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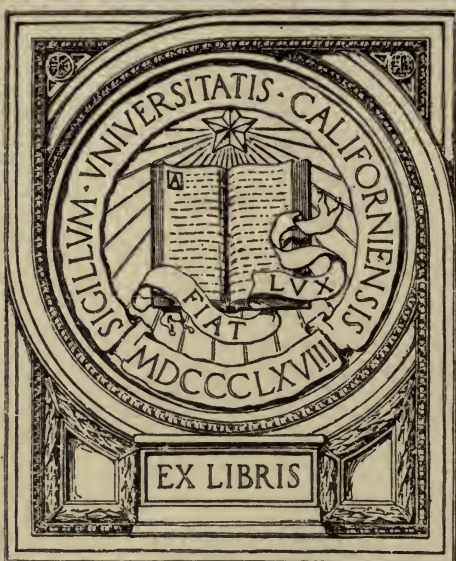
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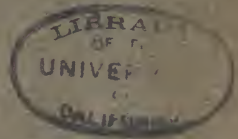
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SCHOOL LAWS

OF

TEXAS

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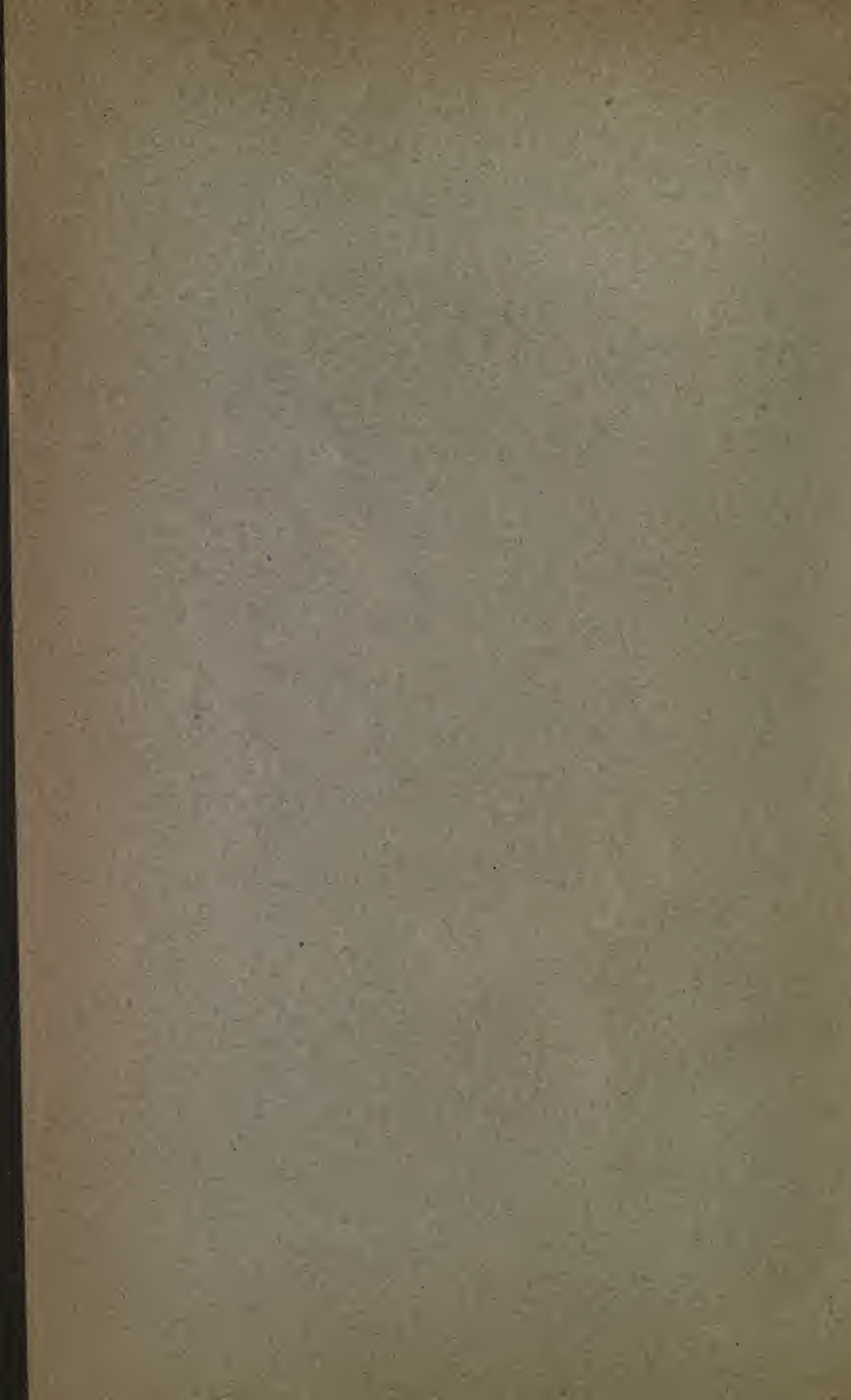


F. M. BRALLEY

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION



Any person desiring a copy of the School Laws should apply to the County Superintendent or ex officio County Superintendent of his county.



SCHOOL LAWS

OF

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F. M. BRALLEY

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SCHOOL LAWS

OF

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CONSTITUTIONAL PROVISIONS.

ARTICLE VII.

SECTION 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provisions for the support and maintenance of an efficient system of public free schools.

SEC. 2. All funds, lands and other property heretofore set apart and appropriated for the support of the public schools, all the alternate sections of lands reserved by the State out of grants heretofore made, or that may hereafter be made, to railroads or other corporations of any nature whatsoever, one-half of the public domain of the State, and all sums of money that may come to the State from the sale of any portion of the same shall constitute a perpetual public school fund.

SEC. 3. One-fourth of the revenue derived from the State occupation taxes and a poll tax of one dollar on every male inhabitant of this State between the ages of twenty-one and sixty years shall be set apart annually for the benefit of the public free schools, and in addition thereto there shall be levied and collected an annual ad valorem State tax of such an amount, not to exceed twenty cents on the one hundred dollars valuation, as with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of this State for a period of not less than six months in each year, and the Legislature may also provide for the formation of school districts by general or special law, without the local notice required in other cases of special legislation, and all such school districts, whether created by general or special law, may embrace parts of two or more counties. And the Legislature shall be authorized to pass laws for the assessment and collection of taxes in all said districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties. And the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts heretofore formed or hereafter formed, for the further maintenance of

public free schools, and the erection and equipment of school buildings therein, provided that a majority of the qualified property tax-paying voters of the district voting at an election to be held for that purpose, shall vote such tax, not to exceed in any one year fifty cents on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts.

SEC. 3a. Every school district heretofore formed, whether formed under the general law or by special act, and whether the territory embraced within its boundaries lies wholly within a single county or partly in two or more counties, is hereby declared to be, and from its formation to have been, a valid and lawful district.

All bonds heretofore issued by any such districts which have been approved by the Attorney General and registered by the Comptroller are hereby declared to be, and at the time of their issuance to have been, issued in conformity with the Constitution and laws of this State, and any and all such bonds are hereby in all things validated and declared to be valid and binding obligations upon the district or districts issuing the same.

Each such district is hereby authorized to, and shall, annually levy and collect an ad valorem tax sufficient to pay the interest on all such bonds and to provide a sinking fund sufficient to redeem the same at maturity, not to exceed such a rate as may be provided by law under other provisions of this Constitution.

And all trustees heretofore elected in districts made up from more than one county are hereby declared to have been duly elected, and shall be and are hereby named as trustees of their respective districts, with power to levy the taxes herein authorized until their successors shall be duly elected and qualified as is or may be provided by law.

SEC. 4. The land herein set apart to the public free school fund shall be sold under such regulations, at such times, and on such terms as may be prescribed by law, and the Legislature shall not have the power to grant any relief to purchasers thereof. The Comptroller shall invest the proceeds of such sales and of those heretofore made as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas or counties in said State, or in such other securities and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

SEC. 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund; and all interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, to which the Legislature may add not exceeding one per cent annually of the total value of the permanent school fund; such value to be ascertained by the Board of Education until otherwise provided by law; and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the

same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population, and applied in such manner as may be provided by law.

SEC. 6. All lands heretofore or hereafter granted to the several counties of this State for educational purposes are of right the property of said counties, respectively, to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the commissioners court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same, to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands and the proceeds thereof when sold shall be held by said counties alone as a trust for the benefit of public schools therein, said proceeds to be invested in bonds of the United States, the State of Texas or counties in said State, or in such other securities and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon and other revenue, except the principal, shall be available fund.

SEC. 7. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both.

SEC. 8. The Governor, Comptroller and Secretary of State shall constitute a Board of Education, who shall distribute said funds to the several counties and perform such other duties concerning public schools as may be prescribed by law.

ARTICLE XI.

SEC. 10. The Legislature may constitute any city or town a separate and independent school district. And when the citizens of any city or town have a charter, authorizing the city authorities to levy and collect a tax for the support and maintenance of a public institution of learning, such tax may hereafter be levied and collected, if, at an election held for that purpose, two-thirds of the taxpayers of such city or town shall vote for such tax.

STATUTORY PROVISIONS.

AVAILABLE STATE SCHOOL FUND.

SEC. 1. *What Shall Constitute.*—One-fourth of all occupation taxes and one dollar poll tax levied and collected for the use of public free schools, exclusive of the delinquencies and cost of collections; the interest arising from any bonds or funds belonging to the permanent school fund, and all the interest derivable from the proceeds of sale of land heretofore set apart for the permanent school fund, which have hitherto or may hereafter come into the State Treasury; all moneys arising from the lease of school lands, and such an amount of State tax, not to exceed twenty cents on the one hundred dollars valuation of property, as may be from time to time levied by the Legislature, shall constitute the available school fund, which fund shall be apportioned annually to the several counties of this State, according to the scholastic population of each, for the support and maintenance of the public free schools. [Acts of 29th Leg., Chap. 124, Sec. 10.]

SEC. 2. *Ad Valorem Tax.*—There shall be levied and collected an annual ad valorem State school tax of twenty cents for the year 1907 and every year thereafter on the one hundred dollars of the cash value thereof, estimated in lawful currency of the United States, on all real property situated and on all personal property owned in the State on the first day of January of each year, and all personal property sent out of the State for the purpose of avoiding the payment of taxes thereon and afterwards returned to the State, except so much thereof as may be exempted by the Constitution and laws of this State or the United States, which cash value shall be estimated in the manner prescribed by law. [Art. 5047, R. S., as amended by Chap. 66, Acts of 30th Leg.]

SEC. 3. *Rate of Tax.*—* * * In calculating the rate to be collected for public free school purposes the [State tax] board shall take into consideration the number of children in the State within the scholastic age to be determined from the most recent official school census; and shall fix a rate that will yield and produce for such fiscal year four dollars per capita for all the children within the scholastic age as shown by said scholastic census; *provided*, the rate so fixed for any year shall never exceed the rate fixed by law. [Acts 1st Called Session of 30th Leg., Chap. 13, Sec. 3.]

COUNTY SCHOOL FUND.

SEC. 4. *Duty of Commissioners Court.*—It shall be the duty of the commissioners court to provide for the protection, preservation and disposition of all lands heretofore granted, or that may hereafter be granted to the county for education or schools. [Art. 1550, R. S.]

SEC. 5. *Disposition of Lands.*—Each county may sell or dispose of

the lands granted to it for educational purposes in such manner as may be provided by the commissioners court of such county; and the proceeds of any such sale shall be invested in bonds of the State of Texas, or of the United States, and held by such county alone as a trust for the benefit of public free schools therein, only the interest thereon to be used and expended annually. [Art. 4271, R. S.]

Dallas County v. Club Land and Cattle Company, 66 Southwestern Reporter, 294.

Note.—See Sections 13 and 118.

SEC. 6. *Income from Lease.*—The proceeds of any leasing or renting of lands heretofore granted by the State of Texas to the several counties thereof for educational purposes shall be appropriated by the commissioners court of said counties in the same manner as is provided by law for the appropriation of the interest on bonds purchased with the proceeds of the sale of such lands; and the proceeds arising from the sale of timber on said lands, or any part thereof, shall be invested in like manner as the Constitution and law requires of proceeds of sales of such lands; and it shall be unlawful for the commissioners court of any county to apply said proceeds, or any part thereof, to any other purpose, or to loan the same, except as above required. [Acts of 29th Leg., Chap. 124, Sec. 12.]

STATE BOARD OF EDUCATION.

SEC. 7. *Members.*—The Governor, Secretary of State and Comptroller shall constitute a State Board of Education, which shall hold its sessions at the seat of government. The Governor shall be ex officio president of the board, and a majority of the members shall constitute a quorum for the transaction of business. [Acts of 29th Leg., Chap. 124, Sec. 21.]

SEC. 8. *Secretary.*—The State Superintendent shall be ex officio secretary of the State Board of Education, and shall keep a complete record of all its proceedings, which shall be signed by the president of the Board and attested by the Superintendent. [Acts of 29th Leg., Chap. 124, Sec. 22.]

SEC. 9. *Shall Make Apportionment.*—The State Board of Education shall, on or before the first day of August in each year, based on the estimate theretofore furnished said Board by the Comptroller, make an apportionment for the succeeding scholastic year, of the available State school fund among the several counties of the State, and the several cities and towns and school districts constituting separate school organizations, according to the scholastic population of each; and thereupon the State Superintendent of Public Instruction, as secretary of such Board, shall certify to the treasurer of each county, city or town and of each school district constituting a separate school organization, the total amount of available school fund so apportioned to each such county, city or town or school district, which certificate shall be signed by the Governor as president of such Board, countersigned by the Comptroller, and attested by the State Superintendent of Public Instruction, as secretary of such Board. [Acts of 31st Leg., 2nd Called Session, Chap. 17, Sec. 4.]

SEC. 12. *Authorized to Invest State Permanent School Fund.*—The Board of Education is hereby authorized and empowered to invest the permanent public free school funds of the State in bonds of the United States, the State of Texas, the bonds of the counties of the State and the independent or common school districts, road precinct, drainage, irrigation, navigation, and levee districts of said State, and the bonds of incorporated cities and towns, and the bonds of road precincts of any county of Texas, and the bonds of drainage, irrigation, navigation, and levee districts of any county or counties of Texas. [Acts of 29th Leg., Chap. 124, Sec. 2, as amended by 31st Leg., Chap. 110.]

SEC. 13. *Duties of Parties Offering Bonds for Sale.*—Hereafter when any county bonds or the bonds of any incorporated city, independent or common school district, road precinct, drainage, irrigation, navigation, and levee districts, are offered for sale, the party offering or proposing to sell such bonds shall first submit them to the Attorney General of the State, who shall carefully inspect and examine the same in connection with the law under which they were issued, and shall diligently inquire into the facts and circumstances so far as may be necessary to determine the validity thereof, and upon being satisfied that such bonds were issued in conformity with law, and that they are valid and binding obligations upon the county or incorporated city [independent], or common school district, road precinct, drainage, irrigation, navigation and levee districts, by which they were issued, he shall thereupon certify to their validity, and his certificate to that effect, so procured by the party offering such bonds for sale, shall be submitted to the Comptroller or Board of Education, with the bonds so offered for sale; and should the same be purchased as an investment for the permanent public free school fund from the county or incorporated city, [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts, issuing the same, or from any person authorized by said county or incorporated city, [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts, to act for it in the negotiation or sale of such bonds, they shall thereafter be held in every action or proceeding in which their validity is or may be called in question, to be valid and binding obligations of the county or incorporated city [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts issuing the same, unless fraudulently issued, or issued in violation of the constitutional limitation, and in every such action a certificate of the Attorney General as aforesaid (which shall be carefully preserved by the Comptroller), shall be admitted and received as prima facie evidence of the validity of the bonds and coupons thereto, which may have been so purchased; and it is further provided, that the commissioners courts of the counties of this State are hereby authorized to invest the permanent school fund belonging to their counties in the manner provided in this Act for the investment of the State fund. [Acts of 29th Leg., Chap. 124, Sec. 3, as amended by 31st Leg., Chap. 110.]

SEC. 14. *Board Must Examine Bonds.*—Nothing in the preced-

ing article shall be so construed as to relieve the Comptroller or Board of Education from the duty of a careful examination of the bonds offered as an investment for the permanent public free school fund of the State, an investigation of the facts tending to show the validity thereof, and such Board of Education may decline to purchase same unless satisfied that they are a safe and proper investment for such fund, and no bonds shall be purchased as an investment for the permanent public free school fund that do not bear as great a rate of interest as at least three per cent per annum; and no county bonds or bonds of any incorporated city [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts, shall be purchased as an investment for the permanent public free school fund when the indebtedness of such county, incorporated city, [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts, inclusive of the bonds so offered, shall exceed seven per cent of the assessed value of the real estate in such county or incorporated city [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts, and if any default be made in the payment of the interest due upon such bonds, the Board of Education may at any time prior to the payment of such overdue interest, elect to treat the principal as also due, and the same shall thereupon, at the option of the Board of Education, become due and payable, and the payment of both such principal and interest shall in all cases be enforced in such manner as is or may be provided by law, and the right to enforce such collection shall never be barred by any law or limitation whatever. [Acts of 29th Leg., Chap. 124, Sec. 4, as amended by 31st Leg., Chap. 110.]

SEC. 15. *Estoppel.*—In all cases where the proceeds of the sales of any bonds have been received by the proper officers of the county or incorporated city, [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts, or by the party acting for it in negotiating the sale thereof, such county or incorporated city, [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts, shall thereafter be estopped from denying the validity of such bonds so issued, and the same shall be held to be valid and binding obligations of the county or incorporated city, [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts, for the amount of bonds sued on and interest thereon, at the rate mentioned therein, deducting such amounts, if any, as have been previously paid thereon. [Acts of 29th Leg., Chap. 124, Sec. 5, as amended by 31st Leg., Chap. 110.]

SEC. 16. *Bonds Must Be Offered to State Board.*—Whenever any county or incorporated city, [independent] or common school district, road precinct, drainage, irrigation, navigation and levee districts of this State issues any bonds, and they have been approved by the Attorney General, as is required by the previous articles of this chapter, the county judge of the county or the mayor of the incorporated city or the president of the board of trustees of the [independent or] common school district or the county judge or party

authorized by law to sell the bonds of road precincts, or drainage, irrigation, navigation or levee districts, as the case may be, shall notify the State Board of Education of all bids received for such bonds, and the county judge, or mayor, or president of the board of trustees, as the case may be, shall give the State Board of Education an option of ten days in which to purchase such bonds; *provided*, that the Board of Education will pay the price offered for such bonds by the best bona fide bidder, and if the Board of Education shall fail to purchase such bonds within the prescribed time, then the county judge, or mayor, or president of the board of trustees, as the case may be, shall sell the bonds to the best bona fide bidder. In the event the State Board of Education shall pay a premium out of the permanent school fund on any bonds purchased as an investment for the permanent school fund, then the principal of such bonds and an amount of the interest first accruing on such bonds equal to the premium so paid, shall be, and be treated as the principal in such investment, and when such first interest is collected, such sum of the same shall be returned to the permanent school fund. And if they purchase said bonds for less than par, the discount they receive in the purchase of said bonds shall be paid to the available school fund when the bonds are paid off and discharged. The price paid for bonds shall be endorsed thereon at the time the same are purchased; *provided*, that where said board shall refuse to purchase bonds from the county, city or [independent or] common school district, road precinct, drainage, irrigation, navigation and levee districts or the parties to whom said bonds were issued, then in no event shall said board purchase said bonds from any subsequent owner or holder of the same. [Acts of 29th Leg., Chap. 124, Sec. 6, as amended by 31st Leg., Chap. 110.]

SEC. 17. *Payment of Interest on Bonds to Be Waiver.*—The payment of any interest upon any bonds heretofore purchased with public school funds, or belonging thereto, shall be deemed and held a waiver of any supposed error, irregularity, or want of authority affecting or tending to affect the validity of any such bonds, and the same shall thereafter be held to be valid and binding obligations upon the county by which they appear or purport to have been issued, notwithstanding any such supposed error, irregularity, or want of authority as aforesaid. [Acts of 29th Leg., Chap. 124, Sec. 7.]

SEC. 18. *Jurisdiction in District Court of Travis County.*—The district court of Travis county shall have jurisdiction of any suit upon bonds or obligations belonging to the permanent public school funds, or purchased therewith, concurrent with that of any other court having jurisdiction in said case. [Acts of 29th Leg., Chap. 124, Sec. 8.]

SEC. 19. *Extent of These Provisions.*—The provisions of this chapter shall extend to any bonds or securities other than the bonds of the State or of the United States, in which the public school funds are or may hereafter be invested, as now or hereafter authorized or prescribed by law, and also to any bonds or securities purchased with any of the permanent funds set apart for the support, maintenance and improvement of any of the asylums or other institutions of this State. [Acts of 29th Leg., Chapter 124, Sec. 9.]

SEC. 20. *Board May Create School Districts at Eleemosynary Institutions.*—The State Board of Education is hereby authorized and empowered to create new school districts at such of the several eleemosynary institutions of the State, including the State Orphan Asylum, or at any and all orphan homes or like institutions now existing or that may hereafter be established by the Odd Fellows, Masons, Knights of Pythias and other fraternal organizations, or other like organizations; *provided, only*, that the number of children within the scholastic age in each instance be sufficient to justify such action. The territorial limits in each case to be co-extensive with the property lines of the institution. [Acts of 29th Leg., Chap. 124, Sec. 176.]

SEC. 21. *Trustees for Such Districts.*—Upon the exercise of the power here granted, the State Superintendent of Public Instruction shall appoint a board of three trustees for each district so created, and such trustees need not be residents of such district, and the fact shall be duly certified to local authorities for information and observance, and upon the creation of such districts the trustees shall take and certify the census of the children within the scholastic age, and the funds shall thereafter be apportioned directly to such district and the law pertaining to independent districts shall govern so far as applicable, though the State Board of Education may make such special regulations and orders for the government of such districts as they may deem expedient. [Acts of 29th Leg., Chap. 124, Sec. 177.]

SEC. 22. *Transfer of Funds.*—Upon the creation of a district as above provided, it shall be the duty of the county school superintendent to transfer to such district whatever amount of money may have been apportioned for the current school year to the old district for and in behalf of the children included in the new district; *provided only*, such children may not have had the advantage of such fund in the old district. [Acts of 29th Leg., Chap. 124, Sec. 178.]

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

SEC. 23. *Election of.*—There shall be elected at each general election for State and county officers, a State Superintendent of Public Instruction, who shall hold his office for a term of two years, and until his successor is elected and qualified, and shall receive an annual salary of twenty-five hundred dollars, and may employ as many clerks as may be necessary to perform the duties of his office; *provided*, that no greater number shall be employed than the Legislature has appropriated salaries for. The Superintendent shall take the oath of office prescribed by the Constitution, and shall perform such duties as may be prescribed by law. Appeals shall always lie from the rulings of the State Superintendent to the State Board of Education. [Acts of 29th Leg., Chap. 124, Sec. 24.]

SEC. 24. *General Duties.*—The Superintendent of Public Instruction shall be charged with the administration of the school laws and a general superintendency of the business relating to the public schools of the State. He shall hear and determine all appeals from the rulings and decisions of subordinate school officers,

and all such officers and teachers shall conform to his decisions unless they are reversed by the State Board of Education. He shall prescribe suitable forms for reports required of subordinate school officers and teachers, and blanks for their guidance in transacting their official business and conducting public schools, and shall from time to time prepare and transmit to them such instructions as he may deem necessary for the faithful and efficient execution of the school laws, and by whatsoever is so communicated to them shall they be bound to govern themselves in the discharge of their official duties. He shall examine and approve all accounts of whatsoever kind against the school fund that are to be paid by the State Treasurer, and upon such approval the Comptroller shall be authorized to draw his warrant. [Acts 29th Leg., Chap. 124, Sec. 25.]

Note.—Under the decision of the Supreme Court of Texas (Harkness v. Hutcherson, 90 Texas, 383; 33 S. W., 1120; Nance v. Johnson, 84 Texas, 401; 19 S. W., 559), controversies in regard to school matters must be appealed to the State Superintendent and to the State Board of Education before they can be taken to the courts. See, also, Cochran v. Patillo, 41 S. W., 537, and Plummer v. Gholson, 44 S. W., 1. See Caswell v. Fundenberger, 105 S. W., 1017.

Parties to appeals may enforce the decisions of the State Superintendent by mandamus. See Pearsall v. Woolls, 50 S. W., 959; Harkness v. Hutcherson, supra; Watkins v. Huff, 63 S. W., 922. Injunction is admissible pending appeal to school authorities. See McCallum v. Adams, 110 S. W., 526.

The Supreme Court has held that appeals must be taken within a reasonable time. (Harkness v. Hutcherson, supra; Watkins v. Huff, supra.)

The State Superintendent of Public Instruction has no jurisdiction over any question directly involving the tenure of office of a trustee of a school district. (Kimbrough v. Barnett, 93 Texas, 301.)

A person having any grievance concerning a public school should apply to the teacher or principal of the school. If the action or decision of the principal is not satisfactory, the matter may be brought before the board of trustees. If the trustees refuse to act or their action is unsatisfactory, an appeal may be taken to the county superintendent and the county board of education. If either party should be dissatisfied, an appeal may be taken to the State Superintendent. From the State Superintendent's decision appeal lies to the State Board of Education. Instructions given on an appeal, or certified question, accompanied by agreed statement of facts, asking for advice from the State Superintendent, shall be binding upon all parties under Section 25.

In cases appealed to the State Superintendent an agreed statement of facts should be submitted, together with the decisions of the county superintendent and county board of education. In cases where contending parties can not agree concerning the facts, the testimony submitted in the trial before the county superintendent and county board of education should be forwarded with the findings of the county superintendent and the county board of education. The county superintendent should fasten all papers together and attach his statement that all matter contained was before him and the county board of education in the trial of the case.

In case where a party appeals from the decisions of the county superintendent and county board of education in their application of a law or a principle to a given set of circumstances or facts wherein there are no opposing parties, the county superintendent and county board and the party appealing shall agree to the facts in the case, and the county superintendent shall forward same, together with rulings thereon, to the State Department of Education.

A party interested in an appealed case may appear, in person, by representative or by written argument, before the State Superintendent to make presentation of his case. Appeals from boards of trustees in independent districts of 500 scholastic population or more do not lie to the county su-

perintendent or county board of education, but to the State Superintendent. The procedure is substantially that indicated in reference to appeals from the decisions of the county superintendent.

SEC. 25. *Instructions Binding.*—The State Superintendent shall advise and counsel with the school officers of the counties, cities and towns and school districts as to the best method of conducting the public schools, and shall be empowered to issue instructions and regulations, binding for observance on all officers and teachers, in all cases wherein the provisions of the school law may require interpretation in order to carry out the design expressed therein; also in cases that may arise in which the law has made no provision, and where necessity requires some rule in order that there may be no hardships to individuals, and no delays or inconvenience in the management of school affairs. [Acts of 29th Leg., Chap. 124, Sec. 27.]

SEC. 26. *Shall Note Educational Progress.*—It shall be the duty of the State Superintendent of Public Instruction to inform himself concerning the educational progress of the different parts of the State and of other States. In so far as he may be able he shall visit different sections of this State and address teachers' institutes, associations, summer normals, and other educational gatherings, to instruct teachers and arouse educational sentiment, and the Legislature shall make adequate appropriation for his necessary traveling expenses, or those of his representative, when in the service of the State. [Acts of 29th Leg., Chap. 124, Sec. 29.]

