

THE
PUBLIC SCHOOL LAW
OF
NORTH CAROLINA

BEING A PART OF

CHAPTER 89, REVISAL OF 1905, AS AMENDED BY
THE GENERAL ASSEMBLY OF 1907

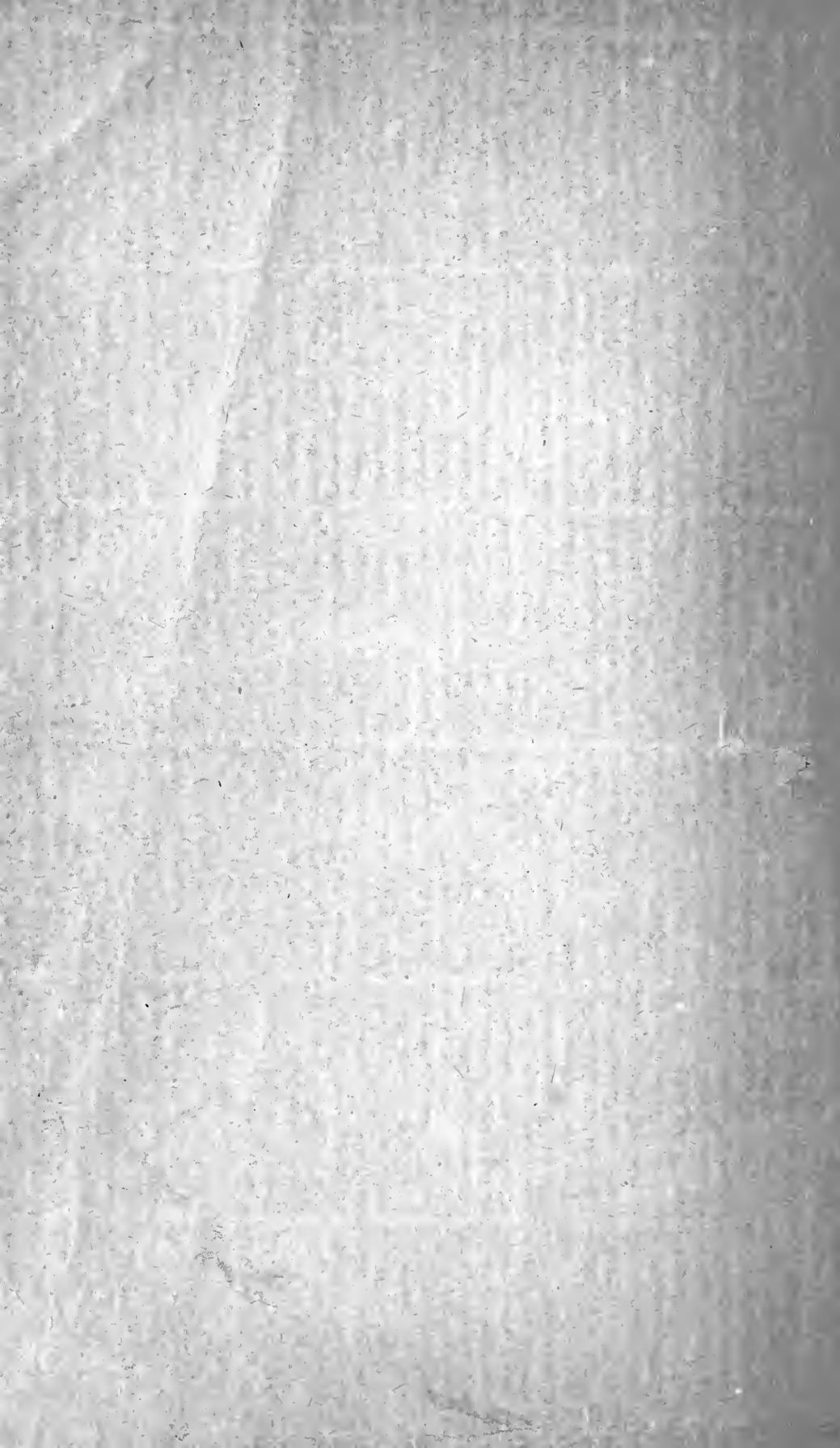
TOGETHER WITH

EXPLANATORY NOTES AND DECISIONS OF
THE STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

RALEIGH

ISSUED FROM OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION

1907



THE
PUBLIC SCHOOL LAW

OF

NORTH CAROLINA. *Laws, Statutes,
etc.*

BEING A PART OF

CHAPTER 89, REVISAL OF 1905, AS AMENDED BY
THE GENERAL ASSEMBLY OF 1907

COMPILED, ARRANGED, AND EDITED BY

CHARLES L. COON

OF THE DEPARTMENT OF EDUCATION.

