name of

the state against any person, association or corporation using such of like name, for the purpose of dissolving the corporation, and recovering a sum not exceeding five hundred dollars, nor less than one hundred dollars, which is hereby made the penalty for the violation of the provisions of this section, from the person or association using such name.

669. (Sec. 1543.) **The University of Montana Established.**—There is hereby established in this state, at the city of Missoula, an institution of learning under the name and style of "The University of Montana." (Act approved Feb. 17, 1893).

670. (Sec. 1544.) **Government. Officers.**—The government of the university shall be vested in the state board of education. The manner of their appointment, their powers, duties, compensation and terms of office shall be as prescribed by law. The state treasurer shall be the treasurer of said board, and perform all the duties of such office, subject to such regulations as the state board may adopt, not inconsistent with his official duties; and he and his sureties shall be liable on his official bond as state treasurer for the faithful discharge of such duties. (Act approved Feb. 17, 1893).

671. (Sec. 1545.) **Duty of State Board of Education.**—The state board of education shall have power, and it shall be their duty to enact by-laws for the government of the university in all its departments; to elect a president of the university and in their discretion a vice-president, and the requisite number of professors, instructors, officers and employes, and fix their salaries and terms of each to determine the moral and educational qualifications of applicants for admission to the various courses of instruction; but no sectarian or partisan test shall ever be allowed or exercised in the appointment of professors, instructors, officers or employees of the university, or in the admission of students thereto, or for any purpose whatever. No instruction, either sectarian or religious or partisan in politics, shall ever be allowed in any department in the university. The state board of education shall have power to regulate the course of instruction and prescribe the text books and authorities to be used in all the departments, and may confer such degrees, and grant such diplomas as are usual in universities; and may confer the usual honorary degrees upon other persons than graduates of the university in recognition of their learning, or devotion to literature.

art or science, as may be recommended by the faculty of the university. (Act approved Feb. 17, 1893).

Section 673. **Officers of the University. Report.**—The President of the University shall be the President of the general faculty, and of the special faculties of the several departments or colleges and the executive head of the institution in all its departments. As such officer he shall have authority subject to the State Board of Education to give general direction to the instruction of practical affairs, and scientific investigations of the several colleges, and as long as the interests of the institution requires it, he shall be charged with the duties of one of the professorships. He shall perform the duties of the corresponding secretary for the University. He shall, annually, on or before the fifteenth day of June in each year, make a report to the State Board of Education, showing in detail the progress and condition of the University during the previous year, the number of professors and students in the several departments and classes, the nature and results of all important experiments and investigations and such other matters, relating to the proper government, and educational work of the institution as he shall deem useful. It shall also be the duty of said president to furnish any special report when required to do so by the State Board of Education or by the Legislature.

Approved Feb. 23, 1911.

674. (Sec. 1584.) **Objects of University.**—The object of the university of Montana shall be to provide the best and most efficient manner of imparting to young men and women, on equal terms, a liberal education and thorough knowledge of the different branches of literature, science and arts, with the varied applications, and to this end there shall be established the following colleges or departments, to-wit:

1. A preparatory department.
2. A department of literature, science and the arts.
3. Such professional and technical colleges as may from time to time, be added thereto or connected therewith. The preparatory department may be dispensed with, at such rate and in such wise as may seem just and proper to the state board of education. (Act approved Feb. 17, 1893).

675. (Sec. 1549.) **Course of Study.**—Such duties or courses of instruction shall be pursued in the preparatory department as

shall best prepare the student to enter any of the regular colleges or departments of the university. The college or department of literature, science and the arts shall embrace courses of instruction in mathematical, physical and natural sciences, with their application to the industrial arts; a liberal course of instruction in the languages, literature, history and philosophy, and such other branches as the state board of education may prescribe. And, as soon as the income of the university will allow, and in such order as the demands of the public seem to require, the said courses of instruction in the sciences, literature and the arts shall be expanded into distinct colleges or departments of the university, each with his own faculty and appropriate title. (Act approved Feb. 17, 1893).

676. (Sec. 1550.) **Qualifications of Students. Military Instructions.**—The university shall be open to students of both sexes, under such regulations and restrictions as the state board of education may deem proper. All able-bodied male students of the university may receive instruction and discipline in military tactics, the requisite arms of which shall be furnished by the state. (Act approved Feb. 17, 1893).

667. (Sec. 1551.) **Charges for Tuition.**—Tuition shall ever be free to all students who shall have been residents of the state for one year next preceding their admission, except in the law and medical departments, and for extra studies. The state board of education may prescribe rates for tuition for any student in the law or medical departments, or who shall not have been a resident aforesaid, and for teaching such studies. (Act approved Feb. 17, 1893).

678. (Sec. 1552.) **Endowed Professorships.**—Any person contributing a sum not less than fifteen thousand dollars shall have the privilege of endowing a professorship in the university or any department thereof, the name and object of which shall be designated by the state board of education. (Act approved Feb. 17, 1893).

679. (Sec. 1553.) **Appropriations for Support of University.**—For the support and endowment of the university there is annually and perpetually appropriated:

1. The university fund income, and all other sums of money appropriated by law to the university fund income.
2. All tuition and matriculation fees.

3. All such contributions as may be derived from the public or private bounty.

The entire income of all such funds shall be placed at the disposal of the state board of education, by transfer to the treasurer of said board and to be kept separate and distinct from the accounts of the state, and all other funds, and to be used solely for the support of the aforesaid colleges and departments of the university or connection therewith. But all means derived from other public or private bounty shall be exclusively devoted to the specific objects for which they shall have been designated by the donor. (Act approved Feb. 17, 1893).

680. (Sec. 1554.) **Selection of Site.**—It shall be the duty of the state board of education within ninety days from the date of the passage of this act if then organized, but if not organized then within ninety days from the organization of the said board, to select the site for the definite and permanent location of said university of Montana, which site shall be within three miles of the city limits of the city of Missoula; and they shall, at once, take steps or proceedings for procuring the title to the tract or tracts of land so selected by them, and they may, and are hereby empowered to enter into contracts, in the name of the State of Montana for the purchase of said tract or tracts of land so selected, and may execute such obligations for the payment of the same as will mature when the probable income of the university fund will pay for the same. The state board of education are hereby authorized and empowered to accept, in the name of the State of Montana, such gifts of land and moneys as may be tendered for a university site or to aid in the purchase of said site; and they shall take the proper and necessary conveyances of said tract or tracts of land in the name of the state; Provided, That if such gifts consist of money only or money and land, and the land be not sufficient in amount or not appropriate for a university site, then they shall appropriate such gifts to the payment of said site, and if there be a surplus the same to become a part of the university fund; Provided, That said tract of land shall not be less than forty acres in extent. (Act approved Feb. 17, 1893).

681. **State University Bonds.**—The state board of land commissioners of the State of Montana is hereby authorized to issue bonds to the amount of one hundred thousand dollars (\$100,000), the minimum denomination of which shall be fifty

dollars (\$50.00) and the maximum shall be one thousand dollars (\$1,000.00) each; said bonds to be known as the state university bonds, which shall bear date of July 1, 1897, to become due thirty (30) years after date and payable after twenty (20) years after date thereof; said bonds shall bear interest at the rate of not more than six (6) per cent per annum payable semi-annually on the first day of January and July of each year at the office of the state treasurer of the State of Montana; said bonds shall run from the state board of land commissioners of the State of Montana to bearer, and shall be signed by the state board of land commissioners and countersigned by the secretary of state, who shall attach his seal thereto. (Act approved March 4th, 1897, Sec. 1). (5th Ses. 58-9).

State v. Collins, 21 Mont. 448; 53 Pac. 1114. A warrant drawn by the land commissioners in favor of a contractor could not be passed on by the state board of examiners; the university bond fund is a trust fund, different from one arising from taxation, and not a fund over which said board has control.

682. **Sale of Bonds.**—The bonds provided for in the first section of this Act shall be issued and sold as soon as possible after the passage of this Act. (Act approved March 4th, 1897, Sec. 2). (5th Ses. 59).

683. **Funds Pledged as Security.**—All funds realized from the sales of licenses to cut trees, leasing of said lands, or from the profits arising from the permanent fund to be created, as provided for by section 14 of an act of congress, approved February 22, 1889, entitled "An Act to provide for the division of Dakota, into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the Union on an equal footing with the original states and to make donations of public lands to such states" (said land being forty-six thousand and eighty (46,080) acres, granted to the territory of Montana by the Act of February 18, 1881, and vested in the State of Montana by the Act of February 22, 1889) for the establishment and maintenance of a university; are hereby pledged as security for the payment of the principal and interest of the bonds authorized by this Act, and all revenue or profits derived from the said lands or said permanent fund to be created, or any of them, whether on account of lease, sales of licenses to cut trees, or otherwise, are hereby set apart and shall constitute a fund for the payment as hereinafter provided of the prin-

cipal and interest of the said bonds, which bonds shall be a first lien on said university bond fund. (Act approved March 4th, 1897, Sec 3). (5th Sess. 59).

684. **Disposition of Proceeds of Lands.**—It shall be the duty of the state treasurer to keep all moneys derived from the university lands hereinbefore mentioned in separate fund, to be known and designated as the university bond fund and out of the moneys of such fund, he shall pay after approval by the state board of examiners:

First: The cost and expenses of issuing of the bonds herein provided for.

Second: The interest on the bonds herein authorized when due, and

Third: When bonds shall become payable, he shall call in and pay them as rapidly as the moneys in such fund will permit after providing for the interest. That in the event there shall not be sufficient funds in the university bond fund to pay the interest when due, the state board of examiners shall, by an order entered upon their minutes cause warrants to be issued on the university bond fund for the amount of the interest due, and the warrants so issued shall draw interest at the rate of six (6) per cent per annum, and said warrants shall be paid by the treasurer as soon as sufficient funds accumulate in said fund to pay the same, and by reason of the delivery of the said warrants to the holders of the said bonds in satisfaction of the accrued interest, there shall be no default in the payment of the interest. (Act approved March 4th, 1897, Sec. 4). (5th Sess. 59-60).

685. **Notice of Sale of Bonds.**—It shall be the duty of the state treasurer to give notice, by advertising for not less than two (2) weeks daily in one newspaper, published in the city of Helena, Montana, and in one newspaper published in the city of New York that he will on April 5th, 1897, sell one hundred thousand dollars (\$100,000.00) of the bonds herein authorized and will receive bids therefor and said bonds shall on said day be by him sold to the highest bidder: Provided, that the state board of education shall open all bids and shall have the right to reject any or all bids. If no bids are then received and accepted said bonds may then be sold afterwards at private sale, provided however, that none of the said bonds shall at any time be sold at less than par. (Act approved March 4th, 1897, Sec.

5). (5th Sess. 60).

686. **Use of Proceeds of Bonds.**—The moneys derived from the sale of the said bonds shall be used to erect, furnish and equip buildings for the use and benefit of the University of Montana at the city of Missoula in said state, and shall by the state treasurer be paid out on the warrants of the building commission of said university as hereafter provided. (Act approved March 4th, 1897, Sec. 6). (5th Sess. 60).

687. **University Building Commission.**—There is hereby created a building commission to be composed of five persons to be appointed by the governor of the state, no more than two of whom shall be of the same political party and all residents of the city of Missoula, who shall serve without compensation, whose duty it shall be to contract for the erection and furnishing of suitable buildings for the use and benefit of the University of Montana. The said commission shall have charge and supervision over the construction of said buildings and all things pertaining thereto; and shall have authority from time to time to draw their warrants on the treasurer of the State of Montana for such sum or sums as may be due any contractor or employee engaged in and about the erection of the said buildings which warrants shall be paid by the said treasurer out of any funds in his hand arising from the sale of bonds provided for in this act. Said building commission is hereby authorized to employ an architect and such other assistants as it may deem necessary in preparing the plans, specifications and superintending the construction of said building and the expense thereof shall be paid out of the funds as hereinbefore provided for the erection of said buildings, provided that all architects, superintendents and contractors shall be citizens of the State of Montana. Said commission shall make report from time to time, to the stated meetings of the state board of education, of the progress of said work and the expenditures thereof. (Act approved March 4th, 1897, Sec. 7). (5th Sess. 60-1).

688. **State Not Liable on Bonds.**—The State of Montana shall in no wise be held liable for the payment of the bonds herein authorized or interest thereon. (Act approved March 4th, 1897, Sec. 8). (5th Sess. 61).

HOUSE BILL 96.

"An Act to Create and Establish a Law School at Missoula to be Conducted and Operated as a Department of the University of Montana, to Provide a Name and to Make an Appropriation Therefor."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby created and established in this State and located in the City of Missoula, a Law School, as a Department of the University of Montana.

Section 2. That said Law School, shall be known and designated as "The Law Department of the University of Montana."

Section 3. The State Board of Education, is hereby empowered and given authority to make all necessary rules and regulations with reference to the conduct and management of the said Law School; to map out and provide for the courses of study to be pursued by students attending said Law School; to obtain and provide for necessary quarters, equipment and books therefor, and to retain and hire the necessary professors and instructors to instruct the students therein.

Section 4. The sum of six thousand dollars (\$6,000.00) is hereby appropriated for the maintenance and conduct of the said Law School to February 28, 1912, which money shall be used exclusively for the benefit of said Law School.

Section 5. The sum of six thousand dollars (\$6,000.00) is hereby appropriated for the maintenance and conduct of said Law School to February 28th, 1913, which money shall be used exclusively for the benefit of said Law School.

Section 6. This act shall be in full force and effect from and after its passage and approval by the Governor.

Approved February 17, 1911.

CHAPTER III.

School of Mines.

- Section 689. School of mines established.
Section 690. Control and management.
Section 691. School of mines established.
Section 696. Object of school.
Section 697. Site, appliances.
Section 698. Qualifications of students.
Section 702. Location of school lands.
Section 705. Fees of professors.
Section 706. Debt prohibited.
Section 709. State school of mines building commission.
Section 710. Member of commission not to be interested in contracts.
Section 711. Compensation and expenses of members.
Section 712. Plans for buildings.
Section 713. Bids and contracts for buildings.
Section 714. Commissioners may employ architect.
Section 715. Auditing and payment of claims.
Section 716. Equipment of school.
Section 717. Disposal of buildings when completed.
Section 718. Records of commission.
Section 719. School of mines building fund; bonds.
Section 720. Disposition of bonds.
Section 721. Creation of interest and sinking fund.
Section 722. Investment of sinking fund.
Section 723. Reimbursement of general fund.
Section 724. State treasurer as custodian of fund.
Section 725. Disposition of proceeds of bond sale.
Section 726. Call of bonds for payment.
Section 727. Expense of issuance of bonds.
Section 728. Warrants for interest.
Section 729. State liable only to extent of lien on lands.

689. (Sec. 1570.) **School of Mines Established.**—A school of mines of Montana is hereby established and located at Butte, and has for its object instruction and education in chemistry, metallurgy, mineralogy, geology, mining, milling, engineering, mathematics, mechanics, drawing, the laws of the United States, and of the state in reference to mining and the rights and duties of citizens in relation thereto. Such school of mines may be connected with the state university under such regulations as the state board of education may prescribe.

690. (Sec. 1571.) **Control and Management.**—The control and supervision of such school is vested in the state board of education, which may prescribe all necessary rules therefor.

691. (Sec. 1572.) **School of Mines Established.**—The state school of mines is hereby established and declared to be a body corporate under the name of "Montana State School of Mines" and by that name may sue and be sued, may take and hold real or personal property by gift, bequest, devise, or purchase from the state, and may dispose of the same when authorized so to do by law. (Act approved Feb. 17, 1893).

State Bank vs. Barret, 25 Mont. 114; 63 Pac. 1030.

696. (Sec. 1577.) **Object of School.**—It shall be the object of such school of mines to furnish facilities for the education of such persons as may desire to receive special instruction in chemistry, metallurgy, mineralogy, geology, mining, mining engineering, mathematics, mechanics and drawing. (Act approved Feb. 17, 1893).

697. (Sec. 1578.) **Site, Appliances.**—The said board of trustees are hereby authorized to procure a suitable site at or near the city of Butte, in the county of Silver Bow and the State of Montana, for said school of mines, as hereinafter set out, and to erect suitable buildings thereon, and to procure such machinery and other appliances as may be necessary to carry out the object and intention of such institution and to promote the welfare thereof, whenever the funds provided for the establishment of said school of mines will warrant the same. (Act approved Feb. 17, 1893).

698. (Sec. 1579.) **Qualification of Students.**—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 an education thereat, upon such terms and at such rates of tuition as the board may prescribe. (Act approved Feb. 17, 1893).

702. (Sec. 1583.) **Location of School Lands.**—The state board of land commissioners are hereby authorized and required to locate all the lands that have been donated by the United States to the State of Montana for the establishment and maintenance of a school of mines and report to the next legislative assembly the number of acres so located, where situated, and the character and estimated value, and shall make a similar report on or before the next meeting of the legislative assembly to the board of trustees of the school of mines, and also to the state board of education. (Act approved Feb. 17, 1893).

705. (Sec. 1587.) **Fees of Professors.**—It shall be lawful for the professor or president of the school of mines, who shall be appointed by the said board of trustees, to charge and collect such reasonable fees for any and all essays, and analysis made by them, as the said board may prescribe, an account of which shall be kept by said president and paid over monthly to the treasurer of said school of mines, which shall become part of the school of mines fund. (Act approved Feb. 17, 1893).

706. (Sec. 1588.) **Debt Prohibited.**—The board of trustees are hereby prohibited from creating any debt as against the school of mines, building, machinery, or appliances, or in any manner incumbering the same, or of incurring any expense beyond their ability to pay from the annual income of the school of mines for the current year. (Act approved Feb. 17, 1893).

709. (Sec. 1591.) **State School of Mines Building Commission.**—For the purpose of erecting, furnishing and equipping buildings for the state school of mines at Butte City, Montana, there is hereby created a board to be known as the state school of mines commission. Said commission shall consist of five members, each a qualified elector, and not more than three belonging to any one political party, all of whom shall be forthwith appointed by the governor, by and with the advice and consent of the senate, and shall hold office until said buildings have been erected and equipped and accepted by the state as hereinafter provided, subject to removal by the governor, and each of whom shall forthwith give bond with two sureties, to be approved by the governor, in the sum of two thousand dollars, conditioned for the faithful performance of their duties. Vacancies in said board shall be forthwith from time to time filled by the governor, and three of said board shall constitute a quorum, with power to act, and the official place of business of said board at Butte City, Mont. (Act approved March 7, 1895).

State Bank v. Barret, 25 Mont. 114; 63 Pac. 1030.

710. (Sec. 1592.) **Member of Commission not to be Interested in Contracts.**—No member of the board shall be in any manner interested with any building contractor or shall submit any bid for the erection or the furnishing of said buildings, neither shall he receive any commission, rebate, bonus, division of proceeds, or any other pecuniary advantage whatever in

connection with said office, save the compensation hereinafter provided. (Act approved March 7, 1895).

711. (Sec. 1593.) **Compensation and Expenses of Members.**—Each member of the board shall receive five dollars per day for each and every day the board is actually and necessarily assembled in the performance of its official duties, together with his actual traveling expenses paid in going to and from his home to attend the session or sessions of the board. (Act approved March 7, 1895).

712. (Sec. 1594.) **Plans for Buildings.**—The state board of commissioners for the school of mines so appointed, are hereby authorized and directed to prepare plans and specifications for the erection of buildings for the said state school of mines not to exceed the amount of one hundred thousand dollars. (Act approved March 7, 1895).

State Bank v. Barret, 25 Mont. 114; 63 Pac. 1030.

713. (Sec. 1595.) **Bids and Contracts for Buildings.**—Whenever the provisions of the preceding section have been fully complied with, the board of commissioners for the state school of mines shall advertise in not more than four nor less than two daily newspapers printed in the state, two of which must be in the county of Silver Bow, once each week for four consecutive weeks, a notice that it will receive sealed proposals and bids to construct such buildings on the site heretofore selected and in accordance with the plans and specifications so adopted by the commissioners for the state school of mines, reserving, however the right to reject any and all bids and advertise anew.

The board must let the contract for the construction and erection of such building or buildings to the lowest responsible bidder, and the contractor or contractors shall execute a good and sufficient bond in double the amount of his or their bids to perform such contract for the construction and erection of such building or buildings in conformity with the plans and specifications aforesaid, which bond shall run to the State of Montana and be approved by the board of the school of mines commissioners. (Act approved March 7, 1895).

State Bank v. Barret, 25 Mont. 115; 63 Pac. 1030.

714. (Sec. 1596.) **Commissioners May Employ Architect.**—The board of school of mines commissioners are hereby authorized to employ an architect and such assistants as it may deem necessary in preparing the plans and specifications for said

building or buildings, and the expense thereof shall be paid out of the funds as hereinafter provided for the erection of said building or buildings. (Act approved March 7, 1895).

715. (Sec. 1597.) **Auditing and Payment of Claims.**—All claims for the erection of said building or buildings shall be first approved by the school of mines commissioners and audited and allowed by the state board of examiners, and paid in the same mode and manner as claims against the state are paid; Provided, however, that such claims shall be paid out of the respective funds designated in this act, against which they may be chargeable. (Act approved March 7, 1895.)

• State Bank v. Barret, 25 Mont. 115; 63 Pac. 1030.

716. (Sec. 1598.) **Equipment of School.**—Upon completion and acceptance of the buildings mentioned in this act, the board of school of mines commissioners shall equip and furnish said institution with supplies and apparatus as may be actually necessary in carrying on such institutions; Provided, however, that the amount so expended shall not exceed the sum of fifteen thousand dollars. (Act approved March 7, 1895.)

717. (Sec. 1599.) **Disposal of Buildings When Completed.**—Immediately upon the furnishing of such institution the state board of school of mines commissioners shall turn over to the state board of education all such buildings to be used thereafter solely and exclusively for the purposes for which they were created and established. (Act approved March 7, 1895).

718. (Sec. 1602.) **Records of Commission.**—The board shall keep a written record of all its official actions, and on the completion of its official functions said record shall be delivered by the governor to the secretary of state, who shall thereafter be the legal custodian thereof. (Act approved March 7, 1895).

719. **School of Mines Building Fund; Bonds.**—The board of school of mines commissioners and the state board of land commissioners of the State of Montana are hereby authorized to issue and dispose of bonds for the purpose of erecting a building to be known as the "School of Mines Building" to be located in the city of Butte, Montana, under the following conditions and restrictions, to-wit:

First: The aggregate amount of bonds authorized by this Act shall not exceed the sum of one hundred and twenty thousand dollars (\$120,000).

Second: The denomination of each bond shall be one hundred dollars, or any multiple thereof, but the maximum amount of any bond shall not exceed the sum of one thousand dollars.

Third: The term of said bonds shall not exceed thirty years from their date, and they shall be payable at any time after fifteen years from their date at the option of the issuers.

Fourth: The bonds may bear any rate of interest not in excess of six per centum per annum, and the interest may be payable semi-annually.

Fifth: The principal and interest shall be payable at such place and in such manner as is designated in the bond.

Sixth: The board of school of mines commissioners and the state board of land commissioners shall prescribe the form of the bond, the bonds shall bear upon their face the words "School of Mines Building Bond of the State of Montana" and they shall be signed by the members of the board of school of mines commissioners and the state board of land commissioners and shall be countersigned by the secretary and treasurer of the state and the seal of the state, shall be affixed to each bond, and the bonds shall be registered in the office of the state treasurer.

Seventh: The coupons representing the interest on the bonds shall be signed by the state treasurer, or an engraved or lithographic fac-simile of the signature of the treasurer may be affixed thereto provided it is so authorized in the bond. (Act approved March 8th, 1897, Sec. 1.) (5th Sess. 124-5).

720. **Disposition of Bonds.**—The bonds provided for in this Act shall be disposed of by the board of school of mines commissioners and the state board of land commissioners in such a manner as they shall deem it for the best interests of the state; Provided, that no bond shall be disposed of for less than its par value. (Act approved March 8th, 1897, Sec. 2.) (5th Sess. 125).

721. **Creation of Interest and Sinking Fund.**—To provide for the payment of the interest and principal of the bonds authorized by this act, there is hereby created a special fund to be known as "The School of Mines Building Interest and Sinking Fund," into which shall be paid all sums of money realized from sales of lands, licenses to cut trees, leasing of lands, profits of any and all other sources by reason of the grants of lands by Congress to the State of Montana for the establish-

ment and maintenance of a school of mines, as provided by sections 12 and 17 of an act of the United States Congress entitled "An Act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments, and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," approved February 22nd, 1889, and from said "School of Mines Building Interest and Sinking Fund" there shall, as the same become due and payable, be paid the interest on said bonds and it is further provided, that it is the duty of the "State Board of Land Commissioners" whenever there are any funds in the said "School of Mines Building Interest and Sinking Fund" over and above the sum of twenty-five hundred dollars in excess of the amount required to pay the yearly interest on said bonds, to invest such excess funds in the manner set forth and provided in section 4 of this act, and the amount so invested shall constitute a permanent fund to pay the principal of the said bonds; but all interest or profit derived from the investment shall be paid into the said "School of Mines Building Interest and Sinking Fund" and the principal and interest of the said bonds shall be a first lien upon said funds and all the lands granted and belonging to the state for the purpose of establishing and maintaining a school of mines. (Act approved March 8th, 1897, Sec. 1.) (5th Sess. 125-6).

722. **Investment of Sinking Fund.**—The state board of land commissioners are hereby authorized and directed to create a permanent fund for the payment of the bonds authorized by this Act, from the following revenues, to-wit: Whenever the revenues in any year are sufficient to pay the interest on the said bonds and there shall be in excess thereof the sum of twenty-five hundred dollars, then any and all funds over and above the said sum of twenty-five hundred dollars shall be invested for the benefit of the "School of Mines Building Interest and Sinking Fund" as follows, to-wit:

First: In the bonds authorized by this act, provided they can be purchased at a cost not exceeding their par value and accrued interest.

Second: In any legally issued bonds of any county, school district, city or town of the State of Montana, provided they

can be purchased at a cost not exceeding their par value and interest.

Third: In any legally issued general fund warrants of the State of Montana, or any legally issued warrants of county, city, or town of the State of Montana, provided they can be purchased at a cost not exceeding their par value and accrued interest; and the said board of land commissioners are hereby granted discretionary power in the selection and purchase of the securities hereinbefore described, as to the amount of each they shall purchase and conditions of general credit affecting the same. (Act approved March 8th, 1897, Sec. 4). (5th Sess. 126).

723. **Reimbursement of General Fund.**—It is hereby provided and set forth, that in the event the State of Montana shall at any time provide and pay the interest, or any part thereof, on the bonds authorized by this act, from the general fund of the state, or by any special appropriation made or tax levied therefor, then for any and all interest so paid, the state shall be reimbursed from the said "School of Mines Building Interest and Sinking Fund" by the payment of the amount so paid or due, whenever there is sufficient money in said "School of Mines Building Interest and Sinking Fund" to pay the same. (Act approved March 8th, 1897, Sec. 5). (5th Sess. 126).

724. **State Treasurer as Custodian of Fund.**—The state treasurer is hereby designated as the custodian of the funds provided by this Act and he shall pay all warrants properly drawn by the "Board of School of Mines Commissioners" save and excepting as to the interest on the bonds, which he shall pay as the same becomes due and charge the amount thereof to the "School of Mines Building and Interest Sinking Fund" hereinbefore created. (Act approved March 8th, 1897, Sec. 6). (5th Sess. 126-7).

725. **Disposition of Proceeds of Bond Sale.**—All moneys received from the sale of the bonds authorized by this act shall be paid to the state treasurer, and shall constitute a special fund for the erection of the "School of Mines Building," and shall be disbursed by the state treasurer on warrants properly drawn by the "Board of School of Mines Commissioners" and including all warrants heretofore drawn by the "Board of School of Mines Commissioners" and registered prior to the passage of this act. (Act approved March 8th, 1897, Sec. 7). (5th Sess. 127).

726. **Call of Bonds for Payment.**—Whenever any of the bonds authorized by this act shall become due and payable, and there is sufficient funds to pay the same, they shall be called in and paid in the order of their issuance, beginning with the lowest number. (Act approved March 8th, 1897, Sec. 8). (5th Sess. 127).

727. **Expenses of Issuance of Bonds.**—The cost and expenses of issuing the bonds hereinbefore authorized may be paid out of the proceeds thereof, or be chargeable to the expense of the construction of the building. (Act approved March 8th, 1897, Sec. 9). (5th Sess. 127).

728. **Warrants for Interest.**—In the event there shall not at any time be sufficient money in the "School of Mines Building Interest and Sinking Fund" to pay the interest when due, the state board of land commissioners and the board of school or mines commissioners shall, by an order entered on their minutes or record books, cause warrants to be issued on the said "School of Mines Building Interest and Sinking Fund" for the amount of interest due, and the warrants so issued shall be registered in the office of the treasurer of the state, and shall bear interest at the rate of six per centum per annum, and said warrants shall be paid by the state treasurer whenever there is sufficient money accumulated in said fund to pay the same, and by reason of the delivery of said warrants to the holders of said bonds and the surrender of the interest coupons, there shall be no default in the payment of interest. (Act approved March 8th, 1897, Sec. 10). (5th Sess. 127).

729. **State Liable Only to Extent of Lien on Lands.**—Nothing in this Act shall be so construed as to in any wise hold the state of Montana liable for the payment of the bonds herein authorized, except as to the lien heretofore created against the lands and funds granted for the purpose of establishing and maintaining the school of mines and which lien shall not be abridged, annulled or set aside until the bonds authorized by this act shall have been fully paid, together with the interest thereon and the governor is hereby specially authorized and empowered to use all lawful means to enforce the provisions of this Act. (Act approved March 8th, 1897, Sec. 11.) (5th Sess. 127-8).

CHAPTER IV.

Agricultural College of Montana.

- Section 730. Agricultural college established.
- Section 731. Control and management.
- Section 732. Establishment and location.
- Section 733. Selection of site.
- Section 734. Control of college.
- Section 738. Agricultural experiment station.
- Section 739. Management of station.
- Section 740. Acceptance of grant.
- Section 741. Designation of station as beneficiary.
- Section 742. Montana agricultural college bonds.
- Section 743. Date of issuance and sale of bonds.
- Section 744. Security for payment of bonds.
- Section 745. Agricultural college bond fund.
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- Section 747. Disposition of proceeds of bonds.
- Section 748. Erection and furnishing of buildings.
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- Section 751. Sale of bonds.
- Section 752. Security for payment of bonds.
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- Section 754. Sale of bonds. Notice.
- Section 755. Disposition of proceeds.
- Section 756. Establishment of experimental sub-station in horticulture.
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- Section 761. Use of Bozeman funds prohibited.
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- Section 766. State entomologist of Montana.
- Section 767. Duties of state entomologist.
- Section 768. Annual report.
- Section 769. Expenses.

730. (Sec 1620.) **Agricultural College Established.**—The agricultural college of Montana is established and located at Bozeman, and has for its object instruction and education in the English language, literature and mathematics, civil and mechanical engineering, agricultural chemistry, animal and vegetable anatomy and physiology, the veterinary art, entomol-

ogy, geology and such other natural sciences as may be prescribed by the state board of education, political, rural and household economy, agricultural, horticultural, moral philosophy, history, bookkeeping and especially the application of science and the mechanical arts to practical agriculture in the field and irrigation and the use of water for agricultural purposes. Such agricultural college may be connected with the state university, under such regulation as the state board of education may prescribe.

731. (Sec. 1621.) **Control and management.**—The control and supervision of such college is vested in the state board of education, which may prescribe all rules therefor.

732. (Sec. 1622.) **Establishment and Location.**—The agricultural college of the State of Montana is established and located at the city of Bozeman, or within three miles of the corporate limits of said city, upon such tract, or tracts of land, conforming in the aggregate not less than eighty acres, and as much more as shall be selected by the state board of education, as hereinafter provided; and said college has for its leading objects and purposes, without excluding other scientific classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the state board of education, and any subordinate boards by such state board appointed, may prescribe. (Act approved Feb. 16, 1893).

733. (Sec. 1623.) **Selection of Site.**—It shall be the duty of the state board of education, within ninety days from the date of the passage of this act, if then organized but if not organized then within ninety days from the organization of the said board, to select the site for the definite and permanent location of said agricultural college of Montana and agricultural experimental station, which site shall be at the city of Bozeman, or within three miles of the corporate limits of said city of Bozeman; and said state board of education shall at once take steps or proceedings for procuring the title to the tract or tracts of land so selected by them, and they may, and are hereby empowered to enter into contracts in the name of the State of Montana, for the purchase of said tract or tracts of land so selected, and may execute such obligations for the payment of the same as will mature when the probable income from the fund of said agricultural college and agricultural experi-

mental station, or either of them, will pay for the same. The said state board of education are hereby authorized and empowered to accept in the name of the state of Montana, such gifts of land and money as may be tendered to aid in the purchase of said site, and whenever such gifts are sufficient in amount to secure or pay for said site they shall appropriate the same to that purpose, and take the proper and necessary conveyances of said tract or tracts of land in the name of the state. All lands and money acquired, as provided in this section, shall be taken and held for the sole use and benefit of said agricultural college and said agricultural experimental station. (Act approved Feb. 16, 1893).