SEC. 27. *Shall Have School Laws Printed.*—He shall cause to be printed for general distribution such number of copies of the school laws as may at any time be necessary, to be determined by the State Board of Education. [Acts of 29th Leg., Chap. 124, Sec. 28.]

SEC. 28. *Shall Make Reports.*—The State Superintendent shall, one month before the meeting of each regular session of the Legislature, and ten days prior to any special session thereof, at which, under the Governor's proclamation convening the same, any legislation may be had respecting the public schools, make a full report to the Board of Education of the condition of the public schools throughout the State. Such reports shall give all the information called for by the Board of Education, and contain such other matters as the State Superintendent shall deem important. [Acts of 29th. Leg., Chap. 124, Sec. 46.]

SEC. 29. *Governor Shall Lay Such Reports Before Legislature.*—The Governor shall lay such reports before the Legislature and two thousand copies of said reports shall be printed in pamphlet form for use of the Legislature and for distribution among the various school officers and libraries within the State, and the superintendents of public schools of other States and Territories of the United States and Canada and the Bureau of Education at Washington City. [Acts of 29th Leg., Chap. 124, Sec. 47.]

SEC. 30. *School Officers to Make Reports to State Superintendent.*—The State Superintendent shall require of county judges, county, city, and town superintendents, county and city treasurers and treasurers of school boards and other school officers and teachers, such school reports relating to the school fund and other school affairs

as he may deem proper for collecting information and advancing the interests of the public schools, and shall furnish to county, city, and town superintendents, and other school officers and teachers, for the use of such officers and teachers the necessary blanks and forms for making such reports and carrying out such instructions as may be required of them; and any county judge, or county, city, or town superintendent, assessor, treasurer or teacher who shall wilfully fail to make such report within twenty days after the same shall have been required by the State Superintendent to be filed, shall be deemed guilty of a misdemeanor, and shall on conviction be fined in any sum not less than twenty-five dollars nor more than five hundred dollars, the same to be paid when collected to the available school fund. [Acts of 29th Leg., Chap. 124, Sec. 48.]

Note.—The annual reports of all principals or superintendents and of all treasurers of the school funds in independent school districts which contain less than 500 scholastic population must be filed with, examined and approved by the county superintendent before said reports are forwarded to the State Department of Education.

Also, see Section 79 (c), as to annual report and "last month's" salary of principal or superintendent.

SEC. 31. *Reports to Be Filed.*—The State Superintendent shall file all reports, documents and papers transmitted to him and the State Board of Education by county or city school officers, and from all other sources, pertaining to public schools, and keep a complete index of the same. [Acts of 29th Leg., Chap. 124, Sec. 26.]

SEC. 32. *Shall Pro Rate Available Funds Monthly.*—On the first day of each month the State Superintendent of Public Instruction shall pro rate to the several counties, cities and towns and school districts constituting separate school organizations, according to the scholastic population of each, the available school money collected during the preceding month and then on hand as shown by the certificate issued that day to him by the Comptroller and shall thereupon certify to the Comptroller the total sum pro rated to each and such certificate shall be authority for the Comptroller to draw his warrant in favor of the treasurer of each such county, city or town or school district for the amount stated in such certificate. He shall receive from the State Treasurer all warrants drawn by the Comptroller in favor of the treasurer of the available school fund of each county, city or town and each school district having control of its public schools and shall transmit such warrants to the respective treasurers in favor of whom they are drawn. [Acts of 31st Leg., 2nd Called Session, Chap. 17, Sec. 5.]

COMPTROLLER.

SEC. 33. *Shall Keep Separate Account of School Fund.*—The Comptroller shall keep a separate account of the available State School Fund arising from every source, and shall, on or before the meeting of the State Board of Education on or before the first day of August of each year, make an estimate of the amount of available school fund to be received from every source, and to be available for the succeed-

ing scholastic year, and report the same to the State Board of Education. [Acts of 31st Leg., 2nd Called Session, Chap. 17, Sec. 1.]

SEC. 34. *Shall Draw Warrants.*—The Comptroller shall on the first working day of each month certify to the State Superintendent of Public Instruction the total amount of money collected from every source during the preceding month and on hand to the credit of the available school fund, and shall draw his warrant on the State Treasurer and in favor of the treasurer of the available school fund of each county, city or town, and each school district having control of its public schools, for the amount stated in, and upon receipt of, the certificate therefor issued to him on the first day of each month by the State Superintendent of Public Instruction, and shall register such warrants and transmit them to the State Treasurer. [Acts of 31st Leg., 2nd Called Session, Chap. 17, Sec. 2.]

SEC. 35. *Report.*—The Comptroller shall, on or before the meeting of each regular session of the Legislature, report to the Legislature an estimate of the amount of the available school fund to be received for the succeeding two years, and the several sources from which the same accrues and which may be subject to appropriation for the establishment and support of public schools. [Acts of 29th Leg., Chap. 124, Sec. 15.]

STATE TREASURER.

SEC. 36. *Shall Keep Account of School Funds.*—The State Treasurer shall receive and hold as a special deposit all money belonging to the available school fund and keep an account of the same. He shall register every warrant drawn by the Comptroller on such fund in favor of the treasurer of the available school fund of any county, city or town or school district having control of its public schools and transmit such warrants to the Superintendent of Public Instruction. On presentation to him for payment, properly endorsed, he shall pay such warrants each in the order in which presented. [Acts of 31st Leg., 2nd Called Session, Chap. 17, Sec. 3.]

SEC. 37. *Shall Deposit Collections at Close of Month.*—* * * On the last working day of each month the Treasurer shall deposit into the Treasury to the credit of the proper fund as indicated by the lists theretofore furnished him by the [Land] Commissioner, eighty per cent of all collections which have come into his hands during that month upon such lists, and hold the remaining twenty per cent thereof upon deposit receipts issued therefor by the Comptroller; *provided*, when the Commissioner shall have issued receipts to the remitters for remittances, he shall immediately notify the Comptroller and Treasurer definitely the fund or funds to which the whole of such remittances so receipted for should have been applied, and thereupon the Treasurer shall deposit to the credit of the proper fund or funds the remaining twenty per cent of such remittances so receipted for. The Commissioner shall furnish all available data to the State Board of Education when requested to do so by said Board. * * * [Acts of 31st Leg., 2nd Called Session, Chap. 16, Sec. 4.]

SEC. 38. *Shall Report Condition of Funds.*—The State Treasurer shall, thirty days before each regular session of the Legislature, and

ten days before any special session, at which any legislation can be had respecting the public schools, report to the Governor the condition of the permanent and available school fund, the amount of each, and the manner of its disbursement; and he shall also make any additional report required by the Board of Education. [Acts of 29th Leg., Chap. 124, Sec. 18.]

SEC. 39. *Shall Not Use School Funds for Other Purposes.*—The Treasurer shall not under any circumstances, use any portion of the permanent or available school funds in payment of any warrant drawn against any other fund whatever. [Acts of 29th Leg., Chap. 124, Sec. 20.]

COUNTY SUPERINTENDENT OF PUBLIC INSTRUCTION.

SEC. 40. *Office Established.*—The office of county superintendent of public instruction is hereby created, and the commissioners court of every county in this State having three thousand scholastic population as shown by the preceding scholastic census, shall provide for the election of a county superintendent of public instruction at each general election, who shall be a person of educational attainments, good moral character and executive ability, and who shall be provided by the commissioners court with an office in the courthouse and with necessary office furniture and fixtures. He shall be the holder of a teacher's first grade certificate, or teacher's permanent certificate, and he shall hold his office for the term of two years, and until his successor is elected and qualified. Immediately after the passage of this act, in every county that has three thousand scholastic population or more, the commissioners court shall appoint a county superintendent of public instruction, with the qualifications above prescribed, who shall perform the duties of such officer until a county superintendent shall have been elected as hereinbefore provided, and shall have qualified; *provided*, that in counties having less than three thousand scholastic population, whenever more than twenty-five per cent of the qualified voters of said county, as shown by the vote for Governor at the last general election shall petition the commissioners court therefor, the commissioners court shall order an election for said county to determine whether or not the office of county superintendent shall be created in said county, and if the majority of the qualified property tax paying voters at said election shall vote for the creation of the office of county superintendent in said county, the commissioners court, at its next regular term after the holding of said election, shall create the office of county superintendent and name a county superintendent who shall qualify under this act and hold such office until the next general election and until his successor shall have been elected and qualified. [Sec. 36, Chap. 124, Acts of 29th Leg., as amended by Chap. 61, Acts of 30th Leg.]

SEC. 41. *Shall Give Bond.*—The county superintendent of public instruction, before entering upon the discharge of his duties, shall take the oath of office prescribed by the Constitution, and shall enter into a bond in the sum of one thousand dollars, with good and sufficient sureties, to be approved by the county commissioners court, and to be filed with the county clerk of his county. Said bond shall

be made payable to the county commissioners court and their successors in office, in trust for the available school fund of the county, and be conditioned upon the faithful performance of the duties of his office. In case said bond shall be forfeited and collected, the sum so collected shall become a part of the available school fund of the county. [Acts of 29th Leg., Chap. 124, Sec. 38.]

SEC. 42. *Shall Have Immediate Supervision of Schools.*—The county superintendent of public instruction shall have, under the direction of the State Superintendent of Public Instruction, the immediate supervision of all matters pertaining to public education in his county. He shall confer with the teachers and trustees and give them advice when needed, visit and examine schools, and deliver lectures that shall tend to create an interest in public education. He shall spend as much as four days in each week visiting the schools while they are in session, when it is possible for him to do so. He shall have authority over all the public schools within his county, except such of the independent school districts as have a scholastic population of five hundred or more. In such independent school districts as have less than five hundred scholastic population the reports of the principals and treasurers to the State Department of Education shall be approved by the county superintendent before they are forwarded to the State Superintendent, and all appeals in such independent school districts shall lie to the county superintendent and county board of education, and from the decisions of the county superintendent and county board of education to the State Superintendent of Public Instruction and to the State Board of Education. [Sec. 37, Chap. 124, Acts of 29th Leg., as amended by Chap. 61, Acts of 30th Leg., and Chap 26, Acts of 32nd Leg.]

Note.—In the case of *Webb County v. Laredo* (65 S. W., 378; 95 Texas, 131), the Supreme Court of the State, after quoting Section 1 of Article 7 of the Constitution, says:

"This devolves the duty of establishing and maintaining public free schools upon the Legislature, and shows that the function of such establishment and maintenance was to be performed by State agencies . . . Though, in a sense, a county officer, and though called 'county superintendent,' he is, in fact, the officer and agent of the State—the State having assumed the functions of maintaining public free schools for the education of the children throughout its domain, the counties being recognized with reference to that business merely as convenient subdivisions of territory, and some of their officers as proper agents for the administration of affairs relating to the public free schools."

Note.—The certificate of all teachers in the county must be registered in the county superintendent's office. See Section 95.

The county superintendent is required to approve the contracts with teachers and all vouchers drawn against the school funds in independent districts having each fewer than 150 scholastics. See Section 51.

SEC. 43. *Shall Conduct County Teachers' Institute.*—* * * The county superintendent shall organize and hold, with such assistance as may be necessary, within the first four months of the scholastic year, one institute of five consecutive days for white and for colored teachers, respectively, and he shall require the attendance of white teachers upon the institute for white teachers and the attendance of colored teachers upon the institute for colored teachers; *provided*, that a failure to comply with these requirements shall be sufficient

cause for his removal from office; *provided, further*, that the county superintendent of public instruction shall be authorized to cancel the certificate of any teacher who wilfully and persistently absents himself from attendance upon the county teachers' institute; *provided*, that the board of school trustees in any independent school district having five hundred or more scholastic population may authorize the superintendent or principal to organize and hold institutes for the teachers of such district, in lieu of the county institute; *provided*, that the plan, scope and quality of the work of the said city institutes shall be approved by the State Superintendent of Public Instruction. [Sec. 37, Chap. 124, Acts of 29th Leg., as amended by Chap. 61, Acts of 30th Leg., and Chap. 96, Acts of 32nd Leg.]

SEC. 43A. *Shall Attend Summer Normals and County Institutes.*—It shall be the duty of all teachers in the public schools of this State to attend the summer normal and county institutes as far as possible. [Acts of 29th Leg., Chap. 124, Sec. 104.]

Note.—See Section 43 for penalty for neglecting to attend institutes.

SEC. 43B. *Shall Keep Record of Attendance and Certify to Same.*—It shall be the duty of the county superintendent of public instruction, or the county judge when acting as such, to keep a correct account of the attendance of the teachers who attend the institutes, and also an account of the teachers who attend the summer normals held in the county of which he is such county superintendent of public instruction, or county judge, when acting as such, and to certify the attendance of the holder of such certificates on said certificates. The conductor of each summer normal school in this State shall report to the county superintendent or ex officio county superintendent of the county wherein said normal is held, a correct record of the daily attendance of teachers on said normal, and shall certify to the faithful performance of the duties of said teachers while in attendance on said normal; *provided*, that teachers who attend the county teachers' institutes shall receive full pay as provided under their contract, for each day they are absent from the schools they have contracted to teach, and are in actual attendance at the sessions of said institutes. [Acts of 29th Leg., Chap. 124, Sec. 126.]

Note.—In view of the above sections the State Superintendent, under authority of Section 25 of this pamphlet, rules that the week of the county institute constitutes a portion of the school term covered by the teacher's contract. The teacher's report and voucher for the school month during which institute attendance occurred should be interlined to show three weeks' teaching and one week's attendance at institute. A teacher who, prior to the date of the institute, has been employed to teach in the county, is entitled to pay for attending the institute, whether the school has begun or not. The county superintendent must keep a record of the attendance of each teacher upon the county teachers' institute and summer normal held in his county.

A teacher must attend the institute of the county in which his school is located, unless excused from attendance by the county superintendent and the State Superintendent. Subject to the exception stated in the following paragraph, it has been held that attendance in any other county than the one in which he is to teach will not entitle the teacher to pay for such attendance.

Where there are fewer than 24 teachers, either white or colored, in a county, arrangement for such teachers to attend a joint institute held in a

convenient county will be accepted as a substantial compliance with the provisions of this section. In such cases a correct record of the attendance and work of each teacher should be kept and reported to the county superintendent of the county in which the teacher's school is located.

Copies of all county institute programs should be forwarded to the State Department of Education.

If a city of above 500 scholastics elects to hold institutes for its teachers, separate from the county institute, it is necessary that outline of the work, giving programs in detail, be submitted to the State Superintendent for approval before the work is done.

The record of the attendance and quality of work of teachers at the city institute should be reported to the school board.

SEC. 44. *Shall Apportion Funds Among School Districts.*—The county superintendent, or county judge, who is ex officio county superintendent, upon receipt of the certificate issued by the Board of Education for the State fund belonging to his county, shall, [in cooperation with the county school trustees] apportion the same to the several school districts (not including the independent school districts of the county), making a pro rata distribution as per the scholastic census, and shall at the same time apportion the income arising from the county school fund to all the school districts, including the independent school districts of the county, making a pro rata distribution as per scholastic census. Within thirty days after such apportionment by the county superintendent of education, or county judge, who is ex officio county superintendent of education, the trustees of each district shall, if possible, agree upon a division of the funds of the district among the schools thereof, and shall fix the term for which the schools of the district shall be maintained for the year. Should they agree upon a division of the funds of the district or upon the length of the term for which the schools of the district shall be maintained, they shall at once certify their agreement to the county superintendent, or county judge, who is ex officio county superintendent, who shall not approve any contract with teachers of the district until such agreement is received. Should the trustees fail to agree upon a division of the funds of the district or upon the length of the term for which the schools of the district shall be maintained, they shall at once certify their disagreement to the county superintendent, or the county judge, who is ex officio county superintendent, who shall proceed to fix the school term of such school district and declare the division of the school fund of the district among the schools thereof, endeavoring, as far as practicable, to provide for the schools of such district school terms of the same length. [Sec. 94, Chap. 124, Acts of 29th Leg., as amended by Acts of 30th Leg., Chap. 106, and Acts of 32nd Leg., Chap. 26.]

Note.—Before making the apportionment the county superintendent should deduct the amount necessary to be reserved for his salary and his fee for making consolidated census rolls and summaries to be paid from the school funds of the county as a whole.

Note.—The trustees are not required to expend the funds upon the different schools of the district in proportion to the number of pupils assigned to each school (Bell v. Kuykendall, 3 T. C. A., 209; 22 S. W., 112); but they should provide school terms of equal length for all schools of the district. The salaries paid the teachers will determine the amount of funds to be expended on each school.

SEC. 45. *Shall Approve Contracts and Vouchers.*—The county superintendent shall approve all vouchers legally drawn against the school fund of his county. He shall examine all contracts between the trustees and teachers of his county, and if in his judgment such contracts are proper, he shall approve the same; *provided*, that in considering any contract between a teacher and trustee he shall be authorized to consider the amount of salary promised to the teacher. He shall distribute all school blanks and books to the officers and teachers of the public schools, and shall make such reports to the State Superintendent as may be required by that officer. Immediately after qualifying he shall appoint a county board of examiners, consisting of two resident white teachers holding first grade certificates, who shall serve during the pleasure of the county superintendent of public instruction, subject to the provisions hereafter made. He shall discharge such other duties as may be prescribed by the State Superintendent. [Acts of 29th Leg., Chap. 124, Sec. 39, as amended by Acts of 32nd Leg., Chap. 96.]

Note.—The county superintendent can not approve a contract before the apportionment of school funds. He must consider the compensation to be paid the teacher and the time for which the school is to be taught. The State apportionment of the school funds is not made before August 1, and it is, therefore, impossible for the county superintendent to consider the terms of a contract with respect to the funds of the district prior to that date. See Sections 9, 55, 44, 136 and 137.

A contract must cover the entire time the public school of the district is to be taught during the scholastic year. The session must be continuous.

The county superintendent has no authority to change an incipient contract between a board of trustees and a teacher; he must either approve or disapprove it. (Caviel v. Coleman, 72 Texas, 550; 10 S. W., 679.)

SEC. 46. *Authorized to administer Oaths.*—The county superintendents are hereby empowered to administer oaths necessary in transacting any business relating to school affairs; *provided*, that they shall receive no compensation for administering said oaths. [Acts of 29th Leg., Chap. 124, Sec. 41.]

SEC. 47. *Salary.*—The county superintendents of public instruction herein provided for shall receive from the available school fund of their respective counties annual salaries, as follows: In every county in Texas that has a scholastic population of two thousand or less, in which the office of county superintendent has been created or may be created after this act shall have gone into effect, the county school superintendent shall receive an annual salary of nine hundred dollars; in every county in the State of Texas that has a scholastic population of not less than two thousand nor more than three thousand, the county school superintendent shall receive an annual salary of eleven hundred dollars; in every county that has a scholastic population of not less than three thousand nor more than four thousand, the county school superintendent shall receive an annual salary of thirteen hundred dollars; in every county that has a scholastic population of not less than four thousand nor more than five thousand, the county school superintendent shall receive an annual salary of fourteen hundred dollars; in every county that has a scholastic population greater than five thousand, the county school superintendent shall receive a salary of fifteen hundred dollars; *pro-*

vided, that the county superintendent shall be allowed any sum not to exceed one hundred dollars per year for stamps, stationery, expressage and printing, to be paid by the commissioners court out of the county general fund. The compensation herein provided for shall be paid quarterly by the county treasurer [depository] on the order of the commissioners court; *provided*, that the salary for the quarter ending on the second Monday in November shall not be paid until the county superintendent presents a receipt from the State Superintendent of Public Instruction showing that he has made all reports required of him. [Sec. 40, Chap. 124, Acts of 29th Leg., as amended by Acts of 30th Leg., Chap. 106.]

Note.—The salary of the county superintendent is based on the scholastic population of the entire county, including independent school districts.

The available school fund of the county consists of the receipts from the investment of the county permanent school fund and the State apportionment paid to the county, and out of the funds so received the county superintendent's salary should be paid. To illustrate, if the receipts from the investment of the county permanent fund should be \$100 and the State apportionment to the county \$1900, one-twentieth of the county superintendent's salary should be deducted from the receipts derived from the county permanent fund before such receipts are apportioned to the common school districts and the independent school districts of the county, and nineteen-twentieths of his salary deducted from the funds received by the county from the State before their apportionment to the common school districts of the county.

EX OFFICIO COUNTY SUPERINTENDENT.

SEC. 48. *County Judge Shall Be, When.*—In each county in this State having no school superintendent, the county judge shall be ex officio county superintendent of public instruction, and shall perform all the duties required by the county superintendent in this chapter. [Acts of 29th Leg., Chap. 124, Sec. 42.]

SEC. 49. *Shall Give Bond.*—The county judge shall give a bond in the sum of one thousand dollars, to be approved by the county commissioners court, and filed with the county clerk, said bond [to be] made payable to the commissioners' court and their successors in office, and conditioned for the faithful performance of his duties. He shall also take the oath of office prescribed by the Constitution. [Acts of the 29th Leg., Chap. 124, Sec. 43.]

SEC. 50. *Compensation.*—In counties where a county judge acts as superintendent of public instruction, he shall receive for his services as superintendent such salary as may be provided by the commissioners' court, not to exceed the sum of six hundred dollars per annum. [Acts of 29th Leg., Chap. 124, Sec. 44.]

Note.—Whenever it becomes the duty of the commissioners court to appoint a county school superintendent, said court has authority to revoke entirely the ex officio salary allowed the county judge for looking after the schools. (Collingsworth v. Myers, 35 S. W., 414.)

SEC. 51. *Shall Take Constitutional Oath.*—County superintendents, county judges, and all school officers shall take the oath prescribed by the Constitution to faithfully and impartially discharge the duties of their respective offices. [Acts of 29th Leg., Chap. 124, Sec. 45.]

TREASURERS OF SCHOOL FUNDS.

SEC. 52. *Funds Must Be Kept in Depositories.*—* * * All incorporated districts having each fewer than 150 scholastics according to the latest census shall be governed in the administration of their schools by the laws which apply to common school districts and all funds of such districts shall be kept in the county treasury and paid out on order of the trustees approved by the county superintendent; *provided*, that the terms county treasurer and county treasury as used in all provisions of law relating to school funds shall hereafter be construed to mean the county depository, and in incorporated districts of more than 150 scholastics, whether they be cities which have assumed control of the schools within their limits or corporations for school purposes only, the treasurer of the school fund shall be that person or corporation who offers satisfactory bond as provided by law and the best bid of interest on the average daily balances for the privilege of acting as such treasurer, and the State Department of Education shall be notified of the treasurers of the school funds in the respective counties and independent districts by the commissioners' courts and presidents of school boards filing in said department copies of the bonds of said depositories to cover school funds; *provided*, that no commission shall hereafter be paid for receiving and disbursing school funds. (Acts of 29th Leg., Chap. 124, Sec. 154a, added by Acts of 31st Leg., Chap. 12.)

Note.—Held constitutional and valid *Charlton v. Cousins*, Texas Supreme Court, June, 1910.

This provision does not destroy the autonomy of the small independent districts with respect to number of members of their school boards and manner of taxation.

Certified copy of a proper bond, covering school funds, must be filed in the State Department of Education before payment of any State school funds can be made.

For law covering the selection of the county depository of school funds, see Section 20 et seq., Chapter 164, Acts of 29th Legislature.

County depository must provide for payment of warrants at county seat. Sections 27 and 28, Chapter 164, Acts of 29th Legislature.

See Section 24, Chapter 164, Acts of the 29th Legislature with reference to county treasurer's liability for failure to turn over funds to the county depository.

A bank in which a member of the school board is interested may become depository of school funds.

SEC. 53. *Bond.*—Within twenty days after the receipt of a certificate of his election, it shall be the duty of the county treasurer [depository] to execute a bond, with two or more good and sufficient sureties, payable to the county judge and his successors in office, for the faithful performance of his duties under this chapter; said bond shall be an amount equal to the probable amount of available school fund and of the permanent county fund which may come into his hands, to be estimated by the county superintendent or county commissioners court in counties having no superintendent, and shall be made payable and conditioned as prescribed by the general law. [Acts of 29th Leg., Chap. 124, Sec. 31.]

Note.—The bond of the county depository, in regard to the available school funds, should be conditioned that the depository will, upon presentation, pay all warrants drawn by the school trustees of a district, when approved by the county superintendent, whenever any school funds shall be in said depository applicable to the payment of said warrants, and that the depository will faithfully account for all school funds to the State Superintendent of Public Instruction according to law.

Concerning the bond of the treasurer of an independent district of more than 150 scholastics, see Section 202.

SEC. 54. *New Bond May Be Required.*—If the commissioners court shall at any time deem it necessary for the protection of the county it may require any [county] depository to execute a new bond, and if said new bond be not filed within five days from the time of the service of a copy of said order upon said depository, the commissioners' court may proceed to the selection of another depository in the manner provided for the selection of a depository at the regular time for such election. [Acts of 29th Leg., Chap. 164, Sec. 31.]

SEC. 55. *Depository Shall Keep Accounts.*—The county treasurer [depository], upon receiving notice from the State Superintendent of the amount apportioned to the county, shall report the same to the county superintendent, who shall immediately apportion the same to the several districts, according to the scholastic census, and the county superintendent shall immediately notify the county treasurer [depository] of the amount apportioned to each district. It shall also be the duty of the county treasurer [depository] to keep a separate account with each district, showing the amount apportioned according to the certificate of apportionment, and the amount paid out to each school and district; provided, in no case shall the county treasurer [depository] pay out any part of the school fund without the approval of the county superintendent. [Acts of 29th Leg., Chap. 124, Sec. 34.]

Note.—See Section 44.

SEC. 56. *Balances.*—All balances of the general [school] fund not appropriated for the current year shall be carried over by the treasurer as a part of the general [school] fund for the county for the succeeding year, and unexpended balances to the credit of any district shall be carried over for the benefit of such school district; *provided*, that if any such balance shall exceed five dollars per capita, according to the last scholastic census, then such excess over five dollars per capita shall be re-apportioned to the school districts of the county. [Acts of 29th Leg., Chap. 124, Sec. 35.]

SEC. 57. *Purposes For Which the Funds May Be Expended.*—The public school funds hereafter shall not be expended except for the following purposes:

(a) The State and county available school funds shall be used exclusively for the payment of teachers' and superintendents' salaries and fees for taking scholastic census. * * *

(b) Local school funds from district taxes, tuition fees of pupils not entitled to free tuition and other local sources may be used for the purposes enumerated for State and county funds and for

purchasing appliances and supplies, for the payment of insurance premiums, janitors and other employes, for buying school sites, buying, building and repairing and renting school houses, and for other purposes necessary in the conduct of the public schools to be determined by the board of trustees, the accounts and vouchers for county districts and communities, to be approved by the county superintendent; *provided*, that when the State available school fund in any city or county [district] is sufficient to maintain the schools thereof in any year for at least eight months, and leave a surplus, such surplus may be expended for the purposes mentioned herein. [Acts of 29th Leg., Chap. 124, Sec. 83.]

Note.—Money to the credit of the sinking fund, where a district has issued bonds, can not be used for other purposes. *McGee v. Franklin Pub. Co.*, 15 Texas Civil Appeals Reports, 216.