RALEIGH

ISSUED FROM OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION

1907

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STATE PRINTERS AND BINDERS
RALEIGH, N. C.

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PREFATORY NOTE.

This compilation of the Public School Laws of North Carolina is issued in this form, in accordance with Section 4089 of the Revisal of 1905. The amendments made to the School Law by the General Assembly of 1907 are printed in italics. This compilation also contains the legislation of 1907 relative to high schools, compulsory attendance, and the employment of children in factories. The notes, decisions, and other matter, it is hoped, will be found convenient and useful. A careful reading of the law by all school officers and teachers will prevent many mistakes and burdensome correspondence and delay.

J. Y. JOYNER,

Superintendent of Public Instruction.

RALEIGH, April, 1907.

EDUCATION IN OUR CONSTITUTION.

Article IX of the Constitution of North Carolina relates to education. It reads as follows:

SECTION 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

SEC. 2. The General Assembly, at its first session under this Constitution, shall provide by taxation and otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years. And the children of the white race and the children of the colored race shall be taught in separate public schools; but there shall be no discrimination in favor of or to the prejudice of either race.

SEC. 3. Each county of the State shall be divided into a convenient number of districts, in which one or more public schools shall be maintained at least four months in every year; and if the Commissioners of any county shall fail to comply with the afore-said requirements of this section they shall be liable to indictment.

SEC. 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State and not otherwise appropriated by this State or the United States, also all money, stocks, bonds and other property now belonging to any State fund for purposes of education, also the net proceeds of all sales of the swamp lands belonging to the State, and all other grants, gifts or devises that have been or hereafter may be made to the State and not otherwise appropriated by the State or by the terms of the grant, gift or devise, shall be paid into the State Treasury, and, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining in this State a system of free public schools, and for no other uses or purposes whatsoever.

SEC. 5. All moneys, stocks, bonds and other property belonging to a county school fund, also the net proceeds from the sale of estrays, also the clear proceeds of all penalties and forfeitures and

of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties in this State: *Provided*, that the amount collected in each county shall be annually reported to the Superintendent of Public Instruction.

SEC. 6. The General Assembly shall have power to provide for the election of Trustees of the University of North Carolina, in whom, when chosen, shall be vested all the privileges, rights, franchises and endowments thereof in anywise granted to or conferred upon the Trustees of said University; and the General Assembly may make such provisions, laws and regulations from time to time as may be necessary and expedient for the maintenance and management of said University.

SEC. 7. The General Assembly shall provide that the benefits of the University, as far as practicable, be extended to the youth of the State free of expense for tuition; also that all the property which has heretofore accrued to the State or shall hereafter accrue from escheats, unclaimed dividends or distributive shares of the estates of deceased persons, shall be appropriated to the use of the University.

SEC. 8. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Superintendent of Public Instruction and Attorney-General shall constitute a State Board of Education.

SEC. 9. The Governor shall be president and the Superintendent of Public Instruction shall be secretary of the Board of Education.

SEC. 10. The Board of Education shall succeed to all the powers and trusts of the President and Directors of the Literary Fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to free public schools and the educational fund of the State; but all acts, rules and regulations of said Board may be altered, amended or repealed by the General Assembly, and when so altered, amended or repealed they shall not be re-enacted by the Board.

SEC. 11. The first session of the Board of Education shall be held at the capital of the State within fifteen days after the organization of the State Government under this Constitution; the time of future meetings may be determined by the Board.

SEC. 12. A majority of the Board shall constitute a quorum for the transaction of business.

SEC. 13. The contingent expenses of the Board shall be provided by the General Assembly.

SEC. 14. As soon as practicable after the adoption of this Constitution the General Assembly shall establish and maintain in connection with the University a department of agriculture, of mechanics, of mining and of normal instruction.

SEC. 15. The General Assembly is hereby empowered to enact that every child of sufficient mental and physical ability shall attend the public schools during the period between the ages of six and eighteen years for a term of not less than sixteen months, unless educated by other means.

From the Bill of Rights, Section 27: The people have the right to the privilege of education, and it is the duty of the State to guard and maintain that right.—Bill of Rights, North Carolina Constitution.

EDUCATIONAL QUALIFICATION FOR SUFFRAGE.

Article VI, Section 4, of the Constitution of North Carolina contains the following:

Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language; and before he shall be entitled to vote, he shall have paid, on or before the first day of May of the year in which he proposes to vote, his poll tax for the previous year as prescribed by Article V, sec. 1, of the Constitution. But no male person who was on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States wherein he then resided, and no lineal descendant of any such person, shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational qualifications herein prescribed: *Provided*, he shall have registered in accordance with the terms of this section prior to December 1, 1908.