734. (Sec. 1634.) **Control of College.**—The general control and supervision of such college is vested in the state board of education, which board may prescribe all rules therefor. (Act approved Feb. 16, 1893).

738. (Sec. 1628.) **Agricultural Experimental Station.**—There is also located and established on the land so to be selected by the state board of education, in connection with said agricultural college, and under its direction an agricultural experimental station, to aid in acquiring and diffusing among the people of the state of Montana useful and practical information on subjects connected with agriculture, and to promote scientific investigation and experiments respecting the principles and application of agricultural science, which experimental station is established under and by virtue of the authority contained in the act of congress entitled "An act to establish experimental stations in connection with the colleges established in the several states, under the provisions of an act approved July 2d, 1862, and the said acts supplementary thereto" approved March 2d, 1887, and the provisions, donations, and benefits contained in said act of congress, and in all other acts of congress relating to agricultural experimental stations and agricultural colleges, now in force and all acts supplementary thereto, or amendatory thereof, are by the State of Montana hereby accepted and adopted. (Act approved Feb. 16, 1893).

. State v. Barret, 26 Mont. 64; 66 Pac. 505.

739. (Sec. 1629.) **Management of Station.**—Said agricultural experimental station is hereby placed under the supervision and control of the State board of education, and the executive or subordinate board or authority who may be by the

governor, by and with the consent and advice of said state board of education, appointed. (Act approved Feb. 16, 1893).

740. **Acceptance of Grant.**—That the State of Montana hereby assents to the provisions of an Act of Congress, entitled: "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof" approved March 16, 1906, and hereby consents to receive the benefits thereof in the manner and form and for the purposes in said Act intended and provided. (Act approved March 2, 1907, Sec. 1.) (10th Sess. Chap. 64).

741. **Designation of Station as Beneficiary.**—That until otherwise provided by law the agricultural experiment station, now established at Bozeman, Gallatin County, State of Montana, shall be the beneficiary of the funds in said Act mentioned, and shall use and disburse said funds only for the purposes and in the manner provided in said Act. The treasurer of the executive board of the Agricultural College and Agricultural Experiment Station, at said city of Bozeman, is hereby authorized to receive, and shall be the custodian of said funds, and he shall account for said funds, and make reports to the secretary of agriculture, as required by said Act of Congress. (Act approved March 2, 1907, Sec. 2.) (10th Sess. Chap. 64).

742. (Sec. 1630.) **Montana Agricultural College Bonds.**—The state board of land commissioners of the State of Montana, is hereby authorized to issue bonds to the amount of one hundred thousand dollars; the minimum denomination of such bonds shall be two hundred and fifty dollars, and the maximum denomination one thousand dollars each, said bonds to be known as the Montana agricultural college bonds, to bear date July 1, A. D. 1895, to become due twenty-five years after date, and payable after ten years after date thereof; said bonds shall bear interest at the rate of not more than six per cent. per annum, payable semiannually on the first day of January and July of each year at the office of the state treasurer of the State of Montana. Said bonds shall run from the state board of land commissioners of the State of Montana to bearer, and shall be signed by the state board of land commissioners and countersigned by the secretary of state, who shall attach his seal thereto. (Act approved March 6th, 1895).

State v. Wright, 17 Mont. 78; 42 Pac. 103.

State v. Rice, 33 Mont. 390; 83 Pac. 878.

743. (Sec. 1631.) **Date of Issuance and Sale of Bonds.**—The bonds provided for in the first section of this Act, Sec. 742 (1630), shall be issued and sold as soon as possible after the passage of this Act. (Act approved March 6th, 1895).

744. (Sec. 1632.) **Security for Payment of Bonds.**—All funds realized from the sale or leasing of the lands (being fifty thousand acres) granted by the United States to the state of Montana for the establishment and maintenance of an agricultural college, under and by virtue of the provisions of Sec. 17 of the Act of congress, approved February 22, 1889, entitled "An Act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states," are hereby pledged as security for the payment of the principal and interest of the bonds authorized by this Act, and all moneys or revenue derived from the said lands, or any of them, whether on account of sale, lease, sales of timber or otherwise, are hereby set apart and shall constitute a fund for the payment, as hereinafter provided, of the principal and interest of the said bonds, which bonds shall be a first lien on said agricultural college bond fund. (Act approved March 6th, 1895).

745. (Sec. 1633.) **Agricultural College Bond Fund.**—It shall be the duty of the state treasurer to keep all moneys derived from the agricultural college lands hereinbefore mentioned, in a separate fund, to be known and designated as the agricultural college bond fund, and out of the money in such fund he shall pay, after approval by the state board of examiners, (a) the cost and expense of issuing of the bonds herein provided for; (b) the interest on the bonds herein authorized, when due, and (c) when such bonds shall become payable, he shall call in and pay them as rapidly as the money in such fund will permit, after providing for the interest. That in the event there shall not be sufficient funds in the agricultural college bond fund to pay the interest when due, the board of state examiners shall, by an order entered upon their minutes, cause warrants to be issued on the agricultural college bond fund for the amount of the interest due; and the warrants so issued shall draw interest at the rate of six per cent. per annum; and said warrants shall

be paid by the treasurer as soon as sufficient funds accumulate in said fund to pay the same; and by reason of the delivery of said warrants to the holders of said bonds, in satisfaction of accrued interest, there shall be no default in the payment of interest. (Act approved March 6, 1895).

746. (Sec. 1634.) **Advertisement of Sale of Bonds.**—It shall be the duty of the state treasurer, to give notice, by advertising for not less than two weeks, daily, in one newspaper published in the city of Helena, Montana, and in one newspaper published in the city of New York, N. Y., that he will on the second day of April, 1895, sell one hundred thousand dollars of the bonds herein authorized, and will receive bids therefor, and said bonds shall on said day be by him sold to the highest bidder. If no bids are then received, said bonds may then be sold afterwards at private sale; Provided, however, that none of said bonds shall at any time be sold at less than par. (Act approved March 6, 1895).

State v. Wright, 17 Mont. 78; 42 Pac. 103.

747. (Sec. 1635.) **Disposition of Proceeds of Bonds.**—The money derived from the sale of said bonds shall be used to erect, furnish, and equip buildings for the use and benefit of the agricultural college of the State of Montana, at the city of Bozeman, in said state. (Act approved March 6, 1895).

State v. Wright, 17 Mont. 78; 42 Pac. 103.

748. (Sec. 1636.) **Erection and Furnishing of Building.**—Immediately upon the receipt of the money, the proceeds of the sale of said bonds, the state treasurer shall turn over the same to the treasurer of the agricultural college, and it shall be disbursed by him on orders of the executive board of the said agricultural college, in the erection and furnishing of a suitable building or buildings for the use and benefit of the agricultural college upon plans and specifications first submitted to and approved by the state board of education; Provided, however that the general supervision of the construction and erection of such building or buildings and the furnishing and equipping thereof shall be under the control of the state board of education. (Act approved March 6, 1895).

State v. Wright, 17 Mont. 77; 42 Pac. 103. The proper custodian of the proceeds of the bonds issued under Section 1630, supra, is the treasurer of the state agricultural college, who may, by mandamus, compel the state treasurer to pay over such proceeds.

749. (Sec. 1637.) **State not Liable on Bonds.**—Nothing in this Act shall be so construed as to in anywise hold the State of Montana liable for the payment of the bonds herein authorized, or interest thereon. (Act approved March 6, 1895).

State v. Rice, 33 Mont. 390; 83 Pac. 878.

750. **Refunding Bonds.**—The state board of land commissioners of the State of Montana is hereby authorized to issue bonds to the amount of eighty thousand dollars (\$80,000.00), for the purpose of taking up and redeeming the issue of one hundred thousand dollars agricultural college bonds heretofore issued under Sections 742 (1630) to 749 (1637), inclusive, of the Political Code of Montana, now outstanding, and redeemable July 1, 1905. The minimum denomination of such bonds shall be two hundred and fifty dollars, (\$250.00), and the maximum shall be one thousand dollars (\$1,000.00) each. Said bonds shall be known as the Montana agricultural college refunding bonds, to bear date July 1, 1905, to become due and payable twenty (20) years after date, and to be redeemable (10) years after date thereof. Said bonds shall bear interest at a rate not to exceed five (5) per cent per annum, and as much lower as the state board of land commissioners may decide, payable semi-annually on the first day of January and July of each year, and both principal and interest shall be payable at the office of the state treasurer of Montana. Said bonds shall run from the state board of land commissioners of the State of Montana to bearer, and shall be signed by the state board of land commissioners, and countersigned by the secretary of State of Montana, who shall attach his seal thereto; Provided, however, that nothing in this Act shall be so construed as to hold the State of Montana liable for the payment of said bonds or the interest thereon. (Act approved March 1, 1905). (9th Sess. Chap. 54).

751. **Sale of Bonds.** The bonds provided for in the first section of this Act shall be issued and sold at public or private sale as hereinafter provided, as soon as possible after the passage and approval of this Act. (Act approved March 1, 1905, Sec. 11.) (9th Sess. Chap. 54).

752. **Security for Payment of Bonds.**—All funds arising from the sale, or leasing of the lands, interest on deferred payments, and licenses to cut trees thereon, (being fifty thousand acres) granted by the United States to the State of Montana, for the establishment and maintenance of an agricultural college, under

and by virtue of the provisions of Section 17, of the Act of Congress, approved February 22, 1899, entitled "An Act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," are hereby pledged as security for the payment of the principal and interest of the bonds authorized by this Act, and all moneys or revenues derived from said lands, or any of them, whether on account of sales, leases, sales of timber, interest or otherwise, are hereby set apart and shall constitute a fund for the payment as hereinafter provided, of the principal and interest of the said bonds, which refunding bonds shall be a first lien on said agricultural college bond fund, after payment therefrom of said outstanding bonds as herein provided. (Act approved March 1, 1905, Sec. 3.) (9th Sess. Chap. 54).

753. **Duties of State Treasurer.**—It shall be the duty of the state treasurer to keep all moneys derived from the agricultural college lands hereinbefore mentioned together with the proceeds of the sale of the bonds herein authorized to be issued, in a separate fund, to be known and designated as the agricultural college bond fund, and out of the money in such fund he shall pay, after approval by the state board of land commissioners.

a. The principal and accrued interest on the said outstanding issue of one hundred thousand dollars agricultural college bonds, for the purpose of taking up and redeeming said bonds as hereinafter provided.

b. The cost and expense of the issuing and sale of the bonds herein provided for.

c. The interest on the bonds herein authorized.

d. When such refunding bonds become redeemable he shall call in and pay them as rapidly as the money in such fund will permit, after providing for the interest. In the event that there shall not be sufficient in the agricultural college bond fund to pay the interest when due, the state board of land commissioners shall by an order entered on their minutes, cause warrants to be issued on the agricultural college bond fund for the amount of the interest due, and the warrants so issued shall bear interest at the rate of five (5) per cent per annum; said warrants shall be paid by the treasurer as soon as sufficient money accumulates in said fund applicable thereto to pay the

same, and by reason of the delivery of said warrants to the holders of said bonds in satisfaction of accrued interest, there shall be no default in payment of the interest. (Act approved March 1, 1905, Sec. 4). (9th Sess. Chap. 54).

754. **Sale of Bonds, Notice.**—It shall be the duty of the state treasurer to give notice by advertising for not less than two weeks, daily, in one newspaper published in the city of Helena, and one newspaper published in the city of New York, that he will, on the tenth day of April, 1905, sell the eighty thousand dollars of refunding bonds, hereby authorized and will receive bids therefor, and said bonds shall on said day be sold to the highest bidder, or to the person offering to take the same at the lowest rate of interest, as may be directed by the state board of land commissioners. If no bids are then received, or if none are accepted, said bonds may be sold afterwards at private sale; Provided, that the said board of land commissioners shall have the right to open, receive and examine all bids for said bonds, and in its discretion accept or reject the same, and provided, further, that none of said bonds shall at any time be sold for less than par. (Act approved March 1, 1905, Sec. 5.) (9th Sess. Chap. 54).

755. **Disposition of Proceeds.**—The moneys derived from the sale of said refunding bonds shall be placed in the agricultural college bond fund, out of which shall be paid the principal and interest necessary to take up and redeem the issue of one hundred thousand dollars (\$100,000.00) of Montana agricultural college bonds authorized by Section 742 (1630), to 749 (1637), Political code of Montana, now outstanding, redeemable July 1, 1905. It shall be the duty of the state treasurer to give notice to the owners, so far as known, of the said Montana agricultural college bonds authorized by Section 742 (1630), to 749 (1637), inclusive, Political Code, that he will, on the first day of July, 1905, pay the principal and accrued interest on the said bonds, and that interest will cease from and after the said date; and said treasurer shall on said date pay, take, up, redeem, and, under the direction of the state board of land commissioners shall cancel said bonds. If by reason of delay in selling the said bonds authorized by this Act, the money shall not be available on the first day of July, 1905, the state treasurer shall call for, take up, redeem and cancel the said Montana agricultural college bonds at the earliest date practicable after

such money shall be available. (Act approved March 1, 1905, Sec. 6). (9th Sess. Chap. 54).

756. **Establishment of Experimental Substation in Horticulture.**—The executive board of the Montana Agricultural College is hereby authorized and directed to establish a sub-station for the purpose of carrying on experimental work in horticulture, said station to be located at such point in the State of Montana as said board may select Provided, however, that the citizens or county wherein said sub-station is located shall donate to the state and give in fee simple not less than fifteen acres of suitable land including a perpetual water right for the same. (Act approved March 7, 1907). (10th Sess. Chap. 146).

757. **Billings Experimental Station.**—There is hereby established to be located within three miles of the corporate limits of the city of Billings, Montana, on such land as the governor and secretary of state may select, a substation of the agricultural experimental station provided for in Section 7 of an act of the legislature entitled "An Act providing for the location and establishment of the Agricultural College of the State of Montana, and an Agricultural Experimental Station in connection therewith, enumerating its objects and purposes, dedicating lands for the use of the same, providing for the government and control thereof, and accepting and adopting the provisions, donations and benefits contained in the Acts of Congress relating thereto." Approved February 16th, 1893. That said sub-station shall be under the general direction of the experimental station of the agricultural college of the State of Montana, and its immediate direction shall be in charge of three persons to be appointed by the governor by and with the consent of the senate, two of whom shall reside within ten miles of the sub-station, said persons so appointed shall constitute a board to be known as "Directors of the Billings Sub-Experimental Station." Said board of directors shall be at all times subject to the direction and control of the said experimental station of the agricultural college, and they shall serve without compensation. (Act approved March 7, 1903, Sec. 1.) (8th Sess. Chap. 118).

758. **Same Work of Sub-Station.**—At said sub-station experimental work shall be conducted with a view to acquiring and diffusing useful and practical information on subjects connected with agriculture and to promote scientific investigation

and experiments respecting the principal and application of agricultural science, under climatic and other conditions existing in the vicinity of the city of Billings. (Act approved March 7, 1903, Sec. 2.) (8th Sess. Chap. 118).

759. **Lands for Sub-Station.**—That for the purpose of securing title to the land selected by them for said sub-station, the governor and secretary of state are hereby authorized and empowered to either use the land heretofore acquired by the state for the eastern state prison, near Billings and described as:

Each and all of the lots contained in each and all of the following named and numbered blocks, towit: Blocks numbered two hundred and ninety-five (295), two hundred and ninety-seven (297), two hundred and ninety-eight (298), two hundred and ninety-nine (299), three hundred and ten (310), three hundred and nineteen (319), three hundred and twenty-seven (327), three hundred and thirty-one (331), three hundred and thirty-two (332), and three hundred and twenty-six (326); the lots in each of said blocks being platted and numbered consecutively from one (1) to twenty-four (24) both inclusive, and the total number of lots in all of said blocks being two hundred and forty (240): Also lots numbered seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), and eighteen (18), in block numbered two hundred and ninety-four (294); Also lots numbered one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), in block numbered three hundred and nine (309); Also lots numbered thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-two (22), twenty-three (23), twenty-four (24), in block numbered three hundred and thirty-three (333), also lots numbered one (1), two (2), three (3), four (4), seventeen (17), eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-two (22), twenty-three (23), and twenty-four (24), and fractional lots numbered five (5), fifteen (15), and sixteen (16), in block numbered three hundred and twenty-eight (328); Also lots numbered twenty-one (21), twenty-two (22), twenty-three (23), and twenty-four (24), in block numbered three hundred and twenty (320); also all of the unplatted lots or fractions of lots in any and all of said blocks numbered three hundred and twenty-eight (328),

and three hundred and twenty (320): all and singular the said lots and parts of lots, and all and singular the said blocks and parts of blocks being in the first addition to the town of Billings, in the county of Yellowstone and State of Montana, according to the plat of the said first addition to the said town of Billings, now on file and of record in the office of the clerk and recorder of the said county of Yellowstone; also all and singular the several tracts, pieces or parcels of land contained in the following bounded and described parts of streets and avenues, and in the following described alleys, situate in the aforesaid town of Billings, and in the aforesaid first addition thereto, to-wit: All that portion of Ninth (9th) avenue north lying and being included between the extremely easterly line of North Nineteenth (19th) street and the extreme westerly line of North Fifteenth (15th) street; all that portion of Tenth (10th) avenue north lying and being included between the extreme easterly line of North Nineteenth (19th) street and the extreme westerly line of North Fifteenth (15th) street; all that portion of Eleventh (11th) avenue north lying and being included between the extreme westerly line of North Eighteenth street and the extreme westerly line of North Fifteenth street; all that portion of Twelfth Avenue North lying and being east of the extreme westerly line of North Eighteenth (18th) street; all that portion of Thirteenth (13th) avenue North lying and being east of the extreme westerly line of North Eighteenth street; all that portion of North Eighteenth street lying and being north of the extreme southerly line of Ninth (9th) Avenue North; all that portion of North Seventeenth (17th) street lying and being North of the extreme northerly line of Eighth (8th), Avenue North, and all that portion of North Sixteenth (16th) street lying and being north of the extreme northerly line of Eighth (8th) Avenue North; also each and all of the alleys contained in each and all of the following named and numbered blocks, to-wit: Blocks numbered three hundred and nineteen (319), three hundred and twenty (320), three hundred twenty-six (326), three hundred twenty-seven (327), three hundred nine (309), three hundred ten (310), three hundred thirty-two (332), three hundred and thirty-one (331), three hundred thirty-three (333), two hundred ninety-eight (298), two hundred ninety-seven (297), two hundred ninety-nine (299), two hundred ninety-four (294), and

two hundred and ninety-five (295); each and all of the aforesaid blocks and the alleys therein being in the first addition to the aforesaid town of Billings, in the said county of Yellowstone and State of Montana, or if such land, in their judgment is not suitable for the purpose of such sub-experimental station, then they shall and are hereby empowered to convey such land described as aforesaid in exchange for such suitable tract of land for the sub-experimental station as they may deem of at least equal value. (Act approved March 7, 1903.) (8th Sess. Chap. 118).

760. Governor and Secretary of State to Select Site.—The governor and secretary of state shall make selection of the land provided for within sixty days after the approval of this act, and within ninety days thereafter the State of Montana shall make provision for maintenance of said sub-experimental station. (Act approved March 7, 1903, Sec. 4). (8th Sess. Chap. 118).

761. Use of Bozeman Funds Prohibited.—It shall be unlawful under any circumstances to use any funds appropriated for the experiment station at Bozeman for the support or maintenance of said sub-station. (Act approved March 7, 1903, Sec. 5). (8th Sess. Chap. 118).

762. State Board of Land Commissioners May Sell Lands.—The state board of land commissioners is hereby empowered to sell and dispose of all lands acquired under and by virtue of the provisions of Chapter 118, Session Laws of 1903. (Section 759), upon the same terms and conditions as provided by law for the sale and disposition of all other state lands. (Act approved March 9, 1907). (10th Sess. Chap. 188).

763. Experimental Sub-Station Located in Fergus County.—That there is hereby established, to be located in Fergus county, Montana, on such land as may be donated to the State of Montana and accepted by the governor and secretary of state as suitable for the purpose, a sub-station of the agricultural experimental station provided for in Section 7 of an Act of the legislative assembly of the state of Montana, entitled "An Act providing for the location and establishment of the agricultural college of the State of Montana, and an agricultural experimental station in connection therewith, enumerating its objects and purposes, dedicating lands for the use of the same, providing for the government and control thereof, and accepting and

adopting the provisions, donations and benefits contained in the Acts of Congress relating thereto," approved February 16, 1893. (Section 738). Said sub-station shall be under the direction of the experimental station of the agricultural college of the State of Montana. (Act approved March, 1907, Sec. 1). (10th Sess. Chap. 189).

764. Authority of Governor to Accept Site.—The governor and secretary of state are hereby authorized to accept on behalf of the state, donation or donations of land for such purposes, provided such land be conveyed to the state in fee simple, and be free of all encumbrances and the title to the same be good. (Act approved March, 1907, Sec. 2). (10th Sess. Chap. 189).

765. Acceptance of Donations of Money and Material.—The said college is authorized to receive donations of money, implements, building materials, animals and supplies for the use of said sub-station. (Act approved March, 1907, Sec. 4). (10th Sess. Chap. 189).

766. State Entomologist of Montana.—The entomologist of the Montana Agricultural College and Experimental Station shall be known as the state entomologist of Montana. (Act approved March 5, 1907, Sec. 1). (10th Sess. Chap. 103).

767. Duties of State Entomologist.—It shall be the duty of the state entomologist to conduct field investigations of the injurious insects of fruits, vegetables, grains, grasses, forage crops, including clover and alfalfa, root crops, shade trees, ornamental plants, and any other insects that may become injurious. When it becomes known to the state entomologist that an outbreak of an insect has occurred in any part of the state, it shall be his duty, so far as is possible without conflicting with his other duties, to go to the scene of the outbreak or send a suitably qualified assistant. The state entomologist or said assistant shall determine the extent and seriousness of the outbreak, and, when necessary publish or make public demonstration of the best remedies to be employed. (Act approved March 5, 1907, Sec. 2.) (10th Sess. Chap. 103).

768. Annual Report.—The entomologist shall make an annual report to the governor of the state, on or before the first day of January, which report shall be published by the experiment station as one of its regular bulletins, and shall contain a report of his work and expenditures under this Act. (Act approved March 5, 1907, Sec. 3). (10th Sess. Chap. 103).

two hundred and ninety-five (295); each and all of the aforesaid blocks and the alleys therein being in the first addition to the aforesaid town of Billings, in the said county of Yellowstone and State of Montana, or if such land, in their judgment is not suitable for the purpose of such sub-experimental station, then they shall and are hereby empowered to convey such land described as aforesaid in exchange for such suitable tract of land for the sub-experimental station as they may deem of at least equal value. (Act approved March 7, 1903.) (8th Sess. Chap. 118).

760. Governor and Secretary of State to Select Site.—The governor and secretary of state shall make selection of the land provided for within sixty days after the approval of this act, and within ninety days thereafter the State of Montana shall make provision for maintenance of said sub-experimental station. (Act approved March 7, 1903, Sec. 4). (8th Sess. Chap. 118).

761. Use of Bozeman Funds Prohibited.—It shall be unlawful under any circumstances to use any funds appropriated for the experiment station at Bozeman for the support or maintenance of said sub-station. (Act approved March 7, 1903, Sec. 5). (8th Sess. Chap. 118).

762. State Board of Land Commissioners May Sell Lands.—The state board of land commissioners is hereby empowered to sell and dispose of all lands acquired under and by virtue of the provisions of Chapter 118, Session Laws of 1903. (Section 759), upon the same terms and conditions as provided by law for the sale and disposition of all other state lands. (Act approved March 9, 1907). (10th Sess. Chap. 188).

763. Experimental Sub-Station Located in Fergus County.—That there is hereby established, to be located in Fergus county, Montana, on such land as may be donated to the State of Montana and accepted by the governor and secretary of state as suitable for the purpose, a sub-station of the agricultural experimental station provided for in Section 7 of an Act of the legislative assembly of the state of Montana, entitled "An Act providing for the location and establishment of the agricultural college of the State of Montana, and an agricultural experimental station in connection therewith, enumerating its objects and purposes, dedicating lands for the use of the same, providing for the government and control thereof, and accepting and

adopting the provisions, donations and benefits contained in the Acts of Congress relating thereto," approved February 16, 1893. (Section 738). Said sub-station shall be under the direction of the experimental station of the agricultural college of the State of Montana. (Act approved March, 1907, Sec. 1). (10th Sess. Chap. 189).

764. Authority of Governor to Accept Site.—The governor and secretary of state are hereby authorized to accept on behalf of the state, donation or donations of land for such purposes, provided such land be conveyed to the state in fee simple, and be free of all encumbrances and the title to the same be good. (Act approved March, 1907, Sec. 2). (10th Sess. Chap. 189).

765. Acceptance of Donations of Money and Material.—The said college is authorized to receive donations of money, implements, building materials, animals and supplies for the use of said sub-station. (Act approved March, 1907, Sec. 4). (10th Sess. Chap. 189).

766. State Entomologist of Montana.—The entomologist of the Montana Agricultural College and Experimental Station shall be known as the state entomologist of Montana. (Act approved March 5, 1907, Sec. 1). (10th Sess. Chap. 103).

767. Duties of State Entomologist.—It shall be the duty of the state entomologist to conduct field investigations of the injurious insects of fruits, vegetables, grains, grasses, forage crops, including clover and alfalfa, root crops, shade trees, ornamental plants, and any other insects that may become injurious. When it becomes known to the state entomologist that an outbreak of an insect has occurred in any part of the state, it shall be his duty, so far as is possible without conflicting with his other duties, to go to the scene of the outbreak or send a suitably qualified assistant. The state entomologist or said assistant shall determine the extent and seriousness of the outbreak, and, when necessary publish or make public demonstration of the best remedies to be employed. (Act approved March 5, 1907, Sec. 2.) (10th Sess. Chap. 103).

768. Annual Report.—The entomologist shall make an annual report to the governor of the state, on or before the first day of January, which report shall be published by the experiment station as one of its regular bulletins, and shall contain a report of his work and expenditures under this Act. (Act approved March 5, 1907, Sec. 3). (10th Sess. Chap. 103).

769. **Expenses.**—The state entomologist shall receive no compensation for his services other than what he may receive from the Montana Agricultural College and Experiment Station, but the actual traveling expenses of himself or assistant, together with such office or laboratory expenses as result from the work contemplated under this Act, not to exceed five hundred dollars (\$500.00), per annum, shall be paid, and such sum is hereby annually appropriated for the purposes of this Act out of any moneys in the state treasury, not otherwise appropriated. Upon the certification of the Secretary of the executive board of the Montana Agricultural College and director of the Agricultural Experiment Station, the state auditor is authorized to issue warrants to cover the traveling expenses of the state entomologist while engaged in carrying out the provisions of this Act. (Act approved March 5, 1907, Sec. 4). (10th Sess. Chap. 103).

SENATE BILL 75.

Agricultural Experimental Station.

Description of land to be purchased.

Board of land commissioners may pay for same from proceeds of sale of lands of the agricultural college land grant.

Prices to be paid for the separate tracts purchased.

Title to vest in state and in case of sale the proceeds to be returned to the permanent fund of the agricultural college.

An Act to authorize and direct the Montana state board of land commissioners to purchase certain lands for the benefit and use of the Agricultural Experiment Station connected with and a department of the Montana Agricultural College at Bozeman, Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the Montana state board of land commissioners are hereby authorized and directed to purchase for the benefit and use of the Agricultural Experiment Station connected with and a department of the Agricultural College at Bozeman, Montana, the following lands situated in Gallatin County, Montana, to-wit: The northwest quarter of section fourteen (14), in township two (2), south of range five (5), east, and blocks numbered eight (8), and nine (9), in Capitol Hill Addition to the city of Bozeman, Montana.

Section 2. That the said Montana state board of land commissioners are empowered and directed to use for the payment of the purchase price of the lands described in Section 1 of this Act, the sum of eighteen thousand and eight hundred dollars (\$18,800) or so much thereof as may be necessary out of the proceeds from the sale of lands granted to the State of Montana for the use and support of an agricultural college in accordance with Section five (5), of the Act of Congress entitled, "An Act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts," approved July 2, 1862, and by Section Sixteen (16) of an Act of Congress approved February 22, 1889, entitled, "An Act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and to be admitted into the Union on an equal footing with the original states and to make donations of lands to such states;" that of the sum of eighteen thousand eight hundred dollars (\$18,800) mentioned in this section, the sum of sixteen thousand dollars (\$16,000) is to be used for the purchase of the northwest quarter of Section Fourteen (14), in Township Two (2), south of Range Five (5), east, situate in Gallatin county, Montana, and the sum of two thousand eight hundred dollars (\$2,800) is to be used for the purchase of blocks numbered eight (8) and nine (9), in Capitol Hill Addition to the city of Bozeman, Montana.

Section 3. That the title to said lands when purchased shall vest in the State of Montana and whenever said lands are sold or otherwise disposed of the proceeds therefrom shall be returned to the permanent fund of the Montana Agricultural College.

Section 4. This Act shall take effect and be in full force after its passage and approval.

Approved March 2, 1909.

issued and sold as soon as possible after the passage of this act. (Act approved March 15, 1895).

780. (Sec. 1659.) **State Normal School Bond Fund.**—All funds realized from the sale or leasing of the lands (being one hundred thousand acres) granted by the United States to the State of Montana for the establishment and maintenance of a state normal school under and by virtue of the provisions of Sec. 17 of the act of congress, approved February 22, 1889, entitled "An Act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states," are hereby pledged as security for the payment of the principal and interest of the bonds authorized by this act, and all moneys or revenues derived from the said lands or any of them, whether on account of sales, leases, sales of timber or otherwise, are hereby set apart and shall constitute a fund for the payment as hereinafter provided of the principal and interest of the said bonds, which shall be a first lien on said state normal school bond fund. (Act approved March 15, 1895).

781. (Sec. 1660.) **Interest Warrants.**—It shall be the duty of the state treasurer to keep all moneys derived from the state normal school lands hereinbefore mentioned in a separate fund, to be known and designated as the state normal school bond fund, and out of the moneys in such fund he shall pay, after approval by the state board of examiners, (a) the cost and expense of issuing of the bonds herein provided for, (b) the interest on the bonds herein authorized, when due and (c) when such bonds shall become payable, he shall call in and pay them as rapidly as the money in such fund will permit, after providing for the interest, and in the event there shall not be sufficient funds in the state normal school bond fund to pay the interest when due the board of state examiners shall, by an order entered upon their minutes, cause warrants to be issued on the state normal school bond fund for the amount of the interest due, and the warrants so issued shall draw interest at the rate of six per cent. per annum; and said warrants shall be paid by the treasurer as soon as sufficient funds accumulate in said fund to pay the same; and by reason of delivery of

said warrants to the holders of said bonds in satisfaction of accrued interest, there shall be no default in the payment of interest. (Act approved March 15, 1895).

782. (Sec. 1661.) **Advertisement of Sale of Bonds.**—It shall be the duty of the state treasurer to give notice by advertising for not less than two insertions in one newspaper published in the city of Helena, Montana, and in one newspaper published in the city of New York, N. Y., that he will on the second day of April, 1895, sell fifty thousand dollars of the bonds herein authorized, and will receive bids therefor, and said bonds shall on said day be by him sold to the highest bidder. If no satisfactory bids are then received, said bonds may then be re-advertised or may be sold afterwards at private sale; Provided, however, that none of said bonds shall at any time be sold at less than par. (Act approved March 15, 1895).

783. (Sec. 1662.) **Disposition of Proceeds of Bonds.**—The money derived from the sale of said bonds shall be used to erect, furnish and equip buildings for the use and benefit of the state normal school of the state of Montana, at the city of Dillon, in said state. (Act approved March 15, 1895).

784. (Sec. 1663.) **Buildings of School.**—Immediately upon receipt of the money, the proceeds of the sale of said bonds, the state treasurer shall turn over the same to the treasurer of the state normal school, and it shall be disbursed by him, on orders of the executive board of the said state normal school, in the erection and furnishing of a suitable building or buildings for the use and benefit of the state normal school, upon plans and specifications first submitted to and approved by the state board of education; Provided, however, that the general supervision of the construction and erection of such building or buildings and the furnishing and equipping thereof shall be under the control of the state board of education, upon plans and estimates first submitted to and approved by the state board of education. (Act approved March 15, 1895).

785. (Sec. 1664.) **State not Liable on Bonds.**—Nothing in this act shall be so construed as to in any way hold the state of Montana liable for the payment of the bonds herein authorized, or the interest thereon. (Act approved March 15, 1895).

Section 786. **Investment of State Normal School Funds.**—The state board of land commissioners is hereby auth-

orized and required to invest and keep invested all moneys belonging to the permanent normal school fund, in any state, county, city or school district securities of this state, and in any state capitol building bonds now issued or which may be hereafter issued, and in first mortgages on farm land in this state, as provided in Section 2196 as herein amended, which in its judgment is a safe investment. The board may make its bids for any of state securities in the same manner as private persons, and under no restrictions other than those imposed upon private persons seeking investments herein. (Act approved March 4, 1909).