Local funds which are necessary for the payment of the contracts made with the teachers can not be used for the purposes mentioned above. Officers wrongfully paying out funds to which a party is entitled by prior contract are responsible personally for the amount thus misappropriated. See *Wilson v. Hite*, 54 S. W., 726, and *Stephenson v. Union Seating Co.*, 62 S. W., 128.

SEC. 58. *Treasurers Shall Make Reports.*—All treasurers receiving or having control of any school funds, shall keep a full and separate itemized account with each of the different classes of school funds coming into his hands, and shall, on or before the first day of October of each year, file with the State Superintendent of Public Instruction an itemized report in duplicate of the receipts and disbursements of the school funds for the preceding school year ending August 31st, which report and duplicate shall be on the prescribed form furnished by the Department of Education, and the duplicate report, after examination by the State Superintendent, shall be returned to the commissioners' court of the proper county for approval, and shall be accompanied by such objections or recommendations as the State Superintendent may make in regard to the same. The State Superintendent, in examining any report, may call for the vouchers and make such investigation of the correctness and legality of the different items as he may deem necessary, and when the duplicate is sent to the commissioners' court all vouchers shall be presented to the court, and the present law in regard to treasurers' reports, except as hereinbefore modified, is hereby continued. [Acts of 29th Leg., Chap. 124, Sec. 49.]

Note.—All school funds may be classed as follows: (a) State and county funds derived from the State per capita apportionment and from the income on the county permanent fund; (b) local funds, derived from maintenance taxes, tuition fees, donations or other local sources; (c) building funds, derived from the sale of bonds; (d) sinking funds, derived by taxation for the payment of interest and the redemption of bonds of a district.

Note.—Article 300 of the Revised Statutes, and the case of *Terrell v. Greene*, 88 Texas Reports, 539 (31 S. W., 631), make it the duty of the county or district attorney to institute proceedings against any treasurer of the school funds for neglecting to discharge his duties under the law.

SCHOLASTIC CENSUS.

SEC. 59. *Who Shall Be Enumerated.*—In taking the scholastic census every child that will be of scholastic age at the beginning of the next school year shall be enrolled and enumerated in the district in which it resides at the time of its enumeration. [Acts of 29th Leg., Chap. 124, Sec. 90.]

SEC. 60. *Manner of Taking Census.*—The county superintendent of public instruction shall, on the first day of January of each year, or as soon as practicable thereafter, appoint one of the trustees of each school district, or some other qualified person, to take said census, who shall be known as the census trustee of the district. It shall be the duty of the census trustee to take between the first day of May and the first day of June after his appointment, a census of all the children that will be over seven and under seventeen years of age on the first day of the following September, and who are residents of the school district on said first day of May, and to make report under oath to the county superintendent on or before the first day of June next thereafter. In taking the said census he shall visit each home, residence, habitation and place of abode, and shall, by actual observation and interrogation, enumerate the children thereof in the following manner: He shall use for each parent, guardian or person having control of any such children a prescribed form showing the name, color and nationality of the person rendering such children, the name and number of the school district in which the children reside, and the name, sex and date of birth of each child of which he is the parent or guardian, or of which he has control, and which child will be over seven and under seventeen years of age on the first day of September next following. The census trustee shall require such form to be subscribed and sworn to by the person rendering the children, and he is hereby authorized to administer oaths for this purpose.

When the census trustee visits any home or house or place of abode of a family and fails to find either the parent or any person having legal control, it shall be the duty of the census trustee to leave the prescribed census blanks for the use of parents at such home or place of abode, with a note to the parent or guardian having legal control of child or children, requiring that the form be filled out, sworn and subscribed to before the census trustee, or any officer authorized to administer oaths, and that the blanks, when so filled out, shall be delivered by the parent or person having legal control of the child or children to the census trustee.

Note.—In the family form provided for enumeration in the census the parent swears to the date of a child's birth. The census trustee inserts the age of the child.

Children whose seventh birthday anniversary falls on September 1 are over seven years of age on that day and must be enumerated in the census; children whose seventeenth birthday anniversary falls on September 1 are not under seventeen on that day and must not be enumerated in the census. See *Ross v. Morrow*, 85 Texas, 172; 19 S. W., 1090.

(a) Every person having control of any child which will be over seven and under seventeen years of age on the first day of Septem-

ber next thereafter, and who being requested by the census trustee to prepare said form giving the information required, or to give the information necessary to enable the trustee to prepare the same, shall refuse to do so, or shall refuse to make oath to said form when filled according to his statement of facts in regard to said children, or shall fail to return the form left at his home in his absence, as above required, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than ten dollars. And it shall be the duty of the census trustee at once to file with some justice of the peace of competent jurisdiction complaint against such person. Only children of the same family shall be listed on one form, and if one person has under his control children of different family name, he should use a separate form for each family name.

(b) The census trustee shall arrange the forms for white and colored children separately in alphabetical order, according to the family name of the children reported thereon. He shall also make on a prescribed form, separate census rolls for the white and colored children of his district, showing the name, age, sex and color of each child, and the name of the parent, guardian or person having control of said children by whom it is reported. He shall also make a summary of his rolls showing the number of children of each race that will be of the different ages over seven and under seventeen on the first day of next September, which shall continue to be the scholastic age, as is now provided by law. He shall make oath to his rolls and summaries, and to the faithful and accurate discharge of his duties, deliver the rolls, together with the forms arranged in alphabetical order, to the county superintendent on or before June 1st next after his appointment.

(c) Any census trustee who shall wilfully fail or refuse to obtain the necessary information in regard to any child which will be over seven and under seventeen years of age on the first day of September next thereafter, or who shall wilfully fail or refuse to include any child within said ages in his rolls, or shall willfully make any false report, roll or summary, shall be guilty of false swearing, and shall be punished as prescribed by law for that offense. And if the county superintendent finds or believes that any census trustee has violated any duty required under this act, such county superintendent shall report said census trustee to the grand jury of the county at its next session after discovering such breach of duty.

(d) The rolls and summaries of the census trustee shall be preserved by the county superintendent in his office for three years after they are filed. The county superintendent shall make on prescribed forms separate consolidated rolls for the white and colored children of his county, showing the name, age and sex of each, together with the number of the district in which it lives, and the name of the parent or guardian, arranging the names of the children according to the alphabetical order of their family names. In making these consolidated rolls, he shall scrutinize carefully the work of the census trustees, and shall have the power to summon witnesses, take affidavits and correct any errors he may find in any census trustee's roll, and he shall carefully exclude all duplicates. If he deems it necessary, he may reject any roll, and appoint another cen-

sus trustee to take the census of the district, in which case he shall not approve the warrant to pay the census trustee whose work has been rejected, for his services. When the county superintendent has prepared his consolidated census roll, one for each race, he shall make a duplicate of each, and he shall make affidavit to the correctness of both originals and duplicates. The originals he shall, on or before July 1st, forward to the State Superintendent of Public Instruction at Austin, and the duplicates shall be filed with the county clerk and become permanent records of his office. The county superintendent shall forward with his consolidated rolls an abstract on the prescribed form, under oath, showing the number of children of each race, of the different years of the school age, and the total number of children of each race and the total of both races in his county. In making his consolidated rolls, and in investigating the work of any census trustee, the county superintendent shall refer to the forms and rolls of previous years, when necessary, and they shall be carefully preserved for this purpose.

(e) The State Superintendent shall have authority to investigate the census of any county, to correct errors, and in extreme cases when he believes gross errors have occurred, or that fraud has been practiced, he may, with the approval of the State Board of Education, reject any county's roll and require the census of the county to be retaken.

(f) For their services the census trustees shall receive four cents per capita of the children of scholastic age taken by them in county districts and three cents per capita in towns of 2500 inhabitants and upwards to 5000 inhabitants, and two cents per capita in cities of more than 5000 inhabitants, and the county superintendent shall receive one cent per capita of the scholastic population reported by him, but these amounts shall not be paid until the census of the county is accepted by the State Superintendent, and shall be forfeited as follows: The trustee's compensation, if his work is rejected by the county superintendent, and the census of his district ordered retaken, and both the county superintendent's and the trustee's compensation, if the census of the county is rejected and ordered by the State Superintendent and the State Board of Education to be retaken.

(g) The provisions of this act shall apply to the taking of the scholastic census in cities and towns constituting independent districts, except as specially provided herein below, to wit: The census trustee shall be appointed by the president of the board of trustees, and a census trustee may be appointed for each ward or school subdistrict, at the discretion of the president of the school board making such appointment. The forms for the parent and the rolls shall show the street and house number, or location of the house or plac in which each child resides. [Acts of 29th Leg., Chap. 124, Sec. 89.]

Note.—Census trustees in independent districts must make their reports to the county superintendent. The children in the independent districts of fewer than 150 scholastics are to be included in the consolidated alphabetic roll and summary for the county, made by the county superintendent. For each independent district having more than 150 scholastics the county su-

perintendent must make a separate consolidated roll and summary and forward the same to the State Superintendent. These rolls and summaries must be sworn to by the county superintendent. The affidavit of the census trustee is not sufficient.

TRANSFERS.

SEC. 61. *Authority of County Superintendent.*—Each year after the scholastic census of the county is completed, the county superintendent shall, if any district has less than twenty pupils of scholastic age, either white or colored, have authority to consolidate said district as to said white or colored schools with other adjoining districts, and to designate the board of trustees which shall control the white or colored school of such consolidated district. But this shall be done before the apportionment is made, and the apportionment shall be made with respect to such consolidation. * * * [Acts of 29th Leg., Chap. 124, Sec. 54.]

SEC. 62. *Application of Parent or Guardian.*—Any child lawfully enrolled in any district or independent district may be transferred to the enrollment of any other district or independent district in the same county, upon the written application of the parent or guardian or person having the lawful control of such child, filed with the county superintendent at any time before the apportionment of the school fund by the county superintendent or county judge of any scholastic year, but not afterwards; and no child shall be transferred more than once; *provided*, the party making application for transfer shall state in said application that it is the bona fide intention of applicant to send child to the school to which transfer is asked. Upon the transfer of any child its portion of the school fund shall follow and be paid over to the district or independent district to which such child is transferred; *provided*, no transfers shall be made after August 1st after the enrollment was made. [Acts of 29th Leg., Chap. 124, Sec. 91.]

Note.—The county superintendent should exercise discretion in the matter of making or declining to make the transfer of each child from one district to another. The transfer on the books of the county superintendent must be made on or before August 1. It is not sufficient that the application merely shall have been filed by that date.

When the county superintendent transfers a child from an independent district of the county he should promptly notify the board of trustees of the district from which the transfer is made, whose duty it will then become to pay to the treasurer of the district to which the transfer is made the child's per capita apportionment.

No part of the money derived from the local tax of a district is transferred. A child of a non-resident transferred to a district which levies a local tax, is entitled to free tuition for so long a time each year as the State and county funds maintain the schools of the district; after the expiration of which time a reasonable rate of tuition should be charged.

SEC. 63. *To District in Adjoining County.*—Any child specified in the preceding section, and its portion of the school fund, may be transferred to an adjacent district in another county in the same manner as is provided in said section for the transfer of such child or children from one district to another in the same county; *provided*, that it must be shown to the county superintendent that the school in the district in which such child or children resides on ac-

count of distance or some uncontrollable and dangerous obstacle is inaccessible to such child or children. [Acts of 29th Leg., Chap. 124, Sec. 91a, added by 30th Leg., Chap. 130.]

SEC. 64. *By Agreement of Trustees.*—Except as herein provided, no part of the school fund apportioned to any district or county shall be transferred to any other district or county; *provided*, that districts lying in two or more counties, and situated on the county line, may be consolidated for the support of one or more schools in such consolidated district, and in such case the school funds shall be transferred to the county in which the principal school building for such consolidated district is located; and *provided further*, that all the children residing in a school district may be transferred to another district, or to an independent district, upon such terms as may be agreed upon by the trustees of said districts interested. [Acts of 29th Leg., Chap. 124, Sec. 92.]

Note.—In case of consolidation under the provisions of this section, the agreement between the trustees of the respective districts should be in writing and filed in the office of the county superintendent.

ATTENDANCE.

SEC. 65. *School Shall Not Be Sectarian.*—No part of the public school fund shall be appropriated to or used for the support of any sectarian school. [Acts of 29th Leg., Chap. 124, Sec. 130.]

Note.—See Article 7, Section 5, Constitution of Texas.

SEC. 66. *Provision to Be Made for Both Races.*—All available public school funds if this State shall be appropriated in each county for the education alike of white and colored children, and impartial provisions shall be made for both races. [Acts of 29th Leg., Chap. 124, Sec. 95.]

Note.—See Article 7, Section 7, Constitution of Texas.

SEC. 67. *Who Are "Colored."*—The terms "colored race" and "colored children," as used in the preceding articles, and elsewhere in this title, include all persons of mixed blood descended from negro ancestry. [Acts of 29th Leg., Chap. 124, Sec. 96.]

Note.—See Section 123 in regard to schoolhouses.

SEC. 68. *Where Children May Attend School.*—Every child in this State of scholastic age shall be permitted to attend the public free schools of the district or independent district in which it resides at the time it applies for admission, notwithstanding that it may have been enumerated elsewhere, or may have attended school elsewhere part of the year; *provided*, that white children shall not attend the schools supported for colored children, nor shall colored children attend the schools supported for white children. [Acts of 29th Leg., Chap. 124, Sec. 128.]

Note.—See Sections 61 and 70.

The right of attendance in the district of the child's residence may be forfeited by transfer. See Sections 61-64.

SEC. 69. *Scholastic Age*.—All children, without regard to color, over seven years of age, and under seventeen years of age at the beginning of any scholastic year, shall be entitled to the benefit of the public school fund for that year. [Acts of 29th Leg., Chap. 124, Sec. 129.]

Note.—See Section 60, note

SEC. 70. *Scholastic Year*.—The scholastic year shall commence on the first day of September of each year and end on the thirty-first day of August thereafter. [Acts of 29th Leg., Chap. 124, Sec. 97.]

SEC. 71. *Admission of Overs and Unders; Suspension of Pupils*.—The trustees of schools shall have the power to admit pupils over and under scholastic age, either in or out of the district, on such terms as they may deem proper and just; *provided*, that in admitting pupils over and under the scholastic age, the school shall not be overcrowded to the neglect and injury of pupils within the scholastic age; and they may suspend from the privileges of schools any pupil found guilty of incorrigible conduct, but such suspension shall not extend beyond the current term of the school. [Acts of 29th Leg., Chap. 124, Sec. 75.]

Note.—The teacher can suspend a pupil only until the board of trustees can be called together for action in the case. The Supreme Court of Wisconsin, in the case of *State v. Burton*, 54 Wis., 150, emphasizes the following rule:

“The teacher is responsible for the discipline of his school and for the progress, conduct, and deportment of his pupils. It is his imperative duty to maintain good order and to require of his pupils a faithful performance of their duties. If he fails to do so, he is unfit for his position. To enable him to discharge these duties effectually, he must necessarily have the power to enforce prompt obedience to his lawful commands. For this reason the law gives him the power in proper cases, to inflict corporal punishment upon refractory pupils. But there are cases of misconduct for which such punishment is an inadequate remedy. If the offender is incorrigible, suspension or expulsion is the only adequate remedy. In general, no doubt, the teacher should report a case of that kind to the proper board for its action in the first instance, if no delay will necessarily result from that course prejudicial to the best interests of the school. But the conduct of the recalcitrant pupil may be such that his presence in the school for a day or an hour may be disastrous to the discipline of the school and even to the morals of the other pupils. In such a case it seems absolutely essential to the welfare of the school that the teacher should have the power to suspend the offender at once from the privileges of the school; and he must necessarily decide for himself whether the case requires that remedy. If he suspends the pupil, he should promptly report his action and his reasons therefor to the proper board.”

The authority of the school over the conduct of pupils is not necessarily limited to acts done during school hours, but extends to acts committed outside of the schoolroom, if the effect of such acts reaches within the schoolroom and is detrimental to good order and the best interests of the school. However, a rule requiring pupils living with parents not to attend parties has been held to be unreasonable and non-enforceable. (*State v. Osborne*, 24 Mo. App., 309.) Pupils may be held responsible for the preparation of reasonable home work assigned by the teacher. (*Bolding v. State*, 23 Texas Ct. App., 172; 4 S. W., 579.)

The following Texas decisions pertain to the authority of a teacher to inflict corporal punishment upon a pupil: *Stanfield v. State*, 43 Texas, 167; *Dowlen v. State*, 14 Ct. App., 61; *Bolding v. State*, 23 Ct. App., 172; 4 S. W.,

579; Hutton v. State, 23 Ct. App., 386; Thomason v. State, 43 S. W., 1013; Howerton v. State, 43 S. W., 1018; Kinnard v. State, 35 Cr. Rep., 270; 33 S. W., 234.

DUTIES OF TEACHERS.

SEC. 72. *Shall Present Valid Certificate.*—Any teacher desiring to teach in any city, town, or district in this State, shall, before contracting with any board of trustees, or with any [city] school board, exhibit a teacher's certificate, valid in the city, town or school district; and any teacher who shall teach in any public school in this State without having a valid certificate shall not receive from the free school funds any compensation for such service. [Acts of 29th Leg., Chap. 124, Sec. 101.]

Note.—The conditions of employment and payment of a teacher are as follows:

1. The teacher must not be related to any member of the school board by affinity within the second degree or by consanguinity within the third degree. (Anti-nepotism law.)
2. His certificate must be valid at time of employment and for entire time covered by contract.
3. The contract must be made with the school board—employment by the principal is not legal. In a common school district the contract must be approved by the county superintendent before the opening of the school.
4. Each teacher must receive pay for his services by a separate check or voucher.

SEC. 73. *Penalty.*—Any county or city superintendent or board of trustees who shall approve any teacher's contract or voucher until the person has presented a valid certificate, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five nor more than one hundred dollars. [Art. 1006, Penal Code.]

SEC. 74. *Salaries of Teachers.*—Trustees in making contracts with teachers shall determine the salary to be allowed, or wages to be paid, upon the following rates of tuition: To teachers holding first grade certificates, not more than two dollars and fifty cents; to those holding second grade certificates, not more than two dollars; and to such as hold third grade certificates, not more than one dollar and fifty cents per month per capita shall be allowed for pupils within the scholastic age, and it shall not be lawful for trustees or teachers to demand as a condition of admittance into school the payment of extra tuition of pupils of scholastic age; *provided*, that in no event shall teachers holding permanent certificates receive from the public free school fund more than eighty-five dollars per month, or those holding first grade certificates receive from the public free school fund more than seventy-five dollars per month, and those holding second grade certificates more than sixty dollars per month, and those holding third grade certificates more than forty dollars per month; *provided*, that this restriction shall not apply to salaries of teachers in districts which levy a local tax for school purposes. [Acts of 29th Leg., Chap. 124, Sec. 73.]

Note.—The restrictions of this section in the matter of salary apply to both common school districts and independent districts which levy no local maintenance taxes.

Tuition fees paid by "overs and unders" become a part of the school fund, and can not be promised the teacher in addition to the maximum salary fixed in this section, if the district levies no local tax.

Section 78 names the studies required to be taught, and provides for the addition of other studies; but no tuition fees for instruction in such added studies can be collected from pupils within the age of free attendance.

SEC. 75. *When Schools Shall Be Open.*—Public schools shall be taught for five days in each week. Schools shall not be closed on legal holidays unless so ordered by the trustees. A school month shall consist of not less than twenty school days, inclusive of holidays; and shall be taught for not less than seven hours each day, including intermissions and recesses. [Acts of 29th Leg., Chap. 124, Sec. 93.]

Note.—If a school be closed on a legal holiday upon order of the trustees, the teacher is entitled to pay for that day.

SEC. 76. *Legal Holidays.*—The first day of January, the twenty-second day of February, the second day of March, the twenty-first day of April, the third day of June, the fourth day of July, the first Monday in September, the twelfth day of October, and the twenty-fifth day of December of each year, and all days appointed by the President of the United States, or by the Governor, as days of fasting or thanksgiving, and every day on which an election is held throughout the State, are declared holidays, on which all the public offices of the State may be closed, and shall be considered and treated as Sunday or the Christian Sabbath for all purposes regarding the presenting for payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by the law upon the footing of bills of exchange. [Acts of 32nd Leg., Chap. 37.]

SEC. 77. *Instruction Must Be Given in English.*—It shall be the duty of every teacher in the public free schools of this State to use the English language exclusively, and to conduct all recitations and school exercises exclusively in the English language; *provided*, that this provision shall not prevent the teaching of any other language as a branch of study, but when any other language is so taught, the use of said language shall be limited to the recitations and exercises devoted to the teaching of said language as such branch of study. [Acts of 29th Leg., Chap. 124, Sec. 102.]

SEC. 78. *Prescribed Studies.*—All public schools in this State shall be required to have taught in them orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, composition, physiology and hygiene (including the effects of alcoholic stimulants and narcotics on the human system), mental arithmetic, Texas history, United States history, civil government, elementary agriculture, and other branches as may be agreed upon by the trustees or directed by the State Superintendent of Public Instruction; *provided*, that the subject of elementary agriculture shall not be required to be taught in independent school districts having a scholastic population of three hundred or more, unless so ordered by the school boards; *provided further*, that suitable instruction shall be given in the primary grades once each week regarding kindness to animals of

the brute creation and the protection of birds and their nests and eggs. [Sec. 100, Chap. 124, Acts of 29th Leg., as amended by Chap. 169, Acts of 30th Leg.]

SEC. 79. *Shall Keep Records and Make Reports.*—(a) Teachers shall keep daily registers, in which the names, ages and studies of the pupils and their attendance shall be recorded, and such other matters as may be prescribed by the State Superintendent. Said registers shall be open to the inspection of all parents, school officers, and other persons who may be interested.

(b) All teachers shall make monthly reports on such subjects as may be designated by the State Superintendent or county superintendent, to be approved by a majority of the trustees of the district, and shall file the same with the county superintendent when they present their vouchers for their months' salaries.

(c) They shall make such reports at the end of the school term as may be prescribed by the State Superintendent, and until such term reports are made the trustees shall not approve vouchers for last month's salaries, nor shall the county treasurers [depositories] pay the same. All monthly and term reports shall be made under oath, and county superintendents are hereby empowered to administer oaths for such purposes. County superintendents and county judges shall receive no compensation for administering oaths necessary in transacting any business relating to school affairs. [Acts of 29th Leg., Chap. 124, Sec. 104.]

Note.—See Section 30 for penalty in case of neglecting to make reports. See Section 43 et seq. as to duty of teacher in attending institute.

CERTIFICATION OF TEACHERS.

SEC. 80. *County and State Board of Examiners; Time of Holding Examinations.*—There shall be in each organized county in this State a county board of examiners composed of two persons to be appointed by the county superintendent or the ex officio county superintendent. A person to be eligible to appointment on the county board of examiners must be the holder of a teachers' first grade certificate or a certificate of higher grade. The members of the county board of examiners shall serve during the pleasure of the county superintendent, and shall meet at the call of the county superintendent. The county superintendent shall forward to the State Superintendent to be submitted to the State Board of Examiners, the examination papers of applicants for certificates, together with the reports of the county board of examiners on a prescribed form furnished by the State Department of Education, with a fee of \$1 paid to him by each of the applicants.

The passage of this law shall not be construed to prohibit the county board of examiners from issuing county second-grade certificates, provided the examination shall meet the requirements for second-grade certificates, but not more than one county second-grade certificate shall ever issue to the same individual.

The State Board of Examiners shall, at their next meeting after the receipt of said papers and reports, together with the fees, examine the papers and shall make a report to the State Superintendent.

ent recommending that certificates be issued or be not issued, according to the grades made.

The county board of examiners of each county shall, if necessary, hold an examination on the first Friday and Saturday following in the months of June, July, August, September and December of each year, and in case of emergency the State Superintendent of Public Instruction may authorize a special examination at which applicants for certificates may be examined. Said board of examiners shall use the questions prescribed by the State Department of Education, and shall conduct the examination in accordance with the rules and regulations prescribed by the State Department of Education and the county superintendent of public instruction.

To each applicant who has made the required grades the State Superintendent shall forward the report, together with the certificate recommended by the State Board of Examiners; and to each applicant who has failed to make the required grades, the State Superintendent shall forward the report of the State Board of Examiners without a certificate.

Note.—The law provides for five examinations for teachers' certificates each year. An examination will be held at each county seat in the State on the first Friday and Saturday following, in the months of June, September and December, and at the close of each of the two series of Summer Normal Institutes during the months of July and August.

Questions for all the different classes of certificates will be submitted at each of the five examinations.

SEC. 81. *Examination Fees, etc.*—Any person desiring to be examined for a teacher's certificate authorizing him or her to contract to teach in the public free schools of Texas, shall make application to the county superintendent, stating the class of certificate desired, and shall present to the county superintendent a statement of three good and well known citizens, or such proof as he may require of his qualifications, except the examination grades required for the class of certificate desired. After investigation, the county superintendent shall give the applicant a written recommendation to the county board of examiners requiring them to examine the applicant for a certificate of the class mentioned; but no person shall receive such recommendation without first depositing with the county superintendent the sum of two dollars (\$2.00) as an examination fee, and the recommendation given by the county superintendent shall show the receipt of said fee. The county board of examiners shall not permit any person to enter the examination who does not first present the written recommendation of the county superintendent; *provided*, that all examinations provided for herein and elsewhere in the Texas School Laws shall be conducted in writing and in the English language. [Acts of 32nd Leg., Chap. 96, Section 105.]

Note.—All applicants for certificates by examination shall pay a fee of \$2.00 to the examiners. If the application is for a county second grade certificate, the \$2.00 is retained by the examiners, and if the application is for a State certificate, \$1.00 is retained by the examiners and \$1.00 forwarded with the papers to the State Department of Education.

Note.—The county board of examiners shall grade the papers of applicants for county second-grade certificates on the basis of one hundred

credits for a perfect paper, and endorse on each paper in ink the number of credits allowed on each answer, and a total on the paper, and shall make to the county superintendent a separate report, under oath, on the examination of each applicant, which shall show the names of the members of the board conducting the examination, and the number of credits allowed on each subject, and shall, if they believe that the applicant has fairly observed the rules prescribed for the examination, and if the applicant has made the grades and average required for a county second-grade certificate, recommend that he shall receive such certificate, and shall deposit his papers with the county superintendent. In no cases shall the county board grade the papers of applicants for State certificates. The papers of applicants for county second-grade certificates can not under the law be forwarded to the State Board of Examiners for the purpose of receiving a State certificate in lieu of the county certificate. Formal appeal may, however, be taken to the State Superintendent of Public Instruction from the grading of the county board.

SEC. 82. *Duty of County Superintendent.*—No person shall receive a certificate authorizing his employment in the public free schools of Texas without showing to the satisfaction of the county superintendent that he is a person of good moral character, and has ability to speak and understand the English language sufficiently to use it easily and readily in conversation, and in giving instruction in all subjects prescribed for the class of certificate for which he applies. The county superintendent, unless he knows the fact personally, shall require satisfactory proof of the applicant as herein required, before issuing his recommendation to the county board of examiners. [Acts 32nd Leg., Chap. 96, Sec. 106.]

SEC. 83. *Kinds of Certificates Issued.*—Teachers' certificates authorizing the holders thereof to contract to teach in the public free schools of this State shall be of two kinds, as follows: (1) temporary certificate; (2) permanent certificate.