NEW SCHOOL LEGISLATION, 1907.

The General Assembly of 1907 enacted the following new legislation on the subject of schools:

PUBLIC HIGH SCHOOL LAW.

AN ACT TO STIMULATE HIGH SCHOOL INSTRUCTION IN THE PUBLIC SCHOOLS OF THE STATE AND TEACHER TRAINING.

The General Assembly of North Carolina do enact:

HIGH SCHOOLS MAY BE MAINTAINED NOT LESS THAN FIVE MONTHS ANNUALLY.

SECTION 1. With the consent of the State Board of Education, the County Board of Education in any county may, in its discretion, establish and maintain, for a term of not less than five school months in each school year, one or more public high schools for the county at such place or places as shall be most convenient for the pupils entitled to attend and most conducive to the purposes of said school or schools.

HIGH SCHOOL COMMITTEE TO CONSIST OF THREE PERSONS.

SEC. 2. For each public high school established under this act a committee of three persons shall be appointed by the County Board of Education, who shall be known as the School Committee of Public High School of..... County. The powers, duties and qualifications of said committeemen shall be similar to those of other public school committeemen. They shall be appointed as follows: one for a term of two years, one for a term of four years, and one for a term of six years; and at the expiration of the term of any committeeman his successor shall be appointed for a term of six years: *Provided*, that in case of death or resignation of any committeeman, his successor shall be appointed for the unexpired term only. Within two weeks after appointment the committee shall meet and elect a chairman and a secretary and enter upon the performance of their duties.

RULES, REGULATIONS, AND COURSE OF STUDY.

SEC. 3. All public high schools established and maintained under the provisions of this act shall be operated by the County Board of Education under such general rules and regulations as may be prescribed by the State Board of Education. The courses of study for such high schools and the requirements for admission to them shall be prescribed by the State Superintendent of Public Instruction.

INSPECTION, CERTIFICATES, AND MINIMUM SALARY OF TEACHERS.

SEC. 4. It shall be the duty of the County Board of Education to locate all high schools established under this act, to furnish the State Superintendent of Public Instruction with such information relative to said schools as he may require and to make such local rules and regulations for the conduct of said schools as may be necessary: *Provided*, that before any State funds shall be appropriated for the support of any public high school the State Superintendent of Public Instruction shall cause the same to be inspected by some competent person to see that suitable arrangements have been made for giving high school instruction and to enable said school to conform to all the requirements of this act and to the rules and regulations of the State Board of Education: *Provided further*, that no one shall teach in any public high school that receives State funds under this act who does not hold a high school teacher's certificate from the State Superintendent of Public Instruction, who shall have power to prescribe a standard of scholarship and examination for same: *and provided further*, that no one shall be employed as teacher in such high school without the approval and recommendation of the County Superintendent. The minimum salary of any public high school teacher holding such certificate and employed as high school teacher in such high school shall be forty dollars per school month.

HIGH SCHOOLS AIDED MUST HAVE THREE TEACHERS.

SEC. 5. Before any high school shall be established under the provisions of this act, the committee or committees establishing such school shall first provide for thorough instruction, for at least five months in each school year in all branches of study required to be taught in the public schools of the State; and no

school shall be entitled to the benefit of this act in which less than three teachers are employed.

[Each school must have at least two teachers in addition to the high school teacher.]

ARRANGEMENT FOR FREE TUITION IN HIGH SCHOOLS ALREADY
ESTABLISHED.

SEC. 6. The County Board of Education of any county may enter into an agreement with the board of trustees or the committee of one public high school of the county to permit all children of said county of school age who are prepared to enter such high school and all public school teachers of said county desiring high school instruction to attend such school free, the rate of tuition for each pupil in each high school grade to be fixed by agreement with said County Board of Education, and paid as follows: one-half out of a fund set aside by the County Board of Education from the county school fund for that purpose, and one-half out of the special State appropriation hereinafter provided, under such rules as the State Board of Education may prescribe: *Provided*, that the sum apportioned by the County Board of Education for this purpose shall not exceed five hundred dollars, and the sum apportioned by the State Board of Education for the same purpose shall not exceed that apportioned by the County Board of Education: *Provided further*, that the course of study in such high school shall be approved by the State Superintendent of Public Instruction.

CONDITIONS OF STATE AID.