787. **Same.**—That the state board of land commissioners of the State of Montana may, and they are hereby directed and authorized to invest any and all sums of money now in the state normal school bond fund not necessary for the payment of interest on bonds outstanding against said fund, in such securities, at such rate of interest, for such time, and under such conditions as such board may deem advisable. (Act approved March 5, 1903. Sec. 1). (8th Sess. Chap. 91).

788. **Redemption of Bonds.**—That said board be, and it is hereby authorized and directed to use and apply any and all moneys in said bond fund as may be deemed advisable and not necessary for the payment of interest on bonds outstanding against said fund, to the purchase and redemption of all or any of such bonds heretofore issued and now outstanding against said fund, which can be purchased at a fair and satisfactory price, and before the period when said bond shall become due and payable by operation of law, and to pay for said bond such premium, or sums, in addition to the par value of same as such board may, in their discretion deem for the best interest of said fund. Provided, that said board shall at no time pay, or cause to be paid for said outstanding bonds or any thereof, a sum larger than the par value thereof and the interest yet to accrue thereon in addition to the said par value. (Act approved March 5th, 1903, Sec. 2). (8th Sess. Chap. 91).

789. **Duty of Auditor.**—The state auditor is hereby authorized and directed to draw his warrants on the said bond fund for the payment of any and all of said bonds so purchased by reason thereof. (Act approved March 5th, 1903, Sec. 3). (8th Sess. Chap. 91).

790. **Securities, How Paid For.**—Whenever the board has purchased any securities as provided in Section 1 of this Act (Sec. 786.) and the same are duly executed and delivered to the President of the board, the board shall direct the state auditor to draw his warrant upon the state treasurer for the amount thereof specifying the fund upon which and the person in whose favor the said warrant shall be drawn, whereupon the state auditor shall draw a warrant upon the state treasurer accordingly, which warrant shall be delivered to the president of the state board of land commissioners and shall be paid by the state treasurer upon the delivery to him of the purchase securities; provided that the state treasurer shall purchase interest bearing warrants issued against any fund whenever ordered so to do by the state board of land commissioners. (Act approved March 3d, 1903, Sec. 2). (8th Sess. Chap. 47).

SENATE BILL 73.

Investment of permanent funds of state normal school.

State board of land commissioners may make bids.

Permanent school and permanent university fund, how invested.

Mortgages on farm lands.

Board of land commissioners may appoint appraisers of lands.

Term for which mortgage shall run.

Interest.

Payment of principal and interest of mortgages in installments.

Kind of lands upon which mortgage loans may be made and to what persons.

When mortgages may be satisfied.

Abstracts.

Attorney general shall examine abstracts.

Costs of appraisement.

An Act to amend Sections 786 and 2196 and 2197 of the Revised Codes of the State of Montana of 1907, concerning the investment of the funds of the state normal school, permanent university funds, permanent agricultural college funds and permanent school funds.

Be it enacted by the Legislative Assembly of the State of Montana.

Section I. That Section 786 of the Revised Codes of the State of Montana of 1907, be, and the same is hereby amended so as to read as follows:

Section 786. The state board of land commissioners is

hereby authorized and required to invest and keep invested all moneys belonging to the permanent normal school fund, in any state, county, city or school district securities of this state, and in any state capitol building bonds now issued or which may be hereafter issued, and in first mortgages on farm land in this state, as provided in section 2196 as herein amended, which in its judgment is a safe investment. The board may make its bids for any of state securities in the same manner as private persons and under no restrictions other than those imposed upon private persons seeking investments herein.

Section II. That Section 2196 of the Revised Codes of the state of Montana of 1907 be, and the same is hereby amended so as to read as follows.

Section 2196. All moneys belonging to the permanent school and permanent university funds must be invested:

First. In bonds of the State of Montana or of the United States.

Second. In interest bearing warrants upon the general fund of the state.

Third. In such bonds of the several counties and cities of the state as the board deems most safe and secure.

Fourth. In bonds of school districts within the State of Montana provided, that before any such moneys are so invested, the board must be satisfied that the bonds, so as to be negotiated are the only bonds issued by the school district, and that the outstanding indebtedness of such district does not exceed, three per cent upon valuation of the property within it.

Fifth. In any state capitol building bonds of the State of Montana, now issued, or which may be hereafter issued.

Sixth. In first mortgages on farm lands in the state, not exceeding in amount one-third ($\frac{1}{3}$) of the actual value of any subdivision on which the same may be loaned, such value to be determined by the state board of land commissioners, who may appoint appraisers for said purpose, as in cases of appraisements of state lands. The said first mortgages on farm lands, and each of them shall run for a period of not exceeding ten (10) years, and the funds so invested shall draw interest at the rate of six per cent (6%) per annum; said interest together with ten per centum of the whole amount of the principal shall be paid in annual installments, and the interest when

paid shall be converted into and become a part of the funds of such institution.

Such first mortgage loans shall only be made upon cultivated lands within the state to which shall be appurtenant a sufficient water right, the title to which has been adjudicated as in the owner of said lands, and to persons who are actual residents thereof, and in no case on lands of which the appraised value is less than ten (\$10.00) dollars an acre. Any and all of said mortgages which run for a greater period than five (5) years may be satisfied at any time after five years from the date thereof, upon the payment of the full amount due. The applicant for the loan upon any farm land, shall furnish a complete and satisfactory abstract, at his own expense, of the title of both the land and the appurtenant water right and before any loan is made the attorney general of Montana shall examine said title, and if he shall find title resting in said applicant, he shall certify the same to the state board of land commissioners. The cost of appraising such loan shall be estimated by the board and the amount of said estimate paid by the applicant to the state board in advance of and before any appraisal of such land shall be made.

Section III. That Section 2197 of the Revised Codes of the State of Montana of 1907 be, and the same is amended so as to read as follows:

Section 2197: That the state board of land commissioners is hereby authorized and required to invest and keep invested all moneys belonging to the permanent school fund, and permanent agricultural college fund in any state, county, city or school district securities in this state, or in any state capital building bonds now issued or which may be hereafter issued and in such first mortgages on farm lands in the state, as provided in, and in the manner set forth in sub-section 6, of section 2196 herein, which in the judgment of the board are safe investments.

The board may make its bids for any of said securities in the same manner as private persons and under no restrictions other than those imposed upon private persons seeking investment herein.

Section IV. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 4, 1909.

CHAPTER VI.

State Text Book Commission.

- Section 791. Appointment of state text book commission.
- Section 792. Organization of commission.
- Section 793. Meeting of commission.
- Section 794. Contracts for supplying text books.
- Section 795. Selection of text books.
- Section 796. Contracts and agreements.
- Section 797. Bond for performance of contracts.
- Section 798. Forfeiture of contract for non-performance.
- Section 799. Price list of books to be printed and distributed.
- Section 800. Penalty for using other than selected books.
- Section 801. Annual report as to the use of books.
- Section 802. Election upon proposition to supply free text books.
- Section 803. Special levy to provide free text books.
- Section 804. Compensation of text book commissioners.

791. **Appointment of State Text Book Commission.**—The governor is hereby authorized to nominate and appoint a state text book commission consisting of seven members, five of whom shall be persons actively engaged in the common public school work of the state at the time of their appointment. The terms of three members of said commission first appointed shall be for a period of three years each, and the terms of four members of said commission first appointed shall be for a period of five years each; and thereafter at the expiration of the respective terms of the members first appointed their successors shall be appointed by the governor for a term of five years. If a vacancy occurs during the terms of any of the members, of said commission by reason of death, resignation or otherwise, the governor shall make appointment to fill such vacancy and the person so appointed shall hold office until the expiration of the term for which the person he succeeds was appointed. (Act approved March 7, 1907, Sec. 1). (10th Sess. Chap. 132).

792. **Organization of Commission.**—The commission at its meeting shall organize by taking the constitutional oath of office, which oath shall be filed in the office of the secretary of state, electing from among the members a president and secretary and formulating rules for its government. Five members shall constitute a quorum for the transaction of all business. All votes cast for or against the adoption of any text book shall be recorded in the minutes of the commission, together

with the names of those voting for or against such adoption; Provided, that all meetings shall be opened to the public and that said commission must make a full report to the governor not later than the first Monday in November next preceeding any regular or special meeting of the Legislature. (Act approved March 7, 1907, Sec. 2). (10th Sess. Chap. 132).

793. **Meetings of Commission.**—The state text book commission shall meet in the state capitol in the city of Helena, on the third Monday in June, 1907, and every five years thereafter and the president of said commission is authorized to call a meeting thereof on the first Monday of October next preceeding the sessions of the legislature, if in his opinion, there shall be business of importance to transact. He must also on ten days' notice to the members to be given by the secretary, call a meeting of the commission at any time to receive proposals and to enter into contracts with publishers for supplying text-books whenever new contracts shall become necessary by reason of the contracts for certain books heretofore entered into becoming terminated by rescission or otherwise ceasing to be in full force and effect, and to adopt additional supplementary books whenever it is deemed for the best interests of the schools of the state. At the meeting held on the third Monday in June, 1907, and every five years thereafter the commission shall adopt a uniform series of text books for use in all the public schools of the state not including high schools. Said commission may adjourn from day to day until it shall have made such adoption, provided the session shall not continue beyond six actual days, and nothing herein contained shall be so construed as to have any reference to Section 1030 (2000) of the Political Code relating to school libraries, but said section shall remain in full force and effect. (Act approved March 7, 1907, Sec. 3). (10th Sess. Chap. 132).

794. **Contracts for Supplying Text Books.**—Beginning with April 1st, 1907, and every five years thereafter in which a full series of text-books is to be adopted in conformity with this Act, the superintendent of public instruction shall advertise for thirty days in two daily newspapers in this state giving notice that the text-book commission will meet, as herein provided, and that they will receive sealed proposals up to twelve o'clock noon, of said third Monday in June, for supplying the State of Montana with a series of basal text-books for use in all the

public schools of said state, for a period of five years from and after the first day of September A. D. 1907, and every fifth year thereafter, in the following branches to-wit: Reading, spelling, writing, arithmetic, geography (elementary and advanced), language and grammar, physiology and hygiene, civil government (state and national), history of the United States (elementary and advanced).

Said commission are hereby empowered to adopt such other text-book supplementary to the basal text-books above referred to as they may deem advisable. Said sealed proposals shall be addressed to the chairman of the state text-book commission, Helena, Montana, and shall be indorsed "Sealed proposals for supplying text-books for use in the State of Montana." Said proposals shall state the net wholesale prices at which the publishers whose books may be adopted by the text-book commission, will agree to deliver the same in the city of Chicago, Illinois, F. O. B., to merchants in Montana, or to school districts purchasing the same. They shall also state the exchange prices for new books adopted in exchange for the old books in the hands of the pupils, and for the new books in the hands of districts or dealers, which may be displaced, grade for grade and shall further state the retail price at which they will keep all the text books so adopted on sale uniformly in at least one place in each county throughout the state. Whenever any contract shall be terminated by recession, or shall otherwise cease to be in force and effect, the text-book commission shall, within ten days after the termination of such contract advertise in the same manner and for the same length of time as elsewhere mentioned in this section for proposals to furnish text-books on the same subjects as those embraced within such contract for the same length of time and bids shall be received in the same manner as hereinbefore provided. The publishers contracting and agreeing to supply text-books for use in the State of Montana under provisions of this Act, shall cause to be prepared a special map and special supplement descriptive of Montana for the geography adopted by said commission. They shall also cause to be prepared a special supplement for Montana for the civil government adopted, which supplement shall contain not less than thirty pages. They shall further agree to maintain the mechanical excellence of the books adopted by said commission, fully equal

to the samples submitted in binding, printing, quality of paper, and other essential features, and the books shall be of the latest revised edition. The map and special descriptive geography of Montana shall be revised every five years by the publishers. (Act approved March 7, 1907, Sec. 4). (10th Sess. Chap. 132).

795. **Selection of Text-Books.**—It shall be the duty of said text-book commission to meet at the time and place mentioned in said notice and open sealed proposals in the presence of a quorum of said commission and in public to select and adopt such text-books, both basal and supplementary, for use in all the public schools of this state. The series of text-books, so selected and adopted by said text-book commission shall be certified to by the chairman and secretary and said certificate with a copy of all the books named therein shall be placed on file in the office of the superintendent of public instruction. Such certificate must contain a complete list of all books adopted by said commission, giving the wholesale, retail and exchange prices for which each kind and grade will be furnished, as provided in the preceding section, and the name of the publishers contracting to furnish the same. The said books named in said certificate shall for a period of five years from and after the first day of September of the year in which they are adopted be used in all public schools of the state to the exclusion of all others. And in the case of any text-book whose publication shall not have been completed before the meeting of the state text-book commission, it shall be permissible for the publishers in making a bid to file with the commission a copy of the manuscript of such text-book, together with such exhibits as will satisfactorily illustrate the quality of paper, typography and binding to be used in the publication of such text-book, and it shall be permissible for the commission to adopt such text-book in their discretion, the same as in the case of any text-book previously published. Provided, that nothing in any part of this act shall be so construed as to prevent the purchase or use by any person or district of any supplementary or reference books for use in any of the schools of the state. (Act approved March 7th, 1907, Sec. 5). (10th Sess. Chap. 132).

796. **Contracts and Agreements.**—The said text-book commission shall have power to make such contracts and agree-

ments for the use and supply of text-books in the name of the state as they shall deem necessary for the best interest of the public schools of the state, and shall require of all publishers contracting and agreeing to furnish books adopted by the said text-book commission bonds equal in amount to one-half the value of the books to be furnished, conditioned that upon the failure on the part of such publishers to comply with the terms of such contracts or any part thereof, in any county of the state, upon notice being given as provided for herein, said bonds, may, be by the governor of the State of Montana, be declared forfeited, and actions brought in the name of the state upon such bonds to recover the full amount named therein which amount shall be deemed to be fixed and liquidated damages for the breach of such contracts; Provided, that the text-book commission may, at their discretion, reject any and all proposals if it be deemed by them to be to the interest of the state so to do, and they shall advertise for new proposals, stating the time when such new proposals will be received by them, not later, however, than thirty days from the rejection of the first proposals: Provided, further, that, the contract price of such books shall not exceed the lowest wholesale price charged for the same books in Chicago, F. O. B., to any state in the United States. (Act approved March 7, 1907, Sec. 6). (10th Sess. Chap. 132).

797. **Bond for Performance of Contracts.**—The contract with the publishers shall take effect only when the publishers of the books adopted by the said text-book commission shall have filed with the secretary of state their bond, with at least two sufficient sureties, to be approved by the governor in such sum as shall be determined, by said text-book commission, conditioned, that they shall comply with the terms of their proposal to the state and such further conditions as may be agreed upon between said text-book commission and the publishers contracting with the state. (Act approved March 7, 1907, Sec. 7). (10th Sess. Chap. 132).

798. **Forfeiture of Contract for Non-Performance.**—In case the publishers of the books adopted by the said text-book commission shall not on or before the 15th day of July, A. D., of the year in which the series of text-books is to be adopted have filed with the secretary of state their bond as hereinbefore provided, or in case they shall not on or before the 15th day of

July, A. D. of said year have performed all the obligations of their contracts with respect to the exchange and introduction of books and the preparation and supply of the special maps, and the special descriptive matter for the geography so adopted, or the special supplement for the civil government, or in case they shall at any time thereafter violate or fail to perform any of the conditions specified in their bond as hereinbefore provided and shall fail within reasonable time after due notice has been given by the governor to make good their guarantee in any respect in which they may have failed, then this adoption shall become null and void. The said text-books adopted by the said text-book commission under this Act and upon compliance of the publishers of the conditions aforesaid shall continue in use for the period of five years from the first day of September of the year above mentioned to the exclusion of all others except as herein otherwise provided. (Act approved March 7, 1907, Sec. 8). (10th Sess. Chap. 132).

799. **Price List of Books to be Printed and Distributed.**—Whenever the publishers of the books adopted under the provisions of this bill shall have filed their bonds as hereinbefore provided, it shall be the duty of the state superintendent of public instruction to cause all prices of the text-books as guaranteed by the publishers to be properly printed and distributed through the county superintendents to the trustees of all school districts in the state who shall cause the same to be kept constantly posted in a conspicuous place in each school room in their district and it shall be the duty of the several county superintendents to keep themselves informed as to whether such prices are actually maintained by the said publishers, and at once notify the superintendent of public instruction of any violation of the contracts entered into by virtue of the authority contained in this Act, which may come to their knowledge and it shall be the duty of the superintendent of public instruction to promptly communicate such information to the governor. (Act approved March 7, 1907, Sec. 9). (10th Sess. Chap. 132).

800. **Penalty for Using Other Than Selected Books.**—Any school officer, teacher or trustee, who shall use or provide for the use in the public schools of the state, text-books other than those adopted by the said text-book commission, except as herein otherwise provided, shall be deemed guilty of a

misdeemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. (Act approved March 7, 1907, Sec. 10). (10th Sess. Chap. 132).

801. Annual Report as to the Use of Books.—All county superintendents and all school officers are charged with execution of this law and the county school superintendent shall require the trustees of the several school districts or the clerks thereof, to report annually whether or not the authorized text-books are used in their schools. (Act approved March 7, 1907, Sec. 11). (10th Sess. Chap. 132).

802. Election Upon Proposition to Supply Free Text Books.—Upon the petition of five legal voters of any school district other than in incorporated cities, and upon petition of one hundred legal voters in incorporated cities, towns, and villages, filed with the board of trustees or board of education, it shall be the duty of the board of trustees or board of education as the case may be to notify the voters of such school district that an election "for" or "against" free text-books will be held at the next ensuing election for the members of the board of trustees or board of education, and the ballots to such effect shall be received and canvassed at such election and if a majority of all votes cast in the district shall be found to be in favor of free text-books it shall be the duty of the board of trustees or board of education as the case may be, to purchase at the expense of such district all the text-books required for use of all the pupils attending school in such school district, and said text-books shall be loaned to the pupils of said public schools, free of charge, subject to such rules and regulations as to care and custody, as the board of trustees or board of education shall prescribe; Provided, that the pupils may purchase at cost any of the text-books so furnished, when desired by them. Provided, that the question of free text-books shall be submitted to a vote in every school district in the state at the regular election held on the first Saturday of April, 1907, or any year thereafter without petition as hereinbefore provided for, and the notice of such election must, in addition to the other matters required by law, contain a statement of the fact that the question of free text-books will be voted upon at such election. (Act approved March 7, 1907, Sec. 12). (10th Sess. Chap. 132).

803. Special Levy to Provide Free Text Books.—That for

the purpose of raising money to pay for school books, which may be furnished to pupils free by any district adopting free text-books a special levy upon the taxable property of such district, shall be made by the county commissioners of the county on estimates furnished by the school trustees of the district, if the money received from the general fund from the district be insufficient and said levy shall be made within thirty days from and after the adoption of said free text-books in any district that has by majority vote adopted the same, and when made the tax levied shall be collected in the same manner as other taxes are collected; Provided, further, that any district that shall furnish free text-books shall have the right, through its board of trustees, to adopt supplementary books within the meaning of this Act and provided that this adoption has been authorized by a two-thirds vote of the trustees of said district. (Act approved March 7, 1907, Sec. 13). (10th Sess. Chap. 132).

804. **Compensation of Text-Book Commissioners.**—The members of said text-book commission provided for by this Act, shall receive the sum of \$6.00 per diem for each day necessarily engaged in transacting business and while in session, and actual traveling expenses; and there is hereby appropriated the sum of one thousand dollars per year, or so much thereof as may be necessary to carry out the provisions of this Act; Provided, that said commission shall not be in session more than ten days in any one year. (Act approved March 7, 1907, Sec. 14). (10th Sess. Chap. 132).

CHAPTER VII.

- Article I. Superintendent of Public Instruction.
 Article II. County Superintendent of Schools.
 Article III. School Districts.
 Article IV. Election of School Trustees.
 Article V. Board of Trustees.
 Article VI. District Clerks.
 Article VII. Teachers.
 Article VIII. Schools.
 Article IX. Pupils.
 Article X. Free County High Schools.
 Article XI. Duties of County Treasurer.
 Article XII. Duties of County Clerk, Clerk of District Court and
 the Justices of the Peace.
 Article XIII. Teachers' Institutes.
 Article XIV. Examinations and Certificates.
 Article XV. Compulsory Attendance.
 Article XVI. Industrial Schools.
 Article XVII. City Superintendent of Schools.
 Article XVIII. School Funds.
 Article XIX. Bonds.
 Article XX. Vacancies.
 Article XXI. Tree Planting.
 Article XXII. Pioneer Day.
 Article XXIII. School Libraries.
 Article XXIV. Miscellaneous.

ARTICLE I.

Superintendent of Public Instruction.

- Section 805. Election, qualification, oath and bond.
 Section 806. Duties.
 Section 807. General powers.
 Section 808. Duty. Blanks.
 Section 809. Same. Examinations.
 Section 810. Same. Course of study.
 Section 811. Same. Institute rules.
 Section 812. Same. County superintendents.
 Section 813. Same. Records.
 Section 814. Same. School laws.
 Section 815. Same. Seal.
 Section 816. Same. Institutes.
 Section 817. Same. Reports.
 Section 818. Same.
 Section 819. Apportionment of school fund.
 Section 820. Clerk. Salary.
 Section 821. Salary of superintendent of public instruction.
 Section 822. Expenses.

805. (Sec. 1700). **Election, Qualification, Oath and Bond.**—There shall be chosen by the qualified electors of the state, at the time and place of voting for members of the legislature, a superintendent of public instruction, who shall have attained the age of thirty years at the time of his election, and shall have resided within the state two years next preceding his election, and is the holder of a state certificate of the highest grade, issued in some state, or is a graduate of some reputable university, college or normal school. He shall hold his office at the seat of government, for the term of four years from the first Monday in January following his election, and until his successor is elected and qualified. Before entering upon his duties he shall take the oath of civil officer and give a bond in the penal sum of ten thousand dollars, with not less than two sureties, to be approved by the governor and attorney general. (Act approved March 11, 1895).

806. (Sec. 1701.) **Duties.**—The superintendent shall preserve in his office all books, maps, charts, works on education, school reports and school laws of other states and cities, plans for school buildings and other articles of educational interest and value which may come into his possession as such officer, and at the expiration of his term shall deliver them, together with the reports, statements, records and archives of his office to his successor. (Act approved March 11, 1895).

807. (Sec. 1702.) **General Powers.**—He shall have the general supervision of the public schools of the state. (Act approved March 11, 1895).

808. (Sec. 1703.) **Duty. Blanks.**—He shall cause to be printed, and furnished to the proper officers or persons all school registers, reports, statements, notices and blanks for returns needed or required to be used in the schools or by the school officers, in the state. He shall prepare and furnish to school officers, through the county superintendents, lists of publications approved by him as suitable for school libraries; such lists shall contain also the lowest price at which such publication can be purchased, and the terms. He shall also prescribe rules and instructions for the proper care and use of school libraries and such other information relative thereto as he shall think needful. (Act approved March 11, 1895).

809. (Sec. 1704.) **Same. Examinations.**—He shall prepare all questions to be used in the examination of applicants for

teachers' county certificates, and prescribe the rules and regulations for conducting all such examinations. (Act approved March 11, 1895).

810. (Sec. 1705.) **Same. Course of Study.**—He shall prepare and prescribe a course of study for all the public schools of the state. (Act approved March 11, 1895).

811. (1706.) **Same. Institute Rules.**—He shall prescribe rules and regulations for the holding of teachers' institutes. (Act approved March 11, 1895).

812. (Sec. 1707.) **Same. County Superintendents.**—He shall counsel with and advise county superintendents upon all matters involving the welfare of the schools; he shall, when requested, give them written answers to all questions concerning the school law. He shall decide all appeals from the decision of the county superintendent, and may for such decision, require affidavits, verified statements or sworn testimony as to the facts in issue. He shall prescribe and cause to be enforced rules of practice and regulations pertaining to the hearing and determining of appeals, and necessary for carrying into effect the school laws of the state. (Act approved March 11, 1895).

813. (Sec. 1708.) **Same. Records.**—He shall keep a record of his official acts, and shall file in his office all appeals and papers pertaining thereto. (Act approved March 11, 1895).

814. (Sec. 1709.) **Same. School Laws.**—He shall at least once in four years cause to be printed the school laws of the state, with such notes and decisions thereon as may seem to him advisable and shall furnish them as they are needed to the school officers in the state. (Act approved March 11, 1895).

815. (Sec. 1710.) **Same. Seal.**—He shall provide and keep a seal, which shall be the official seal of the state superintendent of public instruction, and by which all of his official acts may be authenticated. (Act approved March 11, 1895).

816. **Same. Institutes.**—He shall attend and assist at teachers' institutes and aid, and encourage generally, teachers in qualifying themselves for the successful discharge of their duties. He shall also as far as he shall find practicable address public assemblies on subjects pertaining to public schools, and shall labor faithfully in all practicable ways for the welfare of the public schools of the state and shall perform such

other duties as shall be required of him by the law. (Act approved March 8th, 1897, Sec. 1). (5th Sess. 129).

817. (Sec. 1712.) **Same. Report.**—He shall on or before the first day of December preceding the biennial session of the legislative assembly, make and transmit to the governor a report showing:

1. The number of school districts, schools, teachers employed and pupils taught therein, and the attendance of pupils and studies pursued by them.

2. The financial condition of the schools, their receipts and expenditures, value of school houses and property, cost of tuition and wages of teachers.

3. The condition, educational and financial, of the Normal and higher institutions connected with the school system of the state, and, as far as it can be ascertained, of the private schools, academies and colleges of the state.

4. Such general matters, information and recommendations relating to the educational interest of the state as he may deem important. (Act approved March 11, 1895).

818. (Sec. 1713.) **Same.**—Fifteen hundred copies of the report of the superintendent of public instruction shall be printed biennially, in the month of December preceding the session of the legislative assembly. Two copies shall be furnished to each of the members of the legislative assembly, one copy to each county superintendent of the state, one copy to the clerk of each school board, two to each state officer, one to each state and territorial superintendent; fifty copies shall be filed in the office of the superintendent of public instruction and ten in the state historical library. The balance shall be distributed among the various college, university and other libraries of the United States. (Act approved March 11, 1895.)

819. (Sec. 1714.) **Apportionment of School Fund.**—He shall between the first and tenth days of February of each year, apportion the state school fund among the several counties of the state, in proportion to the number of children of school age in each as shown by the last enumeration authorized by law. It shall be the duty of the state board of land commissioners to notify the state auditor on or before the tenth day of January of each year, the amount of the state school fund subject to apportionment; and the said auditor immediately upon receipt of such notification shall issue his warrant on the state treas-

urer for the said amount. Thereupon the state treasurer shall certify said apportionment to the several county treasurers not later than the first Monday in March; Provided, that the several county treasurers have fully complied with Sec. 183 of "An Act concerning revenue," approved March 6, 1891, in which case the county treasurers, upon receiving notice from the state treasurer of the amounts due their counties from the state school fund, may deduct said amount from the amount found due the state by their counties and remit the balance to the state treasurer. The superintendent of public instruction shall certify to the county superintendent of schools of each county, the amount apportioned to that county. (Act approved March 11, 1895).

State v. Cave, 20 Mont. 473; 52 Pac. 202. The superintendent of public instruction is required to apportion the state school funds among the counties in proportion to the number of children of school age in each county.

Jay v. School District, 24 Mont. 228; 61 Pac. 253. The moneys derived from interest on the state school fund, and other sources, controlled by the state, are apportioned to the counties, and the amount falling to each county is made available for school purposes not later than February 10th of each year.

820. (Sec. 1715.) **Clerk. Salary.**—The superintendent of public instruction shall have power to appoint one clerk, who shall receive an annual salary of fifteen hundred dollars, and shall perform such duties pertaining to the office as the superintendent may direct. Said clerk shall also perform the duties of clerk of the state board of education. (Act approved March 11, 1895).

821. **Salary of Superintendent of Public Instruction.**—The annual salary of the superintendent of public instruction, for all services now required of him or which may hereafter be devolved upon him by law, is three thousand dollars. He shall also be paid his traveling expenses, actually and necessarily incurred in the discharge of his duties, not to exceed five hundred dollars in any one year. (Act approved March 6, 1907, Sec. 2). (10th Sess. Chap. 116).

822. (Sec. 1717.) **Expenses.**—All necessary expenditures of money incurred by the superintendent of public instruction for postage, stationery, printing and expressage, not exceeding two hundred and fifty dollars in any one year, shall be paid by the state. (Act approved March 11, 1895).

ARTICLE II.

County Superintendent of Schools.

- Section 823. Election. Term. Oath. Bond.
 Section 824. General powers.
 Section 825. Duty. Visiting schools.
 Section 826. Same. Blanks.
 Section 827. Same. Record.
 Section 828. Same. Controversies.
 Section 829. May administer oaths.
 Section 830. Apportionment of school moneys; warrants.
 Section 831. Preside at institutes.
 Section 832. May issue temporary certificates.
 Section 833. Annual report.
 Section 834. Boundaries of school districts.
 Section 835. Expenses of office.
 Section 836. Must not teach.
 Section 837. Qualifications.
 Section 838. Census to be transmitted to bureau of agriculture,
 labor and industry.

823. (Sec. 1730.) **Election. Term. Oath. Bond.**—A county superintendent of schools shall be elected in each organized county in this state at the general election preceding the expiration of the term of office of the present incumbent, and every two years thereafter, who shall take office on the first Monday in January next succeeding his election, and hold for two years or until his successor is elected and qualified. The person so elected shall take the oath or affirmation of office, and shall give an official bond to the county in a sum to be fixed by the board of county commissioners of said county. The county commissioners of any county, shall, by appointment, fill any vacancy that may occur in the office of county superintendent, until the next general election; Provided, that all persons otherwise qualified shall be eligible to the office of the county superintendent of common schools without regard to sex. (Act approved March 11, 1895).

824. (Sec. 1731.) **General Powers.**—The county superintendent shall have the general supervision of the public schools in his county. (Act approved March 11, 1895).

825. (Sec. 1722.) **Duty. Visiting Schools.**—He shall visit every public school under his supervision at least once each official year, and oftener if he shall deem it necessary to increase its usefulness. He shall at such visits carefully observe the conditions of the school, the mental and

moral instruction given, methods employed by the teacher in teaching, training and drill, the teachers' ability, and progress of the pupils. He shall advise and direct the teacher in regard to the instruction, classification, government and discipline of the school and the course of study. He shall keep a record of such visits and by memoranda indicate his judgment of the teacher's ability to teach and govern, and the condition and progress of the school, which shall be open to inspection to any school trustee. During his visits to the schools of his county the county superintendent shall consult with the trustees and clerks of all school districts upon all matters relating to the good and welfare of their schools and shall instruct them, whenever necessary, in their duties relating to the reports to be made out by them and forwarded to him annually as the law requires. (Act approved March 6, 1909).

826. (Sec. 1733.) **Same. Blanks.**—He shall carry into effect all instructions of the state superintendent given within his authority. He shall distribute to the proper officers and to teachers all blanks furnished by the state superintendent and needed by such officers and teachers. (Act approved March 11, 1895).

827. (Sec. 1734.) **Same. Record.**—He shall keep a record of his official acts. He shall preserve all books, maps, charts and apparatus sent him as a school officer, or belonging to his office. He shall file all reports and statements from teachers and school boards and shall turn them over to his successor in office. (Act approved March 11, 1895).

828. (Sec. 1735.) **Same. Controversies.**—He shall decide all matters in controversy arising in his county in the administration of the school law or appealed to him from the decisions of school officers or boards. An appeal may be taken from his decision, in which case a full written statement of the facts, together with the testimony and his decision in the case, shall be certified to the state superintendent for his decision in the matter, which decision shall be final, subject to adjudication or the proper legal remedies in the state courts. (Act approved March 11, 1895.)

829. (Sec. 1736.) **May Administer Oath.**—The county superintendent shall have power to administer oaths of office to all subordinate school officers and to witnesses, and to ex-

amine them under oath in case of appeal, of revoking the certificate of a teacher and in all controversies and questions arising in the administration of the school laws brought or coming before him for opinion, order or decision; but he shall not receive pay for administering such oaths. (Act approved March 11, 1895).

830. **Apportionment of School Moneys; Warrants.**—The county superintendent shall apportion all school moneys to the school districts in accordance with the provisions of this title quarterly, and he may make apportionments at such other time as may be required or deemed necessary for the convenience of school officers. He shall certify to the several district clerks and county treasurers the amount so apportioned to the several districts, and the trustees shall draw their warrants on the county treasurer in favor of persons entitled to receive the same. Such warrant shall show for what purpose the money is required, and no such warrant shall be drawn unless there is money in the treasury to the credit of such district. Provided, that school trustees shall have the authority to issue warrants in anticipation of school moneys which have been levied but not collected, for the payment of current expenses of schools, but such warrants shall not be drawn in any amount in excess of the sum already levied. (Act approved March 14th, 1901, Sec. 1). (7th Sess. 121).

State v. Cave, 20 Mont. 473; 52 Pac. 202.

Jay v. School District, 24 Mont. 228; 61 Pac. 253.