Temporary certificates shall be of the following classes: (1) a second-grade certificate; and (2) a first-grade certificate.

Permanent certificate shall be of the following classes: (1) a State permanent certificate; and (2) a State permanent primary certificate. [Acts 32nd Leg., Chap. 96, Sec. 107.]

SEC. 84. *Requirements for Second and First-Grade Certificates.*—An applicant for a second-grade certificate shall be examined in spelling, reading, writing, arithmetic, English grammar, geography, Texas history, elementary physiology and hygiene, with special reference to narcotics, school management and methods of teaching, United States history and elementary agriculture. An applicant for a first-grade certificate shall be examined in the subjects prescribed for a second-grade certificate, and in addition thereto, in English composition, civil government, algebra, physical geography, elements of geometry and general history.

Second and first-grade certificates shall be valid, unless canceled by lawful authority, until the fourth anniversary of the thirty-first day of August of the calendar year in which the examination was held, and to receive such certificates applicants shall make an examination on the prescribed subjects an average grade of not less than seventy-five per cent, and on each subject a grade of not less than fifty per cent; *provided*, that if the applicant makes a general average on the prescribed subjects of not less than eighty-five per

cent, and on each subject a grade of not less than fifty per cent, such certificates shall be valid unless canceled by lawful authority until the sixth anniversary of the thirty-first day of August of the calendar year in which the examination was held. [Acts of 32nd Leg., Chap. 96, Sec. 108.]

SEC. 85. *Permanent Primary Certificates, Building.*—An applicant for a State permanent primary certificate shall be examined in the subjects prescribed for a second-grade certificate, and in addition thereto, the subjects of civil government, English composition, physical geography, the history of education, elementary psychology applied to teaching, and English and American literature.

The holder of a State permanent primary certificate may build to a State permanent certificate during the first six years of the validity of said certificate by taking the examination in the following additional subjects: Algebra, physics, elementary geometry, general history, chemistry, solid geometry, plane trigonometry, elementary double-entry bookkeeping; *provided*, that a person holding a State permanent primary certificate secured by building on a State first-grade certificate shall not be required to be re-examined in the subjects of algebra, physics, elementary geometry and general history in building to a State permanent certificate.

The holder of a State first-grade certificate may build to a State permanent primary certificate by taking the examination in the following additional subjects: History of education, elementary psychology applied to teaching, English and American literature. The applicant in building from a State first-grade certificate to a State permanent primary certificate shall take the examination in one or more of the additional subjects at the same examination. The applicant, in order to be entitled to receive such certificate, shall make a general average of eighty-five per cent on the prescribed subjects and a grade of not less than fifty per cent on each subject. An applicant for a State permanent certificate shall be examined on the subjects prescribed for second and first-grade certificates, and in addition thereto in the history of education, psychology, English and American literature, chemistry, solid geometry, physics, plane trigonometry and elementary double-entry bookkeeping. The applicant, in order to be entitled to receive such certificate, shall make on the prescribed subjects an average grade of not less than eighty-five per cent and a grade of not less than fifty per cent on each subject.

Note.—An average grade of 85 per cent is not a prerequisite in building to a permanent or permanent primary certificate. The applicant is required, however, to make a general average grade on all of the subjects, including those upon which he was examined for his lower grade certificate, of 85 per cent.

SEC. 86. *Building.*—A person holding a second-grade certificate may build to a first-grade certificate or to a permanent primary certificate during the validity of the said second-grade certificate by taking the examination in the prescribed additional subjects and making the required grades, said person having the privilege of being examined in one or more subjects at any one examination in building on his second-grade certificate. A permanent record of his

examination shall be made in the State Department of Education, and upon the surrender of the lower class certificate the higher class certificate shall be issued.

The holder of a first-grade certificate may build to a State permanent primary certificate or to a State permanent certificate during the validity of the said first-grade certificate by taking the examinations in the prescribed additional subjects, said person having the privilege of being examined in one or more subjects at any one examination in building on a first-grade certificate. A permanent record of his examination shall be made in the State Department of Education, and upon the surrender of the first-grade certificate, the State permanent certificate or State permanent primary certificate, as the case may be, shall be issued.

The holder of a State permanent primary certificate may build to a State permanent certificate during the first six years of the validity of said State permanent primary certificate by taking the examination in the additional prescribed subjects, and making the required grades, said person shall have the privilege of being examined in one or more of the subjects at any one examination in building on his State permanent primary certificate. A permanent record of his examination shall be made in the State Department of Education, and upon the surrender of the lower class certificate the higher class certificate shall be issued. [Acts of 32nd Leg., Chap. 96, Sec. 110.]

Note.—An applicant who holds a State second-grade certificate procured under the old law, in building to a first-grade or permanent primary certificate under the new law, will be required to be re-examined in civil government, English composition, and physical geography. The grades on these subjects are counted twice in determining the general average grade of the new certificate. An applicant holding a State second-grade certificate, in building to a higher grade certificate, is not required to be examined in agriculture.

The holder of a State first-grade certificate procured under the old law will be required to be re-examined in physics in building to a permanent certificate under the new law, the grades on this subject being counted twice in determining the general average of the new certificate.

It should be noted that the applicant must complete the building process before the certificate upon which he is building expires.

County certificates can not be built upon under this law to higher grade certificates.

Note.—The holder of a permanent primary certificate procured before the present law went into effect will be permitted to build to a permanent certificate at any time during the six years next following June 11, 1911.

SEC. 86a. *Can Only Teach in Elementary Grades.*—The holder of a second-grade certificate or of a permanent primary certificate shall be eligible to contract to teach in only the elementary grades of the public schools of Texas; that is, in the grades below the high school. The holder of a State first-grade certificate, or State permanent certificate, shall be eligible to contract to teach in any public free school of Texas. [Acts 32nd Leg., Chap. 96, Sec. 110a.]

Note.—The State Department of Education holds that the high school work should properly begin with the eighth grade. If the school is not graded, the holder of a second-grade or permanent primary certificate is not eligible to contract to teach subjects which are ordinarily considered high school subjects, such as algebra, general history, English composition, etc.

SEC. 86b. A State permanent primary certificate, or a State permanent certificate shall be valid during the life of the holder, unless canceled by lawful authority. [Acts of 32nd Leg., Chap. 96, Sec. 110b.]

SEC. 87. *Texas State Normal Diplomas and Certificates.*—A teacher holding a diploma from a Texas State Normal College may teach in the public schools of this State during good behavior and such diploma shall rank as a State permanent certificate. A teacher holding a first-grade certificate from a Texas State Normal College may teach in the public schools of this State until the sixth anniversary of the thirty-first day of August of the calendar year in which the certificate was issued, and a teacher holding a second-grade certificate from a Texas State Normal College may teach in the public schools of this State until the fourth anniversary of the thirty-first day of August of the calendar year in which the certificate was issued. A teacher holding a diploma from the Peabody Normal College, at Nashville, Tennessee, shall be entitled upon recording the diploma in the State Department of Education, to receive therefrom a State permanent certificate valid during the life of the holder, unless canceled by lawful authority. [Acts of 32nd Leg., Chap. 96, Sec. 114.]

SEC. 88. *Summer Normal Institutes.*—The State Superintendent of Public Instruction is authorized to provide for the organization and work of Summer Normal Institutes in Texas, in which examinations may be held for the certification of teachers, and the certificates obtained through these examinations shall be of the same class and governed by the same laws as to the length of time of their validity as are other State certificates obtained through the regular examinations prescribed by the State Department of Education. [Acts of 32nd Leg., Chap. 96, Sec. 115.]

SEC. 89. *Certificates Issued on Work Done in University of Texas.*—A teachers' diploma conferred by the University of Texas upon a student who has satisfactorily completed at least four full courses in the department of education and who has satisfied the requirements for the degree of bachelor of arts, when presented to the State Department of Education with satisfactory evidence of having done the required work in education, shall entitle the holder to receive a State permanent certificate valid for life, unless canceled by lawful authority.

A person who has satisfactorily completed four full courses in the college of arts and one full course in the department of education of the University of Texas, or in any college or university ranked as first-class by the State Superintendent of Public Instruction, upon the recommendation of the State Board of Examiners, shall, upon presentation of satisfactory evidence of having done the required work, be entitled to receive from the State Department of Education a State first-grade certificate valid until the fourth anniversary of the thirty-first day of August of the calendar year in which the certificate was issued, unless canceled by lawful authority. [Acts of 32nd Leg., Chap. 96, Sec. 116.]

SEC. 90. *Certificates Issued on Work Done in Any College or University of First Class.*—Any person who holds a diploma con-

ferring on him the degree of bachelor of arts, or any equivalent bachelor's degree, or any higher academic degree, from any college or university of the first class, and who has completed four full courses in education and pedagogy, may receive from the State Superintendent of Public Instruction a permanent State certificate, which shall be valid anywhere in this State during good behavior; *provided*, that any person who holds a diploma conferring on him the degree of bachelor of arts, or any equivalent bachelor's degree, or any higher academic degree, from any college or university of the first class, who has not had four full courses in education, but who has taught three years in the State, may receive from the State Superintendent of Public Instruction a permanent State certificate, which shall be valid anywhere in this State during good behavior. The institutions to be recognized as colleges or universities of the first class shall be determined by the State Superintendent of Public Instruction upon the recommendation of the State Board of Examiners. [Acts of 32nd Leg., Chap. 96, Sec. 117.]

SEC. 91. *City Certificate*.—A city or town which has a scholastic population of five hundred or more, and has become an independent school district, and which levies a local tax for educational purposes or maintains a system of free schools for nine months in each year, and which has employed a superintendent of city schools, may have a city board of examiners. Said board of examiners shall in all cases consist of the city superintendent of the city schools, together with two other persons who shall be appointed by him, and who shall be teachers, and the superintendent shall not be subject to examination. The city board of examiners is hereby authorized to issue certificates valid only in the city in which they are issued. Such certificates shall be of two kinds, as follows: temporary, permanent, certificates.

Temporary and permanent certificates shall be of three classes for each kind as follows: Temporary certificates shall be second grade, first grade, and high school. Permanent certificates shall be primary, first grade and high school. A temporary city certificate shall be good for any period not exceeding four years, to be determined by the board of trustees of such city or town. A permanent city certificate shall be good during good behavior, and shall not be issued to any person who has not been engaged successfully in teaching in the schools of Texas for a period of at least three years. The further regulation of the issuance of such certificate shall be provided for by the board of trustees of such cities or towns; *provided*, that no city or town shall make the requirements for its temporary certificates inferior to the requirements prescribed by law for county or State certificates of the corresponding grades, or the requirements for its permanent certificates less than those prescribed by law for permanent county or State certificates of corresponding grades. Nothing in this chapter shall interfere with the validity of outstanding certificates in such cities or towns, or prevent the extension of such certificates upon such conditions as may be prescribed by the board of trustees regarding professional reading, attendance upon city institutes, or other means of professional growth. Cities and towns authorized by the provisions of this chapter to have a city

board of examiners, may, at the discretion of the superintendent of the city schools, employ a teacher of any special branch not included in the requirements for a State certificate without requiring an examination or a teachers' certificate; and nothing in this chapter shall prevent the board of trustees of any city or town [from recognizing the certificates] issued in any other such city or town in this State, and validating the same in the city or town so recognizing. [Acts of 32nd Leg., Chap. 96, Sec. 118.]

SEC. 92. *Certificates Issued on Work Done in College of Industrial Arts.*—Any person who has completed a regular course leading to graduation in the College of Industrial Arts, at Denton, and who has completed two full courses in education, may on furnishing satisfactory evidence of having done the required work, receive from the State Department of Education a State first-grade certificate valid until the sixth anniversary of the thirty-first day of August of the calendar year in which the certificate was issued, unless canceled by lawful authority; *provided*, that when the holder of said first-grade certificate has taught successfully in the public schools of Texas for a period of three years, and has furnished satisfactory evidence thereof to the State Department of Education, she may receive, upon the surrender of the said first-grade certificate, a State permanent certificate valid for life, unless canceled by lawful authority. [Acts of 32nd Leg., Chap. 96, Sec. 119.]

SEC. 93. *Certificates Issued on Diplomas From Normal Schools and Life Certificates in Other States.*—The holder of diploma from a State Normal College, or of a life certificate, in another State, upon becoming a citizen of Texas, may receive from the State Department of Education a State permanent certificate; *provided*, the State Board of Examiners recommends to the State Superintendent of Public Instruction that the requirements for the diploma or life certificate are equal in all respects to the requirements for a State Normal College diploma or life certificate in Texas. [Acts of 32nd Leg., Chap. 96, Sec. 120.]

SEC. 94. *Kindergarten Certificates.*—A diploma of graduation from a State educational institution in Texas which maintains, or may hereafter establish and maintain, a department for training kindergarten teachers, such diploma certifying that the holder thereof has, in addition to the regular course, completed the kindergarten course, consisting of not less than two years' training with daily practice in the kindergarten, shall, upon being presented with satisfactory evidence of having done the required work to the State Department of Education, entitle the holder to receive a State kindergarten certificate authorizing its holder to contract to teach in any public kindergarten school of Texas, valid until the fourth anniversary of the thirty-first day of August of the calendar year in which the certificate was issued, unless canceled by lawful authority. The State Superintendent of Public Instruction is hereby authorized to issue to graduates of approved kindergarten training schools and departments State kindergarten certificates valid for the time mentioned in this section; *provided*, that no kindergarten training school or department be approved by the State Superintendent of Public Instruction unless the standard indicated above has been

fully met, and it shall be the duty of the authorities of such schools and departments to furnish satisfactory evidence with respect to this matter to the State Department of Education. The holder of a State kindergarten certificate, after having successfully taught in the kindergarten schools of this State for a term of three years, may, upon presentation of satisfactory evidence thereof to the State Department of Education, receive a State permanent kindergarten certificate valid for life, unless canceled by lawful authority. [Acts of 32nd Leg., Chap. 96, Sec. 121.]

SEC. 95. *All Certificates Must Be Recorded by County Superintendent.*—The county superintendent shall keep a record of all certificates held by persons teaching in the public free schools of the common school districts and of the independent school districts of his county. Any person who desires to teach in a public free school of a common school district shall present his certificate for record before the approval of his contract. Any person who desires to teach in the public schools of an independent school district shall present his certificate to the county superintendent for record before his contract with the board of trustees of the independent school district shall become valid. [Acts of 32nd Leg., Chap. 96, Sec. 123.]

SEC. 96. *Applicants Must Be at Least Sixteen Years of Age.*—No certificate shall be granted to a person under sixteen years of age. [Acts 32nd Leg., Chap. 96, Sec. 124.]

SEC. 97. *Validity of Outstanding Certificates.*—Nothing in this Act shall be construed to impair the validity of outstanding city, county, or State certificates. Cities and towns may, at the discretion of the superintendent, employ a teacher of any special branch not included in the requirements for a State certificate without requiring a teacher's certificate. [Acts of 32nd Leg., Chap. 96, Sec. 125.]

SEC. 98. *Traffic in Examination Questions.*—Any person or persons who shall sell, barter or give away, prior to any forthcoming examination to applicants for teachers' certificates, or to any other persons, the questions prepared by the State Superintendent of Public Instruction, to be used by the county, summer normal, or any board of examiners in the examination of teachers at said forthcoming examination, or any person who shall accept or otherwise obtain possession of such questions or the answers thereto, prior to any such examination, or any person or persons who shall use the same fraudulently at the time of said examination, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred and not more than five hundred dollars, and in addition thereto shall be imprisoned in the county jail for any number of days not less than twenty and not more than sixty. [Acts of 29th Leg., Chap. 124, Sec. 124a.]

SEC. 99. *State Board of Examiners.*—The State Superintendent of Public Instruction shall be authorized to appoint a State Board of Examiners, consisting of not less than three competent teachers, living in the State, to serve during his pleasure, and he may increase or decrease the number, as varying conditions may make necessary. [Acts of 29th Leg., Chap. 124, Sec. 111.]

SEC. 100. *Kindergartens.*—The trustees of any school district in the State of Texas may establish and maintain free kindergartens in

connection with the public schools of said district, for the training of children between four and seven years of age, residing in said district, and shall establish such courses of training, study and discipline, and such rules and regulations governing such kindergartens as said trustees may deem best; *provided*, that nothing in this act shall be construed to change the law relating to the taking of the scholastic census, or the apportionment of State and county school funds among the several counties and districts in this State; *provided further*, that the cost of establishing and maintaining such kindergartens shall be paid from the special school tax of said districts. Said kindergartens shall be a part of the public school system, and shall be governed, as far as practicable, in the same manner and by the same officers as is now, or hereafter may be, provided by law for the government of the other public schools of the State. [Acts of 30th Leg., Chap. 149, Sec. 1.]

SEC. 101. *Cancellation of Certificates.*—Any certificate may be canceled for cause by the authority issuing it, and the State Superintendent of Public Instruction shall have power to cancel any certificate upon satisfactory evidence that the holder thereof is conducting his school in violation of the laws of the State, or is a person unworthy to instruct the youth of this State; *provided*, that any teacher holding a certificate to teach in the public schools of this State, who shall enter into a written contract with any board of trustees to teach any public school in this State, and shall, after making such contract, and without the consent of the trustees, abandon said contract, except for good cause, such abandonment shall be considered sufficient grounds for the cancellation of said teacher's certificate, and the same may be canceled upon the complaint of said trustees or either of them; *provided*, that before any certificate shall be canceled the holder thereof shall be notified, and shall have an opportunity to be heard, and he shall have the right of appeal from such decision to the State Superintendent, and to the State Board of Education; *provided*, that when the State Superintendent shall have canceled the certificate the appeal shall be to the State Board of Education. [Acts of 29th Leg., Chap. 124, Sec. 127.]

Note.—The charges and evidence against the teacher must be submitted in writing, under oath, and in duplicate, that he may be furnished a copy of the same.

See also Section 43.

SEC. 102. *Alteration of Certificates; Penalty.*—Any person who shall unlawfully and wilfully raise, change, or alter any teacher's certificate, or diploma or other instrument having the force of a teacher's certificate shall be deemed guilty of forgery and shall be punished by confinement in the penitentiary for a term of not less than two nor more than seven years. [Art. 540 (a), Penal Code.]

Note.—See *Dudley v. State*, 58 S. W., 111.

COMMON SCHOOL DISTRICTS.

SEC. 103. *Establishment of Districts.*—It shall be the duty of the county commissioners' courts of all organized counties, not already

subdivided, to subdivide their respective counties into convenient school districts by the first day of September, 1909, and any county hereafter organized shall be so subdivided before the beginning of the next ensuing school year after its organization; *provided*, that no district shall hereafter be created having an area of less than sixteen square miles, and not more than one school for white children and one school for colored children shall be established for each sixteen square miles of territory or major fraction thereof within such districts; *provided*, the county commissioners' court may reduce the area of any common school district and create such additional school districts as may be necessary for the best interests of the school children; *provided*, that no school districts shall be reduced to contain less than nine square miles of territory, and no new district shall hereafter be created having a less area than nine square miles; and *provided further*, that the area of school districts having an outstanding bonded indebtedness shall never be reduced until after such bonded indebtedness shall have been fully discharged.

The commissioners' court shall designate said school districts by numbers; *provided*, that all school districts in this State heretofore laid out and attempted to be established by the proper officers of any county, and heretofore recognized by said county authorities as school districts of said county, are hereby validated in all respects as though they had been duly and legally established in the first instance. [Acts of 29th Leg., Chap. 124, Sec. 50, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 104. *Commissioners' Court May Change District Lines.*—It shall be the duty of the commissioners' court, at any time they deem necessary, to redistrict a part or all of said county, and they may at any time consolidate two or more adjacent school districts, or may subdivide any school district or districts. * * * The commissioners' court of any organized county to which any unorganized county is attached for judicial purposes, may, and upon the written petition of not less than ten resident citizens of such unorganized county, shall create such unorganized county into one or more school districts, and shall cause an order to that effect to be entered upon the minutes of said court. [Acts of 29th Leg., Chap. 124, Sec. 51.]

Note.—Porter v. State, 78 Texas Reports, 591 (14 Southwestern Reporter, 794.) Reynolds v. McCabe, 72 Texas Reports, 57. Stephens v. Buie, 23 Civil Appeals Reports, 491.

SEC. 105. *Court Shall Give Metes and Bounds of Each District.*—School districts shall be so made as to be as convenient as possible to the scholastic population, and said courts shall give the metes and bounds of each district, and shall designate the same carefully by giving the whole surveys and parts of surveys with acreage of whole surveys and approximate acreage of parts of surveys in each district, and the county clerk shall carefully record the same; and each district shall be given a number, which number shall be painted in large letters or figures over the doors of the schoolhouses, said signs to be provided by the district trustees of each district. [Acts of 29th Leg., Chap. 124, Sec. 53.]

COMMON SCHOOL DISTRICTS.—LOCAL TAX.

SEC. 106. *Special Tax Authorized.*—The commissioners' court of any county in this State shall have power to levy a special tax for the further maintenance of public free schools and the erection within each school district of a schoolhouse or schoolhouses; *provided*, a majority of the qualified property taxpaying voters of the district voting at an election to be held for the purpose shall vote such tax, not to exceed in any year 50 cents on the \$100 valuation of the property subject to taxation in such district; *provided*, that all property assessed for school purposes shall be assessed at the rate of value of property as said property is assessed for State and county purpose. [Act of 29th Leg., Chap. 124, Sec. 57, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 107. *Petition for Tax Election.*—Whenever twenty or more, or a majority of the property taxpaying voters of a district, wish to tax themselves for the purpose of supplementing the State school fund appropriated to said district, they shall make application to the county judge, who shall issue an order for an election to be held in said district to determine whether such tax shall be levied. Said application shall designate either the specific rate of tax to be levied, or a rate of tax not exceeding 50 cents on the \$100 valuation of property, and the orders of said judge shall state:

1. When said election shall be held.
2. At what point or points the polls shall be opened.
3. The rate of tax to be voted on; *provided*, that no election shall be held to determine the levy of a tax exceeding 50 cents on the \$100 valuation of property, but the proposition may be for a specific tax rate within this limit or "for a school tax not exceeding 50 cents on the \$100 valuation of taxable property in the district."

The county judge shall order the sheriff to give notice of such election by posting three notices in the district for three weeks before the election, and the sheriff shall obey such order. Not more than one such election shall be held in the same scholastic year. [Acts of 29th Leg., Chap. 124, Sec. 58, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 108. *Presiding Officer; Ballots.*—The county judge shall appoint a presiding officer for each voting place to hold said election, who shall make due return thereof as is required by law for holding a general election, and each person who favors taxation for school purposes shall have written or printed on his ticket, "For School Tax," and each person opposed to such taxation shall have written or printed on his ticket, "Against School Tax." The ballots shall be prepared by the county judge, and the county shall bear the expense of having them printed. [Acts of 29th Leg., Chap. 124, Sec. 59, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 109. *Hours of Election.*—All polls for school district elections shall be opened at 8 o'clock a. m., and shall be closed at 6 o'clock p. m., and none of the officers holding such election shall be entitled to compensation therefor. [Acts of 29th Leg., Chap. 124, Sec. 60, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 110. *Who Entitled to Vote.*—All persons who are legally qualified voters of this State and of the county of their residence, and who are resident property taxpayers in said district, shall be entitled to vote in such school district election; and if at such election a majority shall vote for the tax it shall be declared by the commissioners' court to have carried in said district, and entered upon the records of said court to have been carried, and in all cases the returning officer shall make a full and complete return, as in other elections, to said court within five days after said election is held, and said return shall be opened and counted at the first meeting of said court, and the result declared. [Acts of 29th Leg., Chap. 124, Sec. 61, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 111. *Challenge of Voter.*—Any one person may challenge a voter, but if the challenged party takes an oath that he is a qualified voter of the State and county, and that he is a resident property taxpayer in said district, he shall be entitled to vote. [Acts of 29th Leg., Chap. 124, Sec. 62.]

SEC. 112. *Election to Abrogate, Increase or Diminish Tax.*—At any time after the expiration of two years after any district has levied a school tax on itself, twenty property taxpaying qualified voters, or a majority of such voters of the district may have an election held upon the proper petition to the commissioners' court, to determine whether such tax shall be abrogated, increased or diminished. Such election shall be held and conducted as elections provided for in section 59 [108] of this act, and persons entitled to vote at such elections shall possess the qualifications prescribed in section 61 [110] of this act. [Acts of 29th Leg., Chap. 124, Sec. 63.]

SEC. 113. *Form of Ballot.*—If the election be to abrogate or diminish the school tax, each voter favoring the abrogation or diminution shall have written or printed upon his ticket, "For abrogating school tax," or "For diminishing school tax to —cents," as the case may be; and each voter opposing the abrogation or diminution shall have written or printed on his ballot, "Against abrogating school tax," or "Against diminishing school tax to —cents," as the case may be, and a majority vote shall be necessary to abrogate or diminish the school tax. [Acts of 29th Leg., Chap. 124, Sec. 64.]

SEC. 114. *Form of Ballot for Increase.*—If the election be to determine whether the tax shall be increased, each voter favoring the increase of the school tax shall have written or printed on his ballot, "For increase of school tax," and each voter opposing such increase shall have written or printed on his ballot, "Against increase of school tax," and if a majority of the votes cast be in favor of increasing the tax, it shall be increased. [Acts of 29th Leg., Chap. 124, Sec. 65, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 115. *Levy of Tax.*—The county commissioners' court shall at the time of levying the taxes for county purposes also levy upon such school district the rate of tax said district has voted upon itself, or, if the proposition shall have been for a school tax not exceeding 50 cents on the \$100 valuation of taxable property in the district, the commissioners' court shall levy such a rate within that

limit as shall have been determined by the board of trustees of said district and the county superintendent and certified to said court by the county superintendent. It shall be the duty of the tax assessor to assess said tax as other taxes are assessed, and to make an abstract showing the amount of special taxes assessed against each school district in his county, and to furnish the same to the county superintendent, on or before the first day of September of the year for which such taxes are assessed; and the taxes levied upon the real property in said districts shall be a lien thereon, and the same shall be sold for unpaid taxes in the manner and at the time of sale for State and county taxes are assessed and collected. A special tax voted in any district after the levy of county taxes shall be levied at any meeting of the commissioners' court prior to the delivery of the assessment rolls by the assessor. The tax assessor shall assess, and the tax collector shall collect said district taxes as other taxes. The tax assessor shall receive a commission of one-half of one per cent for assessing such tax, and the tax collector a commission of one-half of one per cent for collecting the same. The tax collector shall pay all such taxes to the county treasurer [depository], and said treasurer shall credit each school district with the amount belonging to it, and pay out the same in accordance with the law. [Acts of 29th Leg., Chap. 124, Sec. 66, as amended by Acts of 31st Leg., Chap. 12.]

Note.—It is the duty of the tax assessor to make a separate tax roll for each school district. See *Rhomberg v. McLaren*, 21 S. W., 571.

The commission of the tax assessor for assessing the district tax is one-half of one per cent of the amount of taxes assessed, not one-half of one per cent of the valuation of the property assessed. See *McDonald v. Farmer*, 23 Civ. App., 39; 56 S. W., 555. The collector's commission is one-half of one per cent of his actual collections.

The tax assessor and tax collector should make out their accounts against the common school district. The warrants must be signed by the district trustees and approved by the county superintendent. See Sections 44 and 136. Where should money on deposit in a bank be rendered? See 75 T. R., 476, also 69 S. W., 76.

COMMON SCHOOL DISTRICTS—BONDS.

SEC. 116. *Election for Issuance of Bonds.*—When twenty or more, or a majority of the qualified taxpaying voters of a school district shall petition the county judge, he shall order an election in the school district from which the petition came, to determine whether or not a majority of the legally qualified property taxpaying voters of that district desire the issuance of bonds as indicated in the petition and the annual levy of a tax sufficient to pay the current interest on said bonds and provide a sinking fund sufficient to pay the principal at maturity. Said election shall be ordered held, and the returns counted and published as in other school elections in accordance with the laws of this State, and it shall not be necessary to vote upon a specific rate of tax, but the rate shall be determined as provided in Section 78 [120] of this Act. [Acts of 29th Leg., Chap. 124, Sec. 76, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 117. *Ballots.*—Whenever the county judge in any county in the State of Texas shall have found it lawful and necessary to order

an election for schoolhouse bonds, as provided herein, said county judge shall prepare proper ballots for use in said school district election, and the county shall bear the expense of having such ballots printed, and each person who favors the issuance of bonds and the levy of a tax therefor shall have written or printed on his ballot, "For the bonds," and each person opposed to such taxation shall have written or printed on his ballot, "Against the bonds." [Acts of 29th Leg., Chap. 124, Sec. 80, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 118. *Issuance and Sale of Bonds.*—If, after the results of said election are known, it shall appear that a majority of the votes therein have been cast in favor of the issuing of schoolhouse bonds, the commissioners' court of the county in which said school district is located shall issue said bonds on the faith and credit of said school district, which bonds shall bear not more than 5 per cent interest per annum, and shall run not more than forty years; provided that when the houses are to be built of wood the time of the bonds herein provided for shall not be more than twenty years. The said bonds shall be examined by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas. They shall be sold to the highest bidder and the purchase money shall be placed in the county treasury [depository] to the credit of said school district, and the money shall be disbursed upon warrants issued by the trustees of said district, approved by the county superintendent, in payment of accounts legally contracted in buying, building, equipping or repairing the schoolhouse or schoolhouses for such district, or in the purchase of sites therefor; provided, that the commissioners' court may invest the county permanent school fund in such school district schoolhouse bonds, and the State Board of Education shall have the right to purchase such bonds on the same conditions as it may purchase other bonds. [Acts of 29th Leg., Chap. 124, Sec. 77, as amended by Acts of 31st Leg., Chap. 12.]

Note.—See Section 16.

Note.—Common school district schoolhouse bonds may be purchased as investments for sinking funds. See Section 167.

SEC. 119. *Form of Bond.*—The said school district schoolhouse bonds shall express on their face the State of Texas, the name of the county, and the number or corporation name of the district issuing said bonds; *provided*, that the bonds shall not run more than forty years and shall bear not more than 5 per cent interest per annum, and shall never be sold below par. It shall be the duty of the State Superintendent of Public Instruction to prepare as many as three sets of plans for public school buildings, the said plans being designed to meet the needs of rural schools of various sizes, and upon request of the trustees of any school district shall furnish copies of such plans and specifications. [Acts of 29th Leg., Chap. 124, Sec. 81, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 120. *Levy of Bond Tax.*—When the commissioners' court shall provide for the issuance of such bonds, and each year there-

after so long as the bonds or any of them are outstanding, said court shall levy a tax not to exceed twenty-five cents on the \$100 valuation of taxable property of said school district, sufficient to pay the interest on the bonds and to produce a sinking fund, which, together with the interest thereon when placed at interest, shall be sufficient to pay the principal of said bonds at maturity. The rate of such tax shall be determined by the trustees of the district and the county superintendent and certified by the county superintendent to the commissioners' court; *provided*, that the rate of the bond tax, together with the rate of special local tax of the district for the maintenance of schools therein shall never exceed fifty cents on the \$100 valuation of taxable property of said school district, but if the rate of bond tax certified by the county superintendent to the commissioners court, together with the rate of maintenance tax previously voted in the district shall at any time exceed fifty cents on the \$100, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and fifty cents. Said school district bond tax shall be assessed and collected in the manner provided by law for the assessment and collection of the special local tax for the maintenance of public free schools; *provided*, that the rate of school tax certified to the commissioners court by the county superintendent shall be the rate to be levied by the commissioners court in the school district until a change in such rate shall be recommended by the county superintendent and board of trustees of the district within the limits prescribed by law. [Acts of 29th Leg., Chap. 124, Sec. 78, as amended by Acts of 31st Leg., Chap. 12.]

SEC. 121. *Tax Must Be Levied Until Bonds Are Paid.*—After said bonds shall have been issued and sold and said tax shall have been levied sufficient to pay said bonds and the interest thereon as provided above, it shall not be lawful to hold an election in said district to determine whether or not said tax shall be discontinued or lowered until said bonds, together with the interest thereon, shall have been fully paid; nor shall the limits and boundaries of said common school district ever be decreased until after said bonds and the accrued interest thereon shall have been fully paid. [Acts of 29th Leg., Chap. 124, Sec. 79.]

SEC. 122. *Expenditure of Receipts From Sale of Bonds.*—The funds arising from the sale of said common school district bonds of any district and placed to the credit of said district in the treasury of said county, shall be apportioned to the use of the public free schools of said district for the purpose of building and equipping school houses, in accordance with the method and manner provided by law for the division of the funds for the maintenance of public free school therein. [Acts of 29th Leg., Chap. 124, Sec. 82.]

COMMON SCHOOL DISTRICTS—HOUSES.

SEC. 123. *Trustees to Contract for Building.*—The trustees of such school district shall contract for the erection of such building and superintend the construction of the same, and the county superintendent shall draw his warrant or warrants upon the school fund so appropriated only upon the accounts first approved by them. [Acts of 29th Leg., Chap. 124, Sec. 84.]

SEC. 124. *Lien May Not Be Acquired.*—No mechanic, contractor, material man, or other person can contract for or in any other manner have or acquire any lien upon the house so erected or the land upon which the same is situated, and all contracts with such parties shall expressly stipulate for a waiver of such lien. [Acts of 29th Leg., Chap. 124, Sec. 85.]

SEC. 125. *Sale of School Property.*—The trustees of any school district, upon the order of the commissioners court, prescribing the terms thereof, when deemed advisable, may make sale of any property belonging to said school district, and apply the proceeds to the purchase of necessary grounds or to the building or repairing of schoolhouses, or place the proceeds to the credit of the available school fund of the district. Acts of 29th Leg., Chap. 124, Sec. 86.]

Note.—Concerning title of property in common school districts, see Sec. 129.

SEC. 126. *Control of School Property.*—All schoolhouses erected, grounds purchased or leased for a school district, and all other property belonging thereto, shall be under the control of the district trustees of such district. [Acts of 29th Leg., Chap. 124, Sec. 87.]

SEC. 127. *Unlawful to Loiter on School Grounds.*—It shall be unlawful for any person or persons to loiter or loaf upon any public school grounds in this State during the session of such school, after being warned by the person in charge of such school to leave such grounds, and such person or persons so found shall be guilty of a misdemeanor, and upon conviction therefor shall be fined in any sum not less than five and not to exceed twenty-five dollars. [Acts of 29th Leg., Chap. 124, Sec. 70.]

SEC. 128. *Protection of Houses of Respective Races.*—A schoolhouse constructed in part by voluntary subscriptions by colored parents or guardians, and for a school for colored children, shall not be used for white children without the consent of the trustees of the district, and a like rule shall protect the use of school houses erected in part by voluntary subscriptions of white parents or guardians for the benefit of white children. [Acts of 29th Leg., Chap. 124, Sec. 88.]

SEC. 129. *Title to Property.*—All conveyances, devises and bequests of property for the benefit of the public schools made by one for any county, city, town or district shall, when not otherwise directed by the grantor or devisor, vest said property in the county judge of the county, or the board of school trustees of the city or town, or the trustees of the school district, or their successors in office, as the trustees for those to be benefited thereby, and the same, when not otherwise directed, shall be administered by said officers under such rules as may be established by the State Superintendent. [Acts of 29th Leg., Chap. 124, Sec. 132.]

COMMON SCHOOL DISTRICTS—TRUSTEES.

SEC. 130. *Election and Qualification.*—On the first Saturday in April of each year the qualified voters of each school district [created during the preceding year]; at a school district meeting for that purpose, shall elect three trustees for said district, who shall enter upon the discharge of their duties on the first of May next following. They

shall immediately thereafter organize by electing one of their number president and one secretary of the board of trustees. The terms of office of said trustees shall be divided into two classes, and they shall draw for the different classes; the one drawing number one shall serve for one year, and those drawing numbers two and three shall serve for two years, and until their successors shall have been elected or appointed and shall have qualified. On the first Saturday in April of each year thereafter there shall be an election in each school district for the election of a trustee or trustees, as the case may be, and the trustee or trustees so elected shall serve for two years and until his or their successor or successors shall have been elected or appointed and shall have been qualified. The trustees so elected or appointed shall, before entering upon the discharge of their duties, qualify by taking the oath as provided by the Constitution, and shall as soon as practicable file said oath with the county superintendent or county judge; *provided*, that nothing herein shall interfere with the term of office of trustees already chosen in accordance with provisions of the law. [Acts of 29th Leg., Chap. 124, Sec. 67.]

Note.—The county judge should order the election of trustees for the several common school districts, and give at least thirty days' notice of the election. See Section 33, Chapter 11, Acts First Called Session of Twentieth Legislature.

A school trustee is a county officer. (Hendricks v. State, 20 T. C. A., 178; 49 S. W., 705.)

SEC. 131. *County Superintendent to Fill Vacancies.*—The commissioners court shall appoint three persons, qualified voters of the district, to hold such election, who shall make returns thereof to the county judge within five days after such election shall have been held; and if no election be held, or if a vacancy occur in the board of trustees by death or otherwise, the county superintendent shall at once appoint a trustee or trustees, as may be necessary, for the full or unexpired term. If, at the time and place for holding such election, any or all of the persons so appointed to hold such election are absent or refuse to act, then the electors present may select of their number a person or persons to act in the place of those absent or refusing to act. No person shall be eligible to serve as a school trustee who can not read and write, and has not been a resident of the school district for six months prior to election held for trustees. [Acts of 29th Leg., Chap. 124, Sec. 68.]

Note.—When a trustee moves his legal residence from the district in which he was serving as trustee, his office becomes vacant (see Section 14, Article 16 of the State Constitution), and the county superintendent should appoint a successor.

SEC. 132. *Returns of Election.*—* * * The returns of the election of the trustees to be elected, as hereinbefore provided for the control and management of the schools of the district, shall be made to the county clerk of the county where such election is held, who shall deliver the same to the commissioners court to be canvassed and the result declared as in cases of other elections, which commissioners court shall issue to the persons so elected their commissions as

such trustees. [Acts of 29th Leg., Chap. 124, Sec. 93, as amended by Acts of 30th Leg., Chap. 106.]

Note.—In case of a tie vote for two or more persons to fill one position on the board of trustees, another election should be held to elect a person to fill this position. See Article 1805, Revised Statutes.

The county clerk should sign the trustee's commission on behalf of the commissioners court and impress thereon the seal of said court. The oath of office, which must be subscribed before the commission can be issued, the clerk should deliver to the county superintendent. See Section 130.

SEC. 133. *Suit for Removal of Trustee.*—White and colored children shall not be taught in the same schools, but impartial provision shall be made for both races. Three trustees shall in all cases be elected for the control and management of the schools of the district. *Provided*, the trustees elected must be able to read and write intelligently the English language, and read, comprehend and interpret the laws of the State of Texas relating to the public school system; and in the event a trustee elected, in the opinion of the county superintendent, or the county judge who is ex-officio county superintendent, is not qualified to serve under the provisions of this act, it shall be the duty of the county superintendent, or such county judge who is ex officio county superintendent, to refuse to recognize such person who has been so elected as such school trustee, and to make written request within twenty days after such election of the county attorney or district attorney in case there be no county attorney, to institute and prosecute with dispatch such suit, in the name of the State of Texas, for the removal of such trustee or in the district court of the county where such trustee resides, at the option of the county attorney or district attorney in case there be no county attorney; *provided*, it shall be lawful under the provisions of this act, upon good cause shown within the discretion of the court, where such suit is pending, to enjoin and restrain such person from acting as such trustee during the pendency of such suit for his removal. It shall be lawful under the provisions of this act to summon such trustee so elected, before the court in the trial of such cause, and there make examination of him, as to his qualifications to serve as such trustee as defined by this act, and in case such trustee, after having been duly cited to answer in said cause and summoned as herein above provided to appear for examination, shall fail, neglect or refuse to obey said summons, and fail to appear for the purpose of examination, and fail or refuse to submit to such examination, such failure, neglect or refusal shall be prima facie evidence of his disqualification under the terms of this act, and because thereof the court trying such cause shall be authorized to render thereupon judgment by default against such trustee so defaulting, removing him from his said office of school trustee and declaring the same vacant. It shall be the duty of the commissioners court of the county where such trustee has been elected, to appoint some suitable person who is qualified as herein defined, to act as such trustee during the pendency of each suit to remove such trustee so elected, if he shall be enjoined from so acting, and in case such trustee so elected shall be so removed by such suit brought by the county attorney or district attorney in case

there be no county attorney, then such trustee so appointed by the commissioners court of said county shall continue to serve until the next regular election of school trustees for such district; *provided*, however, that such trustee so appointed may be removed for the causes and in the manner provided by this section. In case of vacancy in said office of trustee, by resignation or otherwise, the commissioners court of the county shall appoint a suitable person qualified under the provisions of this act, to so act as such trustee until the next regular election of school trustees for such district; and in case such commissioners court under the provisions hereof shall appoint some person not qualified, suit for his removal shall be brought by the county attorney or district attorney in case there be no county attorney, of the State in the name of the State of Texas, in the manner and upon the same terms and conditions as have been herein provided for in case of the election of persons who are not qualified to act as such trustees. * * * [Acts of 29th Leg., Chap. 124, Sec. 93, as amended by Chap. 106, Acts of 30th Leg.]

Note.—If no election be held, or if a vacancy occur in the board of trustees from any cause, except in case of suit to remove trustee as provided in this section, the county superintendent shall at once appoint a trustee for the full or unexpired term. See Section 131.

SEC. 134. *District Trustees a Body Corporate.*—The trustees of school districts provided for in the preceding articles of this chapter, and their successors in office, shall be a body politic and corporate in law, and shall be known by and under the title and name of district trustees of district number —, and county of —, State of Texas, and as such may contract and be contracted with, sue and be sued, plead or be impleaded in any court of this State of proper jurisdiction, and may receive any gift, grant, donation or devise made for the use of the public schools of the district. All reports and other official papers shall be headed with the number of district and name of county. [Acts of 29th Leg., Chap. 124, Sec. 69.]

Note.—Acting individually, the members of the board have no power to bind the district. They may act in their official capacity only when convened as a board, and any contract made or act done by them when not thus convened, unless afterwards approved and confirmed when legally in session, may be held invalid. See American and English Encyclopedia of Law, Volume XXV, pages 56 and 57. Meetings of the trustees should be held at least once a month during the school sessions.

Note.—See Section 129.

SEC. 135. *Shall Have Management and Control of Schools.*—The trustees of school districts shall have the management and control of the public schools; they shall have the power to employ and dismiss teachers, but in cases of dismissal, teachers shall have the right of appeal to the county and State superintendents. [Acts of 29th Leg., Chap. 124, Sec. 70.]

Note.—The anti-nepotism law of the Thirty-first Legislature prohibits the employment of a teacher who is related by affinity within the second degree or consanguinity within the third degree to any member of the board of school trustees.

Note.—Contracts between teachers and trustees should show specifically and definitely the monthly salary to be paid each teacher and the number of months the school or schools will be taught. See Section 137. The trustees and the teachers should know the amount of money available for the school year covered by the contract. If there should be a mistake in the estimation of the amount of funds available for the year the school or schools must be closed when the funds are exhausted, and the trustees would not be liable for the teachers' salaries under the contracts beyond the time or term which the money actually available would run the school or schools; but if the trustees should expend the money for school supplies or for anything else, using so much of their available fund as to leave an insufficient amount to comply with their part of the contracts, they might be held personally liable. See *Watkins v. Huff*, 63 S. W., 922; *Stephenson v. Union Seating Company*, 62 S. W., 128; *Wilson v. Hite*, 54 S. W., 726.

Note.—If a teacher be dismissed, the trustees should furnish such teacher a written statement setting forth the reasons for their action. If the teacher wishes to appeal from the action of the board of trustees, the case should be brought at once before the county superintendent, who must decide according to the law and the evidence submitted. From the county superintendent appeal may be taken to the county school trustees. If from their decision an appeal is made to the State Superintendent by the teacher or by the board of trustees, an agreed statement of facts must be forwarded, together with the decision of the county superintendent and county school trustees, to the State Superintendent. See Section 24 and note thereunder.

Consult *Harkness v. Hutcherson*, 90 Texas, 383; 38 S. W., 1120; and *Moreland v. Wynne*, 62 S. W., 1093.

Note.—On account of smallpox, the public schools of a city were suspended and a teacher was notified to hold herself in readiness to resume work. The court held she was entitled to her salary for the lost time, although the suspension lasted three months. *Randolph v. Sanders*, 22 Texas Civ. App., 331; 54, S. W., 621. See also *Singleton v. Austin*, 65 S. W., 686.

SEC. 136. *Make Contracts for the District.*—School trustees shall determine how many schools shall be maintained in their respective school districts, and at what points they shall be located; they shall determine when the schools shall be opened and when closed; they shall contract with teachers and manage and supervise the schools, subject to the rules and regulations of the county and State Superintendents; they shall approve all teachers' vouchers, and all other claims against the school fund of their district; *provided*, that trustees of district in making contracts with teachers shall not create a deficiency debt against the district. [Acts of 29th Leg., Chap. 124, Sec. 71.]

Note.—The suit is brought by certain patrons of a public school to enjoin the school trustees from changing the location of the schoolhouse, and erecting a new school building at a different locality in the school district. We think that it was the intention of the school laws to place such matters primarily under the control of the school authorities, subject, of course, to the final control of the courts in a proper case. The law provides for an appeal from the action of the school trustees first to the superintendent of public education and from his decision to the State Board of Education.—*Caswell vs. Fundenberger*, 105 Southwestern reporter, 1017.

Note.—See Section 103.

Note.—This section does not authorize trustees to divide the session of the school into two or more short terms. The school should be taught continuously from beginning to close of session, and contract with teacher must be made accordingly.

Note.—A school district being a public corporation, all persons dealing with it are charged with knowledge of the condition of its finances. In

issuing a voucher the trustees must designate whether the amount is to be paid (a) from State and county funds, (b) from local funds, (c) from proceeds of sale of bonds, or (d) from receipts from bond tax. See Sections 57 and 160 and note under Section 58. The county superintendent before he is warranted in approving any voucher must know (a) that it contemplates a legal expenditure of the fund against which it is drawn and (b) that there is sufficient money in that fund to the credit of the district for the current scholastic year, available for the purpose, to pay the voucher. A board of trustees can not make contracts for the expenditure of more money than the receipts for the current year. "The term of the school must end when the fund apportioned to it for the particular year is for any reason exhausted."—*Stephenson v. Union Seating Company*, 62 S. W., 128. A balance may be carried over to be used the next year (see Section 56 herein), but an indebtedness can not be legally created against the funds of future years except by the issuance of bonds. See *Collier v. Peacock*, 54 S. W., 1025; 55 S. W., 756; 93 Texas, 255; *Bank of Nocona v. March*, 51 S. W., 266; *Andrews v. Curtis*, 2 Civ. App., 678; 22 S. W., 72; *Clark v. School Directors*, 78 Illinois, 474.

Note.—A trustee may not become pecuniarily interested in any contract with the board. See Articles 264 and 266 of the Penal Code, and the case of *Rigby v. State*, 27 Texas Cr. App., 55.

Articles 125 and 126 of the Penal Code, relating to bribery, apply to school trustees.

SEC. 137. *Contracts With Teachers.*—Trustees of a district shall make contracts with teachers to teach the public schools of their respective districts, but the compensation to teachers under written contract with the trustees shall be approved by the county superintendent before the school is taught, stating that the teacher will teach such school for the time and money specified in the contract; and the board shall have authority, whenever the average daily attendance exceeds thirty-five pupils, to employ one competent assistant to every thirty-five pupils of such excess, and fractional part thereof exceeding fifteen pupils; and all children within the scholastic age residing in such district, though they may have settled in such district since the scholastic census was taken, shall be entitled to receive all the benefits of the schools of such district; and in districts that levy a special school tax the trustees shall have the right to increase the salaries of teachers and the scholastic age, and may also have the schools taught longer than six months if it is deemed advisable. [Acts of 29th Leg., Chap. 124, Sec. 72.]

Note.—See *Singleton v. Austin*, 65 S. W., 686.

SEC. 138. *Check for Payment of Teacher.*—The amount contracted by trustees to be paid a teacher shall be paid on a check, drawn by a majority of the trustees, on the county treasurer [depository], and approved by the county superintendent. The check shall in all instances be accompanied by the affidavit of the teacher that he is entitled to the amount specified in the check, as compensation under his contract as teacher. [Acts of 29th Leg., Chap. 124, Sec. 74.]

Note.—The oath printed on the back of each teacher's salary voucher in the forms furnished by the State Department of Education is in conformity with a decision of the Court of Criminal Appeals holding that this section of the law requires such affidavit. A false oath by the teacher renders him guilty of perjury. (*Anderson v. State*, 20 Cr. App., 312.)

COUNTY SCHOOL TRUSTEES; HIGH SCHOOLS AUTHORIZED.

SEC. 139. *Rural High Schools Authorized.*—[That] Public high schools are hereby authorized to be established in the common school districts of Texas, said high schools to be an integral part of the public free school system of the State. [Acts of 32nd Leg., Chap. 26, Sec. 1.]

SEC. 140. *What May Be Taught in These Schools.*—[That] There may be taught in each high school, the establishment of which is herein authorized, all the subjects prescribed by law to be taught in the public schools of Texas, including primary, intermediate, and high school subjects, and such of the additional subjects of agriculture, domestic economy and manual training as may be provided for according to the conditions hereinafter prescribed. In the meaning of this statute, there shall be high schools of the first class, high schools of the second class, and high schools of the third class. A high school of the first class shall be a high school which maintains at least four years or grades of work above the sixth grade or year, may include in its curriculum the first six grades or years of work, shall employ at least two teachers to teach high school subjects, who shall each hold a State first-grade certificate or certificate of higher grade, and shall be maintained for not less than eight scholastic months during each school year. A high school of the second class shall be a high school which maintains at least three years or grades of work above the sixth grade or year, may include in its curriculum the first six years or grades of work, shall employ at least two teachers to teach high school subjects, who shall each hold a State first-grade certificate or certificate of higher grade, and shall be maintained for not less than eight scholastic months during each school year. A high school of the third class shall be a high school which maintains at least two years or grades of work above the sixth grade or year, may include in its curriculum the first six years or grades of work, shall employ at least one teacher to teach high school subjects, who shall hold a State first-grade certificate or certificate of higher grade, and shall be maintained for not less than seven scholastic months during each school year. Each class of high schools herein defined shall be entitled to receive a certificate of approval or classification from the State Department of Education. High schools which fail to come up to the standard herein prescribed as to teachers, number of grades or years of work and length of annual session, shall not be prohibited by this act, but such high schools shall not be entitled to receive a certificate of approval or classification from the State Department of Education. A grade or year of work as herein mentioned shall consist of not less than thirty-two weeks of five days each. [Acts 32nd Leg., Chap. 26, Sec. 2.]

Note.—This section of the law authorizes the State Department of Education to classify the high schools; prescribes the minimum requirements for a high school of the first class, a high school of the second class, and a high school of the third class; and provides for the issuance of certificates of approval by the State Department of Education to the high schools of each class.

Under authority vested in the State Superintendent of Public Instruction by Section 27, Chapter 124, Acts of the 29th Legislature, it is hereby ruled that a high school of the first class shall adequately maintain four years

or grades of high school work, preferably including the eighth, ninth, tenth, and eleventh years or grades, and shall employ not fewer than three (3) teachers, each of whom shall hold a State first grade certificate or certificate of higher grade, to teach high school subjects, and the annual session of said school shall be not less than eight scholastic months; that a high school of the second class shall adequately maintain three years or grades of high school instruction, preferably including the eighth, ninth, and tenth years or grades, shall employ not fewer than two teachers, each of whom shall hold a State first grade certificate or certificate of higher grade, to teach high school subjects, and the annual session of said school shall be not less than eight scholastic months; that a high school of the third class shall adequately maintain at least two years or grades of high school work, preferably including the eighth and ninth years or grades, shall employ at least one teacher, who shall hold a State first grade certificate or certificate of higher grade, to teach high school subjects, and the annual session of said school shall be not less than seven scholastic months. Each high school must, of course, be provided with a good house, properly lighted, heated and ventilated, up-to-date school desks, ample grounds, and adequate equipment, including laboratories, library, and necessary apparatus. The privilege of classification and approval of high schools by the State Department of Education will be extended to such high schools of independent school districts as may desire to take advantage of the law in this respect. In order that the work of approval shall be done intelligently and without violence to approved standards, an application form will be prescribed for use by high school authorities and county superintendents who desire to have their high schools approved by the State Department of Education, and a plan will be devised for the annual inspection of the work of each approved high school.

SEC. 141. *State Aid.*—It shall be the duty of the State Board of Education to duplicate by an appropriation out of money provided for by this Act an amount not less than five hundred (\$500.00) dollars, nor more than fifteen hundred (\$1,500.00) dollars, that shall have been set apart by the trustees of a public high school of the first class or of the second class, the establishment of which is herein authorized, or any such high school that has already been established in either a common school district or an independent district, for establishing, equipping and maintaining a department of agriculture; an amount of not less than five hundred (\$500.00) dollars, nor more than one thousand dollars (\$1,000), that shall have been set apart by the trustees of any such high school for establishing, equipping and maintaining a department of domestic economy; and an amount of not less than five hundred (\$500.00) dollars, nor more than one thousand (\$1,000.00) dollars that shall have been set apart by the trustees of any such high school for establishing, equipping and maintaining a department of manual training; an amount of not less than five hundred (\$500.00) dollars, nor more than one thousand (\$1,000.00) dollars that shall have been set apart by the trustees of a public high school of the third class in a common school district for establishing, equipping and maintaining a department of agriculture; *provided*, that not more than two thousand (\$2,000.00) dollars shall be appropriated by the State Board of Education for the purpose mentioned to any one high school during the same scholastic year; and *provided further*, that such appropriation shall not be made more than twice to the same school. The board of trustees of the high school applying for State aid for establishing, equipping and maintaining a department of agriculture, domestic economy or manual training shall provide ample room and laboratories for the

teaching of each subject or subjects, and in connection with the department of agriculture in the high school, shall provide a tract of land, conveniently located, which shall be sufficiently large and well adapted to the production of farm and garden plants, and shall employ a teacher who has received special training for giving efficient instruction in the subject. The State Superintendent of Public Instruction shall make accurate and full investigation of the school property, appliances and ground possessed by any board of trustees that may apply for State aid under the provisions of this Act, and shall make a report of the result of his investigation to the State Board of Education, together with his recommendations touching the same. The State Board of Education shall grant aid to those high schools that have complied with the provisions of this Act, that shall give evidence that, after the State aid is withdrawn, the high schools will continue to maintain the department for instruction in agriculture, domestic economy, or manual training, and that have been recommended by the State Superintendent of Public Instruction. [Acts of 32nd Leg., Chap. 26, Sec. 3.]