831. (Sec. 1738.) **Preside at Institutes.**—He shall preside over all teachers' institutes held in his county, and shall elect suitable persons to instruct therein from the list of teachers commissioned by the state board of education. (Act approved March 11, 1895).

832. (Sec. 1730.) **May Issue Temporary Certificates.**—He shall have power to issue, if he deem it proper to do so, temporary certificates, valid until the next regular examination, to persons holding certificates of like grade granted in other counties, or upon any certificates or diplomas possessed by the applicant showing his fitness for the profession of teaching; Provided, that no person shall be entitled to receive such temporary certificates more than once in the same county. (Act approved March 11, 1895).

833. (Sec. 1740.) **Annual Report.**—He shall, on or before

ARTICLE III.

School Districts.

- Section 839. School district defined.
 Section 840. Organization of new district.
 Section 841. District boundaries.
 Section 842. Apportionment of moneys to new districts.
 Section 843. Division of district funds and property.
 Section 844. District in two counties.
 Section 845. Employment of teacher not qualified.
 Section 846. Must maintain school for four months. Division of district.
 Section 847. Unauthorized text books; penalty.
 Section 848. Powers as body corporate.
 Section 849. When district may be created.

839. (1750.) **School District Defined.**—The term “school district,” as used in this title, is declared to mean the territory under the jurisdiction of a single board, designated as “board of trustees,” and shall be organized in form and manner as hereinafter provided, and shall be known as district No. of county; Provided, that all school districts now existing, as shown by the records of the county superintendents, are hereby recognized as legally organized districts. (Acts approved March 11, 1895).

840. (1751.) **Organization of New District.**—For the purpose of organizing a new district, a petition in writing shall be made to the county superintendent, signed by the parents or guardians of at least ten census children, between the ages of six and twenty-one years, residing within the boundaries of the proposed new district, and residing at a greater distance than two miles from any school house, which petition shall describe the boundaries of the proposed new district and give the names of all children of school age residing within the boundaries of the proposed new district, at the date of presenting said petition. The County Superintendent shall give notice to parties interested by posting notices at least ten days prior to the time appointed by him for considering said petition, in at least three of the most public places in the proposed new district, and one on the school house door of each district affected by the proposed change, or if there be no school house, then in one of the most public places of said old district, and shall on the day fixed in the notice proceed to hear said petition, unless a protest,

in writing, signed by at least a majority of the tax paying freeholders residing within such proposed school district shall be filed with the county superintendent of schools before or at the time fixed in the notice of the hearing of said petition, and in that event such new and proposed school district shall not be created. If no such protest be filed then the county superintendent shall make an order establishing said district and describing the boundaries thereof, and from any order made by the county superintendent of schools an appeal may be taken by three resident taxpayers of said new district to the board of county commissioners within thirty days, and their decision shall be final; Provided, that should the county superintendent refuse to make an order establishing said new district an appeal may be taken by three resident tax payers of said new district, in the manner hereinbefore described; Provided, that no new school district shall be established which does not contain property of an assessed valuation of at least Ten Thousand Dollars (\$10,000), as shown by the last official assessment roll of the county in which said proposed school district is located. (Approved March 3, 1911).

841. (Sec. 1752.) **District Boundaries.**—The boundaries of any district cannot be changed, except in forming new districts, unless a majority of heads of families residing on the territory which it is proposed to transfer or include, present a petition in writing to the county superintendent, which petition shall describe the change which it is proposed to have made. It shall also state the reason for desiring said change and the number of children of school age residing in the territory to be transferred or included. The county superintendent shall file said petition in his office, and shall give notice to parties interested by posting notices at least ten days prior to the time appointed for considering said petition, one of which shall be in a public place in the territory which it is proposed shall be annexed or transferred, and one on the door of the school house in each district affected by the change, or if there be no school house in such district, then in some public place in such district or districts, and at the time stated in said notices he shall proceed to hear said petition and if he deem it advisable, he shall grant the same and make an order fixing the boundaries, and unless an appeal be taken to the board of county commissioners within thirty days, and upon

ARTICLE III. School Districts.

- Section 839. School district defined.
- Section 840. Organization of new district.
- Section 841. District boundaries.
- Section 842. Apportionment of moneys to new districts.
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in writing, signed by at least a majority of the tax paying freeholders residing within such proposed school district shall be filed with the county superintendent of schools before or at the time fixed in the notice of the hearing of said petition, and in that event such new and proposed school district shall not be created. If no such protest be filed then the county superintendent shall make an order establishing said district and describing the boundaries thereof, and from any order made by the county superintendent of schools an appeal may be taken by three resident taxpayers of said new district to the board of county commissioners within thirty days, and their decision shall be final; Provided, that should the county superintendent refuse to make an order establishing said new district an appeal may be taken by three resident tax payers of said new district, in the manner hereinbefore described; Provided, that no new school district shall be established which does not contain property of an assessed valuation of at least Ten Thousand Dollars (\$10,000), as shown by the last official assessment roll of the county in which said proposed school district is located. (Approved March 3, 1911).

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a hearing thereof the decision of said board shall be final. All of the papers, documents and records in the case shall be certified to the county-commissioners for their determination of the matter on appeal; Provided, that two or more districts lying contiguous may, upon a petition of a majority of the heads of families residing in each of said districts presented to the county superintendent in writing, be united to constitute but one district; Provided, further: That joint districts (districts lying partly in one county and partly in another) may be formed in the same manner as other new districts are formed, except that the petition herein provided for must be made to the county superintendent of each county affected; but in the case of joint districts, all of the provisions herein enumerated for the formation of a new district must be by concurrent action of the superintendent of each county affected. (Act approved March 11, 1895).

842. (Sec. 1753.) **Apportionment of Moneys to New Districts.**—No new district, formed by the subdivision of an old one, shall be entitled to any share of public money belonging to the old district until a school has actually been taught one month in the new district, and unless within eight months from the order of the county superintendent granting such new district, a school is opened, the action making a new district shall be void and all elections or appointments of trustees or clerks made in consequence of such action, and all rights and office of parties so elected or appointed shall cease and determine. (Act approved March 11, 1895).

843. (Sec. 1754.) **Division of District Funds and Property**—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 for the division of 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 to such funds as remain to the credit of said old district or districts at the time of the organization of said new district, and said 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 moneys received in payment of such special tax until the same shall be apportioned by the county superintendent, whose duty it shall be to apportion said money quarterly 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 shall have been taught therein one month. (Act approved March 11, 1895).

844. (Sec. 1755.) **District in Two Counties.**—Whenever a district lies partly in one county and partly in another, the county superintendent must apportion to such district such proportion of the school money to which such district is entitled as the number of school census children residing in that portion of the district situate in his county bears to the whole number of school census children in the whole district. The trustees and teachers of joint districts must make to the superintendent of each county in which the district is located, the reports which other trustees and teachers are required to make and also the number of pupils attending the school from each county; and all other acts which from their nature should be separately kept and done, 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 certificates, from the superintendent of the county in which the school house is located. (Act approved March 11, 1895).

845. **Employment of Teacher not Qualified.**—The board of trustees of any school district who shall employ any teacher who is not legally qualified to teach in public schools of their district, shall be deemed guilty of a misdemeanor; Provided, that this Section shall not apply to those trustees who do not consent to such employment. (Act approved March 14th, 1901, Sec. 3). (7th Sess. Chap. 122).

Jay v. School District, 24 Mont. 223; 61 Pac. 251. A contract for the employment of a teacher holding a certificate for a school year of nine months, is of no effect. Teachers must make annual reports to the county superintendent, or if the employment be only three months, at the end of such time.

846. Must Maintain School for Four Months. Division of District.—No school district shall be entitled to receive any apportionment of any school moneys, which shall not have maintained a free school for at least four months during the next preceding school year, nor shall any school district, which fails to make its annual report to the county superintendent, as provided by law, on or before October 15th of each year, be entitled to receive any apportionment of any school moneys. Any and all such moneys thus forfeited by any school district shall be apportioned by the county superintendent to other school districts of his county; Provided, that any new district formed by the division of an old one shall be entitled to its apportionment, where the time that school was maintained in the old district before division, and in the new one after division, shall be equal to at least four months, and, provided further, that in isolated sections of a district consisting of not less than four children and districts not less than five miles from the established school house in such district, where a school is maintained for three or four months by a regular qualified teacher for the benefit of the children of the families of such section, such district may draw the apportionment of school money for the children so attending said schools. (Act approved March 6, 1909).

847. Unauthorized Text-Books; Penalty.—The trustees of any school districts using text-books other than those prescribed by law (except for supplementary purposes) shall be deemed guilty of a misdemeanor. Provided, that the foregoing shall only apply to those trustees consenting to the use of such other books. (Act approved March 8th, 1897, Sec. 4). (5th Sess. 130).

848. (Sec. 1759.) Powers as Body Corporate.—Every school district constituted and formed as provided in this title shall be and is hereby declared to be a body corporate, and under its own proper name or number as such corporate body may sue and be sued, contract and be contracted with, and may acquire, purchase and hold and use personal or real property

for school purposes mentioned in this title, and sell and dispose of the same. (Act approved March 11, 1895).

Jay v. School district 24 Mont. 232; 61 Pac. 254. School districts are public corporations but their powers are very limited. They can exercise none except such as are conferred by the law creating them.

849. (Sec. 1760.) **When District May be Created.**—No school district shall be created between the first day of March and the first day of September following of each year. (Act approved March 11, 1895).

ARTICLE IV.

Election of School Trustees.

- Section 850. Election of trustees, classification of districts.
- Section 851. Elections in districts of first class.
- Section 852. Conduct of election.
- Section 853. County commissioners to call election.
- Section 854. Appointment of judges and notices of election.
- Section 855. Hours of election.
- Section 856. Publication of notice of election.
- Section 857. Qualification of electors.
- Section 858. Ballots and method of voting.
- Section 859. Challenges. Oath of voters.
- Section 860. Tally list and certificates of votes cast.
- Section 861. Canvass of votes.
- Section 862. Term of office. Oath of trustee.
- Section 863. Qualification of trustee.
- Section 864. Registration of voters.
- Section 865. Duty of registry agent.
- Section 866. Expenses of election.
- Section 867. Bond and compensation of trustees.

850. **Election of Trustees; Classification of Districts.**—An annual election of school trustees shall be held in each school district in the state on the first Saturday in April in each year, at the district school house, if there be one, and if there be none, at a place designated by the board of trustees or the county commissioners, as the case may be. All districts having a population of eight thousand or more, are, and hereafter shall be, districts of the first class. All districts having a population of one thousand, or more, and less than eight thousand, are, and hereafter shall be, districts of the second class, and all districts having a population of less than one thousand are, and hereafter shall be, districts of the third class. In dis-

districts of the first class, the number of trustees shall be seven; in districts of the second class the number of trustees shall be five, and in districts of the third class the number of trustees shall be three. In school districts having a population of over twenty thousand people there shall be elected at the annual election of school trustees to be held on the first Saturday in April, 1911, two trustees for the term of three years each; and that on the first Saturday in April 1912, there shall be elected three trustees for the term of three years each, and two trustees for the term of one year each; and thereafter there shall be elected at the annual election of school trustees, a trustee or trustees, to succeed the trustee or trustees whose term expires, which election shall be for the term of three years. A vacancy in the office of school trustee must be filled by appointment by the County Superintendent of Schools subject to confirmation by a majority of the remaining members of said Board, if those remaining constitute a majority of the total number of the board, which trustee so appointed shall hold office until the next annual election, at which election there shall be elected a school trustee for the unexpired term.

Approved Feb. 10, 1911.

851. Election in Districts of First Class.—In districts of the first class the election shall be under the supervision of the board of county commissioners of the county in which the same are situated, and shall be held and conducted as hereinafter provided. (Act approved March 6th, 1897, Sec. 2). (5th Sess. 137).

852. Conduct of Election.—In districts of the second and third classes, the election of school trustees shall be held and conducted under the supervision of the board of school trustees. The clerk of the school district must not less than fifteen days before the election required under this Act, post notices in three public places in said district, and in incorporated cities in each ward, which notices must specify the time and place of election, and the hour during which the polls will be opened. The trustees must appoint by an order entered in their records three qualified electors of said districts, to act as judges at such election, and the clerk of the district shall notify them by mail of their appointment. Said judges shall appoint one of their number to act as clerk at such election. If the judges named are not present at the time for opening the polls, the

electors present may appoint judges, and the judges so appointed shall designate one of their number to act as clerk. In the districts of the second and third classes, having fifty or more children of school age, the names of all candidates for membership on the school board must be received and filed by the clerk and posted at each polling place at least five days next preceding the election. Any five qualified electors of the district may file with the clerk the nominations of as many persons as are to be elected to the school board at the ensuing election. (Act approved February 28th, 1899, Sec. 1). (6th Sess. 56-7).

853. County Commissioners to Call Election.—The board of county commissioners shall, at least thirty days before the annual election of school trustees, by an order entered upon the minutes of their meeting, designate and establish a suitable number of polling places, and create an equal number of election precincts to correspond, and define the boundaries thereof. (Act approved March 3rd, 1899, Sec. 2). (6th Sess. 58).

Hauswirth v. Mueller, 25 Mont. 160; 64 Pac. 325.

854. Appointment of Judges and Notices of Election.—The board of county commissioners shall, at least ten days before the day of annual election for trustees in any district of the first class, appoint three qualified electors of the district for each polling place established, to act as judges of election, and the county clerk shall notify such persons by mail of their appointment. Such judges shall designate one of their number to act as clerk at such election. If the judges appointed or any of them are not present at the time for the opening of the polls, the electors present may appoint judges, who must be qualified electors to act in the place of those who are absent. The county clerk shall, at least fifteen days before the election required to be held under this Act, in districts of the first class, give notice of the election to be held in all said districts, by posting a notice thereof in three public places in the district, and in incorporated cities and towns in each ward, which notices must specify the time and place of election, the number of trustees to be elected, and the hours during which the polls will be open. (Act approved March 6th, 1897, Sec. 5). (5th Sess. 138).

855. Hours of Election.—In districts of the first class the polls must be opened at eight o'clock A. M., and kept open

until twelve o'clock M., and from one o'clock P. M., until eight o'clock P. M. In districts of the second and third classes the polls may be opened for such length of time as the board of trustees may order: Provided that, such polls must be kept open from two o'clock P. M., to six o'clock P. M. (Act approved March 6th, 1897, Sec. 6). (5th Sess. 138).

856. **Publication of Notice of Election.**—Whenever in the judgment of the board of county commissioners the best interests of the district will be served by the publication of such notices of election in some newspaper in the county, they may, by an order entered on the minutes of their meeting, direct the county clerk to publish the notice of election required to be given in districts of the first class in some newspaper in the county. (Act approved March 6th, 1897, Sec. 7). (5th Sess. 138).

857. **Qualification of Electors.**—Every citizen of the United States who has resided in the State of Montana for one year, and thirty days in the school district next preceding the election, may vote thereat. Women of the age of twenty-one years and upwards who are citizens of the United States, and who have resided in the State of Montana one year, and in the school district for thirty days next preceding the day of election, may vote thereat; Provided, however, that before any such person shall be entitled to vote in any district of the first class, he or she shall have registered as in this Act hereinafter required. (Act approved March 6th, 1897, Sec. 8). (5th Sess. 138-9).

858. **Ballots and Method of Voting.**—The voting must be by ballot, without reference to the general election laws in regard to nominations, form of ballot, or manner of voting in districts of the second and third class. But in districts of the first class the ballot shall show the name or names of the candidates and the length of time for which they are to be elected. These ballots shall be as near as possible in the following form:

FOR SCHOOL TRUSTEES.

For three (3) year term.

Vote for three:

.....
JOHN ABNER.

.....
WILLIAM BROWN.

.....
ADAM SMITH.

For one (1) year term.

Vote for one.

.....
GEORGE DAVIS.

.....
In districts of the first class no person shall be voted for or elected as trustees, unless he or she has been nominated therefor by a bona fide public meeting held in the district at least ten days before the day of election, and at which at least twenty qualified electors were present, and a chairman and secretary were elected, and a certificate of such nomination setting forth the place where the meeting was held, giving the names of the candidates in full, and if there are different terms to be filled, the term for which such candidate was nominated, duly certified by the chairman and secretary of such meeting, shall be filed with the county clerk at least eight days before the day of election. The nomination and election of any person shall be void, unless he or she was nominated at a meeting as above provided at which at least twenty qualified electors were present, and his or her nomination certified and filed as aforesaid, and the county commissioners shall not count any votes cast for any person, unless he or she has been so nominated and a certificate thereof filed as herein required. The county commissioners shall cause to be printed ballots of the form aforesaid, on which shall appear the names of all persons who are regularly nominated and whose certificate of nomination was properly filed as aforesaid. In districts of the first class the person desiring to vote shall, at the time he or she presents his or her ballot, announce his or her name, and the judges of election if they find such name on the official check list, or if not and he or she takes the

oath herein prescribed, one of the judges shall take the ballot and deposit it in the ballot box, and the clerk shall immediately write the name of such person on the poll list and one of the judges shall write opposite the said name on the official check lists the word "voted." Any person voting at such election who is not entitled to a vote, and any person voting more than once thereat, shall be guilty of a misdemeanor and shall be punished accordingly; and any person taking a false oath, shall be guilty of perjury. No person shall be entitled to a vote at any election for school trustees in any district of the first class unless his or her name shall, on the day of election, appear on the official check list furnished by the county clerk to the judges of election; Provided, however, if any person, otherwise qualified to vote, makes oath before one of the judges that he or she registered at any registry precinct in such district, naming it, before a registry agent, giving his name, to vote at said election, and that his or her name does not appear correctly on said check list, or has been omitted therefrom, or that by reason of absence or sickness during the period of registration he or she was unable to register, the judges of election shall make an entry opposite his or her name on the poll list to the effect that he or she was sworn and voted, and shall permit him or her to vote. The county commissioners shall provide for each election of trustees double as many ballots as there are voters registered within such district. No other ballot than that provided by the county commissioners shall be received by the judges, and in districts of the first class, where a daily paper is issued, the commissioners shall cause to be published in at least one paper for three days preceding the election, such official ballot, and in such districts where there is no daily paper, but a weekly, the official ballot shall be printed at least once in a weekly paper. Trustees must provide in each polling place designated by them a sufficient number of booths, places, or compartments, which must be furnished with such supplies as shall enable the elector to conveniently prepare his or her ballot, and in which electors screened from observation must mark their ballots. Guard railing must be so constructed that only persons within such railing and officers of election can approach within ten feet of the ballot boxes or the booths herein provided. Before delivering any ballot to an elector the judges must print on the

back and near the top of the ballot, with a rubber stamp, the designation "official ballot." Each qualified elector shall receive from the judge one ballot. The elector on receiving his or her ballot must forthwith without leaving the polling place, and within the guard rail provided, and alone, retire to one of the booths or compartments, and prepare his or her ballot, by marking a cross before the name of each candidate for whom he or she desires to vote. After preparing his or her ballot the elector must fold it so that the face of the ballot will be concealed and so that the endorsement stamped thereon may be seen. He or she must then vote forthwith, and before leaving the polling place. Any elector who, because of physical disability or inability to read the English language is unable to mark his ballot, may request one of the judges to help him or her. Any elector who, by accident or mistake spoils his or her ballot, may on returning the spoiled ballot receive another. (Act approved March 6th, 1897, Sec. 9). (5th Sess. 139-141).

State v. Long, 21 Mont. 32; 52 Pac. 647.

859. **Challenges. Oath of Voters.**—Any person offering to vote may be challenged by any elector of the district, and the judges must thereupon administer to the person challenged, an oath in substance as follows: "You do solemnly swear that you are a citizen of the United States; that you are twenty-one years of age; and that you have resided in this state one year, and in this school district thirty days next preceding this election, and that you have not voted this day. So help you God." If he or she is a resident of a district of the second or third class, and he or she takes this oath, his or her vote must be received; otherwise rejected. If he or she is a resident of a district of the first class and takes this oath, and has complied with the provisions of this Act, with reference to elections therein or complies herewith, his or her vote must be received; otherwise it shall be rejected. Any person who shall swear falsely before any registry agent or judge of election, shall be guilty of perjury and shall be punished accordingly. (Act approved March 6th, 1897, Sec. 10). (5th Sess. 141).

State v. Long, 21 Mont. 32; 52 Pac. 647.

860. **Tally List and Certificates of Votes Cast.**—At every election held under this Act, in the districts of the first class, a poll and tally list shall be kept by the judges and clerk at each polling place, and immediately after the close of the polls the

judges shall count the ballots, and if there be more ballots than votes cast the judges must draw by lot from the ballots without seeing them, a sufficient number of ballots to make the ballots remaining correspond with the number of votes cast. The clerk shall write down in alphabetical order in a poll book provided for that purpose the name of every person voting at the time he or she deposits his or her ballots. There shall also be provided a tally list for each polling place; after the ballots have been counted and made to agree with the poll list, the judges shall proceed to count them. The clerk shall enter in the tally list the name of every person voted for trustee, and the term, and tally opposite his or her name, the number of votes cast for him or her and at the end thereof set down in a column provided for that purpose the whole number of votes he or she has received. The judges and clerk shall sign a certificate to said tally list setting forth the whole number of votes cast for each person or trustee, designating the term, and they shall verify the same as being correct to the best of their knowledge before an officer authorized to administer oaths. No informality in such certificate shall vitiate the election, if the number of votes received for each person can reasonably be ascertained from said tally list. In districts of the second and third class said books and tally list shall be returned to the board of trustees of the district, who shall canvass the vote and cause the clerk of the district, to issue certificates of election to the person or persons elected, designating their term, a copy of which must be forwarded to the county superintendent of schools. In districts of the first class said poll books and the tally lists shall be delivered to the county clerk, and the board of county commissioners shall canvass the votes. School trustees are hereby authorized to administer oaths to the judges of election, and the oath of office to the trustees elected. (Act approved March 6th, 1897, Sec. 11). (5th Sess. 142).

861. **Canvass of Votes.**—The board of county commissioners shall canvass the votes of all districts of the first class in the same manner that they are required to canvass the votes at other elections and declare the results. The county clerk shall thereupon make out and mail to the person or persons elected a certificate of election, stating the term, and shall mail a copy thereof to the county superintendent of schools. (Act approved March 6th, 1897, Sec. 12). (5th Sess. 142-3).

862. **Term of Office; Oath of Trustee.**—Trustees elected shall take office immediately after qualifying and shall hold office for the term of three years and until their successors are elected and qualified, or appointed by the county superintendent of schools and qualified. Every trustee elected shall file his or her oath of office with the county superintendent of schools. Any trustee who shall fail to qualify within fifteen days after being elected shall forfeit all rights to office, and the county superintendent of schools shall appoint to fill the vacancy. (Act approved March 6th, 1897, Sec. 13). (5th Sess. 143).

863. **Qualification of Trustee.**—Any person, male or female who is a qualified voter at any election under this Act, shall be eligible to office of school trustee in such district. (Act approved March 6, 1897, Sec. 14). (5th Sess. 143).

864. **Registration of Voters.**—The board of county commissioners of every county in which there shall be a school district of the first class shall, at least fifteen days before the school election for the year 1897, and thereafter at least twenty days before the next annual school election, by order entered on the minutes of the board, lay out such district into not less than two nor more than thirty registry precincts as may seem to the board most necessary, and shall define the boundaries thereof, which shall be known as School Registry Precinct No. 1, School Registry Precinct No. 2, and so on. They shall at the same time the registry precincts are established, appoint one person, male or female, qualified to vote at the coming election in such precinct, registry agent for such precinct, and of the number of registry agents appointed, they shall designate one as principal registry agent for said school district. All registry agents shall be appointed annually, and they are hereby authorized and empowered to administer oaths and affirmations, and to do such other acts as may be necessary to carry out the purposes of this Act. Before entering upon the duties prescribed in this Act, the registry agents must severally take and subscribe before an officer authorized to administer oaths the constitutional oath of office, and file the same with the county clerk of their respective counties. The board of county commissioners shall designate the place where the office of every registry agent appointed under this Act shall be kept, and they shall cause to be published in a newspaper

in the district, or posted in at least three places in each registry precinct, a notice of registration, which shall describe the boundaries of each registry precinct, give the location of the office, and the name of the registry agent therefor, and the date when, and the hours during which the office of the registry agent will be open, and during which persons residing in said precinct may apply and be registered therein. This notice must be published or posted for three days preceding the day when the registration begins, and continued until registration is closed, and shall be issued and signed by the county clerk. Every registry agent appointed under this Act, shall open his office for the purpose of registering votes in his or her district on the tenth day preceding the day of the next annual election for school trustee; Provided, said day be not Sunday or a legal holiday; and should said day be Sunday or a legal holiday, then he or she shall open his or her office on the ninth day next preceding the day of election. He or she shall keep his or her office open between the hours of nine A. M., and twelve M., and one P. M., and five P. M., and from six P. M., until ten P. M., for the period of three days, not including Sunday or a legal holiday and during said time he or she shall register the names of all persons residing in his or her registry precinct, qualified and entitled to vote at the coming election, or who will have a vote thereat under the provisions of this Act. Registry agents shall not sit on Sundays or legal holidays, and while not required to register during the hours of from twelve to one P. M., and five to six P. M., they may nevertheless do so if they desire. Each registry agent shall be provided with an official register. He or she shall enter therein under the proper heading, the number and date of registration, the name, with the first or given name in full and the nativity of the elector, together with the number or particular description of the house, room or building where the elector resides so as to reasonably identify the same. The names shall be entered in alphabetical order the surname being written first. Every person desiring to be registered for such election must apply to the registry agent for the precinct in which he or she shall reside, at his or her office during the hours of registration. No persons shall be registered by any registry agent unless such person is at the time a resident of his or her precinct. Every person applying

to the registry agent shall before he or she shall be entitled to have his or her name registered, take and subscribe to the following oath or affirmation, which shall be administered by the registry agent to-wit: "I do solemnly swear or affirm that I am a citizen of the United States, or that I am entitled to become a citizen of the United States, and it is my honest intention to become such before the school election day of this year; and that I am of the age of twenty-one years. and will have actually and not constructively, been a bona fide resident in Montana twelve months, and in the school district thirty days next preceding the day of election, and that I am not registered elsewhere in this school district for this election year. So help me God." The registry books shall be open at all times to the inspection of any electors of the district. (Act approved March 6, 1897, Sec. 14). (5th Sess. 143).

Hauswirth v. Mueller, 25 Mont. 162; 64 Pac. 326.

865. **Duty of Registry Agents.**—The county commissioners in establishing the voting precincts and registry precincts shall so arrange them that each voting precinct in which the polling place shall be established shall be composed of a certain number of designated registry precincts. On the next day succeeding that on which the registration is closed each registry agent shall deliver to the county clerk of his or her county his or her official registry duly certified by himself or herself. The principal registry agent of each district shall immediately enter upon the work of making therefrom official check lists. He or she shall copy into books to be provided for that purpose and to be known as the official check lists for each election precinct, designating the number of the voting precinct thereon, all the names in alphabetical order contained in the several official registers which have been returned from the several registry precincts within said voting precinct, together with the other entries contained in the official registers and shall complete the making of one official check list in such manner for each election or voting precinct which has been established, within five days. The county commissioners shall allow him or her such assistance as may be necessary to complete such official check list within such time. When he or she has completed the official list he or she shall verify each of them by his oath, that the same is correct according to his or her best information, knowledge and belief and deliver

the same with all official registers to the county clerk who shall on the day of election at or before the time for the polls to open, deliver the official check list for each election precinct or polling place to one of the judges thereof at such polling place. (Act approved March 9, 1897, Sec. 14.) (5th Sess. 145).

866. **Expenses of Election.**—All the expenses necessarily incurred in the matter of holding elections for school trustees shall be paid out of the school funds of the district. For districts of the first class the county commissioners shall provide all the stationery, books and supplies and all bills and claims therefor and for the expenses of such election shall be presented to and allowed by the board of county commissioners when audited by the county auditor as other claims, and said board shall thereupon cause the same to be certified and delivered by the county clerk to the proper board of school trustees, who shall cause the same to be paid out of the school funds of the district as other school expenses are paid. All registry agents shall receive the sum of four dollars per day each for the time which they shall be engaged in work of registration; judges of election in districts of the first class shall receive not to exceed five dollars per day each for all services connected with the election. Judges of election in other districts shall receive no compensation. The compensation hereby provided shall be paid in the same manner as other claims. (Act approved March 6th, 1897, Sec. 14). (5th Sess. 143-6).

867. **Bond and Compensation of Trustees.**—Every school trustee in a district of the first class, provided said districts shall have a population not less than twenty thousand, shall give an official bond in the sum of ten thousand dollars, for the faithful discharge of his or her duties, which bond shall be approved by the district judge and filed with the county clerk, and every such trustee shall be entitled to receive out of the school funds of the district the sum of four dollars for each meeting of trustees, which he or she shall attend in giving the necessary attention to school business, not exceeding however, one meeting each week, and he or she shall receive no compensation for his or her attendance at any meeting unless he or she attends throughout its entire session. The compensation here provided shall be audited and allowed by the board of trustees and entered upon their records. (Act ap-

proved March 3rd, 1899). (6th Sess. 58-9).
State v. Long, 21 Mont. 33; 52 Pac. 647.

ARTICLE V.

Board of Trustees.

- Section 868. Powers. Quorum.
- Section 869. Term.
- Section 870. Trustees of new district.
- Section 871. Annual meeting. Clerk. Bond.
- Section 872. Meeting of board.
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- Section 895. Payment of interest.
- Section 896. Preparation of bonds.
- Section 897. Felony. Penalty.
- Section 898. Surplus money used for building.

868. (Sec. 1790.) **Powers. Quorum.**—Except when otherwise authorized by law every school district is under the control of a board of school trustees, consisting of three members, a majority of which constitutes a quorum for the transaction of business. (Act approved March 11, 1895).
Campana v. Calderhead, 17 Mont. 551; 44 Pac. 84.

869. (Sec. 1791.) **Term.**—The term of office of school trustees is three years from the third Saturday next succeeding their election. (Act approved March 11, 1895).

870. (Sec. 1792.) **Trustees of New District.**—When a new district is organized, such trustees of the old as reside within the limits of the new one shall be trustees in the new district, and the county superintendent must appoint the remaining trustees for the new and the old districts, who shall hold office until the next annual school election. (Act approved March 11, 1895).

871. **Annual Meeting. Clerk. Bond.**—The school trustees shall meet annually on the third Saturday in April, and organize by choosing one of their number chairman, and a competent person, not a member of the board as clerk. In districts of the first class, the clerk before entering upon the duties of his office, shall be required to give an official bond in the sum of ten thousand dollars conditioned for the faithful performance of his duties and to be approved and filed as other official bonds. (Act approved March 3, 1899, Sec. 4). (6th Sess. 59).

872. **Meeting of Board.**—The board shall hold, in districts of the first class at least one and not more than five meetings each month for the transaction of its business; and in all districts at least four meetings each year shall be held, to-wit: On the third Saturdays of April, July, October, and January, at such places and hours as shall be fixed by the board. A special meeting of the board may be held upon the call of the chairman or of any two members of the board at least forty-eight hours written notice shall be given to each member of the board of any special meetings, and no business transaction by the board shall be valid, unless transacted at a regular or special meeting thereof. (Act approved March 3, 1899. Sec. 5). (7th Sess. 59).

873. (Sec. 1795.) **Financial Statement.**—In school districts in which the funds shall equal or exceed twenty-five thousand dollars in each year, there shall be published in the newspaper, which has contracted to do the public printing in the county in which the district is located between the first and tenth day of June of each year, and between the first and tenth day of December each year a financial statement covering the six preceding months, showing in detail, the amount of money received, the amount paid out, and for what purpose it was so paid, and the balance in the county treasurer's hands to the credit of the district at the time of the making of the state-

ment. The costs of such publications shall be paid by order of the board of school trustees out of their respective school funds, and the price paid must not exceed per folio that allowed by the county commissioners for the publication of the financial statement of the county treasurer. (Act approved March 11, 1895).

874. (Sec. 1796.) **Chairman. Rules.**—The chairman shall preside at all the meetings of the board, and shall perform such duties as usually pertain to such officer, and in accordance with the customary rules of order. (Act approved March 11, 1895).

875. **Powers and Duties.**—Every school board unless otherwise especially provided by law shall have power and it shall be its duty:

1. To prescribe and enforce rules not inconsistent with law, or those prescribed by the superintendent of public instruction for their own government of schools under their supervision.

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

3. To enforce the rules and regulations of the superintendent of public instruction for the government of schools, pupils and teachers and to enforce the course of study.

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

5. To rent, repair and insure school houses.

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

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

8. 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 where the interest of the school requires such exclusion.

9. To provide books for indigent children on the written statement of the teacher that the parents of such children are not able to purchase them.

10. To require all pupils to be furnished with suitable books as a condition of membership in the school.

11. To exclude from school and school libraries, all books, tracts, papers and other publications of immoral and pernicious nature.

12. To require teachers to conform to the law.

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

14. To make a report directly to the superintendent of public instruction whenever instructed by him to do so.

15. To determine what branches, if any, in addition to those required by law shall be taught in any school in the district, subject to the approval of the county superintendent.

16. To visit every school in their district at least once in each term and to examine carefully into its management, condition and want. This clause applies to each of the trustees.