Note.—No high school will be granted State aid for agriculture unless it possesses by proper deed at least three acres of land suitable for farm and garden plants. The usual requirements of laboratories and other equipment and thoroughly prepared teachers for these special subjects must be met. An application form has been prepared by the State Department of Education for use by boards of school trustees in applying for State aid under this section of the law, which will be sent upon request.

SEC. 142. *County School Trustees.*—The general management and control of the high schools in each county of the State, provided for in this Act, shall be vested in five county school trustees, elected from the county at large, at the time the trustees of the common school districts are elected, the first Saturday in April of each year, the order for their election to be made at the same time and by the same authority that orders the election of the trustees of the common school districts. The first election under this act shall be held on the first Saturday in April subsequent to the taking effect of this act, at which election five county school trustees shall be chosen, who shall decide by lot at their first meeting which two shall hold office for one year, and which three shall hold office for two years, and two of whom shall hold office for one year, or until their successors are elected and qualified, and three of whom shall hold office for two years, or until their successors are elected and qualified; and regularly thereafter on the first Saturday in April of each year an election shall be held for such county school trustees, two being elected at the expiration of the term of those first holding for one year, and three being elected at the expiration of [the term of] those first holding for two years; *provided*, if this Act does not take effect prior to the first Saturday in April, 1911, the county school trustees herein provided for shall be appointed by the commissioners' court of each county, to serve until the election and qualification of their successors in 1912. [Acts of 32nd Leg., Chap. 26, Sec. 4.]

Note.—This section vests the establishment, organization, and general management of the high schools of common school districts of the county in five county school trustees (the county board of education). The im-

mediate management of these high schools manifested in such work as supplying equipment, electing teachers, etc., will vest in the district school trustees. The commissioners court of each county is required, as early as practicable after June 11, 1911, to appoint a county board of education. The first Saturday in April, 1912, the date of election of the trustees in common school districts, will also be the date of the election by the people of the successors of the members of the county board of education appointed by the commissioners court in 1911. Each county school trustee should qualify by taking the oath prescribed by the Constitution before any one authorized to administer oaths, and should file said oath with the county clerk.

SEC. 143. *Classification of Schools.*—It shall be the duty of the county school trustees to classify the schools of the county into primary schools, intermediate schools, and high schools, for the purpose of promoting the efficiency of the primary and intermediate schools and of establishing high schools wherever practicable. In classifying the schools and in establishing high schools, the county school trustees shall confer and advise with the county superintendent of public instruction and the district school trustees of the county, and shall give due regard to the schools already located, to the distribution of the population and to the advancement of the children in their studies. The said county school trustees shall, in co-operation with the county superintendent of public instruction, prescribe a course of study for the public schools of the county conforming to the law and the requirements of the State Department of Education.

Note.—This section of the law requires the county board of education to classify the schools of the common school districts of the county, and should not be confused with the approval of high schools by the State Department of Education.

A primary school, as interpreted by the State Department of Education, is a school in which may be taught not more than the first four years or grades of work; that is, not more than the first, second, third, and fourth years or grades of work. The county board of education has authority, however, to designate or classify a public school as a primary school of four grades, a primary school of three grades, a primary school of two grades, or as a primary school of one grade, and to limit the instruction in such school accordingly.

An intermediate school is a school which may offer instruction in one or more of the grades of the primary school and may also offer instruction in the fifth, sixth, and seventh years or grades, but shall not offer instruction in any year or grade in advance of the seventh year or grade. The county board of education, under authority of law, may designate or classify a public school as an intermediate school of five grades, an intermediate school of six grades, or an intermediate school of seven grades, and limit the instruction in such school accordingly.

A high school is a school which may offer instruction in one or more of the grades of the primary and intermediate schools, and shall also offer instruction in one or more years or grades of work in advance of the highest year or grade of the intermediate school. The county board of education has authority to classify or designate a school as a high school offering one year of high school instruction, a high school offering two years of high school instruction, a high school offering three years of high school instruction, or a high school offering four years of high school instruction, and to limit the instruction in such school accordingly. The four years or grades in which the high school instruction should be offered are the eighth, ninth, tenth, and eleventh.

SEC. 144. *Rights and Powers of County Trustees.*—All rights and powers pertaining to the public free schools of the county that have

heretofore been vested in the commissioners' court and that are not prescribed by this act, shall hereafter be vested in the county school trustees. In determining the location of high schools, the county school trustees shall, by and with the consent of the majority of the trustees of each district affected, effect the consolidation of as many common school districts as practicable, and shall negotiate with the school trustees of such common school districts as have no high schools for the free tuition of eligible children in the high schools, thereby giving high school privileges and opportunities; so far as possible, to all children of scholastic age residing in the rural districts. The county school trustees are also empowered to negotiate with the trustees of independent school districts that have high schools for the free tuition of eligible children who reside in adjacent or convenient common school districts not maintaining high schools. [Acts of 32nd Leg., Chap. 26, Sec. 6.]

Note.—1. This section vests certain authority in the county school trustees (the county board of education) but the Attorney General's office has held, and rightly so, in the opinion of the State Department of Education, that the doing of the following things not being mentioned in the title of the act and not being essential in the establishment of high schools in the common school districts, shall continue to vest in the commissioners court:

1. To approve the reports of depositories of school funds.
2. To make changes in the boundaries of independent school districts.
3. To make sale of county school lands.
4. To invest the county permanent school fund.
5. To levy special school taxes, and to issue and provide for the sale of common school district schoolhouse bonds.
6. To order the election, approve the bond, and pay the salary of the county superintendent.
7. To subdivide the county into school districts and to make changes in district lines.

Note 2.—This section definitely authorizes the county board of education, by and with the consent of a majority of all trustees of each common school district affected, to consolidate any number of common school districts in determining the location of a high school. In accomplishing this consolidation for the purpose of establishing, maintaining, and operating a high school, the following method of procedure should be observed: The board of trustees of each common school district at interest should hold a formal meeting and officially express their approval and consent to the consolidation of their district with the other districts, a record of the proceedings of which meeting should be reduced to writing and transmitted to the county superintendent to be presented by him to the county school trustees (the county board of education) at the proper time. The county school trustees at one of their official meetings should consider the matter of the consolidation of the said districts for high school purposes and take such action as appears to them to be wise and proper; and pass an order which should be entered in the record by the county superintendent, containing a complete statement of the action of the board of trustees of each of the common school districts affected by the consolidation. The county school trustees should then proceed to establish, by the adoption of a resolution, such consolidated school district, giving accurately and technically the metes and bounds of the territory consolidated, including the surveys and parts of surveys in such consolidated district, and giving the number of acres contained in each survey and part of survey. The county school trustees should have made a plat of the territory of the consolidated school district showing the surveys and parts of surveys, and the boundaries of such district, and said plat should be filed in the office of the county superintendent of public instruction to be there

kept as a permanent record. The expense of surveying the territory and of making the plat, being county business, should be paid by the commissioners court. When this order establishing the consolidated district has been passed, as hereinbefore indicated, the county school trustees should transmit a copy of this order to the county clerk by him to be presented to the commissioners court to be adopted and ordered recorded in the minutes of said commissioners court. This section of the law makes practicable the consolidation of common school districts for the establishment of rural high schools, and gives authority to the county board of education to effect such consolidation. The approved method of procedure provided for the establishment and adequate maintenance of rural high schools in the different States of the American Union is by the consolidation of small school districts or units of territory into larger districts or units of territory. The larger district or unit of territory is necessary in order to provide a sufficient number of educable children for a high school and a tax-producing unit sufficiently extensive and valuable to serve as a basis in securing revenue by local taxation with which to supplement the State and county school funds, and to thereby guarantee an adequate financial support of the high school. Public roads are also a matter for consideration in determining the practicability and wisdom of the consolidation of school districts. It is true, however, that no State in the American Union is making more rapid progress in the improvement of its public roads than Texas, and in many counties of the State at present both the topography of the country and the public roads are favorable to the consolidation of districts in certain portions thereof. Heretofore the authority and the responsibility for bringing about the consolidation of common school districts for the establishment and maintenance of rural high schools for the more than 600,000 country children of Texas have not been definitely fixed on any official. The authority is now conferred, the responsibility is fixed, and the opportunity to proceed orderly and wisely in the establishment of rural high schools by the consolidation of common school districts in many of the counties of the State may be utilized.

FREE TRANSPORTATION OF CHILDREN.

The State Department of Education has heretofore held, and now holds, that money raised by local school tax, may be used in defraying the expense of the transportation of children to and from school where such children live at too great distances to walk, and where such expenditure of money is necessary in the conduct of the school, as determined by the district school trustees. The consolidation of school districts and the transportation of children to and from school at public expense are in successful operation at this time in thirty-two States of the American Union; and in each of these States the results, universally conceded, from the plan are better schoolhouses with adequate equipment, larger enrollment of children, more regular attendance, elimination of tardiness, protection of health and morals of children in going to and returning from school, better gradation of schools, longer school terms, better trained teachers, and a decided improvement in educational sentiment, all without any marked increase in the cost of school maintenance. The county board of education should, therefore, wherever practicable, with the co-operation of the district school trustees and the county superintendent, consolidate school districts for high school purposes and inaugurate the system of free transportation of children.

CHILDREN OF DISTRICTS WITHOUT HIGH SCHOOLS.

Note 3.—This section of the law also authorizes the county board of education to arrange or negotiate with the trustees of such common school districts as have no high schools for the free tuition of high school children in the high schools of the common school districts authorized by this act. The county board of education in making this arrangement with the district school trustees should determine an equitable amount of money due the district maintaining the high school for the attendance free of charge of high school children from said district. After said arrangement or negotiation with the district school trustees, it shall be the duty of the county superintendent to debit the account of the district or districts

from which the children attend with the amount agreed upon, and to credit said amount to the account of the high school in which district the children attend, and the county treasurer or school depository shall adjust his books so, that they will agree with the books of the county superintendent. This negotiation or arrangement may be entered into and carried out at any time during the scholastic year.

The county school trustees (the county board of education) is also empowered to negotiate with the trustees of the independent school district that has a high school for the free tuition of high school children, upon an equitable basis, who reside in any adjacent or convenient common school district not maintaining a high school, and a warrant for the proper amount issued against the common school district and made payable to the treasurer or depository of the independent school district shall be drawn and signed at any time during the year by the common school district trustees and approved by the county superintendent, thereby carrying out the agreement or negotiation made by the county school trustees. Under a wise administration of this law it will no longer be necessary in any common school district for one teacher to attempt to teach all the classes from the first grade in the primary department up to and including the subjects of the high school. The matter of arranging for the free tuition of high school children who reside in districts not maintaining high schools, in the high schools of other districts is one of vital importance in the improvement of the educational opportunities of the children of Texas, and the county board of education, acting with the county superintendent, should, as far as practicable, provide high school opportunities for all high school children of the county, which at the same time will result in giving better and more efficient instruction and training to the children below the high school.

SEC. 145. *County School Trustees Constitute Body Corporate.*—The county school trustees of each county shall constitute a body corporate, by the name of the county school trustees of county, State of Texas, and in that name may acquire and hold real and personal property, and sue and be sued, and may receive bequests and donations or other moneys or funds coming legally into their hands, and may perform other acts for the promotion of education in the county. The title to any school property belonging to the county, the title of which has heretofore been vested in the county judge and his successors in office, or any school property that may be acquired, shall vest in the county school trustees and their successors in office for public free school purposes. [Acts of 32nd Leg., Chap. 26, Sec. 7.]

SEC. 146. *County Superintendent Shall Act as Secretary.*—The county school trustees shall designate the county superintendent as their secretary and executive officer; and it shall be the duty of the county superintendent to keep a true and correct record of all the proceedings of said county school trustees in a well bound book, which shall be open to public inspection. [Acts of 32nd Leg., Chap. 26, Sec. 8.]

SEC. 147. *Apportionment of School Funds.*—Upon receiving notice from the State Superintendent of Public Instruction, of the amount of State available school funds apportioned to the county, exclusive of all independent districts having each more than 150 scholastics, it shall be the duty of the county school trustees, acting with the county superintendent, to apportion all available State and county funds to the school districts as prescribed by law. [Acts of 32nd Leg., Chap. 26, Sec. 9.]

SEC. 148. *Appeals Lie to County Trustees.*—All appeals from the decisions of the county superintendent of public instruction shall lie

to the county school trustees, and from the said county trustees to the State Superintendent of Public Instruction, and thence to the State Board of Education. [Acts of 32nd Leg., Chap. 26, Sec. 10.]

SEC. 149. *Time of Meeting of County Trustees.*—The county school trustees shall hold meetings on each quarter on the first Monday in August, in November, in February, and in May, or as soon thereafter as practicable, and at other times when called by the president of the board of trustees. Each county school trustee shall be paid his actual expenses incurred in attending the meetings provided for in this section, such payments to be made from the general fund of the county, by warrants drawn on order of the commissioners' court after approval of itemized accounts, properly sworn to; *provided*, that no member shall receive more than three (\$3.00) dollars per day, nor more than twenty-four (\$24.00) dollars during any scholastic year. [Acts of 32nd Leg., Chap. 26, Sec. 11.]

SEC. 150. *Qualifications of County Trustees.*—The county school trustees shall be qualified voters and freeholders of the precinct or county from which they are elected. They shall be of good moral character, able to read and speak the English language, shall be persons of good education and shall be in sympathy with public free schools. Four of the county school trustees shall each reside in different commissioners' precincts, and a majority of them shall reside in common school districts. Within twenty days after their election and qualification, the county school trustees shall meet and organize by electing one of their number president. The county school trustees shall be elected and shall qualify in the same manner as other county officers are elected and qualified. [Acts of 32nd Leg., Chap. 26, Sec. 12.]

SEC. 151. *Vacancies, How Filled.*—All vacancies in the office of county school trustees shall be filled by election by the remaining county school trustees. Three of the county school trustees shall constitute a quorum, and all questions shall be decided by a majority vote. [Acts of 32nd Leg., Chap. 26, Sec. 13.]

SEC. 152. *Appropriation For State Aid.*—The sum of fifty thousand (\$50,000) dollars, or such part thereof as is necessary, is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, for the year ending August 31, 1912, and fifty thousand (\$50,000.00) dollars, or such part thereof as is necessary, for the year ending August 31, 1913, for the purpose of carrying out the provisions of Section 3 of this Act, the expenditure of all money granted under the provisions of this Act, together with the sum furnished by the board of trustees of the high school for the same purpose, shall be itemized and reported under oath to the State Superintendent of Public Instruction by the treasurers, or depositories, of the board of trustees of the high schools receiving aid under the provisions of this Act. [Acts of 32nd Leg., Chap. 26, Sec. 14.]

INDEPENDENT DISTRICTS—CORPORATIONS FOR SCHOOL PURPOSES ONLY.

SEC. 153. *Application to County Judge for Elections.*—At any time hereafter it shall be lawful for any town or village which may desire to incorporate for school purposes only, to make application to

the county judge for the organization of an independent school district as provided for by the general statutes governing such cases, and for the election of a board of trustees, as provided in this act, and on receipt of such application it shall be the duty of the county judge to proceed as required in Section 164 [197] of this act. [Acts of 29th Leg., Chap. 124, Sec. 172.]

SEC. 154. *Incorporation.*—Towns and villages authorized to incorporate under chapter [eleven, Title XVIII, R. S.] or having two hundred inhabitants or over, may form an incorporation for free school purposes only, which may include within its bounds a town or village incorporated for municipal purposes, the same not having assumed control of the public schools within its limits; *provided*, that the territory so incorporated for free school purposes shall not exceed an area of twenty-five square miles; *provided*, that said corporation shall be laid out in a square as near as it is practicable with reference to the location of the school building; and when so desiring, an election may be held under the provisions of this title and chapter, and if, at such election, a majority of the votes cast be in favor of the incorporation, it shall be the duty of the county judge to make return thereof, and cause a record of the result of such election to be made, the same as provided for by Articles 585 and 586, Revised Statutes of Texas, upon which entry being made, such town or village shall be regarded as duly incorporated for the purpose of establishing and maintaining free schools therein, and it shall, upon notice to the State Board of Education by the board of trustees hereinafter provided for, receive such pro rata share of the available school fund as its scholastic population may entitle it to; and *provided also*, that all school incorporations hereafter formed under the provisions of this act shall have the right to levy and collect taxes and issue bonds for school purposes, the same as school incorporations heretofore formed.

When a town or village is included in a corporation for free school purposes, and such town or village shall afterwards be incorporated for municipal purposes, it shall not thereby acquire a right to take the control of the schools within its limits out of the hands of the school corporation. [Acts of 29th Leg., Chap. 124, Sec. 149.]

Note.—An independent district of this kind may not include a city incorporated under the provisions of Title XVIII, Chap. 1, R. S.; *State v. Wofford*, 39 S. W., 921.

The Legislature, however, by special act may create a corporation for school purposes only, which shall include within its limits a city incorporated for municipal purposes. *State v. Brownson*, 94 Texas, 436; 61 S. W., 114.

The formation of the independent district abrogates any local tax which may have been previously voted on the territory included therein. For procedure necessary for a tax in the independent district, see Section 160.

See also Articles 580 to 586, Sayles' Texas Civil Statutes, and Sections 149 to 152 of Chapter 124, General Laws of Twenty-ninth Legislature.

SEC. 155. *Board of Trustees.*—Upon the entry of record, as provided for in Section 149 [154] of this act it shall be the duty of the county judge to forthwith order an election of seven school trustees

for such town or village so incorporated for school purposes, who shall be elected in the same manner and at the same time, and whose term of office shall be the same as that of trustees of [independent] districts. [Acts of 29th Leg., Chap. 124, Sec. 160.]

SEC. 156. *Powers of the Board.*—The trustees elected in accordance with the preceding section shall be vested with the full management and control of the free schools of such incorporated town or village, and shall in general be vested with all the powers, rights and duties in regard to the establishment and maintaining of free schools, including the powers and manner of taxation for free school purposes, that are now conferred by the laws of this State upon the council or board of aldermen of incorporated cities and towns. [Acts of 29th Leg., Chap. 124, Sec. 161.]

Note.—See Section 160.

Note.—For general powers and duties of trustees, see Sections 195 to 208.

SEC. 157. *Exclusive Control.*—All such towns and villages shall have exclusive control of the public free schools within their limits. [Acts of 29th Leg., Chap. 124, Sec. 152.]

SEC. 158. *Districts Validated.*—Independent school districts heretofore organized which have not the required population in the town proper, but have such population in the whole independent district, shall be validated by this Act. [Acts of 29th Leg., Chap. 124, Sec. 150.]

SEC. 159. *General Laws Apply to All Districts.*—All school districts heretofore provided for by special act of the Legislature are hereby placed under the general laws relating to incorporated school districts, and all provisions of any and all such special acts in conflict with the general laws are hereby specifically repealed, except in so far as those acts relate to the boundaries established by the acts incorporating such districts. * * * [Acts of 29th Leg., Chap. 124, Sec. 154a, added by Acts of 31st Leg., Chap. 12.]

Note.—The effect of this provision is to give independent districts created by special acts of the Legislature prior to February 18, 1909, the taxing powers provided in Section 160 below.

SCHOOL CORPORATIONS—TAXES AND BONDS.

SEC. 160. *Local Taxes. Bonds.*—Trustees of incorporated districts that have been or may hereafter be incorporated under general or special laws for school purposes only, shall have power to levy and collect an annual ad valorem tax not to exceed 50 cents on the \$100 valuation of taxable property of the district for the maintenance of schools therein and a tax not to exceed 25 cents on the \$100 for the purchase of sites and purchasing, constructing, repairing or equipping public free school buildings within the limits of such incorporated districts; *provided*, that the amount of maintenance tax, together with the amount of bond tax of the district, shall never exceed 50 cents on the \$100 valuation of taxable property. Said trustees shall have power to issue coupon bonds of the district for building purposes to be made payable not exceeding

forty years from date, in such sums as they shall deem expedient, to bear interest not to exceed 5 per cent per annum; *provided*, that when such buildings are to be wooden, the bonds herein provided for shall not run for a longer period than twenty years; *provided*, that the aggregate amount of bonds issued for the above named purpose shall never reach such an amount that the tax of 25 cents on the \$100 valuation of property in the district will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity; and *provided further*, that no such tax shall be levied and no bonds issued until after an election shall have been held wherein a majority of the taxpaying voters voting at said election shall have voted in favor of the levying of said tax or the issuance of said bonds, or both, as the case may be; *provided*, that the specific rate of tax need not be determined in the election. [Acts of 29th Leg., Chap. 124, Sec. 154, as amended by Acts of 31st Leg., Chap. 12.]

Note.—A pamphlet (Circular 47b) containing forms of petitions, notices of elections, etc., for use in school corporations will be furnished by the State Department of Education on request.

Note.—The school board must offer the bonds to the State Board of Education. See Section 16.

Note.—The proceeds of the local tax on account of the bond issue may not be used for any purposes whatever except the payment of the interest on the bonds and the creation of a sinking fund for the redemption of the bonds at maturity. The sinking fund may be invested as provided in Sections 166 and 167, but the expenditure of any part of it, including the interest derived thereon for any purpose except the payment of the principal of the bonds, would be a misapplication of funds, and the treasurer would be subject to criminal prosecution under Article 103 of the Penal Code and would also be liable on his official bond to the extent of the funds misappropriated.

The school board should levy each year only such a rate of bond tax as will pay the current interest on the bonds and provide one year's sinking fund. See Article 912, R. S., and Section 156 herein.

SEC. 161. *Election to Be Ordered by Trustees.*—The election provided for in the preceding article may be ordered by the trustees on the written petition of at least twenty taxpaying voters of said towns or villages at any time not less than thirty days from the date of the order, which order shall state the date and place when said election shall be held, the amount of tax to be levied, or the amount of bonds to be issued, as the case may be; and the trustees shall also name and appoint therein the manager or managers of said election, which shall be held as nearly as may be possible in conformity with the general election law of the State; *provided*, that when a proposition to levy such a tax shall be defeated, no election for that purpose shall be ordered until after the expiration of one year. [Acts of 29th Leg., Chap. 124, Sec. 157.]

SEC. 162. *Notice of Election.*—Public notice of said election shall be given by the said trustees by placing notices of the same in three different portions of such incorporated district at least twenty [thirty] days before said election, which notice shall state the time and place of the election, and the amount of the tax to be levied or the amount of bonds to be issued, or both, as the case may be. [Acts of 29th Leg., Chap. 124, Sec. 158.]

SEC. 163. *Who May Vote; Ballots.*—No person shall vote at said

election unless he be a qualified voter under the Constitution and laws of this State, and a taxpayer in such incorporated district; and those in favor of the levying of such tax or the issuance of such bonds shall write or print upon their ballots, "For the tax," and those against the levying of such tax or the issuance of such bonds shall write or print on their ballots, "Against the tax;" and due returns thereof shall be made to said trustees within ten days, and the result thereof shall be recorded by the said trustees in a well bound book to be kept for that purpose. [Acts of 29th Leg., Chap. 124, Sec. 159.]

Note.—If the election be on the question of issuing bonds, the ballots should read: "For the Bonds and the Tax," and "Against the Bonds and the Tax."

SEC. 164. *Collection of Taxes.*—The assessor and collector named herein shall have the same power and shall perform the same duties with reference to the assessment and collection of taxes for free school purposes that are conferred by law upon the city marshal of incorporated towns or villages, and he shall receive such compensation for his services as the board of trustees may allow, except in cities and towns above provided for, not to exceed four per cent of the whole amount of taxes received by him, and he shall give bond in double the estimated amount of taxes coming annually into his hands, payable to the president of the board or his successors in office, conditioned for the faithful discharge of his duties, and that he will pay over to the treasurer of the board all the funds coming into his hands by virtue of his office as such assessor and collector; *provided*, that in the enforced collection of taxes the board of trustees shall perform the duties which now devolve in such cases upon the city council of an incorporated city or town; the president of the board of trustees shall perform the duties which devolve in such cases upon the mayor of an incorporated city or town, and the county attorney of the county in which the independent school district is located shall perform the duties which in such cases devolve upon the city attorney of an incorporated city or town under the provisions of Chapter 103, General Laws, Regular Session, Twenty-fifth Legislature. [Acts of 29th Leg., Chap. 124, Sec. 166.]

Note.—See Sections 202 and 191.

For law governing the assessing and collecting of taxes in an independent school district, see Chapter six, title eighteen, Revised Statutes of 1895.

The school board in an independent district incorporated for school purposes only is required to appoint a board of equalization for local school taxes. See Section 156 and Sections 499 to 515, inclusive, Revised Statutes of 1895. See also *Chambers et al. v. Cook et al.*, 132 Southwestern Reporter.

SEC. 165. *Assessment and Collection of Taxes by County Officers.*—
* * * When a majority of the board of trustees of an independent school district prefer to have the taxes of their district assessed and collected by the county assessor and collector, same shall be assessed and collected by said county officers, and turned over to the treasurer of the independent school district for which such taxes have been collected; *provided*, that the property of such districts having their taxes assessed and collected by the county assessor and collector, shall not be assessed at a greater value than that assessed for

county and State purposes. *Provided further*, that when the county assessor and county collector are required to assess and collect the taxes of independent school districts, they shall, respectively, receive one per cent for assessing and collecting same. * * * [Acts of 29th Leg., Chap. 124, Sec. 165.]

SEC. 166. *Trustees Authorized to Invest Sinking Funds*.—Trustees of towns or villages that have been or may hereafter be incorporated for school purposes only, that have issued or may hereafter issue bonds under the provisions of this chapter may, as it accumulates, invest the sinking fund or funds in bonds of the United States, of the State of Texas, of counties of this State or in bonds of cities and towns and independent school districts of this State that have been approved by the Attorney General. [Acts of 29th Leg., Chap. 124, Sec. 155.]

SEC. 167. *Same*.—The commissioners' court of any county, the city council of any incorporated city or town, and the board of trustees of any independent school district, or of any other school district or school community, in the State of Texas, be, and they hereby are authorized and empowered, whenever they may deem it advisable, to invest any sinking fund or sinking funds now on hand or hereafter acquired, for the redemption and payment of any outstanding bonds of such county, city or town, or independent school district, or any other school district or school community, in bonds of the United States, of the State of Texas, of any county of the State of Texas, or of any incorporated city or town; *provided*, that no such bonds shall be so purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created; and *provided further*, that in the event any commissioners' court, city council or board of trustees is unable to purchase any securities of the character above mentioned which mature at a date prior to the time of maturity of the bonds for the payment of which such sinking fund was created, then they are authorized in their discretion to invest such funds in the bonds of any independent school district, or of any other school district or school community authorized to issue bonds, under the same restrictions as hereinbefore mentioned. [Acts of 29th Leg., Chap. 21, Sec. 1.]

SEC. 168. *Refunding Bonds*.—Where bonds have been legally issued or may be hereafter issued, by any town or village incorporated for free school purposes only, new bonds bearing the same, or a less rate of interest, may be issued in conformity with this act, in lieu thereof; *provided*, no election shall be necessary to authorize the issuance of such new bonds; and *provided further*, that the State Treasurer shall upon order of the State Board of Education exchange bonds not matured held by him for the permanent school fund for the new refunding bonds issued by the same incorporation under the provisions of this act, in case the rate of interest on the new bonds is not less than the rate of interest on the bonds for which they are thus exchanged. [Acts of 29th Leg., Chap. 124, Sec. 156.]

SCHOOL CORPORATIONS—CHANGE OF BOUNDARIES.

SEC. 169. *Extension of Boundaries.*—Whenever the territory heretofore incorporated or which may hereafter be incorporated, for free school purposes, shall contain less than twenty-five square miles, and thereafter the majority of the inhabitants, qualified to vote for members of the Legislature, of any territory adjoining the limits of the town or village so incorporated shall desire such territory to be added to and become a part of such incorporated town or village for free school purposes only, and a majority of such qualified voters sign a petition to that effect, any three of such qualified voters may file with the board of trustees of such incorporated town or village the said petition, making affidavit of the facts set forth in said petition, fully describing by metes and bounds the territory proposed to be annexed; *provided*, that said territory proposed to be added must be contiguous to one line of said corporation, and showing its location with reference to the existing territory of the town or village already incorporated, and upon filing of said petition, affidavits and descriptions, with the president of the board of trustees, it shall be his duty to submit the same to the board, and if upon investigation by the board it is found that the proposed addition will not increase the corporate limits so that the whole, when thus increased, will exceed twenty-five square miles, then the said board of trustees, by resolution duly entered upon its minutes, may receive such proposed territory as an addition to, and to become a part of, the corporate limits of such town or village; a copy of which resolution, containing a description of the added territory shall be filed for record in the county clerk's office of the county in which said town or village is situated, after which the territory so received shall be a part of said incorporated town or village, and the inhabitants thereof shall thenceforth be entitled to all the rights and privileges and subject to the same liabilities of taxation as other citizens, and all property within said limits shall thenceforth be subject to such taxation as may have been or may hereafter be provided by said incorporation for free school purposes only. [Acts of 29th Leg., Chap. 124, Sec. 153.]

SEC. 170. *Change in Boundaries by Commissioners' Court.*—The commissioners' court of any county shall have the authority to change the boundaries of any independent district situated in said county when in the judgment of the said court the public good demands such change; *provided*, that before any change is made in the boundary lines of any independent district, the president of the board of trustees of the independent district or districts to be affected by the proposed change shall be notified and said board of trustees shall have the right to be heard by representatives in case there is opposition to the change; *provided further*, that this provision shall apply only to school districts incorporated for school purposes only; and *provided further*, that no changes shall be made that would reduce the total value of taxable property in any independent district against which there are outstanding bonds legally issued. [Acts of 29th Leg., Chap. 124, Sec. 52.]

COUNTY LINE DISTRICTS.

SEC. 171. *Commissioners' Court May Create County Line Districts.*—The commissioners' courts of the several counties of the State of Texas shall have full power and authority to create common school districts, to contain territory within two or more counties of this State. In creating a common county line school district the commissioners' courts of each county having territory in the school district sought to be created, before such district shall be created, shall each pass an order describing the territory desired to be created into such school district by metes and bounds, giving the course and direction with the exact length of each line contained in such description and locating each corner called for upon the ground, and shall also give the acres of each survey and parts of survey of lands contained in such district, together with a map showing the conditions upon the ground as described in the field notes, giving the number of acres of land contained in each survey and parts of survey contained in each county; also showing the exact position and location of the county line in the territory created into a common county line school district. The said order of each commissioners' court shall also designate and name some one of the counties having territory included in the description of such common county line school district to manage and have control of the public school in such common county line school district. The said common county line school district shall have no authority or power until the said order of the commissioners' court has been passed by each commissioners' court of each county having territory included in such common county line school district; *provided*, that no common county line school district shall be created with a less area than sixteen square miles, and shall be laid out in as near the shape of a square as is possible, and in no event shall the length of such district be greater than the width plus one-third of the width of such district. [Acts 32nd Leg., Chap. 100, Sec. 50a.]

SEC. 172. *Rights and Powers of County Line Districts.*—Common county line school districts, as provided for in Section 50a, shall have the rights, powers and privileges of common school districts within the counties of this State, and for all school purposes, shall be managed and controlled by the county named in the order creating such district, and should such common county line school district desire to levy the special tax authorized by law to be levied for the purpose of the maintenance of its schools, or should such common county line school district desire to issue bonds in accordance with the limitations for such purpose provided by law for common school districts to obtain the power to levy such tax or issue such bonds, or both, as the case may be, except that in the event an election has been held in such common county line school district, as provided by law, and it has been determined by a majority vote, as required by law, that such district shall levy such special tax or issue such bonds, the commissioners' court of the county placed in charge and control of such district shall pass an order levying such tax or issuing such bonds, or both, as the case may be, against the territory included within such county where the commissioners' court in control of the school

is located, and such order levying said tax or issuing said bonds and levying a tax to pay the interest and sinking fund, shall be passed by the commissioners' court of each county having territory in such district, and the said commissioners' court of each of such counties shall continue to levy the said tax at such rate as is determined and certified by the county superintendent of the county having control of said schools until such tax be diminished or abrogated, as provided by law, or such bonds, if such a district has outstanding bonds, have been fully and finally paid and discharged. The tax assessor shall assess the taxes levied by the commissioners' court of his county against the territory included in such county line school district for each and every year that such tax is levied, and it shall be the duty of the tax assessor to make up a separate tax roll covering the special tax on territory in his county included in the county line school district, and deliver together with the general tax rolls of his county, which shall guide the tax collector in collecting the local taxes for such school district, and it shall be the duty of the tax collector to collect such special tax for such county line school district in his county for every year that such tax has been levied in such districts and keep a separate account covering the territory of his county included in county line school districts; for the purpose of determining how much tax has been collected, and shall be paid by his county to the county line school district, shall not be changed or abolished, except by the consent of the commissioners' court of each county having territory contained in such a district, and then shall not be changed so that such a district will contain less than sixteen square miles of area, and in the case such a district has outstanding bonds, the same shall not be changed or abolished in any way until after such bonds are finally paid and discharged. [Acts 32nd Leg., Chap. 100, Sec. 50b.]

SEC. 173. *Scholastic Census.*—The scholastic census of all common county line school districts in the State of Texas shall be taken under the supervision of the authorities of the county having control of such school district and reported by such county to the State Department of Education, as is provided by law governing the taking of the scholastic census of the State, except that the census trustee taking the census of a common county line school district shall make a separate roll of the scholastic population contained in the territory of each county having territory in such common county line school district which shall be separate and distinct from the general census roll of such a district, and be returned together with the general census roll, as provided by law, to be made by the census trustees, and the county superintendent of public instruction of the county having control of the school of such a district, shall make up a duplicate of the copy containing separately the scholastic population of each county having territory in such a district and send such duplicate to the county superintendent and county treasurer of the county where such scholastic population reside, to be by them used for the purpose of apportioning the county available school funds, and in case such a district has voted a special tax for the purpose of school maintenance or the payment of interest and sinking fund on school bonds, the county superintendent of each of the said counties shall,

from time to time, as such taxes have been collected by his county, draw his warrant against the county treasurer or county depository of such county for such amount of available county school funds or special tax, or either or both, as the case may be, as shall be on hand in the hands of the treasurer or depository, as the case may be, in favor of the county treasurer or depository of the county having control and management of the schools of such district, and upon the presentation of such warrant it shall become the duty of the treasurer or depository of the county against whom the warrant was drawn to pay over to the treasurer or depository of the county having control of the schools of the district such amount of money as is called for in such warrant. The said warrant shall be drawn in favor of the school district embracing the territory in the counties involved and in favor of the county treasurer or depository of the county having control of the schools of the districts and be credited to such school district, and the funds of such school district shall be used as is provided by law for the use of the different kinds of school funds. [Acts of 32nd Leg., Chap. 100, Sec. 50c.]

SEC. 174. *Independent County Line Districts Authorized.*—Independent school districts may be created, containing territory within two or more counties of the State of Texas, in the same way and manner that towns and villages are created under Title 18 of the Revised Statutes of 1895; *provided*, that the map required by said Title 18 shall show the correct location and position of the county line or county lines involved in such incorporation proceedings. Said incorporated free school district containing territory in two or more counties shall have all the rights, powers and privileges granted under the General Laws of the State to incorporations for free school purposes only. The same modes, manners and methods of government and procedure provided by the general law for independent school districts incorporated for free school purposes only shall govern the management and control of the incorporated school districts for free school purposes containing territory within two or more counties. [Acts 32nd Leg., Chap. 100, Sec. 154b.]

SEC. 175. *Levy of Taxes.*—All incorporated school districts for free school purposes only, within the State of Texas, which have heretofore held elections wherein it has been determined by a majority vote at such elections that a tax of not exceeding 50c on the \$100.00 valuation of all property within such districts shall be levied for the maintenance of public schools within such districts and subsequent to such election another election is held in such school district for the purpose of determining whether or not bonds shall be issued for school building purposes, or the equipment of school buildings and the levy of a tax sufficient to pay interest and sinking fund on such bonds, such second election shall reduce the tax authorized to be levied in the first election not to exceed 50c on the \$100.00 valuation to such an amount not exceeding 25c tax on the \$100.00 valuation of all property within said district as may be necessary to raise funds to pay interest and sinking fund on such bonds so long as such bonds are an outstanding obligation against such district; *provided*, that in no event the total tax authorized for such districts shall exceed 50c on the \$100.00 valuation of property contained in such district,

and in no event shall the tax of 25c on the \$100.00 valuation for the purpose of paying interest and sinking fund on outstanding bonds of such a district be reduced because of the maintenance tax blow [below] such an amount as is necessary to raise a sufficient sum to pay interest and sinking fund, on such outstanding bonds. [Acts 32nd Leg., Chap. 100, Sec. 154c.]

SEC. 176. *Independent Districts May Be Abolished.*—All independent school districts incorporated for free school purposes within the State of Texas may be changed or abolished in the same way that is provided for the change or abolishment of a town and village or city and town, as provided in Title 18 of the Revised Statutes of 1895; *provided*, that no such district shall be diminished, changed, or abolished while it has an outstanding debt, either of bonds or otherwise, as authorized by law, against it. [Acts 32nd Leg., Chap. 100, Sec. 154d.]

INDEPENDENT DISTRICTS—CITIES AND TOWNS.

SEC. 177. *City or Town May Assume Control of Schools.*—Any city or town in this State may acquire the exclusive control of the public free schools within its limits. [Acts of 29th Leg., Chap. 124, Sec. 134.]

Note.—See Section 154.

SEC. 178. *Same.*—All cities and towns which have heretofore, under the Act of May 2, 1875, or any subsequent law, assumed control of the public free schools within their limits, and have continued to exercise the same until the present time, or may hereafter determine so to do by a majority vote of the property taxpayers of said city or town voting at an election held for that purpose, may have exclusive control of the public free schools within their limits. [Acts of 29th Leg., Chap. 125, Sec. 133.]

SEC. 179. *Election to Determine Question.*—The mayor of said city or town shall, upon the written application of not less than fifty of the qualified electors of such city or town, order, within twenty days of such application, an election by the qualified electors of such city or town, to be conducted as other municipal elections, to decide by a majority of the votes cast by the qualified electors of such city or town at such election, whether such city or town shall acquire the exclusive control of the public free schools and institutions of learning within its limits; *provided*, that one election and no more shall be held hereafter in any one calendar year to determine whether such city shall acquire the exclusive control of the public free schools within its limits. [Acts of 29th Leg., Chap. 124, Sec. 135.]

Note.—The city exercises its control of the schools through a board of seven trustees. The first election of trustees is ordered by the county judge. See Sections 197 and 198.

For the general powers and duties of the trustees, see Sections 195 to 208.

SEC. 180. *Shall Receive Pro Rata of School Funds.*—Said city or town, after notice to the State Board of Education that it has determined to assume control of the public free schools with its limits,

shall receive such pro rata of the available school fund as its scholastic population may entitle it to. [Acts of 29th Leg., Chap. 124, Sec. 139.]

SEC. 181. *General Laws Shall Govern.*—Schools thus organized and provided for by incorporated cities and towns shall be subject to the general laws, so far as the same are applicable; but each city or town having control of schools within its limits shall constitute a separate school district, and may provide for the organization of schools and the appropriation of its school funds in such manner as may be best suited to its population and condition. [Acts of 29th Leg., Chap. 124, Sec. 144.]

SEC. 182. *Property Vested in Trustees.*—In all cities and towns in this State which have assumed or may hereafter assume the exclusive control and management of public free schools within their limits, and which have determined or may hereafter determine that such exclusive control and management of the public free schools within their limits shall be in a board of trustees, and organized under an act of the Sixteenth Legislature, approved April 3, 1879, and acts amendatory thereto, the title to all houses, lands and other property owned, held, set apart, or in any way dedicated to the use and benefit of the public free schools of such city or town, including property heretofore acquired as well as that which may hereafter be acquired, shall be vested in the board of trustees, and their successors in office, in trust for the use and benefit of the public free schools in such city or town, and such board of trustees shall have and exercise the exclusive control and management of such school property, and shall have and exercise the exclusive possession thereof for the purposes aforesaid; *provided*, that where trustees are named other than the municipal corporation itself, in any instrument conveying, donating, bequeathing or devising any money or other property, real or personal, for the benefit of any city or town, this law shall not interfere in any manner with the title or authority of such trustees to or over such money or other property.

And such board of trustees shall constitute a body corporate, and shall have full power to protect the title, possession and use of all such property within the limits of such city or town, and may bring and maintain such suit or suits in law or in equity in any court of competent jurisdiction, when necessary, to recover the title or possession of any such property that may be adversely held or seized, or to prevent any trespass upon or injury to such property; and the power and authority of any such board of trustees to bring and maintain any suit in relation to the recovery of such property, or the possession and use thereof; *provided*, that the provisions of this article shall not apply to lands belonging to the State upon which houses for school purposes have been built without authority from the State. [Acts of 29th Leg., Chap. 124, Sec. 136.]

SEC. 183. *Sale of School Property.*—Any houses or lands held in trust by any city or town for public free school purposes may be sold for the purpose of investing in more convenient and desirable school property, with the consent of the State Board of Education, by the board of trustees of such city or town; and in such cases the president of the school board shall execute his deed to the purchaser for

the same, reciting the resolution of the State Board of Education giving consent thereto and the resolution of the board of trustees authorizing such sale. [Acts of 29th Leg., Chap. 124, Sec. 146.]

SEC. 184. *Schoolhouse Bonds to Be Issued by City Council.*—Towns or cities which have assumed or may hereafter assume control and management of the public free schools within their limits, may also provide for building sites and buildings for such public free schools and institutions of learning, in the manner and under the restrictions and limitations provided for [in] Article 486, Revised Statutes, relating to cities and towns. [Acts of 29th Leg., Chap. 124, Sec. 147.]

Note.—The school board has no official duty relating to the issuance of city bonds for school purposes, under the article of the Revised Statutes cited in this section. However, the proceeds from the sale of the schoolhouse bonds should be turned over to the school board, to be paid out in the construction of the building. See Section 182. Since the bonds are the obligation of the municipality, the city has the custody of the sinking fund for their redemption.

See also Chapter 149, Acts of the Twenty-sixth Legislature.

SEC. 185. *Local Maintenance Tax.*—After a city or town has assumed control of the public free schools within its limits, the council or board of aldermen shall also submit the question to the property taxpayers as to whether or not the additional amount as provided for hereinafter shall be raised by taxation. [Acts of 29th Leg., Chap. 124, Sec. 140.]

SEC. 186. *Two-thirds Majority Necessary.*—If at an election held for that purpose, at which none but property taxpayers as shown by the last assessment rolls who are qualified voters of such city or town shall vote, two-thirds of those voting shall vote in favor thereof, such an amount shall be raised by taxation not exceeding one-half of one per cent in addition to the amount of the available school fund received from the State as may be necessary to conduct the schools for ten months in the year. [Acts of 29th Leg., Chap. 124, Sec. 141.]

Note.—See Section 10 of Article 11 of the State Constitution.

SEC. 187. *Election for Local Tax.*—The city or town council, or board of aldermen of any city, town or village, whether incorporated or under any act of Congress of the Republic, or the Legislature of the State of Texas, or under any act of incorporation whatever, shall have power by ordinance to annually levy and collect not exceeding one-half of one per cent ad valorem taxes for the support and maintenance of public free schools in the city or town where such city or town is a separate and independent school district; *provided*, that no such tax shall be levied until an election shall have been held, at which none but property taxpayers, as shown by the last assessment rolls, who are qualified voters of such city or town, shall vote, and two-thirds of those voting shall vote in favor thereof. The proposition submitted may be for a tax not exceeding one-half of one per cent, or may be for a specific per cent. One election, and no more, shall be held hereafter in any one calendar year to ascertain whether a school tax shall be levied. If the proposition is carried, the school tax shall be continued to be annually levied and collected for at least two

years, and thereafter unless it be discontinued at an election held to determine whether the tax shall be continued or discontinued, at the request of fifty property taxpayers of such city or town. When the tax is continued no election to discontinue it shall be held for two years; when the tax is discontinued no election to levy a tax shall be held during the same year. [Acts of 29th Leg., Chap. 124, Sec. 142.]

Note.—For discussion of the taxing powers of cities for school purposes, see *City of Fort Worth v. Davis*, 57 Texas, 225, and *Dwyer v. Hackworth*, 57 Texas, 245.

SEC. 188. *Levy of Tax.*—If the vote of the taxpayers is in favor of the levy of said tax, then it shall be the duty of the council or board of aldermen annually thereafter to levy upon the taxable property in the limits of such city or town, in accordance with the usual assessment of taxes for municipal purposes, such additional tax as may be necessary for the support of the schools for ten months in the year, not to exceed one-half of one per cent. [Acts of 29th Leg., Chap. 124, Sec. 143.]

Note.—See Section 192.

SEC. 189. *Same.*—In such cities and towns as have assumed the exclusive control of the public free schools within their limits, and have decided under the laws providing therefor that a special tax shall be levied for the support of such public free schools, the mayor and council or board of aldermen of such city or town shall annually assess and levy such tax by ordinance duly passed and approved in the same manner as is required in the assessment and levy of taxes for general purposes in such city or town. In cities and towns which have voted upon and directed the levy of a special tax not exceeding one-half of one per cent, the mayor and council or board of aldermen of such city or town shall annually levy such rate of taxes for public school purposes not exceeding one-half of one per cent as shall be sufficient for the support of the public free schools for the term as required by law; but in such cities and towns as have voted upon and decided at an election held for that purpose that a specified rate of taxes shall be assessed and levied in such city or town for the support of its public free schools, the mayor and council or board of aldermen of such city or town shall have no discretion in fixing the rate at which such tax shall be levied, but shall assess and levy the same at the rate fixed in the proposition as submitted and adopted by the qualified voters of such city or town at the election held for that purpose. [Acts of 29th Leg., Chap. 124, Sec. 138.]

SEC. 190. *Trustees Determine Annual Rate.*— * * * It is further provided, that in such cities and towns as may now or hereafter constitute independent school districts, and where a special tax for school purposes has been voted by the people, or provided by special charter, not exceeding one-half of one per cent, it shall be the duty of said board of trustees to determine what amount of said tax within the limit voted by the people or fixed by special charter will be necessary for the maintenance of the schools for each current year, and it shall become the duty of the city council, upon the requisition of the said board of trustees, to annually levy and collect said tax, as

other taxes are levied and collected, and said tax when collected shall be placed at the disposal of the said school board by paying over monthly to the treasurer of said board the amount collected for the support of the schools of such district to be used for the maintenance and support of the public free schools of such independent district. [Acts of 29th Leg., Chap. 124, Sec. 168.]

Note.—Where a city has assumed control of the public schools within its limits and the management of the schools is intrusted to a board of trustees, said board of trustees may determine in its discretion the rate of the local school tax, within the authorized limit, which the council shall levy for the annual maintenance of the schools. (City Council of City of Crockett v. Board of Trustees for Independent School District of City of Crockett, 93 S. W., 889; Kennedy v. Birch, 74 S. W., 593.)

SEC. 191. *Assessment and Collection.*— * * * In independent school districts in cities and towns having a city assessor and collector of taxes, such assessor and collector of taxes shall assess and collect the taxes for school purposes; *provided*, that in cities and towns having an assessor and collector of taxes the levy of taxes for school purposes shall be based upon the same assessment of property upon which the levy for other city purposes is based. It is *further provided*, that in such cities and towns the assessor and collector of taxes shall receive no other compensation for collecting school taxes than the compensation paid him for assessing and collecting city taxes, and taxes for school purposes in such cities and towns shall be assessed and collected as other city taxes are assessed and collected. * * * [Acts of 29th Leg., Chap. 124, Sec. 165.]

SEC. 192. *Funds to Be Turned Over to School Treasurer.*—The pro rata of the available school fund of the State appropriated and set apart to such city or town shall be, by the proper officer or department of the State, paid over directly to such treasurer of the board of trustees, who shall execute the proper receipts therefor; and all moneys and funds arising from the assessment and collection of any special tax in such city or town for public free school purposes shall be by the assessor and collector, or other proper officer of such city or town, whose duty it is to collect the taxes, turned over directly to the treasurer of the board of trustees of such city or town, who shall execute and deliver his receipt to such city or town, who shall execute and deliver his receipt to such collector, and the mayor and council or board of aldermen of such city or town shall have no power or control of such funds. [Acts of 29th Leg., Chap. 124, Sec. 137.]

Note.—See Sections 53 and 54.

Note.—This section has no reference to the tax on account of bonds of the city issued for school purposes.

SEC. 193. *Extension of City Limits for School Purposes.*—Any city or town that has taken charge of the public free schools within its limits, or that shall hereafter take charge of the same, may by ordinance extend its corporation lines for school purposes only on a petition signed by a majority of the resident qualified voters of the territory which is to be taken into said city or town for school purposes only, and recommended by a majority vote of the trustees

of the public free schools of said city or town; *provided*, that the proposed change shall not deprive the scholastic children of the remaining part of the common school district or districts which may be affected by the proposed change, of the opportunity of attendance upon school.

The added territory shall bear its pro rata part according to taxable values of any school debt or debts that may be owed or contracted by said city or town to which it shall have been added, and shall not bear any part of any other debt that may be owed or contracted by such city or town. The property of the added territory shall bear its pro rata part of all school taxes, but of no other taxes. The added territory shall not affect the city's debts or business relations in any manner whatever except for school purposes as provided above.

The officers whose duty it is to assess and collect school taxes within the city limits shall also assess and collect taxes within the territory added for school purposes as herein provided. [Acts of 29th Leg., Chap. 124, Sec. 148.]

INDEPENDENT DISTRICT SCHOOL TRUSTEES.

SEC. 194. *Acts of Certain Boards Validated.*—Trustees and school officers, heretofore appointed or elected in independent school districts, are hereby continued in office until the election and qualification of trustees, as provided for in this act, and the official acts and proceedings of, and contracts, bonds issued and authorized to be issued by boards of trustees in independent school districts heretofore elected and appointed and operating under former acts of the Legislature of this State, and particularly under an act approved March 30, 1899, entitled "An Act to provide a uniform method of electing school trustees in independent districts," are hereby validated, ratified and confirmed. The provisions of this act concerning trustees shall not apply to the city of Fort Worth nor to the city of Dallas. [Acts of 29th Leg., Chap. 124, Sec. 173.]

SEC. 195. *Change from Appointment to Election in Cities.*—Towns and cities which have heretofore chosen their trustees by appointment of the city council or board of aldermen, under the provisions of Article 4018, Revised Statutes, shall be authorized to continue to choose their trustees in this manner—that is, by the appointment of the board of aldermen of said city or town; *provided*, that seven trustees shall be appointed at first, four of whom shall serve for one year and three for two years, and at regular intervals of one year thereafter, four trustees and three trustees, alternately, shall be appointed each year for a term of two years; and *provided further*, that on a petition of twenty-five per cent of the voters of any such city or town, to be ascertained by the ballots cast at the last regular city election in said city or town, the mayor of such city or town shall order an election to determine whether or not the school affairs of such city or town shall be directed by a school board elected in accordance with the provisions of this act, and in case of an affirmative vote an election shall at once be ordered by the said mayor for the purpose of choosing a school board consist-

ing of seven trustees, as provided in Section 162 [196] of this act. [Acts of 29th Leg., Chap. 124, Sec. 171.]

SEC. 196. *Board of Seven Trustees.*—In each independent district that shall be hereafter organized the county judge of the county in which said independent district is situated shall order an election for seven trustees, who shall constitute the school board of such independent district, and all of whom shall serve without compensation. [Acts of 29th Leg., Chap. 124, Sec. 162.]

Note.—See Sections 153 and 179.

SEC. 197. *County Judge Shall Order First Election.*—The county judge of each county shall order, for each and every independent school district in the county of which he is county judge, the first election required to be held under this act; and thereafter all such elections shall be ordered by the board of trustees of each independent school district. And such order shall be made at least ten days before the date of election, and a notice of the order shall be posted at three different places in the district. The county judge or board of school trustees, as the case may be, at the time of ordering such election, shall appoint persons to hold the election, and shall designate the places where the polls shall be open.

All such elections shall be held in accordance with the State law governing elections, and returns of such elections shall be made to the county judge or board of school trustees, as the case may be, in the same manner as election returns are made under such State law.

The county judge or board of school trustees, as the case may be, shall canvass such returns, declare the result of such election, and issue certificates of election to the persons shown by such returns to be elected. [Acts of 29th Leg., Chap. 124, Sec. 164.]

SEC. 198. *Ballot Prescribed by Local Authorities.*—At the election of school district officers or school officers for a city, town or village, at which no other officer is to be elected, * * * any ballot may be used prescribed by local authorities. [Acts of 29th Leg., 1st Called Session, Chap. 11, Sec. 51.]

SEC. 199. *Who Shall Be Declared Elected.*—All the qualified voters of each independent district shall be entitled to a vote at the trustees' election, and the seven candidates receiving the largest number of votes at the first election held hereunder shall be entitled to serve as trustees as hereinbefore provided, and at all subsequent trustees' elections the three or the four candidates, as the case may be, receiving the largest number of votes shall be entitled to serve as trustees for the full term for which they were elected. [Acts of 29th Leg., Chap. 124, Sec. 169.]

SEC. 200. *Terms of Office.*—The terms of office of the seven trustees chosen at the first election under this act shall be divided into two classes, and the members shall draw for the different classes, the four members drawing the numbers one, two, three and four shall serve for one year or part thereof, that is, until the first of May thereafter, and until their successors are elected and qualified, and the three members drawing the numbers five, six and seven shall serve for two years, that is, until the second May thereafter, and until their successors are elected and qualified, and regularly there-

after on the first Saturday in May of each year, four trustees and three trustees, alternately shall be elected for a term of two years, to succeed the trustees whose terms shall at that time expire. [Acts of 29th Leg., Chap. 124, Sec. 163.]

SEC. 201. *Oath of Office.*—Before any trustee enters upon the discharge of the duties of his office he shall swear that he will faithfully and impartially discharge the duties of such office, and his affidavit to that effect shall be filed after the first election with the county judge and after all subsequent elections with the president or chairman of the school board. [Acts of 29th Leg., Chap. 124, Sec. 167.]

Note.—The oath of a school trustee must conform to the oath prescribed by the State Constitution, Article 16, Section 1.