17. To provide for each school house separate out houses for the sexes. (Act approved March 8th, 1897, Sec. 5). (5th Sess. 130-131).

Campana v. Calderhead, 17 Mont. 548; 44 Pac. 83.

876. Pupils May Attend in Any District.—Whenever a pupil residing in one district desires to attend school in another district, such pupil shall be permitted to do so; Provided, that the board may refuse pupils from such districts upon the ground of insufficient room; and provided further, that any board of trustees may in their discretion, transfer school moneys due by apportionment to such pupils to the district in which they may attend school. (Act approved February 24th, 1903). (8th Sess. Chap. 26).

877. Transportation of Pupils.—That the trustees of any school district in the State of Montana, when they shall deem it for the best interest of all pupils residing in such district, may close their school and send pupils of the district to another district and for such purpose are hereby empowered to expend any moneys belonging to their district for the purpose of paying for the transportation of the pupils from their district to such other district or districts and for the purpose of paying their tuition. Whenever the trustees of any school district in the state of Montana deem it for the best interest of such district and

the pupils residing therein they may expend any moneys belonging to their district for the purpose of paying for the transportation of pupils from their homes to the public school or schools maintained in such district." (Approved Feb. 23, 1911).

878. (Sec. 1798.) **Duties Concerning Outhouses.**—It is hereby made the duty of the school trustees of all school districts in this state to provide separate privies or outhouses for the use of the sexes at all school houses where the same do not exist, and to see that the same are kept in good repair, and in a clean condition. Such privies or outhouses must be located and built in such manner as to secure privacy. In all cases where there is no fence dividing the play yards of the sexes, the privies or outhouses herein named shall be separate and distinct buildings, and situated at least twenty feet apart. (Act approved Feb. 25, 1893).

879. (Sec. 1799.) **Same.**—It shall be the duty of all trustees, teachers, janitor or janitors of school districts to see that all privies or outhouses are kept in good repair and in a clean condition. (Act approved Feb. 25, 1893).

880. (Sec. 1800.) **Penalty.**—Any trustee or trustees, teacher, janitor or janitors failing to comply with the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars or imprisoned in the county jail not exceeding ninety days or both such fine and imprisonment in the discretion of the court. (Act approved Feb. 25, 1893).

881. (Sec. 1801.) **Powers Over Property.**—The board of trustees of each school district shall have custody of all school property belonging to the district, and shall have power in the name of the district, or in their own names as trustees of the district, to convey by deed all the interest of their district in or to any school house or lot directed to be sold by vote of the district and all conveyances of real estate made to the district or to the trustees thereof, shall be made to the board of trustees of the district and to their successors in office; said board, in the name of the district shall have power to transact all business necessary for maintaining schools and protecting the rights of the district. (Act approved March 11, 1895).

882. (Sec. 1802.) **Shall Not Be Interested in Contracts.**—It shall be unlawful for any school trustee to have

any pecuniary interest, either directly or indirectly, in any erection of school houses, or for warming, ventilating, furnishing, or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the schools, or to receive or to accept any compensation or reward for services rendered as trustee. No board of school trustees shall let any contract for building, furnishing, repairing, or other work, for the benefit of the district, where the amount involved is two hundred and fifty dollars, or more, without first advertising, in a newspaper published in the county for at least two weeks, calling for bids to perform such work, and the board shall award the contract to the lowest responsible bidder; provided, however, the board of school trustees shall have the right to reject any and all bids. (Approved February 25, 1909).

883. (Sec. 1803.) **Liability.**—Any board of trustees, shall be liable as trustees, in the name of the district, for any judgment against the district, for any salary due any teacher on contract and for all debts legally contracted under the provisions of this title, and they shall pay such judgments or liabilities out of the school moneys to the credit of such district. (Act approved March 11, 1895).

Jay v. School District, 24 Mont. 229; 61 Pac. 253. This section does not authorize the entry of a judgment against a school district for the unpaid salary of a school teacher, where the district admits the claim, but has no funds applicable to its payment, and the failure to pay the salary is not a violation of duty by the trustees.

884. (Sec. 1804.) **May Establish High Schools.**—Whenever the interests of the district require it a board of trustees may establish a high school, employ a principal teacher and subordinate teachers, and grade the school into departments and classes. (Act approved March 11, 1895).

885. (Sec. 1805.) **Misdemeanor. Penalty.**—When any school officer is suspended, by election or otherwise, he shall immediately deliver to his successor in office all books, papers, and moneys pertaining to his office; and such officer who shall refuse to do so, or who shall wilfully mutilate or destroy any such books or papers, or any part thereof, or who shall misapply any moneys intrusted to him by virtue of his office, shall be guilty of a misdemeanor, and shall be punished by a fine, in the discretion of the court, not exceeding one hundred dollars. (Act approved March 11, 1895).

886. (Sec. 1806.) **Repayment of Loans.**—Whenever heretofore money has been loaned or advanced to the board of school trustees of any district, for the erection of a school house or school houses therein, by any person or corporation, in reliance upon the proceeds of the sales of bonds for the repayment of the same, the issuance of which bonds have been voted for by a majority of the electors of such district, voting at an election held for the purpose of authorizing the issuance of the same for the erection of a school house or school houses, which said money has been used by such board of school trustees in the erection of a school house or school houses in such district, but which bonds when issued have been adjudged and held to be void or invalid by the supreme court of the state, the money so loaned or advanced may be repaid, together with the interest thereon covering the period for which interest has not been paid, at the rate specified in said bonds so held to be void; said payment to be made by the board of school trustees to the person or corporation who or which had loaned or advanced the same, from the proceeds of the sale of any bonds thereafter issued for the purpose of building one or more school houses in said district, or for any other school purpose. (Act approved Feb. 18, 1895).

887. (Sec. 1807.) **Must Procure American Flags.**—That the trustees of the several school districts of the State of Montana, shall within ninety days from and after the passage of this Act, procure by purchase or donation, an American flag with accompanying necessary poles and ropes, etc., for each and every school house in their respective districts. Said flags shall be of dimensions not less than four by six feet, and they shall be made from durable material. (Act approved Feb. 26, 1895).

888. (Sec. 1808.) **Flags to be Displayed.**—It shall be the duty of the school trustees to cause said flags to be displayed over such school houses every day during the sessions thereof, provided the weather is such as to permit the display without injury to the flags. (Act approved Feb. 26, 1895).

889. (Sec. 1809.) **Expenses of Flags.**—The school trustees are hereby authorized and empowered to use such portion of the school funds as remain in their hands and which is not otherwise appropriated, for the purchase and erection of the flags, poles, etc. (Act approved Feb. 26, 1895).

890. Refunding Bonds.—The school trustees of any school district of the State of Montana, shall have, and are hereby given in addition to the power already conferred on them, authority to issue on the credit of their respective districts, coupon bonds, (and sell or dispose of the same) for the purpose of providing the necessary funds to pay maturing, redeemable, or optional bonds, under the following conditions, to-wit:

1. When there is not sufficient money to the credit of the school district applicable to pay any of said bonds.

2. When in the judgment of the school trustees to levy and collect a special tax for the purpose of paying any of said bonds, would be a hardship and a burden to the school district.

3. All bonds issued under the provisions of this section of this Act shall bear upon their face the words "Refunding School Bonds" and shall also recite in the body of the bond that "this bond is issued for the purpose of providing funds to pay maturing and outstanding bonds."

4. Said bonds shall bear interest at a rate not to exceed six per cent per annum (and interest may be payable semi-annually) and payable and redeemable within a period not exceeding twenty years from the date of issue; provided said bonds shall not exceed in amount the face value of the bonds (and any accrued interest thereon), which they are issued to replace.

5. The trustees shall fix the denominations, terms, rate and form of said bonds not inconsistent with the requirements hereinbefore set forth; and may issue, dispose of or sell such bonds at any time deemed necessary and expedient to enhance, preserve and maintain the credit of their respective districts.

6. Said bonds, when offered for sale, shall be advertised for sale in not less than one newspaper of general circulation, published in the State of Montana, for a period of not less than four weeks preceding the date fixed for sale of said bonds; said advertisement shall briefly describe the bonds, stating the time when, and the place where said sale shall take place; Provided that said bonds shall not be sold at less than their par value, and the trustees are authorized to reject any bids made, and sell said bonds at private sale, or exchange the same for outstanding bonds, if they deem for the best inter-

ests of the district so to do, and it shall not be necessary to hold any election or submit the matter of the issuance of the bonds authorized by this section of this Act, to the electors of the school district.

7. Said bonds and coupons (attached) shall be signed by the chairman of the board of trustees and the school clerk of the district, provided, a lithographic or engraved facsimile of the signatures of the chairman and clerk may be affixed to the coupons, only when so recited in the bonds, and the corporate seal of the school district shall be affixed to each bond.

8. Each bond so issued shall be registered by the county treasurer of the county wherein such school district is located, in a book provided for the purpose, which shall show the date, number, term and amount of each bond, and the person or persons to whom the bonds are issued and sold. (Act approved March 14th, 1901, Sec. 1). (7th Sess. 124-5).

891. (Sec. 1811.) **Disposal of Proceeds of Bonds.**—All moneys arising from the sale of said bonds shall be paid forthwith into the treasury of the county in which said school district is located, and shall be immediately available to apply for the purpose authorized and no other purpose. (Act approved March 2, 1895).

892. (Sec. 1812.) **District Responsible on Bonds.**—The faith of each school district is solemnly pledged for the payment of the interest and redemption of the principal of the bonds which shall be issued under this Act. And for the purpose of enforcing the provisions of this Act, each school district shall be a body corporate, which may sue and be sued by, or in the name of the board of school trustees of such district. (Act approved March 2, 1895).

893. (Sec. 1813.) **Must Levy Tax for Interest, Etc.**—The school trustees of each district shall ascertain the amount and levy annually, a tax necessary to pay the interest, when it becomes due, and provide a sinking fund to redeem the bonds at their maturity; and said tax shall become a lien upon the property in said school district and be collected in the same manner as other taxes for school purposes. (Act approved March 2, 1895).

894. (Sec. 1814.) **Redemption of Bonds.**—When the sum in said sinking fund shall equal or exceed the amount of any bond then due, the county treasurer shall post in his office a

notice that he will, within thirty days from the date of such notice, redeem the bonds then payable, giving the number thereof, and the bonds bearing the lowest number shall be redeemed first in their order; and provided, that such redemption shall be made at some regular interest period as set forth in the bond; and if at the expiration of the said thirty days the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon shall cease but the treasurer shall at all times thereafter be ready to redeem the same on presentation, and when any bond or bonds shall be so purchased or redeemed, the county treasurer shall cancel all bonds so purchased and redeemed, by writing or stamping across the face of such bond or bonds, in ink, the words, "Redeemed and Cancelled," and the date of such redemption. And the bonds paid shall be exhibited to the board of county commissioners, at their first meeting thereafter. (Act approved March 2, 1895).

895. (Sec. 1815.) **Payment of Interest.**—The county treasurer shall pay out of any moneys belonging to the school district, the interest upon any bonds issued by authority of this Act, by such district, when the same shall become due, upon the presentation at his office, of the proper coupon, which shall show the amount due, and the number of the bond to which it belongs; and all coupons so paid shall be cancelled and exhibited to the board of county commissioners at their first meeting thereafter. (Act approved March 2, 1895).

896. (Sec. 1816.) **Preparation of Bonds.**—The school trustees of any school district shall cause to be printed or lithographed, at the lowest rate, suitable bonds, with the coupons attached, when the same shall become necessary, and pay therefor out of any moneys in the county treasury to the credit of said school district. (Act approved March 2, 1891).

897. (Sec. 1817.) **Felony. Penalty.**—If any of the school trustees of any district shall fail or refuse to pay into the proper county treasury the money arising from the sale of any bonds provided for in this Act, they shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the state penitentiary for a term of not less than one year, nor more than ten years. (Act approved March 2, 1891).

898. (Sec. 1818.) **Surplus Money Used for Buildings.**—County school moneys may be used by the county superintendent and trustees for the various purposes as authorized and provided in this article, and for no other purpose, except that in any district, any surplus in the general school fund to the credit of said district, after providing for the expenses of not less than eight months' school may on a vote of the qualified electors of said district, be used for the purpose of building and improvement. If any school money shall be paid by the authority of the board of trustees for any purpose not authorized by this section, the trustees consenting to such payment shall be liable to the district for the repayment of such sum and a suit to recover the same may be brought by the county attorney or if he shall refuse to bring the same, a suit may be brought by any tax paying elector in the district. (Act approved March 2, 1893).

Section 899. 1.—**Duties. Compensation.**—The duties of the District Clerk shall be as follows: To attend all meetings of the board of trustees; but if he shall not be present, the board of trustees shall select one of their number as clerk who shall certify the proceedings of the meeting to the clerk of the district to be recorded by him. He shall keep his record in a book to be furnished by the board of trustees and he shall preserve a copy of all reports made to the County Superintendent and safely preserve and keep all books and documents belonging to his office, and shall turn the same over to his successors.

2. To keep accurate and detailed accounts of all receipts and expenditures of school moneys. At each annual school meeting the district clerk shall present his record book, for public inspection and shall make a statement of the financial condition of the district and of the action of the trustees and such record must always be open for public inspection.

3. To make annually between the first day of September and the fifteenth day of October of each year, an exact census of all the children and youth between the ages of six and twenty-one years residing in the district; and shall specify the sex, age, and date of birth of such children. He shall take the name of each child, the same to be spelled out in full; the christian and surname of both parents, or guardians, including initials of all middle names, together with the place

of residence of said parents or guardians, specified by street and number if living in city or town; or, if living in any other than a city or town, the post office address of said parents or guardians must be given. He shall take specifically and separately a census of all children under the age of six years as in the manner aforesaid. All children under twenty-one years of age who may be absent from home for any cause, shall be included by the district clerk in this census list of the city, town, or district in which their parents reside. He shall make a full report thereof on blanks furnished for this purpose, under oath to the County Superintendent within sixty days after the completion of the census and deliver a copy to the school trustees. Failure to make such report as specified shall constitute a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than fifty dollars. For taking the census the District Clerk shall be paid by the board of trustees from the county school money, to the credit of the district in the same manner as other contingent expenses are paid, at a rate not exceeding ten cents for each child's name returned by him. He shall receive such other compensation for other services as may be allowed by the Board of Trustees. In case any District clerk shall fail to take the census provided in this act, at a proper time, and if through such neglect the district fail to receive its apportionment of school moneys, said school clerk shall be individually liable to the district for the full amount so lost, and it may be recovered on a suit brought by any citizen of such district in the name and for the benefit of the district.

4. To make annually between the first and twentieth days of August of each year, an exact detailed and itemized statement of all moneys expended by or in behalf of the school district, which statement shall show all disbursements made on behalf of the school district from August first of the preceding year to August first of the current year; it is hereby made the duty of the clerk to file said statement on or before August thirty-first of each year, with the chairman of the Board of Trustees of the District and a copy thereof with the County Treasurer of the County wherein the district is located, and in all districts disbursing annually amounts exceeding \$10,000.00, and less than \$25,000.00 the clerk shall, and in districts disbursing less than \$10,000.00, annually, may cause to

be published in some newspaper, in general circulation published in the same county, a copy of said statement, for two consecutive issues, such publication to commence not later than the first week in August. It is hereby made the duty of the Board of County Commissioners of each County to designate the newspaper in which such publication shall be made. (Approved March 6, 1911).

ARTICLE VII.

Teachers.

- Section 901. Certificate of qualification.
- Section 902. Teacher's report.
- Section 903. Duties.
- Section 904. Construction of teacher's contract.
- Section 905. Powers.
- Section 906. Duties.
- Section 907. Penalty.
- Section 908. Qualification, as to age.
- Section 909. Dismissal. Appeal.
- Section 910. Suspension of teacher's certificate.

901. **Certificate of Qualification.**—No person shall be accounted as a qualified teacher, within the meaning of the school law, who has not first appeared before the county superintendent of the county in which he proposes to teach and received a certificate setting forth his qualifications; or who has not received a temporary certificate from the county superintendent; or who has not a state certificate or life diploma from the state board of education, or a certificate from some other county, endorsed by the county superintendent; or a diploma from the state normal college, provided, that special certificates may be granted to persons employed to teach either music, elocution, physical culture, drawing, modern languages, penmanship, or in the first primary or kindergarten department; and provided, further, that nothing herein contained shall be so construed as to invalidate any certificate now in force. (Act approved March 5, 1903, Sec. 1). (8th Sess. Chap 79).

902. (Sec. 1841.) **Teacher's Report.**—Every teacher employed in any public school shall make an annual report to the county superintendent on or before the tenth day of September next after the close of each school year, in the form and manner and on blanks prescribed by the superintendent of public

instruction. A copy of such report shall be furnished to the district clerk.

Any teacher who shall end any school term before the close of the school year, shall make report to the county superintendent immediately after the close of such term, and any teacher who may be teaching any school at the close of the school year shall in his or her annual report, include all statistics from the school register for the entire school year notwithstanding any previous report for a part of the year. Teachers shall make such additional reports as shall be required in pursuance of law by the superintendent of public instruction. No board of trustees shall draw any order or warrant for the salary of any teacher, for the last month of his or her service, until the reports herein required shall have been made and received; Provided, that in all schools acting under the direction of a city superintendent, teachers shall be required to report to such superintendent, whose report shall be accepted by the county superintendent, and the trustees in lieu of the teachers' reports; and that when there is no city superintendent, the report of the principal shall be accepted in lieu of the teachers' reports. (Act approved March 11, 1895).

Jay v. School District, 24 Mont. 226; 61 Pac. 252. Teachers must make these annual reports and are required to report at the end of the term for which they are employed.

903. (Sec. 1842.) **Duties.**—It shall be the duty of the teacher of every public school in this state to keep, in a neat and business like manner, a daily register in such form and upon such blanks as shall be prepared by the superintendent of public instruction, and no board of trustees shall draw any warrant for the salary of any teacher for the last month of his services in the school at the end of any term or year, until they shall have received a certificate from the district clerk that the said register has been properly kept, the summaries made and the statistics entered, or until, by personal examination, they shall have satisfied themselves that it has been done. Teachers shall faithfully enforce in school the course of study and regulations prescribed, and if any teacher shall refuse or neglect to comply with such regulations, then the board of trustees shall be authorized to withhold any warrant for salaries due, until such teacher shall comply therewith. No teacher shall be employed except by

written order of a majority of the board of trustees, at a regular or special meeting thereof, nor unless the holder of a legal teacher's certificate, in full force and effect. (Act approved March 11, 1895).

904. (Sec. 1843.) **School Month. Legal Holidays.**—In every contract between any teacher and board of trustees, a school month shall be construed as twenty school days, or four weeks of five days each, and no teacher shall be required to teach school on Christmas day, the first day of January, the fourth day of July, the twenty-second day of February, the thirtieth day of May, the first Monday in September, the twelfth day of February, and the day appointed by the president of the United States or the governor of this state as a day of Thanksgiving. And no deduction from the teacher's time or wages shall be made by reason of the fact that a school day happens to be one of the days referred to in this section. Any contract made in violation of this section shall have no force or effect as against the teacher. (Act approved Feb. 25, 1909).

905. (Sec. 1844.) **Powers.**—Every teacher shall have power to hold every pupil to a strict accountability in school, for any disorderly conduct on the way to school or during intermission or recess; to suspend from school any pupil for good cause; Provided, that suspension shall be reported to the trustees as soon as practicable for their decision. (Act approved March 11, 1895).

906. (Sec. 1845.) **Duties.**—It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice and patriotism; to teach them to avoid idleness, profanity and falsehood, and to instruct them in the principles of free government, and to train them up to a true comprehension of the rights, duties and dignity of American citizenship. (Act approved March 11, 1895).

907. (Sec. 1846.) **Penalty.**—Any teacher who shall maltreat or abuse any pupil by administering any undue or severe punishment shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred dollars. (Act approved March 11, 1895).

908. (Sec. 1847.) **Qualification, as to Age.**—No person is eligible to teach in any public school in this state, or to re-

ceive a certificate to teach, who has not attained the age of eighteen years. (Act approved March 11, 1895).

909. (Sec. 1848.) **Dismissal. Appeal.**—In the case of the dismissal of any teacher before the expiration of any written contract entered into between such teacher and board of trustees for alleged unfitness or incompetence, or violation of rules, the teacher may appeal to the county superintendent; and if the superintendent decides that the removal was made without good cause, the teacher so removed must be reinstated, and shall be entitled to compensation for the time lost during the pending of the appeal. (Act approved March 11, 1895).

910. (Sec. 1849.) **Suspension of Teacher's Certificate.**—Should any teacher employed by the board of school trustees for a specified time, leave the school before the expiration of such time, without the consent of the trustees in writing, said teacher shall be guilty of unprofessional conduct, and the county superintendent is authorized, upon receiving notice of such fact, to suspend the certificate of such teacher for the period of six months. Should such teacher be the holder of a state certificate or life diploma the county superintendent shall report the delinquency of the teacher to the state board of education who are thereupon authorized to suspend said diploma for the period of one year. (Act approved March 11, 1895).

HOUSE BILL 74.

Lincoln's Birthday Legal Holiday.

"An Act to declare the twelfth day of February in each year to be a legal holiday, to be known and designated as 'Lincoln's Birthday.'"

Be it enacted by the Legislative Assembly of the State of Montana:

That the twelfth day of February in each year is hereby set apart and declared to be a legal holiday, to be known and designated as Lincoln's Birthday.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved February 13th, 1909.

HOUSE BILL 31.

"Columbus Day." Twelfth day of October a public holiday.

"An Act to declare and make the 12th day of October of each and every year a public holiday to be known as 'Columbus Day.'"

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The 12th day of October of each and every year is hereby made and declared a public holiday to be known as "Columbus Day," and shall be recognized, classed and treated as other legal holidays under the laws of this state.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved February 17th, 1909.

HOUSE BILL 97.

Fire drills in schools.

Fire alarm.

Installation of fire gongs.

Misdemeanor.

Penalty.

Failure or refusal to give instructions a misdemeanor.

"An Act to provide for fire drills in the schools of the state."

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That in all schools of the state, either public or private, in which thirty or more children are enrolled, it shall be the duty of the teacher or teachers therein employed to instruct the children under their immediate control and charge once each week during school terms, a fire drill, as hereinafter provided.

Section 2. A fire alarm shall be given by striking a gong, and immediately upon such alarm, the children shall be required to immediately form in lines and leave the building in an orderly manner, through the exit and exits that will most expeditiously clear the building. There shall be no certain day of the week or hour of the day, for giving such alarm, and they shall be given without previous warning to the children.

Section 3. It shall be the duty of the trustees or directors, or other persons having control and management of any school building of the class mentioned in section one of this Act, to

provide one or more gongs therefor, to be placed in such a manner that any teacher may give an alarm without leaving the room or that such alarm could be given from the basement. Each member of any board of trustees or directors, or any other person, whose duty it is to install said gongs as herein provided, who fails or refuses so to do shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than fifty dollars.

Section 4. Any teacher who fails or refuses to instruct in said fire drill in the manner provided for in this Act, after the installation of gongs, as above provided, shall be deemed guilty of a misdemeanor and shall upon conviction, be fined not less than five nor more than twenty-five dollars.

Section 5. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 6. This Act shall be in full force and effect from and after July 1st, 1909.

Approved February 25, 1909.

ARTICLE VIII.

Schools.

- Section 911. Common school defined.
- Section 912. Course of study.
- Section 913. School day.
- Section 914. Sectarian publications forbidden.
- Section 915. School year.
- Section 916. Free kindergartens.
- Section 917. Pupils.

911. (Sec. 1860.) **Common School Defined.**—A common school is hereby defined to be one that is maintained at the public expense in each school district, and under the supervision of the board of trustees. Every common school not otherwise provided for by law shall be open to the admission of all children between the ages of six and twenty-one years residing in the school district, and the board of trustees shall have the power to admit children not residing in the district as hereinbefore provided. (Act approved March 11, 1895).

Campana v. Calderhead, 17 Mont. 551; 44 Pac. 84.

912. **Course of Study.**—All common schools shall be taught in the English language. And instructions shall be given in the following branches, viz: Reading, penmanship, written

arithmetic, mental arithmetic, orthography, geography, English, grammar, physiology and hygiene. With special references to the effect of alcoholic stimulants and narcotics on the human system.

History of the United States and of Montana.

Also a system of humane treatment of animals as embodied in the laws of Montana.

Such instruction to consist of, at least, two (2) lessons of not less than ten minutes each per week.

The principal or teacher in every school shall certify in each of his or her reports that such instruction has been given in the school under his or her control.

Attention must be given during the entire school course to the cultivation of manners. To the laws of health. Physical exercise. Ventilation and temperature of the school room. (Act approved Feb. 24th, 1903). (8th Sess. Chap. 23).

913. **School Day.**—The school day shall be six hours in length, exclusive of an intermission at noon; but any board of trustees in any district having a population of five hundred or more may fix as the school day a less number of hours than six; Provided, that it be not less than four hours, except in the lowest primary grades where the pupils may be dismissed after an attendance of two hours. (Act approved March 8th, 1897, Sec. 7). (5th Sess. Chap. 132).

914. (Sec. 1863.) **Sectarian Publications Forbidden.**—No publication of a sectarian, partisan or denominational character must be used or distributed in any school or be made a part of any school library; nor must any sectarian or denominational doctrines be taught therein. Any school district, the officers of which knowingly allow any school to be taught in violation of these provisions, forfeits all rights to any state or county apportionment of school moneys; and upon satisfactory evidence of such violation, the superintendent of public instruction and county superintendent must withhold both state and county apportionments. (Act approved March 11, 1895).

915. (Sec. 1764.) **School Year.**—The school year shall begin on the first day of September, and end on the thirty-first day of August. (Act approved March 11, 1895).

Jay v. School District, 24 Mont. 229; 61 Pac. 253.

916. **Free Kindergarten.**—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 the state; Provided, further, that the cost of establishing and maintaining such kindergartens shall be paid from the school funds of said districts, and the said kindergartens shall be a part of the public school system and governed as far as practicable in the 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 the teachers of kindergarten schools shall pass such examination on kindergarten work as the kindergarten department of the state normal school may direct, provided that a certificate from a kindergarten teacher's institute of recognized standing shall be recognized by the state normal school. (Act approved February 16th, 1899, Sec. 1). (6th Sess. 64-5).

917. (Sec. 1870).—All pupils who may be attending public schools shall comply with the regulations established in pursuance of law for government of such schools; shall pursue the required course of study, and shall submit to the authority of the teachers of such schools. Continued and wilful disobedience and open defiance of the authority of the teacher shall constitute good cause for expulsion from school. Any pupil who shall in any way, cut, deface or otherwise injure any school house, furniture, fences or outbuilding thereof, or any book belonging to other pupils, or any book belonging to the district library, shall be liable to suspension and punishment, and the parent or guardian of such pupil shall be liable for damages, on complaint of the teacher or any trustee and upon proof of the same. (Act approved March 11, 1895).

SENATE BILL 87.

Dangerous communicable diseases.

Mode of prevention to be taught in public schools.

Duties of board of health regarding.

Duties of school boards.

Superintendent and teachers.

Dismissal for neglect to comply with Act.

School board refusing to comply with act guilty of misdemeanor.

All public schools included.

An Act to provide for teaching in the public schools the modes by which the dangerous communicable diseases are spread and the methods for the restriction and prevention of such diseases.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there shall be taught in every year in every public school in Montana the principal modes by which each of the dangerous communicable diseases are spread, and the method for the restriction and prevention of each such disease as small pox, diphtheria, scarlet fever, measles, tuberculosis, chicken pox, and such other diseases as may be named, and attention called to same by the board of health of this state.

Section 2. That said board shall annually send to the public school superintendents and teachers throughout the state printed data and statements which will enable them to comply with this Act.

Section 3. That school boards are hereby required to direct superintendents and teachers to give oral and black board instruction using the data and statements supplied by the state board of health.

Section 4. That neglect or refusal on the part of any superintendent or teacher to comply with the provisions of this Act shall be considered a sufficient cause for dismissal from the school by the school board.

Section 5. That the member of any school board who shall wilfully neglect or refuse to comply with any provisions of this Act shall be deemed guilty of a misdemeanor and shall be subject to punishment by fine not exceeding one hundred dollars.

Section 6. That this Act shall apply to all public schools in this state including schools in cities or villages whether incorporated under special charter or under the general law.

Approved February 25, 1909.

ARTICLE X.

Free County High Schools.

- Section 918. Any county may establish free high schools.
 Section 919. Petition for establishment and location.
 Section 920. Election, voting.
 Section 921. Canvass of returns.
 Section 922. Special meetings for county commissioners.
 Section 923. Trustee's oath, bond and term of office; vacancies.
 Section 924. Quorum. Officers of board.
 Section 925. Tax levy. Bonds for buildings.
 Section 926. Submission to electors of question of bond issue.
 Section 927. Payment of bonds.
 Section 928. Assessment for maintenance.
 Section 929. Record of board. Warrants.
 Section 930. Sites. Leasing buildings.
 Section 931. Employment of teachers.
 Section 932. Principal may make rules.
 Section 933. Courses of Study.
 Section 934. Admission of pupils.
 Section 935. Pupils from adjoining counties.
 Section 936. Compensation of trustees.
 Section 937. Diploma to admit to state collegiate institutions.
 Section 938. Prior Acts validated.
 Section 939. Same.
 Section 940. Bonds legalized.

918. **Any County May Establish Free High School.**—Any county in the state may establish a county free high school on the condition and in the manner hereinafter prescribed, for the purpose of affording better educational facilities for pupils more advanced than those attending district schools. (Act approved February 25, 1907, Sec. 1). (10th Sess. Chap. 29).

919. **Petition for Establishment and Location.**—Whenever one hundred freeholders in any county shall petition the board of county commissioners, requesting that a high school be established in their county, the county clerk shall give twenty days notice, by publication in the official paper of the county, that such petition has been filed, and that any village, town or city may become a candidate for the location of said high school upon petition of not less than fifty freeholders of said village, town or city, requesting that said place be named as a candidate for the location of said high school. All nominations of places for the location of said school shall be filed with the board of county commissioners within thirty days from the date of the first publication of said notice. Any

number of places may be candidates for the location of said school but no freeholder shall append his name to more than one petition. (Act approved February 25, 1907, Sec. 2). (10th Sess. Chap. 29).

920. **Election. Voting.**—At the expiration of thirty days from the date of the first publication of said notice, the county commissioners shall call an election and appoint precinct judges and clerks. Said election shall be conducted in accordance with the general election laws of the state. The county clerk shall give twenty days notice of such election, by publication in the official paper of the county, that the question of establishing a county free high school in said county, and the location thereof, will be submitted to the qualified electors of said county at a designated time. The notice shall distinctly specify the places which are candidates in the forthcoming election. The qualified electors shall vote, by ballot, for or against the establishment of a county free high school, and any elector who shall vote for the establishment of a county free high school, may vote for not more than one of the places named upon said ballot as a candidate for the location of said school.

The ballot shall be, substantially in the following form:

For a County High School at
Helena,
Marysville,
Against a County High School.

An elector desiring to vote for the establishment of a high school, shall do so by placing an X before the name of the town at which he desires the high school to be located, which shall be a vote in favor of such town. An elector desiring to vote against the establishment of a high school shall do so by placing an X before the clause "Against a County High School," and shall not vote for any town. (Act approved February 25, 1907, Sec. 3). (10th Sess. Chap. 29).

921. **Canvass of Returns.**—After the election, the ballots on said question shall be canvassed in the manner provided for general county elections, and, if the vote in favor of establishing a county free high school shall be a majority of all votes cast upon said proposition, the board of county commissioners shall proceed to canvass the vote for the different

candidates for the location of said school, and the village, town or city having the largest number of votes for the location of said school, provided said number of votes be a majority of all votes cast in favor of the measure, shall be declared to be the place for the location thereof. If the election results in favor of establishing such high school, and any candidate for its location has a majority, the board of county commissioners, by an order duly entered on their minutes, shall so declare this fact, and the board shall immediately thereafter appoint six persons, residents and taxpayers of the county, at least three of whom shall be residents of the village, town or city, where the school is located, who shall, with the county superintendent of schools, constitute a board of trustees for said school.

In case of a tie vote between two or more of the candidates having the highest number of votes for the location of said school the county commissioners shall immediately call another election in the manner provided by law for general county elections, at which the only question to be submitted shall be the location of said school, and only the names of those candidates so tied shall appear upon the ballot. (Act February 25, 1907, Sec. 4). (10th Sess. Chap. 29).

922. **Special Meetings of County Commissioners.**—If such petition is filed at any time when the board of county commissioners is not in session, the county clerk shall notify the commissioners thereof, and a special meeting shall be held to call the necessary election herein provided for. (Act February 25, 1907, Sec. 5). (10th Sess. Chap. 29).

923. **Trustees Oath, Bond and Term of Office; Vacancies.**—The trustees of county free high schools, except the county superintendent of schools, shall, within thirty days after appointment, qualify by taking the oath of office, and by giving such bond as may be required by the board of county commissioners for the faithful discharge of their duties. Said trustees, first appointed, except the county superintendent of schools, shall be divided into two classes of three each; the term of office of each class to be one and two years respectively, the respective terms to be decided by lot. The term of office of those in the first class shall expire one year from the third Saturday in April following their appointment, and the term of those in the second class shall expire two years from

the third Saturday in April following their appointment.

The county commissioners shall appoint three trustees at their regular quarterly meeting in March of each year, and shall fill all vacancies as soon as practicable after the same occur.

The term of office of trustees, other than the county superintendent of schools, except of those first appointed, as hereinbefore provided shall be for two years and until their successors are appointed and qualified. Appointments to fill vacancies shall be for the remainder of the unexpired term, provided that, in all appointments of trustees under this Act, there shall be at least three trustees who are residents of the village, town or city in which said high school is located. Whenever any vacancy occurs in said board of trustees, from any cause, the secretary of the board shall immediately certify such vacancy to the board of county commissioners, who shall fill such vacancies within sixty days thereafter. Said board of high school trustees shall be governed, as to the time and place of meeting, as far as practicable, by the provisions of the general school law of the state. (Act February 25, 1907, Sec. 6). (10th Sess. Chap. 29).

924. **Quorum. Officers of Board.**—A majority of said board shall constitute a quorum for the transaction of all business. At their first meeting in each year the trustees shall choose, from their number, a president, vice-president and a secretary, who shall hold office for one year or until their successors have been appointed and qualified, and said trustees shall have authority to make all necessary rules for their government, not inconsistent with the law. The county treasurer of the county shall be the treasurer of the board and the custodian of all funds available for school purposes under the provisions of this Act. Payments shall be made by said treasurer upon warrants drawn against said funds duly signed by the president, or vice-president and secretary. (Act February 25, 1907, Sec. 7). (10th Sess. Chap. 29).

925. **Tax Levy. Bonds for Buildings.**—At said first meeting, or at some succeeding meeting called for such purpose, said trustees shall make an estimate of the amount of funds needed for building purposes, for payment of teachers' wages and for payment of contingent expenses and they shall present to the board of county commissioners a certified estimate

of the rate of tax required to raise the amount desired for such purposes, and the board of county commissioners must levy such tax as other county taxes are levied. But in no case shall the tax for such purpose exceed in one year the amount of ten mills on the dollar on the taxable property of the county, and when the tax is levied for the payment of teachers' wages and for contingent expenses only, it shall not exceed three mills on the dollar. Provided, that said trustees may, if in their judgment they think best, bond the county for the purpose of raising the money necessary to build or purchase and equip the high school herein provided for, and to purchase a suitable site therefor. But no bonds shall ever be issued to pay for teachers' wages, or for the general expenses in maintaining said school. (Act February 25, 1907, Sec. 8). (10th Sess. Chap. 29).

926. **Submission to Electors of Question of Bond Issue.**—The Secretary of the Board of County Free High School Trustees, whenever a majority of the Board shall so decide, shall certify to the Board of County Commissioners that they have decided to submit to the electors of the County, the question whether County Bonds shall issue for the purpose of the erection or purchase of a building for high school purposes and the equipment thereof, and for a suitable site therefor, and shall include in such certificate the amount of such bonds, which amount shall not exceed the sum of Two Hundred Fifty Thousand (\$250,000) Dollars, in any one county of the first and second class and in all other counties shall not exceed the sum of One Hundred Thousand (\$100,000) Dollars, in any one county. Such bonds may run for a term of twenty years, or less, but no longer, Provided, that any such issue of bonds shall not increase the indebtedness of any county beyond the maximum limit fixed by the State Constitution.

That as soon as practicable after receiving such certificate the Board of County Commissioners shall proceed to submit the question of issuing said bonds to the qualified electors of the County in the manner provided by law for the issuance of other County bonds.

If such bonds are issued by the County Commissioners, at the time of making the levy of taxes for county purposes each year, must levy a tax for that year upon the taxable property in the county for the interest and redemption of said bonds,

and such taxes must not be less than sufficient to pay the interest on said bonds for that year and such proportion of the principal as is to become due during such year, and, in any event, must be high enough to raise annually, for the first half of the term, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay said annual interest and to pay annually a portion of the principal of said bond, equal to the sum produced by taking the whole amount of said bonds out-standing and dividing it by the number of years said bonds have to run, and all money so levied, when collected, must be paid into the County Treasury to the credit of the County Free High School, kept in a separate fund, and to be used for the payment of principal and interest on said bonds, and for no other purpose; Provided, however, that the accumulated money may be invested as is provided for the investment of money collected for the payment of school district bonds.

Said tax shall be levied and collected in the same manner as other county taxes.

Approved March 2, 1911.

927. **Payment of Bonds.**—Said bonds shall be paid, principal and interest, in the manner provided for the payment of other county bonds. (Act February 25, 1907, Sec. 10). (10th Sess. Chap. 29).

928. **Assessment of Maintenance.**—In case bonds are issued, the trustees, in making estimates for the maintenance of the high school, shall not include estimates for building or other purposes for which said bonds are issued. (Act February 25th, 1907, Sec. 11). (10th Sess. Chap. 29).

929. **Record of Board; Warrants.**—The said board of high school trustees shall keep a record of all the official acts done by said board, and shall keep a full record of all warrants issued against moneys belonging to said county free high school. Payments of money can only be made upon warrants drawn against said funds, belonging to said high school; and the warrants so drawn must specify, upon their face, the purpose for which the warrant is drawn. (Act February 25th, 1907, Sec. 12). (10th Sess. Chap. 29).

930. **Sites. Leasing Buildings.**—The said board of trustees shall proceed, as soon as practicable after their appointment and qualification, to select, at the place designated as the loca-

tion for the county free high school, the best site that can be obtained, and the title thereto, upon securing said site by purchase or otherwise, shall vest in the county; the trustees shall then proceed to make purchase of material, and to let such contracts for necessary school buildings as they may deem proper. They shall not, however, make any purchase, or enter into any contract, whereby obligations are assumed in excess of the amount of funds on hand or available through the levy of taxes for the current year, or the issuance of bonds. The trustees may, at their discretion, lease suitable buildings for the use of the high school while new buildings are in process of erection, or may contract with the trustees of the local school district, or any other parties, for the use of suitable buildings for high school purposes for such time as may be deemed best for the interests of the county. (Act Feb. 25th, 1907, Sec. 13). (10th Sess. Chap. 29).

931. **Employment of Teachers.**—After suitable buildings are secured, as herein before provided, for the carrying on of the county free high school, the trustees shall employ some suitable person to take charge of said school, who shall possess such qualifications as are now required to be possessed by a city superintendent of schools, except that said principal shall not be required to possess more than three years experience in teaching; and the trustees shall furnish such assistant teachers as they may deem necessary, and shall designate the salaries which shall be paid to said principal and assistant teachers. (Act February 25th, 1907, Sec. 14). (10th Sess. Chap. 29).

932. **Principal May Make Rules.**—The principal of any such high school with the approval of the board of trustees shall make such rules and regulations as he may deem proper in regard to the studies, conduct and government of the pupils under his charge; and if any such pupils will not conform to, nor obey, the rules of the school, they may be suspended or expelled therefrom by the board of trustees. (Act February 25th, 1907, Sec. 15). (10th Sess. Chap. 29).

933. **Courses of Study.**—There shall be provided such courses of study as will properly fit the student attending said high school for admission to the collegiate class of any of the state educational institutions, and such courses of study shall contain the work now provided for accredited high schools by

the state board of education. (Act February 25th, 1907, Sec. 16). (10th Sess. Chap. 29).

934. **Admission of Pupils.**—Tuition shall be free to all pupils residing in the county where the school is located. The board of trustees shall make such rules and regulations as they deem proper in regard to age and grade of attainments essential to entitle pupils to admission to such school; provided, that no person shall be admitted to such high school who shall not have passed a satisfactory examination or who does not hold an eighth grade common school certificate. If there should be more applicants than can be accommodated at any one time, each district shall be entitled to send its equal number of pupils, according to the number of pupils it may have as shown by the last report to the county superintendent of schools; and the boards of the respective school districts shall designate such pupils as may attend, subject to the proviso above. (Act February 25, 1907, Sec. 17). (10th Sess. Chap. 29).

935. **Pupils From Adjoining Counties.**—If, at any time, the school can accommodate more pupils than apply for admission from the county in which the school is situated, the vacancies may be filled by applications from other counties, upon the payment of such tuition as the board of trustees may prescribe; but at no time shall such pupils continue in such school to the exclusion of pupils residing in the county in which such school is located. (Act February 25, 1907, Sec. 18). (10th Sess. Chap. 29).

936. **Compensation of Trustees.**—The trustees who do not reside at the place where said high school is established are entitled to mileage in attending the meetings of the board. The trustees of said high school shall serve without compensation, but may pay their secretary such reasonable compensation as may be determined, and the board shall make such reports, from time to time, as the county superintendent of schools, or the state superintendent of public instruction, may require. (Act approved February 25, 1907, Sec. 19). (10th Sess. Chap. 29).

937. **Diploma to Admit to State Collegiate Institutions.**—Upon the presentation of a certificate of graduation from any such county high school, within eighteen months from the date of the same, to any state institution of learning, the person, presenting the same, may be admitted without further exam-

ination to said institution of learning. (Act February 25, 1907, Sec. 20). (10th Sess. Chap. 29).

938. **Prior Acts Validated.**—All acts and things of any kind whatsoever, done by any board of county free high school trustees, or by any board of county commissioners, of this state prior to the passage of this Act, under the provisions of the Act of March 3, 1899, for the establishment of county free high schools, or under the Act of March 14, 1901, or the Act of March 5, 1903, amending certain sections of the Act of March 3, 1899, shall be and are hereby ratified and declared to be valid, and of full force and effect. (Act February 25, 1907, Sec. 21). (10th Sess. Chap. 29).

939. **Same.**—That all Acts heretofore done by any board of county commissioners in this state in connection with the submission to the electors of their county of the question of establishing and locating a county free high school, and upon which acts such question was in fact submitted to the electors of such county, and a majority of all votes cast at such election were in favor of the establishment and location of such high school and so found and declared by the board of county commissioners shall be, and are hereby ratified and declared to be valid and of full force and effect. (Act approved March 1, 1907, Sec. 1). (10th Sess. Chap. 61).

940. **Bonds Legalized.**—That all bonds issued or authorized to be issued, at any time prior to the passage of this Act, by the board of trustees of any county free high school in this state, where the question of the issuance of the same was first submitted by said trustees to the electors of the county and a majority of all votes cast at such election were in favor of said bond issue, and so found and declared by said board of trustees, are hereby ratified and declared to be valid and legal obligations and of full force and effect. (Act approved March 1, 1907, Sec. 2). (10th Sess. Chap. 61).

ARTICLE XI.

Duties of County Treasurer.

941. (Sec. 1880.) It shall be the duty of the county treasurer of each county.

1. To receive and hold all school moneys as special deposit, and to keep a separate account of their disbursements to the

several school districts which shall be entitled to receive them according to the apportionment of the county superintendent of common schools.

2. To notify the county superintendent of common schools of the amount of county school fund in the county treasury subject to apportionment whenever required, and to inform said county superintendent of the amount of school moneys belonging to any other fund subject to apportionment.

3. To pay all warrants drawn on county or districts school moneys in accordance with the provisions of this title, whenever such warrants are countersigned by the district clerk and properly endorsed by the holders.

4. To make annually, during the month of October, in each year, a financial report for the last school year and fiscal year ending with June thirtieth, to the county superintendent of common schools, in such form as may be required by him. (Act approved March 11, 1895).

ARTICLE XII.

Duties of County Clerk, Clerk of District Court, and the Justices of the Peace.

Section 942. Duty of county clerk.

Section 943. Duty of clerk of district court.

Section 944. Duty of justice of the peace.

Section 945. Penalty.

942. (Sec. 1890.) **Duty of County Clerk.**—It shall be the duty of the county clerks of the several counties of the state to make a report to the county superintendent of common schools within their counties, during the month of September in each year, of the school tax levied and the assessed valuation of the proper counties for that year. (Act approved March 11, 1895).

943. (Sec. 1891.) **Duty of Clerk of District Court.**—It shall be the duty of the clerk of the district court, at the close of every term thereof, to report to the county superintendent of the county in which said term shall have been held, whether or not any fines, and if any, what ones, were imposed by said court during the said term. (Act approved March 11, 1895).

Jay v. School District, 24 Mont. 228; 61 Pac. 253.

944. (Sec. 1892.) **Duty of Justice of the Peace.**—It shall be

the duty of each justice of the peace of each county to report to the county superintendent during the month of September in each year, whether or not they have imposed and collected any fines during the preceding year, and if any, what ones, with the date at which the same were paid to the county treasurer. (Act approved March 11, 1895).

Jay V. School District, 24 Mont. 228; 61 Pac. 253.

945. (Sec. 1893.) **Penalty.**—All officers mentioned in Sec. 942 (1890), 943 (1891), and 944 (1892), of this title who shall fail or neglect to perform any of the duties required by this title shall be deemed guilty of a misdemeanor, and upon conviction before any court having competent jurisdiction thereof, shall be fined in any sum not less than twenty dollars and not more than one hundred dollars for each neglect; and such fine shall be paid into the county treasury for the benefit of the common schools in said county. (Act approved March 11, 1895).

ARTICLE XIII.

Teachers' Institutes.

Section 946. Teachers' institutes to be held yearly.

Section 947. Same.

Section 948. Length of session.

Section 949. Teachers must attend.

Section 950. High school teachers exempt.

Section 951. "Institute fund."

Section 952. Expenses of institutes.

946. **Teachers' Institutes to be Held Yearly.**—The county superintendent in every county in which there are five or more school districts must hold one teachers' institute in each year, and every teacher employed in a public school in the county must attend the institute and participate in its proceedings; provided, that whenever the state superintendent and two or more county superintendents deem it advisable, a joint institute consisting of the teachers of two or more counties, may be held at any convenient place within such counties to be selected and agreed upon by their superintendents. (Act approved March 7, 1907, Sec. 1). (10th Sess. Chap. 148).

947. (Sec. 1901.) **Same.**—In any county where there are less than five school districts the county superintendent may after conference with the superintendent of public instruction,

hold an institute. (Act approved March 11, 1895).

948. **Length of Session.**—Each session of the institute must continue not less than three nor more than ten days. (Act approved March 8th, 1897, Sec. 8). (5th Sess. 132-3).

949. **Teachers Must Attend.**—When the county superintendent, after conference with the state superintendent, has appointed a time for holding the teachers' institute in his county, it shall be his duty to give written notice of the time and place of holding such institute to every board of school trustees within his county, and to all the teachers of the county, at least thirty days before the opening of such institute. It shall be the duty of all boards of school trustees through their clerks, to notify each and all of the teachers within their districts of the time and place of holding the institute and to direct each and all of their teachers to close their several schools for the purpose of attending the institute. Each and every teacher engaged in teaching a term of school in any district during the time of the institute shall close his or her school during such time and shall attend the institute and take active part in the same without loss of salary for the actual time spent in attending the institute and for the actual time spent in going to and returning from the same. The county superintendent shall in all cases keep and preserve a record of the actual time spent by each teacher of his or her county at the institute and shall furnish both to each teacher and to his board of school trustees a certificate of the time spent by said teachers at the institute. Wilful failure on the part of any teacher to attend the institute shall be considered sufficient cause for the revocation of such teacher's certificate by the county superintendent; Provided, however, that the county superintendent may, in his discretion, excuse any teacher from attending the institute who could not attend same without great and excessive inconvenience, cost, expense, and loss of time. Wilful failure on the part of the board of school trustees of any school district to close their schools, during the time of the holding of the institute as herein required, shall be considered sufficient cause for withholding the public moneys to which such district would otherwise be entitled; provided, however, that, in the case of boards of school trustees as in the case of teachers the great distance of any school district from the place of holding the institute, excessive loss of time, inconvenience, and cost

shall be considered good grounds on which the county superintendent, under authority and direction from the state superintendent, may excuse any board of school trustees from closing their school at such times and from observing the above requirements. (Act approved March 2, 1905). (9th Sess. Chap. 60).

950. **High School Teachers Exempt.**—All high school teachers are hereby exempt from the requirements of this Act. (Act approved March 2, 1905, Sec. 2). (9th Sess. Chap. 60).

951. **"Institute Fund."**—For the purpose of defraying the expenses of the institute mentioned in said Section 949 (1904), there shall be an institute fund created as follows:

First: All moneys received from the issuance of teachers' certificates by the county superintendent.

Second: Moneys received from appropriations by boards of county commissioners; and every board of county commissioners in each county in which a teachers' institute may be held is hereby authorized and directed to appropriate for said "institute fund" as follows:

Counties of the first class not less than \$250 nor more than \$350. Counties of the second class not less than \$250 nor more than \$300. Counties of the third, fourth, fifth and sixth classes not less than \$200 nor more than \$250. Counties of the seventh and eighth classes, not less than \$100 nor more than \$200. (Act approved March 7, 1907, Sec. 2). (10th Sess. Chap. 148).

952. (Sec. 1905.) **Expenses of Institutes.**—The county superintendent must keep an accurate account of the actual expenses of the institute, with vouchers for the same, and present the bill to the county commissioners, who shall allow the same; Provided, that such amount shall not exceed that specified in the last preceding section of this title. (Act approved March 11, 1895).

ARTICLE XIV.

Examinations and Certificates.

- Section 953. Examination of teachers.
- Section 954. County board of educational examiners.
- Section 955. Compensation of board of examiners.
- Section 956. Qualifications of examiners.
- Section 957. Duties of examiners.
- Section 958. Grades of certificates, temporary certificates.
- Section 959. Qualifications of teachers.
- Section 960. Charges for certificates.
- Section 961. Revocation of certificates.
- Section 962. Custody of examination papers.
- Section 963. Status of three year graduate of state normal school.
- Section 964. Status of four year graduate of state normal school.

953. **Examination of Teachers.**—The county superintendent shall hold public examinations of all persons, over eighteen years of age, offering themselves as candidates for teachers of common schools, at the county seat, on the last Friday in February, April, August and November of each year, and when necessary, such examinations may be continued on the following day, at which time he shall examine them by series of written or printed questions, according to the rules prescribed by the superintendent of public instruction. If the percentage of correct answers required by the rules, and other evidence disclosed by the examination, including particularly the superintendent's knowledge and information of the candidates successful experience, the applicant is found to be a person of good moral character, to possess a knowledge and understanding, together with aptness to teach and govern which shall enable such applicant to teach in the common schools of the state the various branches required by law, said superintendent shall grant to such applicant a certificate of qualification. (Act approved March 14th, 1901, Sec. 6). (7th Sess. 123-4).

954. **County Board of Educational Examiners.**—That in each county there shall be a board of county examiners composed of the county superintendent of schools who shall be ex-officio chairman of the board, and two competent persons to be appointed by the board of county commissioners, who at the time of their appointment shall be residents of the county and shall have been actively engaged in teaching for a period of at least eighteen months. Two members of this board shall constitute a quorum for the transaction of business. Those first to be

appointed shall serve for one and two years respectively from the first day of April, 1907, and until their successors are duly appointed and qualified. If vacancies occur in these positions during the terms for which their incumbents were appointed, their successors shall be appointed to serve during their unexpired terms only. Upon the expiration of the regular terms of either of these examiners his successor shall be appointed to serve for two years. (Act approved February 27, 1907, Sec. 1). (10th Sess. Chap. 47).

955. **Compensation of Board of Examiners.**—The compensation of these examiners shall be their actual traveling expenses from their residences to and from the county seat or other point in the county where the examinations are held, and such further compensation per diem as the board of county commissioners may deem just and sufficient for their services, basing such compensation upon the actual quantity of work performed by them and the actual time required to perform it. (Act approved Feb. 27, 1907, Sec. 2). (10th Sess. Chap. 47).

956. **Qualifications of Examiners.**—Such examiners at the time of their appointment must be holders of Montana professional county certificates, or state certificates, or life diplomas, or diplomas from the state university, state normal college, or state college of agriculture and mechanic arts or holders of diplomas as graduates from some reputable university, college, or normal school other than those of Montana. These examiners shall qualify for their positions in the same form and manner required for the qualification of all county superintendents. (Act approved February 27, 1907, Sec. 3). (10th Sess. Chap. 47).

957. **Duties of Examiners.**—The duties of these two examiners shall be to act jointly and equally with the county superintendent in the matter of conducting the examination of teachers and in the marking and grading of papers submitted by them as the results of the examination. This board of examiners shall also conduct all eighth grade examinations in their respective counties when requested to do so by the state board of education to conform with their rules and regulations, and it shall be empowered to grant eighth grade diplomas or common school certificates to all examinees successfully passing such examination. (Act approved February 27, 1907, Sec. 4). (10th Sess. Chap. 47).

958. **Grades of Certificates. Temporary Certificates.**—County certificates shall be of four grades. The professional grade for a term of not less than four years, and the first grade certificate for a term of not less than three years, and the professional and first grade certificates shall be good and valid for as long as the holder thereof continues teaching and gives the county superintendent satisfactory evidence of progress and efficiency, the second grade certificate shall be valid for a term of two years, and the third grade certificate shall be valid for a term of one year according to the ratio of correct answers of the applicant and other evidences of qualification appearing from the examination. No certificate shall be granted unless the applicant shall be found proficient in and qualified to teach the following branches of a common English education; penmanship, orthography, reading, writing, arithmetic, mental arithmetic, geography, English grammar, physiology and hygiene, U. S. History, and theory and practice of teaching. In addition to the above, applicants for a second grade certificate shall pass a satisfactory examination in civics of the United States and Montana, and physical geography; applicants for a first grade certificate shall pass an examination in civics of the United States and Montana, physical geography, American literature and elementary algebra; applicants for a professional grade certificate shall pass an examination in civics of the United States and Montana, physical geography, American literature, elementary algebra, physics and plane geometry. No person shall be employed as teacher in high school or as the principal teacher of a school of more than two departments, who is not the holder of a professional county certificate or the holder of a life or state diploma, issued by the state board of education of the state of Montana, or who is not a graduate of some reputable university, college or normal school. The percentages required to pass any branch shall, by standing rule, be prescribed by the superintendent of public instruction. In addition to these regular grades of certificates, the county superintendent may grant a temporary certificate to teach until the next regular examination, to any person applying at any other time than at a regular examination, who can show satisfactory reasons for failing to attend such examination, subject to rules and regulations to be prescribed by the superintendent of public instruction. Such

temporary certificate shall not be granted more than once to the same person; Provided, that where a temporary certificate has been duly issued to any teacher, and that it is impossible, by reason of sickness or other unavoidable accident, for such teacher to attend the next regular examination, such teacher, upon due and sufficient proof certified to the county superintendent, who shall certify the facts to the state superintendent of public instruction, who may authorize the county superintendent to issue a second permit or may require the teacher to take a private examination. The written answers of all candidates, for county certificates after being duly examined by the county superintendent, shall be kept by him during his term of office, and any candidate thinking an injustice has been done to him or her, by paying a fee of two dollars into the institute fund of the county and by notifying both county and state superintendent of the same, shall have his or her paper re-examined by the superintendent of public instruction. The county superintendent shall upon receipt of such notice from said complaining candidate, transfer said paper to the superintendent of public instruction, who shall re-examine the same and if the answers warrant it shall instruct the county superintendent to issue to such complaining candidate a county certificate of proper grade and the county superintendent shall carry out such instructions. (Act approved March 4th, 1897, Sec. 1). (5th Sess. 146-148).

959. **Qualifications of Teachers.**—No certificate to teach in the public schools of Montana shall be granted to any person, who is not a citizen of the United States, or who has not declared his intention to become a citizen. Any teacher now holding a certificate, who is not a citizen of the United States will be allowed six months time in which to declare his intention to become a citizen, or else have his certificate revoked. No regular or temporary certificate to teach shall be issued to any person under the age of eighteen years, and no professional or first grade certificate shall be issued to any person who has not taught successfully twelve months; and a third grade certificate shall not be issued more than twice to the same person. Third and second grade certificates shall be valid only in the county where issued. A professional or first grade certificate shall be valid in any county in the state upon indorsement as hereinafter provided, and shall be renewed by the

county superintendent upon the proper fee being paid to the institute fund as provided for in case of examination provided, that no professional or first grade certificate shall be renewed unless the applicant has taught at least ten months during the life of said certificate. Said professional or first grade certificate shall be renewed by the county superintendent by his indorsement thereon, upon the payment of the same fee as is required by law for examinations; provided further, that whenever application is made by a holder of an unexpired first grade, second grade, or third grade Montana certificate for examination for any higher grade certificate, and it shall be made to appear to the county superintendent that such applicants have been engaged in teaching in any of the public schools of the state for a period of one year or more, the said applicant shall be entitled to be credited with the percentage of his or her last examination for said first, second or third grade certificate, as the case may be and shall not be required to be examined in any studies except the additional ones prescribed for such certificates, and such other studies that the applicant may not have secured the required percentage upon previous examination; provided, further, that to excuse any candidate from taking the examination upon any branch he or she must have secured upon such branch at his or her last previous examination at least 80 per cent. No person shall be employed or permitted to teach in any of the public schools of the state who is not a holder of a lawful certificate of qualification to teach. Any contract made in violation of this section shall be void; provided, that the special certificate in penmanship, drawing, modern language and music shall be granted upon request of the majority of the members of any board of trustees; such special certificate to be valid for three years and shall entitle the holder to teach only such special branch or branches stated in said certificate; provided, further, that if the attendance upon the aforesaid examination of teachers at the county seat shall work a great hardship to one or more teachers, in the county, the county superintendent, upon application of the state superintendent, may provide for such teachers to take the examination at some convenient place, and the county superintendent may appoint some suitable person to conduct such examination, under the rules and regulations prescribed by the state superintendent of public

instruction. (Act approved March 3, 1905). (9th Sess. Chap. 77).

960. (Sec. 1913.) **Charges for Certificates.**—Every applicant for a county certificate shall pay one dollar to the county superintendent, which shall be used by him in the support of teachers' institutes in the county. (Act approved March 11, 1895).

961. (Sec. 1914.) **Revocation of Certificates.**—The county superintendent is authorized and required to revoke and annul at any time a certificate granted by him or his predecessor for any cause which would have authorized or required him to refuse to grant it if known at the time it was granted, and for incompetency, immorality, intemperance, cruelty, crime against the state law, refusal to perform his duty, or general neglect of the business of the school. The revocation of the certificate shall terminate the employment of such teacher in the school in which he or she may at the time be employed, but the teacher must be paid up to the time of receiving notice of such revocation. (Act approved March 11, 1895).

962. (Sec. 1915.) **Custody of Examination Papers.**—The questions prepared by the superintendent of public instruction when received by the county superintendent shall not be opened or the seal thereof broken until the day of examination. And the county superintendent is prohibited from furnishing or giving to any person or persons any information concerning the questions prepared by the state superintendent. (Act approved March 11, 1895).

963. **Status of Three Year Graduates of State Normal School.**—All graduates of the state normal school who have completed and graduated in the professional course of the three years' course of said school and received a diploma, certifying that either of the said courses, has been completed, shall, on the registry of said diploma in the office of the state superintendent of public instruction, be entitled to teach in the public schools of the State of Montana without other or further examination for the term of three years after such graduation and such graduates shall, on furnishing to the state board of education satisfactory evidence of having successfully taught in the public schools of the state for a term of two years, be entitled to receive from said board a life diploma. (Act approved February 22nd, 1899, Sec. 1). (6th Sess. 51-2).

964. **Status of Four Year Graduates State Normal School.**—All graduates of the said state normal school who have completed and graduated in the four years' course of said school and received a diploma certifying that said course has been completed, shall on the registry of said diploma in the office of the state superintendent of public instruction, be entitled to teach in the public schools of the State of Montana, without other or further examination, for a term of three years after such graduation, and on furnishing to the state board of education satisfactory evidence of having successfully taught in the public schools of Montana for a period of one year, shall be entitled to receive from such board a life diploma. (Act approved February 22nd, 1899, Sec. 2). (6th Sess. 52).

ARTICLE XV.

Compulsory Attendance.

- Section 965. Compulsory attendance. Excuses.
- Section 966. Employment of children under fourteen prohibited.
- Section 967. Employment of children between fourteen and sixteen.
- Section 968. Juvenile disorderly persons.
- Section 969. Truant officers, powers and duties.
- Section 970. Duties of principals, teachers and clerks.
- Section 971. Prosecution of truants.
- Section 972. Commitment to industrial school.
- Section 973. Pauper children.

965. **Compulsory Attendance. Excuses.**—All parents guardians and other persons who have care of children, shall instruct them, or cause them to be instructed in reading, spelling, writing, English grammar, geography, physiology and hygiene, and arithmetic. Every parent, guardian or other person having charge of any child between the ages of eight and fourteen years shall send such child to a public, private, or parochial school, for the full time that the school attended is in session, which shall in no case be for less than sixteen weeks during any current year, and said attendance shall begin within the first week of the school term, unless the child is excused from such attendance by the superintendent of the public schools, in city and other districts having such superintendent, or by the clerk of the board of trustees in village and township districts not having such superintendent, or by the principal of the private, or parochial school, upon satis-

factory showing, either that the bodily or mental condition of the child does not permit of its attendance at school, or that the child is being instructed at home by a person qualified, in the opinion of the superintendent of schools in city or other districts having such superintendent, or the clerk of the board of trustees in village or township districts not having such superintendent, to teach the branches named in this section, or that there is no school taught the required length of time within $2\frac{1}{2}$ miles of the residence of such child by the nearest traveled road; provided, that no child shall be refused admission to any public school on account of race or color. In case such superintendent, principal or clerk refuses to excuse a child from attendance at school, an appeal may be taken from such decision to district court of the county, upon giving a bond, within ten days after such refusal, to the approval of said court, to pay all costs of the appeal, and the decision of the district court in the matter shall be final. All children between the ages of fourteen and sixteen years, not engaged in some regular employment, shall attend school for the full term of the schools of the district in which they reside are in session during the school year, unless excused for the reason above named. Any parent, guardian, or other person, having care of a child between the ages of eight and fourteen years, who shall, in violation of the provisions of this section, fail to place such child in school at the commencement of the annual school term within the time prescribed in this section, shall upon conviction, be fined not less than five dollars nor more than twenty dollars. (Act approved March 3rd, 1903, Sec. 1). (8th Sess. Chap. 45):

966. Employment of Children Under Fourteen Prohibited.—No child under fourteen years of age shall be employed or be in the employment of any person, company or corporation during the school term and while the public schools are in session, unless such child shall present to such person, company or corporation an age and schooling certificate herein provided for. An age and schooling certificate shall be approved only by the superintendent of schools, or by a person authorized by him, in city or other districts having such superintendent, or by the clerk of the board of trustees in village and township districts not having such superintendent, upon a satisfactory proof of the age of such minor and that he has success-

fully completed the studies enumerated in Sec. 965 of this article; or if between the ages of fourteen and sixteen years, a knowledge of his or her ability to read and write legibly the English language. The age and schooling certificate shall be formulated by the superintendent of public instruction and the same furnished, in blank, by the clerk of the board of trustees or the clerk of the district. Every person, company, or corporation employing any child under sixteen years of age, shall exact the age and schooling certificate prescribed in this section, as a condition of employment and shall keep the same on file, and shall upon the request of the truant officer hereinafter provided for, permit him to examine such age and schooling certificate. Any person company, or corporation, employing any minor contrary to the provisions of this section shall be fined not less than twenty-five nor more than fifty dollars for each and every offense. (Act approved March 3rd, 1903, Sec. 2). (8th Sess. Chap. 45).

967. Employment of Children Between Fourteen and Sixteen.—All minors over the age of fourteen and under the age of sixteen years, who cannot read and write the English language shall be required to attend school as provided in Sec. 965, of this article and all the provisions of said section shall apply to said minors; provided, that such attendance shall not be required of such minors after they have secured a certificate from the superintendent of schools in districts having superintendents, or the clerk of the board of trustees in districts not having superintendents, that they can read, and write the English language. No person, company or corporation, shall employ any such minor during the time schools are in session, or having such minor in their employ shall immediately cease such employment, upon notice from the truant officer who is hereinafter provided. Every person, company or corporation violating the provisions of this section shall be fined not less than twenty-five nor more than fifty dollars for each and every offense. (Act approved March 3rd, 1903, Sec. 3). (8th Sess. Chap. 45).

968. Juvenile Disorderly Persons.—Every child between the ages of eight and fourteen years, and every child between the ages of fourteen and sixteen years unable to read, and write the English language, or not engaged in some regular employment and who is an habitual truant from school, or who

absents itself habitually from school, or who while in attendance at any public, private, or parochial school, is incorrigible, vicious, or immoral in conduct, or who habitually wanders about the streets and public places during school hours having no business or lawful occupation, shall be deemed a juvenile disorderly person and be subject to the provision of this act. (Act approved March 3rd, 1903, Sec. 4). (8th Sess. Chap. 45).