SEC. 202. *Organization of Board.*—The trustees chosen under this act shall meet within twenty days after the election, or as soon thereafter as possible, for the purpose of organizing. A majority of said board shall constitute a quorum to do business; and they shall choose from their number a president; and they shall choose a secretary, treasurer, assessor and collector of taxes, and other necessary officers and committees. The treasurer shall be required to give bond in double the estimated amount of the receipts coming annually into his hands. Said bond shall be made payable to the president of the board, or to his successor in office, and be approved by the board of trustees, conditioned for the faithful discharge of his duties and the payment of the funds received by him upon the draft of the president, drawn upon order, duly entered, of the board of trustees.
* * * [Acts of 29th Leg., Chap. 124, Sec. 165.]

Note.—All funds of districts having each fewer than 150 scholastics are to be kept in the county depository and paid out on the order of the trustees approved by the county superintendent. In independent districts of more than 150 scholastics the board must select as treasurer that person or corporation who offers satisfactory bond and the best bid of interest on the average daily balances for the privilege of acting as such treasurer. See Section 52. The term of the treasurer should correspond to the scholastic year, beginning September 1 following the selection. Properly certified copy of the treasurer's bond must be filed in the Department of Education before State funds may be paid to the district.

Concerning the assessor and collector of taxes, see Section 191 and Sections 164 and 165.

SEC. 203. *Board Shall Adopt Rules and Regulations.*—Said board of trustees shall adopt such rules, regulations and by-laws as they may deem proper, and the public free schools of such independent district shall be under their control and they shall have the exclusive power to manage and govern said schools, and all rights and titles to property for school purposes heretofore vested in the mayor, city council, or school trustees by Articles 3995, 4013 and 4032, Revised Statutes of 1895, or other statutes, general and special, except such cities as are exempted by this act, shall be vested in said board of trustees and their successors in office, and their claims shall apply to any action or suit now pending, or which may hereafter arise, to which said board are parties. [Acts of 29th Leg., Chap. 124, Sec. 168.]

SEC. 204. *Vacancies.*—When a vacancy occurs in the board of school trustees in any independent school district the remaining members of such board shall fill the vacancy by electing a person to fill the office for the unexpired portion of the term of the prior incumbent thereof. [Acts of 29th Leg., Shap. 124, Sec. 170.]

Note.—Vacancy in school board appointed by city council will be filled by mayor. (Letter from Judge R. M. Rowland to B. J. Word, Meridian, Texas, May 7, 1910.)

SEC. 205. *May Extend Scholastic Age.*—Any city or town having voted a tax, in addition to the pro rata of the available school fund from the State, may extend the scholastic age and prescribe such other studies as the board of school trustees may deem proper. [Acts of 29th Leg., Chap. 124, Sec. 145.]

SEC. 206. *May Elect Superintendent or Principal for Two Years.*—The board of trustees of any city or town or of any independent district provided for in this act, may elect a superintendent or principal of schools of such city or town, or of such independent district, for a term not to exceed two years. [Acts of 29th Leg., Chap. 124, Sec. 174.]

Note.—A superintendent's duties are supervisory; a principal's duties are those of supervisor and instructor.

Note.—The law fixes no date upon which the school board shall elect teachers. A contract with a teacher, made before the reorganization of the board following the election of trustees, is, therefore, valid. See *Pearsall v. Woolls*, 50 S. W., 959.

SEC. 207. *Trustees and Teachers Shall Not Handle Books.*—No member of the board of trustees of any public school, nor teacher in any of the public schools of this State, nor county or city superintendent of public schools, shall, during the term of their office as trustees or superintendent, or during the time of their employment as teacher, act as agent or attorney for any text-book publishing company selling text-books in this State. Nor shall any person interested in the publication of textbooks, or of selling the same to be used in the public schools of this State, be eligible as school trustee, county or city superintendent of schools, or as teacher in any of the public schools of this State, while acting in the capacity of agent or attorney for text-book publishers or dealers. If after election as trustee, county or city superintendent or employment as teacher, any person filling such position accepts the agency or attorneyship of any text-book publishing company, the acceptance of such agency or attorneyship shall work a forfeiture of the office or place in the public schools held at the time of the acceptance of such agency or attorneyship. [Acts of 29th Leg., Chap. 124, Sec. 175.]

STATE ADOPTED TEXT-BOOKS.

SEC. 208. *Subjects Covered in Adoption.*—The Governor of this State shall, at such time after this act takes effect as will in his opinion best insure the proper accomplishment of its purposes and not later than January 1, 1908, appoint five teachers holding first grade or permanent certificates who have been actively engaged in

teaching in the public schools of the State for the past three years, one of whom shall be a primary teacher of recognized ability, who, together with the Governor and the State Superintendent of Public Instruction, shall constitute the said Text-Book Board, of which the Governor shall be the chairman, and said board shall, when called together by the Governor for that purpose, select and adopt text-books for use in the public schools in this State for a period of five years, beginning September 1, 1908; said board is hereby authorized and required to select and adopt a uniform system of text-books to be used in the public free schools of Texas, and the series so selected shall include and be limited to text-books on the following subjects: Spelling, a graded series of reading books, a course in language lessons, grammar, elementary English composition, geography, arithmetic, mental arithmetic, elementary physiology and hygiene, civil government, elementary algebra, physical geography, history of the United States, in which the construction placed on the Federal Constitution by the Fathers of the Confederacy shall be fairly presented, history of Texas, elementary agriculture, and a graded system of writing books; *provided*, that none of the said text-books shall contain anything of a partisan or sectarian character, and that nothing in this act shall be construed to prevent the teaching of German, Bohemian, Spanish, French, Latin or Greek in any of the public schools as a branch of study, but the teaching of one or more of these languages shall not interfere with the use of the text-books herein prescribed and the study of a language known as a dead language, such as Latin and Greek, shall never be made compulsory as a requirement for the completion of any regular course of study in use in any public school in this State, without providing an equivalent course for graduation, equal in all other respects to such course, containing such dead language or languages, which shall not include the same; *provided*, however, that nothing herein shall be construed to prevent the use of supplementary books. The Text-Book Board shall adopt a series of supplementary reading books for the first, second and third grades and each bidder presenting books for adoption shall state at what price the readers are offered as basic readers and as supplementary readers. Such supplementary books shall not be used, unless approved by the trustees of such school as to price, binding, printing and general arrangement, and they shall not then be used to the exclusion of the books prescribed under the provisions of this act. But full use must be made in good faith of the books adopted under this act; *provided*, that when supplementary books are used, they shall be furnished at prices to be fixed by the trustees of the schools in which they are used, and if any teacher or trustee shall knowingly and directly or indirectly receive from any pupil a greater price therefor, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars nor more than one hundred dollars; *provided*, that no trustee or teacher shall ever receive any commission or rebate on any book used in the schools with which he is connected as such trustee or teacher, and if any such trustee or teacher shall receive or accept any such commission or rebate, he shall be subject to the penalty above provided; *provided*, the State Board of Education shall be empowered, at its discretion,

to authorize the school authorities of any city acting under a special charter to retain in use any book or books now in use in the public schools of said city, upon application therefor to said Board by said authorities, supported by proof satisfactory to the board that a change therein would not, considering the general result, save expense to the patrons of the schools of said city, and in the event said board should grant such authority or [it] shall specify the books which are thus permitted to be retained in use and the prices to be paid therefor, and in the event any change shall be made therein, either in such books or the prices thus fixed, such authority shall thereby be revoked. No such authority shall be given, however, unless the publishers of the books in use or about to be used in any such city shall agree in writing to receive, during the term of the contract entered into under the provisions of this act, in exchange for such books any of the books adopted by the Text-Book Board herein provided for under regulations and at prices to be fixed by the State Board of Education; *provided*, that any book or books retained in use in the public schools of cities under special charters shall be furnished to the pupils at a price as low as the price of books contracted for by said board. [Acts of 30th Leg., 1st Called Session, Chap. 9, Sec. 1.]

Note.—Supplementary books may be used in any subject; provided, that when such books are used the prices shall be fixed by the board of trustees of the school in which they are used and such supplementary books shall be approved by the board of trustees as to binding, printing and general arrangement; *provided further*, that if supplementary reading is used for the first three grades, the supplementary readers adopted by the Text-Book Board shall be used in good faith before the other supplementary readers are used. Supplementary texts may be used prior to, concurrent with, or subsequent to the basal texts.

SEC. 209. *Contractors Shall Establish Depositories.*—The party with whom the contract has been made shall establish and maintain in some city in this State a depository where a stock of their goods to supply all immediate demands shall be kept; all contractors not maintaining their own individual or separate State agencies or depositories shall maintain a joint State agency or depository to be located at some convenient and suitable distributing point at which general depository each contractor joining in said joint agency shall keep on hand a sufficient stock of books to supply sub-depositories and every contractor shall establish and maintain in every county in the State having an enrollment of five hundred pupils or more in the public schools as shown in the last preceding report to the county superintendent on file in the office of the State Superintendent of Public Instruction one or more agencies, one of which shall be at the county seat. At each county seat as above provided, and in every city in this State containing 1000 inhabitants or over, shall be maintained an agency carrying a sufficient stock of all books contracted for to supply all immediate demands. *Provided*, that in the counties not entitled to a depository under the conditions as provided for in this act, contractors shall supply such adopted books under such rules and regulations as may be prescribed by the State Board of Education. Any person, dealer, or school board in any county in

the State may order from the central agency, and the books so ordered shall be furnished at the same rates and discount as are granted to agents of the county seat; *provided*, that the price of books so ordered be paid in advance. Upon failure of any contractor under the provisions of this act, to furnish the books as provided in the contract and in this act the county judge in the county wherein such books have not been so furnished shall report the fact to the Attorney General and he shall bring suit on account of such failure in the name of the State of Texas, in the district court of Travis county, and shall recover on the bond given by such contractor for the full value of the books not furnished as required and in addition thereto the sum of one hundred dollars (\$100) and the amounts so recovered shall be placed to the credit of the available school fund of the State. Unorganized counties shall be furnished from the same agency as the county to which said unorganized county is attached for judicial purposes in the same manner as such organized county. [Acts of 30th Leg., 1st Called Session, Chap. 9, Sec. 8.]

Note.—Teachers and trustees are forbidden to act as agents for any school books. They may, however, order from the central depositories the adopted books for use in the school they represent; *provided*, that they may not receive for such service any commission, discount or rebate, and in such cases the purchase price shall be paid to the depositories in advance. When books are so ordered they shall be purchased at the usual discounts allowed to agents, but such discounts shall accrue to the benefit of the pupils.

The law requires that a depository be maintained at the county seat of each county having a census enrollment of 500 or more scholastics, and in addition a depository must be maintained in each city having 1000 inhabitants or over. The State Superintendent rules that every town or incorporated district having a scholastic population of 250 or more is entitled to a depository.

SEC. 210. *Period of Use of Present Adopted Books.*—The books adopted by the board under the provisions of this act shall be introduced and used as text-books to the exclusion of all others in the public free schools of this State, for a period covering five scholastic years, beginning September 1, 1908; *provided*, nothing in this act shall be construed to prevent or prohibit the patrons of the public schools throughout the State from procuring books in the usual way in the event that no contracts are made or in the event that the contractor fails or refuses to furnish the books provided for in this act at the time that said books are required for use in the schools. [Acts of 30th Leg., 1st Called Session, Chap. 9, Sec. 10.]

SEC. 211. *Penalty.*—Any school trustee who shall prevent or aid in preventing the use in any public school in this State of the books or any of them as adopted under the provisions of this act, or any teacher in this State who shall wilfully fail or refuse to use the books adopted under the provisions of this act, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than five dollars nor more than fifty dollars for each offense and each day of such wilful failure or refusal by said teacher or wilful prevention of the use of the books by said school trustee shall constitute a separate offense. [Acts of 30th Leg., 1st Called Session, Chap. 9, Sec. 11.]

SEC. 212. *State Assumes no Liability to Contractors.*—It shall be part of the terms and conditions of every contract made in pursuance

of this act that the State of Texas shall not be liable to any contractor thereunder for any sum whatever, but all such contractors shall receive compensation solely and exclusively from the proceeds of the sale of school books as provided in this act, and it is hereby provided that the State shall have the right to terminate said contract whenever the law is repealed or amended, altered or qualified as to make necessary or expedient that such contract should be revoked and all contracts shall contain a stipulation to that effect. The State may at its election cancel any contract entered into by virtue of the provisions of this act, for fraud or collusion upon the part of either party to the contract, or any member of the board, or any person, firm, corporation or their agents making said bond or contract, and for the cancellation of any such contract the Attorney General is hereby authorized to bring suit in the proper court of Travis county, and in case of the cancellation of any contract as provided for, the damages are fixed at not less than the amount of said bond, to be recovered as liquidated damages in the same suit cancelling said contract; and on account of the difficulty in determining the damage that might accrue by reason of such fraud and cancellation of such contract, the full amount of the bond given by any contractor shall be considered as liquidated damages to be recovered out of said bond by the State at the suit of the Attorney General, and every contract shall contain a clause to this effect. [Acts of 30th Leg., 1st Called Session, Chap. 9, Sec. 6.]

SEC. 213. *Process to Be Served on Secretary of State.*—Any person, firm or corporation with whom a contract has been entered into under the provisions of this act shall designate the Secretary of State of Texas, as its or their agent upon whom citation and all other writs and process may be served in the event any suit shall be brought against such person, firm or corporation. [Acts of 30th Leg., 1st Called Session, Chap. 9, Sec. 13.]

**BOOKS ADOPTED BY THE STATE TEXT-
BOOK BOARD**

BOOKS ADOPTED BY THE STATE TEXT-BOOK BOARD.

Name of Book.	Retail Price.	Publisher.	State Depository.
Spelling:			
New Century Spelling Book.....	\$ 0.18	Silver, Burdett & Co.....	Texas School Book Depository, Dallas, Texas.
Basal Reading:			
Cyr's Primer.....	.20	Ginn & Co.....	Ginn & Co., Dallas, Texas.
Our Country's Readers.....	.18	Southern Publishing Co.....	Texas School Book Depository, Dallas, Texas.
First Reader, cloth.....	.15		
boards.....	.24		
Second Reader, cloth.....	.22		
boards.....	.30		
Third Reader, cloth.....	.28		
boards.....	.32		
Fourth Reader, cloth.....	.32		
boards.....	.35		
Fifth Reader, cloth.....	.35		
Supplementary Reading:			
Art Literature Readers.....	.30	Atkinson, Mentzer & Grover.....	Atkinson, Mentzer & Grover, Dallas, Texas.
Book One, cloth.....	.20		
boards.....	.40		
Book Two, cloth.....	.30		
boards.....	.50		
Book Three, cloth.....	.40		
boards.....			
Language and Grammar:			
Buehler and Hotchkiss' Modern English Lessons.....	.35	Newson & Co.....	Texas School Book Depository, Dallas, Texas.
cloth.....	.30		
boards.....	.55		
Buehler's Modern English Grammar With Composition.....	.55	Newson & Co.....	Texas School Book Depository, Dallas, Texas.
cloth.....	.50		
boards.....			
Composition:			
Webster's Elementary Composition, cloth.....	.60	Houghton, Mifflin & Co.....	Texas School Book Depository, Dallas, Texas.
boards.....	.55		

Arithmetic:				
Meyers-Brooks' Elementary Arithmetic.....	.28	Scott, Foresman & Co.....	Texas School Book Depository, Dallas, Texas.	
Meyers-Brooks' Grammar School Arithmetic.....	.39	Scott, Foresman & Co.....	Texas School Book Depository, Dallas, Texas.	
Hopkins and Underwood's Mental Arithmetic, cloth boards.....	.20	The Macmillan Company.....	Southern School Book Depository, Dallas, Texas.	
Physiology and Hygiene:				
Krohn's First Book in Physiology and Hygiene.....	.30	D. Appleton & Co.....	Texas School Book Depository, Dallas, Texas.	
Krohn's Graded Lessons in Physiology and Hygiene.....	.50	D. Appleton & Co.....	Texas School Book Depository, Dallas, Texas.	
Coleman's Hygienic Physiology.....	.47	The Macmillan Company.....	Southern School Book Depository, Dallas, Texas.	
Civics:				
Townes' Civil Government in the United States and in Texas	.75	Austin Printing Co.....	Texas School Book Depository, Dallas, Texas.	
United States History:				
The Beginner's History of Our Country.....	.40	Southern Publishing Co.....	Texas School Book Depository, Dallas, Texas.	
The History of Our Country.....	.70	Ginn & Co.....	Ginn & Co., Dallas, Texas.	
Texas History:				
A History of Texas, Revised.....	.65	Mrs. Percy V. Pennybacker.....	M. H. Benson, Austin, Texas.	
Agriculture:				
Welborn's Elements of Agriculture: Southern and Western.....	.60	The Macmillan Company.....	Southern School Book Depository, Dallas, Texas.	
Geography:				
Dodge's Primary Geography.....	.45	Rand, McNally & Co.....	Texas School Book Depository, Dallas, Texas.	
Dodge's Comparative Geography.....	.90	Rand, McNally & Co.....	Texas School Book Depository, Dallas, Texas.	
Physical Geography:				
Davis' Elementary Physical Geography.....	.90	Ginn & Co.....	Ginn & Co., Dallas, Texas.	
Algebra:				
Wentworth's First Steps in Algebra.....	.45	Ginn & Co.....	Ginn & Co., Dallas, Texas.	
Writing:				
Berry's Writing Books, Books One to Eight, each.....	.05	B. D. Berry & Co.....	Texas School Book Depository, Dallas, Texas.	

APPENDIX A

STATE INSTITUTIONS OF LEARNING.

THE UNIVERSITY OF TEXAS.

For the law governing The University of Texas, see Revised Civil Statutes of 1895, Title LXXXVI, Chapters 1 and 2; Acts of the Twenty-fourth Legislature, Chapter 110, page 169, Acts of the Twenty-ninth Legislature, Chapter 100, page 150.

AGRICULTURAL AND MECHANICAL COLLEGE OF TEXAS.

For the law governing the Agricultural and Mechanical College of Texas, see Revised Civil Statutes, Title LXXXVI, Chapter 3; Acts of Twenty-sixth Legislature, Chapter 10, page 9, and Chapter 21, page 21; Acts of Twenty-eighth Legislature, Chapter 54, page 74.

TEXAS INDUSTRIAL INSTITUTE AND COLLEGE FOR THE EDUCATION OF WHITE GIRLS OF THE STATE OF TEXAS IN THE ARTS AND SCIENCES.

For the law establishing the Texas Industrial Institute and College for the Education of White Girls of the State of Texas in the Arts and Sciences, see Acts of the Twenty-seventh Legislature, Chapter 132, page 306.

SAM HOUSTON NORMAL INSTITUTE.

For the law governing the Sam Houston Normal Institute, see Revised Civil Statutes, Title LXXXVI, Chapter 4.

NORTH TEXAS STATE NORMAL COLLEGE.

For the law governing the North Texas State Normal College, see Acts of Twenty-sixth Legislature, Chapter 53, page 74, and Acts of Twenty-seventh Legislature, Chapter 10, page 10.

SOUTHWEST TEXAS NORMAL SCHOOL.

For the law establishing and governing the Southwest Texas Normal School, see Acts of Twenty-sixth Legislature, Chapter 103, page 175, and Acts of Twenty-seventh Legislature, Chapter 29, page 33.

WEST TEXAS STATE NORMAL COLLEGE.

For the law establishing and governing the West Texas State Normal College, see Acts of Thirty-first Legislature, Chapter 119.

THE STATE INSTITUTION FOR THE TRAINING OF JUVENILES.

For the law governing The State Institution for the training of Juveniles, see Chapter 56, Acts of the Thirty-first Legislature.

PRAIRIE VIEW STATE NORMAL AND INDUSTRIAL COLLEGE.
(For Colored Youths.)

For the law governing the Prairie View Normal Collegee, see Revised Civil Statutes, Title LXXXVI, Chapter 5; Acts of Twenty-sixth Legislature, Chapter 185, page 325; Acts of Twenty-seventh Legislature, Chapter 30, page 35.

APPENDIX B

STATE NORMAL SCHOOL BOARD OF REGENTS.

(See Acts 32nd Leg., 1st Called Session.)

SECTION 1. That immediately after the passage of this Act there shall be appointed a board to be known as the State Normal School Board of Regents, said board to be composed of the State Superintendent of Public Instruction, and five other members to be selected as provided in Section 2 of this Act.

SEC. 2. Immediately after this act shall go into effect, the Governor shall, by and with the advice and consent of the Senate, appoint four persons of good education and of high moral character, known to be friendly to the Normal Schools of Texas, who, together with the State Superintendent of Public Instruction, shall constitute the State Normal School Board of Regents for the control and management of the State Normal Schools for white teachers in Texas.

SEC. 3. The State Superintendent of Public Instruction shall be ex officio president of the State Normal School Board of Regents, and the Chief Clerk of the State Department of Education shall be ex officio secretary of the said Board of Regents, and it shall be his duty to make and keep a record of the proceedings of all the meetings of the Board, and to perform such other clerical duties as said board may impose upon him, but it is specifically provided that the said Chief Clerk shall not be entitled to a vote in the transaction of the business of the board.

SEC. 4. All appointive members of the Board of Regents shall be appointed for a term of two years, and shall hold office until their successors are appointed and qualified, and all vacancies on the Board of Regents caused by death, resignation or otherwise, shall be filled by appointment as provided in Section 2 of this Act; *provided*, that if such vacancies occur when the Legislature is not in session the Governor shall fill such vacancies by appointment subject to ratification by the Senate at the next session of the Legislature.

SEC. 5. The Board of Regents shall be charged with the responsibility of the general control and management of all State Normal Schools for white teachers now established or that may be established in the future in Texas, and shall have authority to erect, equip and repair buildings; to purchase libraries, furniture, apparatus, fuel, and other necessary supplies; to employ and discharge presidents or principals, teachers, treasurers and other employes; and to fix the salaries of the persons so employed, it being made the duty of the principal of each of the State Normal Schools to nominate annually to the Board of Regents such professors, teachers, officials and assistants as in his opinion will promote the best interests of the institution; *provided*, that no obligations may at any time be incurred that can not be discharged by the amount of money appropriated by the Legislature for such purposes, except as provided in Section 7 of this act.

SEC. 6. It shall be the duty of the Board of Regents to visit each State Normal School under its control and management at least once during each scholastic year for the purpose of making an inspection of its work and gathering such information as will enable said board to perform its duties intelligently and effectively.

SEC. 7. The Board of Regents herein provided for shall have authority to determine what departments of instruction shall be maintained in the State Normal Schools for white teachers, and what subjects of study shall be pursued in each department; *providing*, that said board shall not change departments of instruction provided by law; *provided*, that no department shall be established for the support of which no provision has been made by the Legislature. The board shall also have authority to fix the rate of incidental fees to be paid by students attending the State Normal Schools for white teachers, and to prescribe rules for the collection of such fees and for the disbursement of such funds.

SEC. 8. The Board of Regents shall make an annual report to the Governor of Texas, showing the general condition of the affairs of each State Normal School for white teachers, and making such recommendations as the board may deem best for the future management and welfare of the State Normal Schools for white teachers.

SEC. 9. The Board of Regents shall have authority to determine the conditions on which students may be admitted to the State Normal Schools, and what grades of certificates may be issued to students attending said schools, and on what conditions certificates and diplomas may be issued to students, and by what authority said certificates and diplomas shall be signed.

SEC. 10. The Board of Regents shall meet each year in the office of the State Superintendent of Public Instruction, at Austin, Texas, on the first Monday in May, or as soon thereafter as practicable, for the transaction of business pertaining to the affairs of the State Normal Schools, and at such other times and places as may in the opinion of a majority of the members of the board be deemed necessary for the welfare of the State Normal Schools. The appointed members of the Board of Regents shall receive a salary of \$5.00 per day for the time spent attending the meetings provided for in this act, and in addition thereto the amount of their traveling expenses, said compensation to be paid to the several members of the board out of the appropriation for the support and maintenance of the State Normal Schools as the board may direct.

SEC. 11. All appropriations made by the Legislature for the support and maintenance of State Normal Schools for white teachers, for the purchase of land or buildings for the use of such schools, for the erection or repair of buildings, for the purchase of apparatus, libraries or equipment of any kind or for any other improvement of any kind, shall be disbursed under the direction and authority of the Board of Regents; and said board shall have power to formulate and establish such rules for the general control and management of the State Normal Schools for white teachers, for the auditing and approving of accounts, and for the issuance of vouchers and warrants as in their opinion may be necessary for the efficient administration of such schools; *provided*, that such board shall file in each House of the Legis-

lature at each of its regular biennial sessions, a statement of the receipts and expenditures of each of said Normal Schools, showing the amount of salaries paid to the various teachers, contingent expenses, expenditures for improvements, etc., together with such recommendations as the board may see proper to submit relative to the appropriation for said schools to be made by the Legislature.

SEC. 12. All laws and parts of laws in conflict with any of the provisions of this act shall be, and are, hereby repealed.

APPENDIX C

STATE SANITARY CODE.

(The following sections of the State Sanitary Code apply to public schools.)

RULE 15. *Quarantinable for School Purposes; Barred from School Twenty-one Days.*—Persons suffering from measles, whooping cough, mumps, German measles (rotheln) and chicken-pox, shall be required to be barred from school for twenty-one days (at the discretion of the local health officer) from date of onset of the disease, with such additional time as may be deemed necessary, and may be readmitted on a certificate by him attesting to their recovery and non-infectiousness.

RULE 16. *Minor Diseases to Be Excluded During Illness.*—Those actually suffering from tonsilitis, scabies (itch), impetigo contagioso, favus, shall be excluded from school during such illness and be readmitted on the certificate of the attending physician attesting to their recovery and non-infectiousness.

RULE 26. *Persons With Trachoma or Contagious Catarrhal Conjunctivitis to Be Excluded From Schools.*—Persons afflicted with trachoma, granulated lids, or contagious catarrhal conjunctivitis must be excluded from schools, public assemblages and from close association with other individuals, unless they are under the constant care and strict supervision of a competent physician, and hold a certificate from said physician stating that active inflammation has subsided, said certificate to be countersigned by the local health authority.

RULE 27. *Schools Temporarily Closed and Disinfected.*—A school house wherein a child suffering with smallpox, scarlet fever or diphtheria has been present, shall be deemed infected, and must be temporarily closed and thoroughly disinfected and cleaned under the supervision of the local health authority before the reopening of the school.

RULE 28. *School May Be Reopened After Disinfection and Vaccination.*—In the event of the aforementioned disease being smallpox and in case the Board of Trustees having passed a regulation requiring a successful vaccination of all teachers and pupils, the school may be reopened immediately after the above disinfection and cleaning, and all teachers and pupils who have been successfully vaccinated may return; otherwise the school shall be kept closed eighteen days, or until the local health authority directs otherwise.

RULE 29. *Health Authority to Notify Superintendents of Pupils From Infected Houses.*—The local health authority shall notify the superintendent or principal of any school of the locations of quarantation.

RULE 30. *Children With Contagious Diseases Shall Not Attend School.*—No superintendent, principal or teacher of any school, and

no parent, master or guardian of any child or minor, having the power and authority to prevent, shall permit any such child or minor, having any quarantinable disease, or any child residing in any house in which any such disease exists or has recently existed, to attend any public, private, parochial, church or Sunday school until the requirements of these rules shall have been complied with.

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