969. **Truant Officers. Powers and Duties.**—To aid in the enforcement of this act, truant officers shall be appointed and employed as follows: In city districts the board of trustees shall appoint and employ one or more truant officers; in villages and township districts the trustees shall appoint, if they deem it advisable, a constable or other person as truant officer. The compensation of the truant officer shall be fixed and paid by the board appointing him. The truant officer shall be vested with police powers, the authority to serve warrants, and have authority to enter workshops, factories, stores, and all other places where children may be employed, and do whatever may be necessary, in the way of investigation or otherwise to enforce the provisions of this Act; he is also authorized and it shall be his duty to take into custody the person of any youth between eight and fourteen years of age, or between fourteen or sixteen years of age when not regularly employed or when unable to read, and write the English language, who is not attending school, and shall conduct said youth to the school he has been attending, or which he should rightfully attend. The truant officer shall institute proceedings against any officer, parent, guardian, person, or corporation, violating any provisions of this Act, and perform such other services as the superintendent of schools or the board of trustees 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 and information of the superintendent of the schools and the board of trustees; and he shall make daily reports to the superintendent of schools during the school term in districts having superintendents, and to the clerk of the board of trustees in districts not having superintendents as often as required by him. Suitable blanks for use of the truant officer shall be provided by the clerk of the

board of trustees or the clerk of the district. (Act approved March 3rd, 1903, Sec. 5). (8th Sess. Chap. 45).

970. **Duties of Principals, Teachers and Clerks.**—It shall be the duty of all principals, and teachers of all schools, public, private, and parochial, to report to the clerk of the board of trustees of the city, village or district in which the schools are situated, the names, ages, and residences of all pupils in attendance at their schools, together with such other facts as said clerk may require, in order to facilitate the carrying out of the provisions of this Act, and the clerk shall furnish blanks for such purpose, and such report shall be made during the last week of each month from September to June inclusive of each year. It shall be the further duty of such principals and teachers to report to the truant officer, the superintendent of public schools, or the clerk of the board of trustees, as the case may be, all cases of truancy or incorrigibility in their respective schools as soon after these offenses have been committed, as practicable. (Act approved March 3rd, 1903, Sec. 6). (8th Sess. Chap. 45).

971. **Prosecution of Truant.**—On the request of the superintendent of schools, or the board of trustees, or when it otherwise comes to his notice, the truant officer shall examine into any case of truancy or non-attendance within his district, and warn said truant or non-attendant and his parent, guardian or other person in charge, in writing, of the final consequence of truancy or non-attendance 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 cannot read and write the English language or who is not regularly employed, is not attending school, in violation of the provisions of this Act, the truant officer shall notify the parent, guardian or other person in charge of such child, of the fact, and require such parent, guardian or other person in charge, to cause the child to attend some recognized school within two days from the date of the notice; and it shall be the duty of the parent, guardian, or other person in charge of the child, so to cause its attendance at some recognized school. Upon failure to do so, the truant officer shall make complaint against the parent, guardian or other person in charge of the child in any court of competent jurisdiction in the city, village, or other district in which the offense occurs, for such failure, 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 bond in the penal sum of one hundred dollars, with sureties to the approval of the court, conditioned that he or she will cause the child under his or her charge to attend some recognized school within two days, thereafter and to remain at such school during the term prescribed by law; and upon the failure or refusal of any parent, guardian, or other person to pay said fine and costs or furnish said bond according to the order of the court, then said parent, guardian or other person shall be imprisoned in the county jail not less than ten days nor more than thirty days. (Act approved March 3rd, 1903, Sec. 6). (8th Sess. Chap. 45).

972. **Commitment to Industrial School.**—If the parent, guardian, or other person in charge of any child, shall, upon the complaint under the last section for a failure to cause the child to attend a recognized school, prove inability to do so, then he or she shall be discharged and thereupon the truant officers shall make complaint that the child is a juvenile disorderly person within the meaning of Section 968 (1923), of this article. If such complaint is made before any Mayor, Justice of the Peace or Police Judge, it shall be certified by such Magistrate to the district court in and for the county in which the child resides or to a judge of said district court. The district court or the judge thereof to whom the same is certified shall hear such complaint and if it be determined that the child is a juvenile disorderly person within the meaning of Section 968 (1923), of this Article, the said child shall be committed by the said court or the judge thereof to whom the complaint was certified to the industrial school hereinafter provided for, where he shall be subject to all rules and regulations of said industrial school; provided, further, that if for any cause the parent, guardian, or other person in charge of any juvenile disorderly person as defined in Section 968 (1923), of this Article, shall fail to cause such juvenile disorderly person to attend school, then complaint against such juvenile disorderly person shall be made, heard and determined in like manner as provided in case the parent proves inability to cause such juvenile disorderly person to attend school. (Act approved March 3, 1905, Sec. 1). (9th Sess. Chap. 80).

973. **Pauper Children.**—When any truant officer is satisfied that any child, compelled to attend school by the provisions of this Act, is unable to attend school because absolutely required to work, at home or elsewhere, in order to support itself or help support, or care for others legally entitled to its services, who are unable to support or care for themselves, the truant officer shall report the case to the authorities charged with the relief of the poor, and it shall be the duty of said officers to afford such relief as will enable the child to attend school the time each year required under this Act. Such child shall not be considered or declared a pauper by reason of the acceptance, of the relief herein provided for. In case the child, or its parents or guardian refuse or neglect to take advantage of the provisions thus made for its instruction, such child may be committed to the industrial school hereinafter provided for. In all cases where relief is necessary it shall be the duty of the board of trustees or the trustees of the district to furnish text books free of charge and said board of trustees may furnish any further relief it may deem necessary, the expenses incident to furnishing said books and relief to be paid from the general fund of the school district. (Act approved March 3rd, 1903, Sec. 6). (8th Sess. Chap 45).

ARTICLE XVI.

Industrial Schools.

- Section 974. Industrial schools, where established
- Section 975. Purchase of sites for buildings.
- Section 976. Employment and regulations of teachers.
- Section 977. Parent to provide clothing.
- Section 978. Rules and regulations of school.
- Section 979. Paroled children.
- Section 980. Recommitment of paroled children.
- Section 981. Incurrigibles.
- Section 982. Industrial schools in small districts.
- Section 983. Receiving pupils from other districts.
- Section 984. Penalties and fines for neglect of official duty.
- Section 985. Penalties for repeated violations of act.
- Section 986. Duties of trustees to provide sufficient accommodations.
- Section 987. Costs of prosecution.
- Section 988. Repeal of conflicting provisions.

974. **Industrial Schools, Where Established.**—In school districts having a population of 25,000 or more, there shall be es-

tablished within two years from the passage of this Act, an industrial school for the purpose of affording a place of confinement, discipline, instruction, and maintenance of children of compulsory school age who may be committed thereto according to the provisions prescribed in Section 972 (1925). (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

975. **Purchase of Site and Building.**—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 districts; but no school shall be located at or near any penal institution. And it shall be the duty of the board of trustees to furnish such schools with such furniture, fixtures, industrial and other apparatus, and provisions as may be necessary for the maintenance and operation thereof. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

976. **Employment and Regulation of Teachers.**—The board of trustees may also employ a principal and 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.

No religious instruction shall be given in said school, except such as allowed by law to be given in public schools; but the board of trustees may make suitable regulation so that the inmates may receive religious training in accordance with the belief of the parents of such children, by arranging for attendance at public services elsewhere. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

977. **Parents to Provide Clothing.**—It shall be the duty of the parent or guardian of any child committed to this school to 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, the same may be provided by the board of trustees, and such board may have an action against such parent or guardian of said child to recover cost of such clothing, with 10 per cent additional thereto. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

978. **Rules and Regulations of School.**—The board of trustees of such district shall have power to establish rules and regulations under which children committed to such industrial school may be allowed to return home upon parole, but to remain while upon parole in the legal custody and under control of the officers 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 trustees. No child shall be released upon parole in less than four weeks from the time of his or her committment, nor thereafter until the superintendent of such industrial 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 trustees. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

979. **Paroled Children.**—It shall be the duty of the principal or other person having charge of the school to which children so released on parole may be sent, to report at least once each month to the superintendent of the industrial school, stating whether or not such child attends school regularly, and obeys the rules and regulations of said 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 a 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 industrial or truant school, and shall not be recommitted thereto except as hereinbefore provided. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

980. **Recommitment of Paroled Children.**—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 board of trustees, as hereinbefore provided, be taken back to such industrial 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 industrial school, and shall not be released therefrom on parole, until he or she shall remain in such school at least one year. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

981. **Incorrigibles.**—In any case where a child is incorrigible and his or her influence in such school be detrimental to the interests of the other pupils, the board of trustees may authorize the superintendent or any other officer of the school to represent these facts to the district court by petition; and the court shall have power to commit said child to the state reform school. (Act approved March 2nd, 1903). (8th Sess. Chap. 45).

982. **Industrial Schools in Small Districts.**—The board of trustees in districts having a population less than 25,000 may establish, maintain and operate an industrial school for the purpose hereinbefore specified, and in case of the establishment of such school, the board of trustees shall have like power in their respective districts as hereinbefore expressed; provided, that no board of trustees under this section shall put this law into effect until submitted to a vote at some general or special election. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

983. **Receiving Pupils From Other Districts.**—Boards of trustees in districts where there is established and in operation an industrial school, may if the accommodation permits receive pupils from other districts who have been committed thereto, upon the payment from the district in which the child resides, at such rate of tuition as the board of trustees may fix. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

984. **Penalties and Fine for Neglect of Official Duty.**—Any officer, principal, or other person mentioned in this Act, neglecting to perform any duty imposed upon him by this Act, shall be fined not less than twenty-five nor more than fifty dollars, for each offense. Any officer or agent of any corporation violating any provisions of this Act, and who participates or acquiesces in or is cognizant of such violation, shall be fined not less than twenty-five dollars nor more than fifty dollars. Any person who violates any provision of this act for which a penalty is not elsewhere in this Act provided for, shall be fined not more than fifty dollars. Mayors, justices of the peace, police judges, and district courts shall have jurisdiction to try the offenses described in this Act. When complaint is made, information filed or indictment found against any cor-

poration for violating this Act, summons shall be served, appearance made, or plea entered, as provided by the laws of Montana, except that in complaint before magistrates, services shall be made by the constable. In all other cases process shall be served, and proceedings had, as in cases of misdemeanor. All fines collected under the provisions of this Act shall be paid into the funds of the school district in which the offense was committed. Boards of trustees are authorized to employ legal counsel to prosecute any case arising under the provisions of the Act when it shall deem the same necessary, and the services of such counsel shall be paid from the general fund of the district. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

985. **Penalties for Repeated Violation of Act.**—Every person who, after being once convicted for violating any of the provisions of this Act, shall be convicted of again violating any of the provisions of this Act, may, in addition to the punishment by way of a fine elsewhere provided for, be imprisoned not less than ten days nor more than thirty days. On complaint, before mayor, justice of the peace, or police judge of a second violation of this Act involving punishment by imprisonment, if a trial by jury be not waived, a jury shall be chosen and the case tried, after the manner provided in the laws of Montana. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

986. **Duty of Trustees to Provide Sufficient Accommodations.**—It is hereby made the duty of every board of trustees in this state to provide sufficient accommodations in the public schools for all children in their district compelled to attend the public schools under the provisions of this Act. Authority to levy tax and raise the money necessary for such purpose, is hereby given the proper officers charged with such duty under the law. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

987. **Costs of Prosecutions.**—No officer or person instituting proceedings under this Act shall be required to advance money or give security for costs; and if a defendant is acquitted or discharged, or if convicted, and committed to jail in default of payment of fine and costs, the justice, mayor, police judge or district court, before whom such case was brought shall certify such costs to the county auditor, who shall examine, and if necessary correct the account, and issue his warrant to the county treasurer in favor of the respective persons to

whom such costs are due for the amount due each. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

988. **Repeal of Conflicting Provisions.**—All sections in the school laws of the State of Montana in violation of the provisions of this Act are hereby repealed. (Act approved March 3rd, 1903). (8th Sess. Chap. 45).

ARTICLE XVII.

City Superintendent of Schools.

Section 989. City superintendent of schools.

Section 990. Qualifications.

Section 991. Duties.

Section 992. Certain employment prohibited.

989. (Sec. 1930.) **City Superintendent of Schools.**—In every district having a population of two thousand and upward the board of trustees of such district may appoint a superintendent of schools of the district. He shall be appointed for such term, not exceeding three years, as the Board may deem proper and be paid such salary from the general school fund as is fixed by the board of trustees.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall take effect from and after its passage and approval.

Approved February 23, 1911.

990. (Sec. 1931.) **Qualifications.**—The person appointed to such position shall be a holder of a state certificate of the highest grade, issued in some state, or a graduate of some reputable university, college or normal school, and shall have taught in public schools at least five years. (Act approved March 11, 1895).

991. (Sec. 1932.) **Duties.**—The superintendent shall perform such duties as the board of trustees shall prescribe. (Act approved March 11, 1895).

992. (Sec. 1933.) **Certain Employment Prohibited.**—No city superintendent shall engage in any work that will conflict with his duties as superintendent. (Act approved March 11, 1895).

ARTICLE XVIII.

School Funds.

- Section 993. Permanent school fund.
- Section 994. Common school levy.
- Section 995. Special school tax.
- Section 996. Apportionment.
- Section 997. Purposes for which money may be used.
- Section 998. Transfer of road funds.
- Section 999. Proceeds of town lots.
- Section 1000. Building and furnishing fund.
- Section 1001. Warrants.
- Section 1002. Transfer of funds. Election.

993. **Permanent School Fund.**—The principal of the state school fund shall remain irreducible and permanent. That said fund shall be derived from the following sources, to-wit: appropriations and donations by the state to this fund; donations and bequests by individuals to the state or common schools; the proceeds of land and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of timber, stone, materials or other property from school lands other than those granted for specific purposes, and all moneys other than rental recovered from persons trespassing on said lands; five per centum of the proceeds of the sale of public lands lying within the state which shall be sold by the United States subsequent to the admission of the state into the Union as approved by Section 15 of the Enabling Act; the principal of all funds arising from the sale of lands and other property which have been and may be hereafter granted to the state for the support of common schools and such other funds as may be provided by legislative enactment. (Act approved March 8, 1897). (5th Sess. Chap. 133).

994. **Common School Levy.**—In addition to the provisions for the support of common schools, hereinbefore provided, it shall be the duty of the county commissioners of each county in the state to levy an annual tax of four mills on the dollar of the assessed value of all taxable property, real and personal, within the county which levy shall be made at the time and in the manner provided by law for the levying of taxes for

county purposes, 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. For the further support of the common schools, there shall also be set apart by the county treasurer all moneys paid into the county treasury arising from all fines or violations of law, unless otherwise specified by law. Such money shall be forthwith paid into the county treasury by the officer receiving the same, and be added to the yearly school fund raised by taxing each county and dividing in the same manner. (Act approved February 27, 1907, Sec. 1.) (10th Sess. Chap. 51).

995. **Special School Tax.**—On or before the day designated by law for the commissioners of each county to levy the requisite taxes for the then ensuing year, the school board in each school district shall certify to the county commissioners the number of mills per dollar which it is necessary to levy on the taxable property of the district, not to exceed ten mills, to raise a special fund to maintain the schools of said districts, to furnish additional school facilities therefor, and to furnish such appliances and apparatus as may be needed, and, in the districts of the first and second class, the trustees thereof must make such special levy, or so much thereof as may be necessary to maintain a school term of at least nine months in each year, and the county commissioners shall cause the same to be levied at the same time that other taxes are levied, and the amount of such special tax shall be assessed to each taxpayer of such district, and shall be placed in separate column of the tax book, which shall be headed "Special School Tax."

There shall also be a column in said tax book, which shall be designated the number of the school district in which the property is listed. This tax, when collected, shall be placed to the credit of the proper district, and shall be subject to the order of the district board. (Act approved February 27, 1907, Sec. 2.) (10th Sess. Chap. 51).

996. (Sec. 1942.) **Apportionment.**—All school moneys apportioned by county superintendents of common schools shall be apportioned to the several districts in proportion to the number of school census children between six and twenty-one years of age, as shown by the returns of the district clerk for the next preceding school census; Provided, that Indian children, who are not living under the guardianship of white

persons, shall not be included in the apportionment list, unless the parents thereof are citizens of the United States or have taken land under the allotment and severalty act of congress, and have severed their tribal relations. (Act approved March 11, 1895).

State v. Cave, 20 Mont. 473; 52 Pac. 202.

997. (Sec. 1943.) **Purposes for Which Money May Be Used.**—County school moneys may be used by the county superintendent and trustees for the various purposes as authorized and provided in this title, and for no other purpose, except that in any district, any surplus in the general school fund to the credit of said district, after providing for the expenses of not less than eight months' school, on a vote of the qualified electors of said district, may be used for the purpose of building and improvement. If any school money shall be paid by authority of the board of trustees for any purpose not authorized by this title, the trustees consenting to such payment shall be liable to the district for the repayment of such sum, and a suit to recover the same may be brought by the county attorney, or, if he shall refuse to bring the same, a suit may be brought by any taxpaying elector in the district. (Act approved March 11, 1895).

Butte v. School District, 29 Mont. 336; 74 Pac. 869. School district property cannot be specially assessed to pay the cost of sprinkling the streets on which it abuts. The "improvement" mentioned in this section must enhance materially the value of the school property for the purpose for which it is held.

998. (Sec. 1944.) **Transfer of Road Funds.**—It shall be the duty of the county treasurer in each county in this state upon an order of the board of county commissioners, to transfer any and all sums of money raised by county road tax and apportioned to certain road districts, that shall have remained one year to the credit of any road district unused or unapportioned, to the credit of the particular school district or districts whose boundaries are coterminous, or nearly so, with those of the road district to whose credit said moneys were originally apportioned. A certificate to the road supervisor that such moneys are not needed for immediate use in building or repairing roads in his district, accompanied by the petition of ten residents of such district that such transfer be made, shall be made sufficient warrant for the county treasurer to make

such transfer when approved by the board of county commissioners, and the official maps of the several road and school districts of the county shall determine the districts to which the transfers are to be made. Moneys so received to the credit of any particular school district may be applied by the trustees thereof to the payment of any outstanding district indebtedness, or like other funds, to the ordinary expenses of the district. (Act approved March 11, 1895).

999. (Sec. 1945.) **Proceeds of Town Lots.**—All moneys arising from the sale of town lots under and by virtue of the several acts of the legislative assembly of the state of Montana relating to town sites, that are now or that hereafter may come into the hands of any clerk of the district court, or the corporate authorities of any city or town of the state, shall be paid into the county treasury of the county for the use and benefit of the common schools of the school district in which such city or town is situated, to be used as provided for in this title. (Act approved March 11, 1895).

1000. (Sec. 1946.) **Building and Furnishing Fund.**—The county treasurers of the several counties of this state shall transfer all moneys so paid into said treasury as provided for in Sec. 999 (1945) of this title, or that may now be in such treasury, derived from said source, to the school fund of the school district in which town is situated, which shall be paid out on the order of the school trustees of such district, as provided for in Sec. 1001 (1947), of this title; and which said moneys shall be by said treasurer set apart as a special fund for the purpose of building and furnishing school houses, and shall be used for such purpose alone, unless otherwise ordered, as provided for in this title. (Act approved March 11, 1895).

1001. (Sec. 1947.) **Warrants.**—The school trustees of any school district are hereby authorized to draw warrants on said fund named in Section 999 (1945) and 1000 (1946), of this title, for the purpose of building and furnishing a school house in such place, in the town or city from the sale of lots out of which such fund arose, as they may designate, which said warrants or orders shall specify the fund on which the same are drawn and for what purpose drawn. (Act approved March 11, 1895).

1002. (Sec. 1948.) **Transfer of Funds. Election.**—Said fund may be used for general school purposes, if a majority of

the qualified electors of such district shall so elect, and upon the written request of any five of the qualified electors of such district presented to the trustees for such purposes in the manner provided in Sec. 1243 and the trustees shall prepare the form of the ballot used in such election, which election shall be conducted as other elections provided for in the several school districts under the general school laws of this state, and when any warrant is so drawn on said fund for other purposes than the building and furnishing of a school house, said warrant shall specify that it was pursuant to an election held for such purpose. (Act approved March 11, 1895).

* No such number in original bill.

ARTICLE XIX.

Bonds.

- Section 1003. How issued. Election. Limit.
- Section 1004. Bonds for building and equipping school buildings
- Section 1005. Manner of holding elections. Ballots. Voting.
- Section 1006. Notice of sale of bonds.
- Section 1007. School district liable on bonds.
- Section 1008. Tax. Interest. Sinking funds.
- Section 1009. Redemption of bonds. Duties of county commissioners.
- Section 1010. Redemption notice to bond holders.
- Section 1011. Duty of county treasurer.
- Section 1012. Printing of bonds.
- Section 1013. Penalty for refusal to pay bonds.
- Section 1014. Repayment of moneys borrowed for maintenance of schools.
- Section 1015. Special levy to repay moneys borrowed.
- Section 1016. Disposition of funds collected.
- Section 1017. Trustees may issue bonds.
- Section 1018. General laws applicable.

1003. (Sec. 1960.) **How Issued. Election. Limit.**—The board of school trustees of any school within this state shall, whenever a majority of the school trustees so decide, submit to the electors of the district the question whether the board shall be authorized to issue coupon bonds to a certain amount, not to exceed three per cent. of the taxable property in said district, and bearing a certain rate of interest not exceeding six per cent per annum, and payable and redeemable at a certain time, for the purpose of building and furnishing one or more school houses in said district, and purchasing land necessary

for the same. Should the trustees of any school district in which bonds have heretofore been issued to any amount, desire to submit to the electors of the district the question as to whether additional bonds shall be issued they may do so, but no such bonds shall be issued unless a majority of all votes cast at any such election shall be cast in favor of such issue of additional bonds; and in no case shall the whole issue of bonds exceed the amount of three per cent. of the taxable property within said school district. (Act approved March 11, 1895).

1004. Bonds for Building and Equipping School Buildings.—The board of school trustees of any school district within Montana, shall, whenever a majority of the school trustees so decide, submit to the electors of the district the question whether the board shall be authorized to issue coupon bonds to a certain amount, not to exceed three per cent, of the taxable property in said district; provided, that nothing herein contained shall authorize the issuance of bonds to an amount exceeding five hundred thousand dollars in any one school district, and bearing a certain rate of interest not exceeding six per centum per annum and payable and redeemable at a certain time, for the purpose of building and furnishing one or more school houses in said district, and purchasing land necessary for the same. Should the trustees of any school district in which bonds have been heretofore issued to any amount, desire to submit to the electors of the district the question as to whether additional bonds shall be issued they may do so, but no such bonds shall be issued unless a majority of all votes cast at any such election shall be cast in favor of such issue of additional bonds; and in no case shall the whole issue of bonds exceed in amount three per centum of the taxable property within such school district. This Act shall not apply to an Act entitled "An Act to authorize the school trustees of the school district number one, of Deer Lodge county, to issue additional bonds for certain purposes," approved February 13th, 1885. (Act approved February 21, 1905, Sec. 1). (9th Sess. Chap. 28).

1005. Manner of Holding Election. Ballots. Voting.—Such election shall be held in the manner prescribed for the election of school trustees except that no registration will be required. The ballots shall be in the form as follows: "Shall bonds be

issued and sold to the amount of dollars and bearing not to exceed per cent. interest and for a period not to exceed years, for the purpose of purchasing a school lot and building a school house thereon and furnishing the same?

Bonds, Yes.

Bonds, No.

The elector shall prepare his ballot by crossing out thereon parts of the ballot in such a manner that the remaining part shall express his vote upon the question submitted. If a majority of the votes cast at such election are Bonds, "Yes," the board of school trustees shall issue such bonds in such form as the board may direct, and they shall bear the signature of the chairman of the board of trustees, and shall be signed by the clerk of the said school district; and the coupons attached to the bonds shall be signed by the said chairman and clerk, provided, a lithographic or engraved facsimile of the signatures of the chairman and clerk may be affixed to coupons only, when so recited in the bonds, and the corporate seal of the school district shall be attached to each of the bonds; and each bond so issued shall be registered by the county treasurer in a book provided for that purpose, which shall show the number and amount of each bond, and the person to whom the same is issued or sold; and the said bonds shall be sold by the trustees as hereinafter provided. (Act approved March 14, 1901, Sec. 2). (7th Sess. 125-6).

Hauswirth v. Mueller, 25 Mont. 159; 64 Pac. 325.

1006. (Sec. 1963.) **Notice of Sale of Bonds.**—The school trustees shall give notice by advertisement in some newspaper published in this state, for a period of not less than four weeks to the effect that the said school trustees will sell said bonds (briefly describing the same), and stating the time when, and place where, such sale will take place; Provided, that the said bonds shall not be sold for less than their par value, and that the said trustees are authorized to reject any bids, and to sell said bonds at private sale, if they deem it for the best interests of the district; and all moneys arising from the sale of said bonds shall be paid forthwith into the treasury of the county in which such district may be located to the credit of said district, and the same shall be immediately available for the purpose of building or providing the school houses authorized by

this title; Provided, that no such bonds shall be delivered by the board of trustees unless the moneys therefor have been paid into the county treasury. (Act approved March 11, 1895.)

1007. (Sec. 1964.) **School District Liable on Bonds.**—The faith of each school district is solemnly pledged for the payment of the interest and the redemption of the principal of the bonds which shall be issued under the provisions of this title. And for the purpose of enforcing the provisions of this title, each school district shall be a body corporate, which may sue and be sued by or in the name of the board of school trustees of such district. (Act approved March 11, 1895).

1008. (Sec. 1965.) **Tax. Interest. Sinking Fund.**—The school trustees of each district shall ascertain and levy annually, the tax necessary to pay the interest when it becomes due and a sinking fund to redeem the bonds at their maturity; and said tax shall become a lien upon the property in said school district, and be collected in the same manner as other taxes for school purposes. (Act approved March 11, 1895).

1009. (Sec. 1966.) **Same. Redemption of Bonds.**—The county commissioners, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district, for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such years and in any event must be high enough to raise, annually for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay such annual interest, and to pay, annually a portion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and divide it by the number of years said bonds have to run and all money so levied, when collected, must be paid into the county treasury to the credit of such district, kept in a separate fund and be used for the payment of principal and interest on said bonds, and for no other purpose.

1. Provided, that the board may with the surplus of such sinking fund, when the same shall be one thousand dollars or more, purchase any of the outstanding bonds issued by the board. Such purchase shall be made at the lowest price such bonds can be purchased at, but at no more than par value of

such bonds; and whenever there shall be such a surplus of sinking fund amounting to the sum of one thousand dollars, the board shall purchase therewith like bonds, on the same terms and conditions as hereinbefore specified.

2. If for any reason such bonds cannot be purchased as hereinbefore specified, such sinking fund shall be invested by the treasurer under the direction of the board of trustees, at such times as the board shall direct, in the interest-bearing bonds of the United States or of the State of Montana, which shall be purchased at the lowest market price. Interest accruing upon such bonds shall be invested in the same manner and for the same purpose as sinking fund. Such bonds shall be held by the treasurer until the principal of any bonds issued by the board of trustees shall become due, and shall be sold at the highest market price, and the proceeds applied to the payment of bonds: Provided, further, that if at any time the board shall deem it best, it shall be lawful to sell such bonds for the purpose of purchasing the bonds issued by such board; but all such sales shall be at the highest market price, and the bonds of the board purchased with the proceeds of such sale shall be purchased at the lowest price they can be obtained for, and not above the par value of such bonds; Provided, further, that the bonds first maturing shall be purchased, if they can be purchased, on terms as favorable to the board as others offered for sale to the said board. All bonds of the said board purchased under the authority hereby given, or paid by the board, shall be forthwith canceled as provided in the next succeeding section. (Act approved March 18, 1895).

1010. (Sec. 1967.) **Redemption. Notice to Bond Holder.**—When the sum in said sinking fund shall equal or exceed the amount of any bond then due, the county treasurer shall give notice to each bond holder, if known to him and shall post in his office a notice that he will, within thirty days from the date of such notice, redeem the bonds then payable, giving the numbers thereof, and preference shall be given to the oldest issue; and if at the expiration of the said thirty days the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon shall cease; but the treasurer shall at all times thereafter be ready to redeem the same on presentation, and when any bonds shall be so purchased or redeemed the county treasurer shall cancel all bonds so pur-

chased and redeemed by writing across the face of such bond or bonds, in red ink, the word "Redeemed" and the date of such redemption; Provided, that, whenever in the judgment of the board of school trustees and prior to the redemption of said bonds said board shall deem it advisable and for the best interests of the school district to invest said sinking fund or any part thereof, the board may by an order entered upon their minutes direct and require the county treasurer to invest said sinking fund or any part thereof in state or county bonds or warrants until such redeemable period. (Act approved March 11, 1895).

1011. (Sec. 1968.) **Duty of County Treasurer.**—The county treasurer shall pay out of any moneys belonging to the school district the interest upon any bonds issued under this title by such district when the same shall become due, upon the presentation at his office of the proper coupon which shall show the amount due, and the number of the bond to which it belonged; and all coupons so paid shall be reported to the school trustees at their first meeting thereafter. (Act approved March 11, 1895).

1012. (1969.) **Printing of Bonds.**—The school trustees of any district shall cause to be printed or lithographed, at the lowest rates, suitable bonds, with the coupons attached, when the same shall become necessary, and pay therefor out of any moneys in the county treasury to the credit of said school district. (Act approved March 11, 1895).

1013. (Sec. 1970.) **Penalty.**—If any of the school trustees of any district shall fail or refuse to pay into the proper county treasury the money arising from the sale of any bonds provided for by this title, they shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state penitentiary for a term of not less than one year nor more than ten years. (Act approved March 11, 1895).

1014. **Repayment of Moneys Borrowed for Maintenance of Schools.**—That whenever, before the passage of this Act, the taxes levied and collected in any school district upon the taxable property of said district, for the necessary maintenance of the schools therein, have been insufficient for the necessary maintenance of said schools, and for that reason the trustees of said school district have been compelled to borrow money for the necessary maintenance of said schools, in order to pre-

vent the closing of the same for a portion of the regular school year of said district, and have borrowed money for the necessary maintenance of said schools, and such moneys so borrowed cannot be repaid out of the total amount of taxes that may be raised by maximum levy for school purposes in such district, without using the funds of the district needed to pay the necessary current expenses for the maintenance of the schools therein, and thereby necessitating the closing of such schools for the whole or a portion of the regular current school year of such district for one or more years, then the said trustees shall be, and are hereby, empowered to raise money to repay, and to repay such loans, with interest thereon from the date thereof until paid at the rate of six per cent per annum, by levying a tax therefor upon all the taxable property in said district in the manner provided in the following sections. (Act approved January 27, 1905, Sec. 1). (9th Sess. Chap. 2).

1015. **Special Levy to Repay Moneys Borrowed.**—That if the trustees of any school district, under the circumstances mentioned in Section 1, of this Act shall determine to repay the moneys borrowed and used for the purpose mentioned in said Section 1, they shall ascertain the amount to be levied by finding the amount of the principal, of such loans and interest at six per cent per annum from the date thereof to December 15th, of the year in which such levy shall be made, that being the time when the tax will properly be collected, and shall, on or before the day when the county commissioners are required by law to make the annual tax levy, make and file with the county clerk of the county in which such school district shall be situated, their certificate, which shall be signed by a majority of such trustees, setting forth therein the amount to be raised as aforesaid, and requesting the county commissioners to levy the amount named in said certificates as a special tax upon all taxable property in said school district. The valuation of the property in said district as the same appears upon the assessment roll of said county for the year for which the levy shall be made, shall be the basis for the assessment of such tax. It shall be the duty of the county commissioners at the time the annual tax levy is made, to levy the sum named in said certificate as a special tax upon all of the taxable property in said district, and the duty of the county clerk to spread said tax upon the said assessment roll

against all of said property in the same manner as other taxes are spread upon said roll, and said tax being so assessed shall become a lien upon said property and be collected in the same manner as other taxes for school purposes are collected. (Act approved February 19th, 1901, Sec. 2). (7th Sess. 3-4).

1016. **Disposition of Funds Collected.**—That when the tax mentioned in the preceding sections, has been collected, or any part thereof, the county treasurer shall place the same to the credit of said school district in a fund separate from all other funds of said district, and the moneys in such fund shall be forthwith paid out by the trustees to the persons and corporations to whom the same are payable, and until the debt for the payment of which such moneys were raised have been paid, no part of such funds shall be used for any other purpose. If from failure to collect the entire amount of such tax, or from any other cause, there shall not be moneys sufficient in said fund to pay the amount of principal and interest of the sum borrowed, the trustees shall pay the amount of such deficiency from the general fund to the credit of said district, and if after paying all of the debts payable out of such special fund, a balance shall remain therein such balance shall be transferred to the general fund of said district. (Act approved February 19th, 1901, Sec. 3). (7th Sess. 4).

1017. **Trustees May Issue Bonds.**—If the trustees of any school district mentioned in this Act shall determine that it would not be for the best interest of said district to raise in any one year the moneys mentioned in Section 1 of this Act by levying and collecting a tax therefor as in the preceding sections provided, they shall nevertheless be authorized and empowered to raise such moneys by issuing and selling the bonds of said district in an amount sufficient to repay, and to repay, such moneys with interest thereon at six per cent per annum. If the said trustees shall determine to issue the bonds of said district for the purpose aforesaid, they shall ascertain the amount of said bonds by finding the amount of principal and interest of the loans to be repaid at six per cent, per annum from the date thereof until the time when said bonds will probably be sold as hereinafter provided. They shall then issue the bonds of such district to the amount so ascertained which bonds shall draw interest at a rate not to

exceed six per cent, per annum payable either annually or semi-annually as the trustees shall determine, and each of said bonds shall be for the sum of one hundred dollars or multiples thereof and shall run for such length of time as the said trustees shall determine, not exceeding a period of ten years from the date thereof; said bonds shall be in such form as the board of trustees may direct, and shall bear the signature of the chairman of the board of trustees, and shall be signed by the clerk as clerk of said school district, and the coupons attached to said bonds shall be signed by said chairman and said clerk; provided, that lithographic or engraved facsimiles of the signature of the chairman and clerk may be affixed to coupons only when so recited in the bond, and each bond so issued shall be registered by the county treasurer in a book provided for that purpose, which shall show the number and amount of each bond and the person to whom the same is issued or sold, and said bonds shall be sold and the proceeds thereof deposited with the county treasurer in the manner provided by the provisions of Section 1016 (1963), of the Political Code of this state, and paid out by the trustees to the persons and corporations to whom the loans for the payment of which such bonds were issued are payable. (Act approved February 19th, 1901. Sec. 4). (7th Sess. 4-5).

1018. **General Laws Applicable.**—All of the powers conferred and duties enjoined upon school trustees and county commissioners by Sections 1008 (1965), 1009 (1966), 1010 (1967), 1011 (1968) and 1012 (1969, of the Political Code of this state and any amendments thereof for raising money to pay the interest on, and to provide, and for the care and management of, a sinking fund for the redemption and payment of bonds issued by school districts under the provisions of existing laws are hereby conferred and enjoined upon school trustees and county commissioners respectively with respect to all bonds issued under the provisions of this Act as fully and completely to all intents and purposes as though the above named sections were incorporated in and made a part of this Act. (Act approved February 19th, 1901, Sec. 5). (7th Sess. 5).

ARTICLE XX.

Vacancies.

Section 1019. Vacancy in school board.

Section 1020. Vacancy. Clerk.

Section 1021. Trustee. How removed.

1019. (Sec. 1980.) **Vacancy in School Board.**—When any vacancy occurs in the office of trustee of any school district by death, resignation, failure to elect at the proper time, removal from the district, or other cause, the fact of such vacancy shall be immediately certified to the county superintendent by the clerk of the school district, and the county superintendent shall immediately appoint in writing some competent person, who shall qualify and serve until the next annual school election. The county superintendent shall at the same time notify the clerk of the school district of every such appointment; Provided, that absence from the school district for sixty consecutive days shall constitute a vacancy in the office of trustee. (Act approved March 11, 1895).

1020. (Sec. 1981.) **Vacancy. Clerk.**—Should the office of the clerk of the school district become vacant, the board of school trustees shall immediately fill such vacancy by appointment, and the chairman of the board shall immediately notify the county superintendent of such appointment. (Act approved March 11, 1895).

1021. (Sec. 1982.) **Trustees. How Removed.**—Any school trustee may be removed from office by a court of competent jurisdiction, as provided by law for removal of elective civil officers; Provided, however, that upon charges being preferred and good cause shown the board of county commissioners may suspend a trustee until such time as such charges can be heard in the court having jurisdiction thereof. (Act approved March 11, 1895).

ARTICLE XXI.

Tree Planting.

Section 1022. Arbor day.

Section 1023. Arbor day exercises.

Section 1024. Same. Superintendent of public instruction.

Section 1022. The second Tuesday of May in each year shall be known throughout the State of Montana as "Arbor Day."

Approved March 4, 1909.

1023. (Sec. 1991.) **Arbor Day Exercises.**—In order that the children in our public schools shall assist in the work of adorning the school grounds with trees, and to stimulate the minds of the children toward the benefit of preservation and perpetuation of our forests and the growing of timber, it shall be the duty of the authorities in every public school district in the state to assemble the children in their charge on the above day in the school building or elsewhere, as they may deem proper, and to provide for and conduct under the general supervision of the city superintendent, county superintendent, teachers and trustees or other school authorities having the general charge and oversight of the public schools in each city or district, to have and hold such exercises as shall tend to encourage the planting, preservation and protection of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results. (Act approved March 11, 1895).

1024. (Sec. 1992.) **Same. Superintendent of Public Instruction.**—The superintendent of public instruction shall have power to prescribe from year to year a course of exercises and instructions in the subject hereinbefore mentioned, which shall be adopted and observed by the said public school authorities on Arbor Day. (Act approved March 11, 1895).

ARTICLE XXII.

Pioneer Day.

Section 1025. Designation of Pioneer day.

Section 1026. Exercises in public schools.

Section 1027. Pioneer medals.

Section 1028. Copies of essay to be deposited with librarian of Historical library.

Section 1029. Course of exercises.

1025. That the first Friday of November of each year shall be designated and known as Pioneer Day in the State of Montana.

Act approved February 26, 1909.

1026. **Exercises in Public Schools.**—That on said Pioneer Day in the public schools the afternoon thereof shall be devoted to the study and discussion of pioneers and pioneer history of the region of country now comprising the State of Mon-

tana. (Act approved March 5th, 1903, Sec. 2). (8th Sess. Chap. 88).

1027. **Pioneer Medal.**—That the state board of education is hereby authorized to annually award its pioneer medal to the student of the public schools or state institutions who shall on said day deliver the best essay on such subject of pioneer history, having regard to historical research and literary merit. (Act approved March 5th, 1903, Sec. 3). (8th Sess. Chap. 88).

1028. **Copies of Essays to be Deposited with State Historical Library.**—That copies of such essays shall be filed by the said state board of education with the librarian of the historical and miscellaneous department of the state library. (Act approved Feb. 26, 1909).

1029. **Course of Exercises.**—That the Superintendent of Public Instruction shall have power and it shall be his duty to prescribe from year to year a suitable course of exercises to be observed in the public schools of the state on Pioneer Day.

Approved Feby. 25, 1911.

ARTICLE XXIII.

School Libraries.

Section 1030. Library fund.

Section 1031. Same.

Section 1032. Same.

Section 1033. Location and control of libraries.

Section 1034. Rules. Reports.

Section 1035. Selection of books.

1030. **Library Fund.**—A library fund is hereby created, and the board of school trustees must expend the library fund, together with such moneys as may be added thereto by donation, in the purchase of books for a school library, including books for supplementary work, provided, that in school districts other than cities, maintaining a free public library and having a population of two thousand or more such library fund may, in the discretion of the board of trustees, be used for the payment of the current expenses for maintenance of the schools. (Act approved February 14, 1905). (9th Sess. Chap. 14).

1031. (Sec. 2001.) **Same.**—Except in cities having a population of two thousand or more, the library fund shall con-

sist of not less than five nor more than ten per cent of the county school fund annually apportioned to the district; Provided, that such ten per cent exceed fifty dollars, fifty dollars only shall be apportioned to the district. (Act approved March 11, 1895).

1032. (Sec. 2002.) **Same.**—In cities having a population of two thousand or more, the library fund shall consist of a sum not to exceed fifty dollars for every five hundred children or fraction thereof of three hundred or more, between the ages of six and twenty-one years, annually taken from the general school fund of the county apportioned to such district. (Act approved March 11, 1895).

1033. (Sec. 2003.) **Location and Control of Libraries.**—Libraries shall be under the control of the board of trustees and must be kept, when practicable, in the school houses. (Act approved March 11, 1895).

1034. (Sec. 2004.) **Rules, Reports.**—The trustees shall be held accountable for the proper care and preservation of the library, and shall make all needful rules and regulations not provided for by the superintendent of public instruction, and not inconsistent therewith; and they shall report annually to the county superintendent all library statistics which may be required by the blanks furnished for the purpose by the superintendent of public instruction. (Act approved March 11, 1895).

1035. (2005.) **Selection of Books.**—All books shall be selected from lists approved by the superintendent of public instruction. (Act approved March 11, 1895).

ARTICLE XXIV.

Miscellaneous.

- Section 1036. Gender.
- Section 1037. Fines and penalties.
- Section 1038. Insult to teacher.
- Section 1039. Disturbance of school.
- Section 1040. Printing and binding.
- Section 1041. School officers not to act as agents.
- Section 1042. Oath of office.
- Section 1043. Duty of county attorney.
- Section 1044. Penalties.

1036. (Sec. 2020.) **Gender.**—Whenever the word “he” or “his” occurs in this title, referring either to the members of

the board of trustees, county superintendent, teachers, or other school officers, it shall be understood to mean also "she" or "her." (Act approved March 11, 1895).

1037. (Sec. 2021.) **Fines and Penalties.**—All fines and penalties, not otherwise provided for in this title, shall be collected by an action in any court of competent jurisdiction, and shall be paid into the county school fund immediately after collection. (Act approved March 11, 1895).

1038. (Sec. 2022.) **Insult to Teacher.**—Any parent, guardian or other person, who shall insult or abuse a teacher in the presence of the school, or anywhere on the school grounds or premises, shall be deemed guilty of a misdemeanor and liable to a fine of not less than ten dollars nor more than one hundred dollars. (Act approved March 11, 1895).

1039. (Sec. 2023.) **Disturbance of School.**—Any person who shall wilfully disturb any public school or any public school meeting, shall be deemed guilty of a misdemeanor, and liable to a fine of not less than ten dollars nor more than one hundred dollars. (Act approved March 11, 1895).

1040. (Sec. 2024.) **Printing and Binding.**—All printing or binding required under this title shall be executed in the form and manner and at a price not exceeding other county printing and shall be paid in like manner out of the general school fund. (Act approved March 11, 1895).

1041. (Sec. 2025.) **School Officers Not to Act as Agents.**—Neither the superintendent of public instruction, nor any person in his office, nor any county superintendent, nor school district officer, nor any officer or teacher connected with any public school, shall act as agent or solicitor for the sale of any school books, maps, charts, school library books, school furniture or apparatus or furnish any assistance to or receive any reward therefor, from any author, publisher, bookseller or dealer, doing the same. Every person violating this section shall be deemed guilty of a misdemeanor and be liable to a fine of not less than fifty nor more than two hundred dollars for each offense, and shall be liable to removal from office therefor. (Act approved March 11, 1895).

1042. (Sec. 2026.) **Oath of Office.**—Any person elected or appointed to any office mentioned in this title shall, before entering upon the discharge of the duties thereof, take the oath of office. In case such officer has a written appointment or

commission, his oath shall be endorsed thereon; otherwise it may be taken orally; in either case it may be sworn to before any officer authorized to administer all oaths relative to school business appertaining to their respective offices, without charge or fee. (Act approved March 11, 1895).

1043. (Sec. 2027.) **Duty of County Attorney.**—The county attorney shall be the legal advisor of the county superintendent, and all school trustees, and shall prosecute and defend all suits to which a district may be a party. (Act approved March 11, 1905).

1044. (Sec. 2028.) **Penalties.**—Any person who shall violate any provisions of this title shall be deemed guilty of a misdemeanor (when not otherwise provided in this title) and upon conviction thereof shall be fined in a sum not less than twenty dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than five days nor more than thirty days, or by both such fine and imprisonment. (Act approved March 11, 1895).

Hilbury v. St. P. R. Co., 23 Mont. 243; 58 Pac. 556.

SENATE BILL 2.

All moneys received from the investment of the permanent funds of state educational institutions and reform school and from leasing of lands granted thereto shall be deposited monthly with the state treasurer to the credit of said institutions.

Interest and income fund.

Money to be paid out only on warrant of the state auditor drawn on account of support and maintenance of such institutions.

Warrants not to be drawn until claims have been approved by state board of examiners.

Interest and income fund to be exhausted before any money from appropriations from the general fund is paid out.

The executive board of each institution shall quarterly prepare detailed statements and file same with board of examiners.

Contents of quarterly statements.

Statement must be verified by the president of the board and treasurer of the institution.

The executive boards of such institutions shall biennially at the end of November of each even numbered year prepare detailed statements.

What statements shall show.

Additional matter which biennial statements shall show.

Biennial reports shall be signed and verified by the president of the board and treasurer of the institution.

Repealing clause.

When Act shall take effect.

An Act to provide for the deposit and disbursement of money received from the investment of the permanent funds of the state educational institutions, and from the leasing of lands granted by the Federal Government to such institutions, to be known and designated as the "Interest and Income Funds" of each of such institutions; reducing the appropriations from the general fund; and providing for reports by said educational institutions of all moneys received from appropriations made to them under the laws of the United States.

Be it enacted by the Legislative Assembly of the State of Montana:

Section I. All moneys received from the investment of the permanent funds of the University of Montana, the Agricultural College of Montana, School of Mines of Montana, State Normal School of Montana, State Reform School of Montana and Deaf and Dumb School of Montana, and all moneys received from the leasing of lands granted to said institutions shall at the close of each calendar month be deposited with the state treasurer of Montana for each of such institutions to the credit of what shall be known and designated as the "Interest and Income Fund" of each of said institutions.

Section II. The money received by the state treasurer under the provisions of Section I of this Act shall be paid out by him only on warrants issued by the state auditor in payment of claims for expenses actually incurred for the support and maintenance of the institution filing the same, and the state auditor shall not draw warrants on said interest and income funds for any such claims until after the claim has been duly filed with and audited and approved by the state board of examiners.

Section III. In the payment of claims presented by any of the institutions named in Section I of this Act, the interest and income funds mentioned in said Section I, so far as available for the payment of the items set out in said claim, shall be exhausted before any warrants shall be drawn against the appropriation made by the state out of the general fund for the maintenance of the institution filing the claim.

Section IV. That on the first of March, first of June, first of September, and first of December of each year the execu-

tive board of each of the institutions named in Section 1 of this Act shall prepare or cause to be prepared a detailed statement showing all the expenses incurred and all disbursements made by such institution during the preceding quarter; and the purposes for which the same were made, out of funds, if any, appropriated by the United States government for the maintenance and support of any such institutions. Such reports shall be signed and verified under oath by the president of the executive board and treasurer of the institution making the same and shall be filed with the state board of examiners.

Section V. The executive board of each of the institutions named in Section 1 of this Act shall, at the end of November of each even numbered year, beginning with November 30, 1910, prepare or cause to be prepared a full detailed statement, showing all moneys, if any, received by such institution from the United States government, and of the moneys received from the investment of the permanent school funds of the institutions, and of moneys received from the leasing of lands granted to such institutions and all money appropriated by the State of Montana out of the general fund for such institution, and all money received from tuitions or any other sources whatever during the two years preceding the 30th day of November.

Such report shall also show all disbursements made out of the funds received from each of the sources mentioned above in this Section and the purposes for which each disbursement was made during such two years. Said reports shall also contain a statement showing the amount of money, if any, that will be received from the United States government for the maintenance and support of the institution for the next ensuing two years, and also an estimate of the amounts of money that will be received for the maintenance of institution from the investment of the permanent fund thereof and from the leasing of lands granted to the institution for the next ensuing two years. Said reports shall be signed and verified under oath by the president of the executive board and treasurer of the institution and filed with the Governor of the State of Montana within ten days from and after November 30th of each even numbered year.

Section VI. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section VII. This Act shall be in full force and effect from and after its passage.

Approved March 8, 1909.

SENATE BILL 100.

Revised Codes of 1907, Section 1171 amended.

Admission of feebled minded persons into school for the deaf, blind and feeble minded.

Capacity of the person.

Board of trustees may adopt and apply tests to ascertain condition of person.

Object of tests.

Separate building to be provided for feeble minded.

Feeble minded department shall be under supervision of the board and superintendent.

Assistant superintendent may be appointed.

Feeble minded pupils may be retained for life.

Establishment of farm colony for feeble minded.

Repealing clause.

An Act to amend Section 1171 of the Revised Codes of Montana of 1907, relating to the admission, care and retention of persons and children in the Montana school for the deaf, blind and feeble minded at Boulder, Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1171 of the Revised Codes of Montana of 1907, be and the same is hereby amended so as to read as follows:

"Section 1171. All feeble minded persons, residents in the State of Montana and qualified after the general manner prescribed in Section 1168 of this Act, shall be admitted into this school; Provided, that every such person shall be capable, in the judgment of the trustees, of at least some mental, moral or physical training, such as falls within the proper function of a school, as distinct from an asylum. To the end that the board of trustees may arrive at some definite method of judging such cases, they are hereby empowered to ascertain and establish certain tests, which tests shall be thoroughly and impartially applied to each case before final admission into the school, and it shall be the object of said tests to ascertain

in each case if there be any capacity for mental, moral or physical training; and provided further, that as soon as possible in the judgment of the board of trustees, by and with the consent of the state board of education, a separate building and premises, adjoining yet distinct from those of the deaf and blind shall be provided for such feeble minded persons, which building and premises shall be more especially adapted to the peculiar needs of said feeble minded class of persons. The said feeble minded department shall be under the general control and supervision of said board of trustees and superintendent; but the trustees, after consultation with the superintendent and at his request, may appoint an assistant superintendent, together with especially trained teachers and attendants, whenever in their judgment said feeble minded department herein provided for shall seem to need such additional attention and supervision; and provided that the said officers are hereby authorized to retain in the care of said school for life, such feeble minded pupils as have passed the age of twenty-one years and are not fit mentally to make their way or become useful members of society. The authorities of said school are directed to establish a farm colony for the feeble minded on the ranch belonging to the school. The adults feeble minded, under skilled supervision shall be required, by their labor, to contribute as far as possible to their own support and to the support of the school.

Section II. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section III. This Act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1909.

H. B. 129.

An Act authorizing the Governor to appoint an educational commission for the purpose of amending, revising, and collating the laws touching upon the public schools of the state, and for the further purpose of suggesting new legislation for the welfare of said schools and an appropriation to meet the expenses of said commission.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That the Governor be and is hereby authorized

and required to appoint an Educational Commission of five competent persons of whom three at least shall be school men, one being the superintendent of public instruction, as commissioners to revise, collate, and digest all the Acts and Statutes relating to or touching the laws of the public schools of the state.

Section 2. That the duties of said Commissioners, shall be to collate and reduce into one Act all the Acts and Statutes and parts of Acts and Statutes relating to or touching the Public Schools of State, and to arrange the same systematically under proper titles, divisions and sections; to omit in such revision all Acts and parts of Acts that have been repealed or supplied by subsequent Acts, or which have expired, and to prepare and submit such bills to the Governor for submission to the Legislature as they shall deem necessary to make the public schools of the state more comprehensive, efficient and adapted to the needs of its citizens.

Section 3. That the said Commissioners shall report the results of their labors to the Governor on or before the first of December, One Thousand Nine Hundred and Twelve.

Section 4. That said Commission shall meet and organize within thirty days of their appointment and elect a president and secretary and as promptly as possible proceed to perform their duties.

Section 5. The members of said commission provided for in this Act shall receive their actual traveling expense; and there is hereby appropriated the sum of One Thousand Dollars, or so much thereof as may be necessary to carry out the provisions of this Act.

Section 6. All Acts and parts of acts in conflict herewith are hereby repealed.

Section 7. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1911.

HOUSE BILL 137.

"An Act to Require the Instruction of Pupils in Public, Private or Parochial Schools in Fire Dangers and Means of Prevention Thereof."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That every teacher or instructor in every public, private or parochial school consisting of more than ten pupils, shall devote not less than fifteen minutes in each week during which school is in session to the instruction of pupils in fire dangers.

For the purpose of such instruction it shall be the duty of the Commissioner of Insurance, to prepare a book conveniently arranged in chapters, or lessons, such chapters or lessons to be in number sufficient to provide a different chapter or lesson for each week of the maximum school year, one of such lessons to be read by the teachers in such school each week; provided, that if it is advisable, and found possible, to secure such lessons as may have been prepared for this purpose, or in use, in another state, the same may be used in this state.

The book shall be published at the expense of the state from the amount appropriated for public printing, under the direction of the State Superintendent of Public Instruction, and shall be distributed in quantities sufficient to provide a copy for each teacher required by the provisions of this Act to give the instruction herein provided for; the distribution to be made by the State Superintendent of Public Instruction.

Section 2. Wilful neglect by any principal, or other person, in charge of any public, private or parochial school, to comply with the provisions of this Act shall be a misdemeanor, punishable, each offense, by a fine of not less than Five Dollars or more than Twenty Dollars.

Section 3. This Act shall be in full force and effect on and after July 1, 1911.

Section 4. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved Feby. 11, 1911.

SUBSTITUTE FOR SENATE BILL 56.

An Act to Promote Industrial Education.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. Elementary manual and industrial training which shall include industrial art may form a part of the required course of study in all grades of the public schools of the state of Montana. The Superintendent of Public Instruction shall formulate the course of study, or he may approve courses of study formulated by local school officials, which meet the requirements of this Section. The clerk of each school district in his annual report to the County Superintendent shall state whether the above provisions have been complied with within the schools of his district.

Section 2. All school districts having a population of more than five thousand shall, and districts of less population may, maintain at least one manual training school suitably equipped and designated to furnish manual and industrial instruction to pupils who are above the fifth grade. Said schools shall furnish instruction in elementary wood, metal and textile work; in mechanical and industrial drawing; and in communities where applicable in agriculture, mineralogy, and technical mining; and for girls above the fifth grade, instruction in household management, decoration and economics, and in needlework. They shall also include instruction in industrial history and geography; and in the industrial materials, processes and products with special reference to the industrial pursuits of the communities in which they are situated.

The courses to be presented in these schools shall provide:

First: A general culture, intelligence and skill for these pupils whose school attendance will end with the elementary or secondary grades; and

Second: A progressive development designed to prepare directly for efficient work in the related technical and scientific courses of the higher institutions of learning.

The courses shall be modified to meet in the largest measure the needs of each class of pupils.

Nothing in this section shall be understood as forbidding any school from using other materials than those herein specified nor as preventing a different assignment of work by

grades, provided that all courses shall have the approval of the State Board of Education.

Teachers of such schools shall have had special preparation for such instruction and shall be holders of Special Manual Training Teachers' Certificates, which the Superintendent of Public Instruction is hereby empowered to grant, when satisfied that the applicant has received a sufficient general education and the professional and technical preparation necessary for such manual and industrial training.

Section 3. In all school districts having a population of over Ten Thousand, there shall be, and in school districts of less population, there may be maintained schools of special courses in connection with manual training, or city or county high schools, designed to furnish a direct vocational training, including training in agricultural pursuits, and mining for which there shall be a local demand. Classes shall be formed when not less than twenty applicants desire instruction in any vocation. Pupils who have reached the age of twelve years and who have completed not less than the general school work assigned to the first five grades may be admitted to these courses upon such terms as the Board of Trustees of the district may prescribe; pupils above the age of fourteen, together with adults may be admitted to evening classes, providing similar instruction upon such terms of admittance as the trustees may prescribe, provided that there shall in no case be any charge for tuition. Teachers of such classes shall be holders of special certificates issued by the Superintendent of Public Instruction, specifying the subject or subjects which the holder is entitled to teach. Applicants for such certificates must present satisfactory evidence not only of general educational qualifications, but of special training and practical experience in the vocations, which they are to teach.

Section 4. The trustees of any district are hereby empowered to use moneys from the general school fund of the district for the maintenance of Manual and Industrial Schools and courses the same as for other school purposes: Provided, that the state treasurer shall pay annually from any funds in his possession not otherwise appropriated \$10 to each district for each person attending such Manual and Industrial courses for a period of six months or more yearly; Provided further, that the State Treasury shall likewise pay annually

to any Free County High School which maintains a Manual Training Department, from any funds in the State Treasury not otherwise appropriated, the sum of Ten Dollars (\$10.00) for each child or student attending the Manual Training Department in such Free County High School for a period of six months, or longer, yearly. Buildings and furnishings and equipment for Manual and Industrial Training shall be provided in the same manner as now prescribed for the erection and furnishing of buildings for other school purposes.

Section 5. To secure an efficient administration of this act the State Board of Education shall determine whether such Manual and Industrial schools and courses meet the provisions of the law. Such schools as do not meet the provisions of the act shall not be entitled to state aid until all defects are remedied.

Section 6. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Section 7. This act shall take effect thirty days from and after its passage and approval by the Governor.

Approved March 8th, 1911.

(Note—Section 4 disapproved March 8, 1911).

Forms for Use of School Officers.

No. 1.

CERTIFICATE OF ELECTION OF TRUSTEE.

To of Greeting:

This is to certify that at a School Meeting of School District No of County, held at the School House of said District,, I....., you were duly elected to fill the office of trustee for the term of.....

Section 862 of the Revised Code of 1907 reads as follows:

Trustees elected shall take office immediately after qualifying and shall hold office for the term of three years and until their successors are elected and qualified, or appointed by the County Superintendent of Schools and qualified. Every trustee elected shall file his or her oath of office with the County Superintendent of Schools. Any trustee who shall fail to qualify within fifteen days after being elected shall forfeit all right to office, and the County Superintendent of Schools shall appoint to fill the vacancy.

.....
Clerk of School District Meeting.

OATH OF OFFICE.

I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this State, or procured it to be done by others in my behalf; that I will not knowingly receive directly or indirectly any money or other valuable thing for the performance or non-performance of an act or duty pertaining to my office other than the compensation allowed by law. So help me God.

.....
Subscribed and sworn to before me this... day of.....I....

Note.—This oath must be taken before some one authorized to administer oaths.

No. 2.

CERTIFICATE OF APPOINTMENT OF TRUSTEE.

To of Greeting:

This is to certify that I have this day ofI....., appointed of County, to fill the office of Trustee, until the next annual election of said district.

Section 862 of the Revised Code of 1907 reads as follows:

Trustees elected shall take office immediately after qualifying and shall hold office for the term of three years and until their successors are elected and qualified, or appointed by the County Superintendent of Schools and qualified. Every trustee elected shall file his or her oath of office with the County Superintendent of Schools. Any trustee who shall fail to qualify within fifteen days after being elected shall forfeit all rights to office, and the County Superintendent of Schools shall appoint to fill the vacancy.

.....
County Superintendent.

Remarks.—This Certificate, with oath of office endorsed thereon, signed and sworn to before some person competent to administer oaths, must be sent to the County Superintendent.

OATH OF OFFICE.

I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this State, or procured it to be done by others in my behalf; that I will not knowingly receive directly or indirectly any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law. So help me God.

.....
Subscribed and sworn to before me, this... day of....., I....
.....
.....

Remarks.—This oath may be taken before any school officer or other person competent to administer oaths.

No. 3.

CERTIFICATE OF APPOINTMENT OF CLERK.

To of Greeting:

This is to certify that at a* School Meeting of School District No. of County, held, 1...., you were duly appointed to fill the office of District Clerk to serve during the pleasure of the Board.

If you accept, please take the oath of office hereto attached, and return this notice to the Trustees without delay.

.....)
.....) Trustees for District No.
.....)

*State whether "Regular" or "Special" meeting.

Remarks.—This certificate with oath of office endorsed thereon, signed and sworn to before some person competent to administer oaths, must be sent to County Superintendent after receipt by the Trustees.

OATH OF OFFICE.

I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this State, or procured it to be done by others in my behalf; that I will not knowingly receive directly or indirectly any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law. So help me God.

.....
Subscribed and sworn to before me this...day of....., 1...
.....
.....

Remarks.—This oath may be taken before any school officer or other person competent to administer oaths.

No. 4.

AGREEMENT BETWEEN SCHOOL TRUSTEES AND TEACHER.

This agreement, made and entered into this day of, A. D. 1...., between party of the first part, and the School Trustees of School District No., of County, Montana, parties of the second part,

Witnesseth, that the said, who holds a legal certificate as teacher for said county, hereby agrees, for the consideration hereafter stated, to teach the school in said district for the period of months, commencing on the day of, 1...., and further agrees to enforce the rules and regulations prescribed by the Superintendent of Public Instruction and the County Superintendent; to strictly follow the advice of the County Superintendent given within his or her authority; to use only such text-books as are prescribed by law; and to keep a school register and make the returns prescribed by law, and to use the prescribed course of study.

And the parties of the second part, hereby agree to pay the said, dollars for each and every month of twenty school days, in the manner following, to-wit. By drawing their order upon the County Treasurer of said County to be paid out of any school moneys in the County Treasury standing to the credit of said District.

It is mutually understood and agreed that whenever the school shall be closed by order of the Trustees on account of the prevalence of contagious or epidemic disease, or from any cause, the salary of said first party as teacher shall.....

In witness whereof the said parties have hereunto set their hands and seals in duplicate at the date hereinbefore mentioned.

.....
Teacher.
.....
Trustees of School District No.....
..... County.

Note.—Fill out the blank at close of contract in accordance with your agreement on this point. If the teacher is to receive her salary when school is closed, then add, "be paid the same as when school is in session," or, if no salary is to be paid, then add, "cease for such time as the school is closed," or such words as shall clearly express your agreement. Each party should have a copy of the contract.

No. 10.

NOTICE OF ELECTION.

The Annual Meeting.

of School District No., County, Montana, for the election of Trustee.. will be held on Saturday, April, 1...., at the District School House. The polls will be open between the hours of and o'clock m.

.....)
) Trustees.
)

Dated, 1....

No. 11.

NOTICE OF ELECTION.

A Special Meeting

of School District No., County, Montana, for the purpose of will be held on theday of, 1....; at the District School House. The polls will be open between the hours of and o'clock m.

.....)
) Trustees.
)

Dated, 1....

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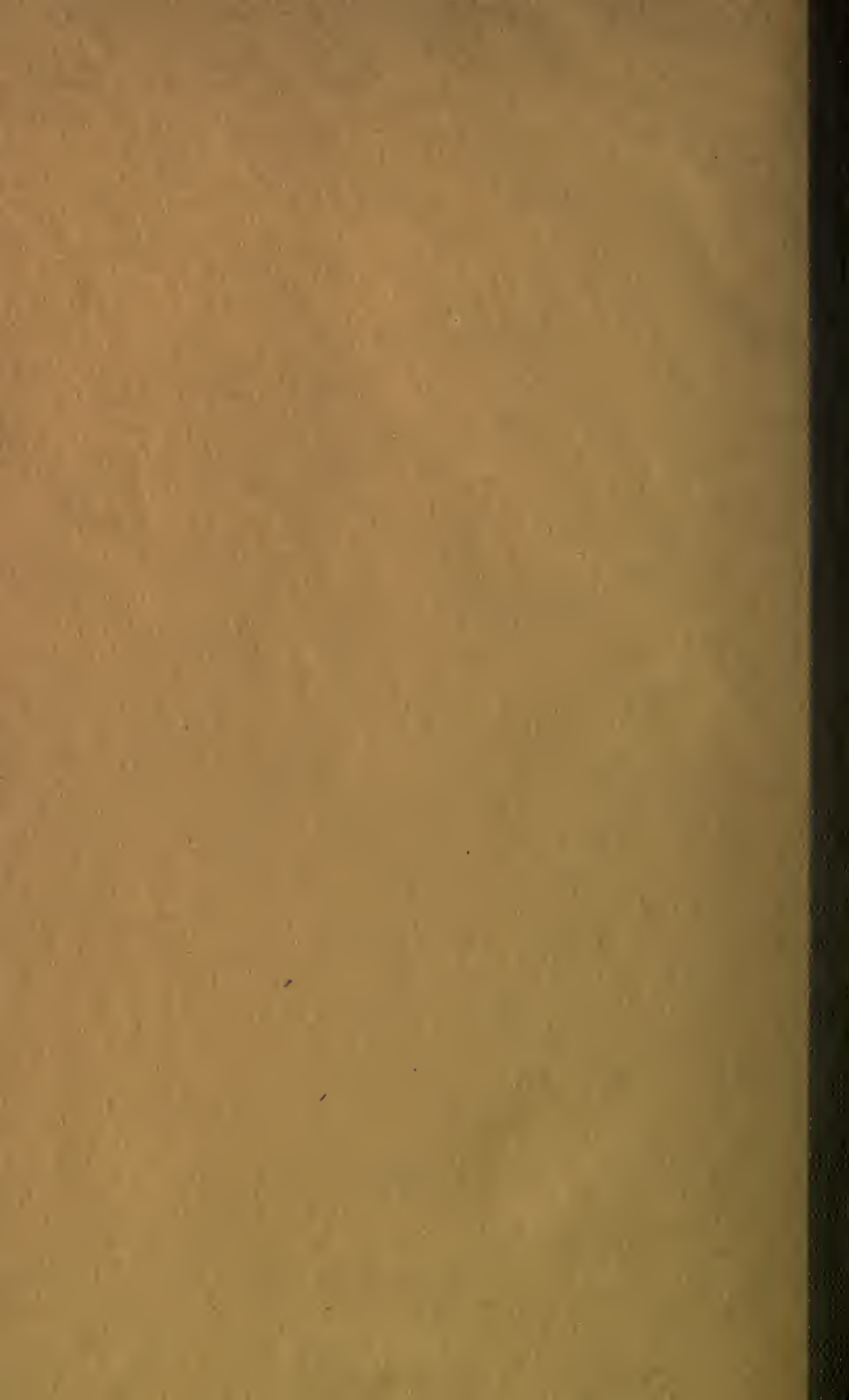
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