SEC. 7. The County Superintendent of Schools in any county in which said public high school or high schools shall be established shall give due notice of the same to the State Board of Education before any State funds shall be appropriated for the support of said school or schools. And when the County Treasurer of any county shall certify to the State Superintendent of Public Instruction that as much as two hundred and fifty dollars has been placed to the credit of any public high school established and inspected as provided for in this act, thereupon a State warrant shall be issued upon requisition of the State Superintendent of Public Instruction for two hundred and fifty dollars and sent to the Treasurer of the county in which such high school is located, to be placed to the credit of said high school, and paid out exclusively

for the support of said high school on the warrant of the high school committee approved by the County Superintendent of Schools. The Treasurer of each county in which such public high school or schools shall be established shall keep a separate account of the public high school fund, and at the end of each school year he shall make to the State Superintendent of Public Instruction and to the County Board of Education a report of all receipts and disbursements of said fund.

MAXIMUM STATE AID \$500 AND NUMBER OF SCHOOLS AIDED IN ONE COUNTY LIMITED TO FOUR.

SEC. 8. If a larger amount than two hundred and fifty dollars be provided by taxation, or by private donation, or by local appropriation, or otherwise, for the support of any public high school established and maintained under the provisions of this act, then the State shall contribute a like amount: *Provided*, that the State shall not contribute more than five hundred dollars in any one school year for the support of any one high school: *Provided further*, that not more than four public high schools in any one county shall be entitled under the provisions of this act to receive State funds.

NO SCHOOLS AIDED IN TOWNS OF MORE THAN 1,200.

SEC. 9. High schools may not be established under this act in towns of more than twelve hundred inhabitants. Contracts, however, may be made between the County Board of Education and the committee or trustees of any public or graded school wherein high school branches are taught. Such contract shall provide for the admission to such school of students in high school grades and of public school teachers of any township, townships, or of the county, and for the payment of tuition by the County Board of Education for teachers and children so attending from outside the limits of said school district, and the tuition in no case to exceed two dollars per month. Upon the making and approval of such contract and the deposit with the County Treasurer of an amount sufficient to pay one-half of amount estimated to be necessary for such purpose, either by direct appropriation by the County Board of Education from a fund set aside for that purpose or by private donation, then upon proper certification of such facts a State warrant shall be issued for equal amount payable to County Treasurer upon request of the State Superintendent of Public

Instruction: *Provided*, that no aid may be given by the State in cases where under the contract less than one hundred dollars is needed to pay the tuition, and that the State may not in any case be called on for more than five hundred dollars: *Provided further*, that the course of study of such school shall be submitted to the State Superintendent of Public Instruction and approved by him.

SUM OF \$50,000 ANNUALLY APPROPRIATED.

SEC. 10. The sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby annually appropriated for the purposes of high school instruction and teacher training provided for in this act. The State Board of Education shall have the power to fix such rules and regulations in accordance with the provisions of this act as may be necessary for the proper distribution of this fund.

TEACHER TRAINING SCHOOL TO BE ESTABLISHED.

SEC. 11. That there shall be established and maintained at some suitable point in eastern North Carolina a teachers' training school for the training of young white men and women under the corporate name of the East Carolina Teachers' Training School.

LOCATION OF TRAINING SCHOOL BY STATE BOARD.

SEC. 12. That said school shall be located by the State Board of Education at such a point in eastern North Carolina as they may deem proper, and shall be located in or near that town offering the largest financial aid, having due regard to desirability and suitability for the location of said school.

PURPOSE OF TRAINING SCHOOL AND COURSE OF STUDY.

SEC. 13. That the object in establishing and maintaining said school shall be to give to young white men and women such education and training as shall fit and qualify them for teaching in the public schools of North Carolina. And the board of trustees hereinafter provided for in prescribing the course of study of said school shall lay special emphasis on those subjects taught in the public schools of the State, and on the art and science of teaching. And in no event shall they prescribe a curriculum beyond that which would fit and prepare a student for unconditional entrance into the freshman class of the University of North Carolina.

TUITION FREE TO PROSPECTIVE TEACHERS.

SEC. 14. That tuition in said school shall be free to those who signify their intention to teach for such time and upon such conditions as may be prescribed by the board of trustees, and the board of trustees upon the recommendation of the faculty shall give those students in said school who have completed the required course a certificate of proficiency in the work done.

MANAGEMENT OF TRAINING SCHOOL.

SEC. 15. That said school shall be managed by a board of trustees, consisting of nine persons, together with the State Superintendent of Public Instruction as chairman, *ex officio*, said trustees to be appointed by the State Board of Education: *Provided*, that two members of the said board shall be selected from the First Congressional District, two from the Second, two from the Third, two from the Fourth and one from the Sixth, whose term of office shall be six years: *Provided further*, that of the trustees first elected, three shall hold office for two years, three for four years, and three for six years. Said term of office to begin on the fifteenth day of March, one thousand nine hundred and seven. That the State Board of Education shall appoint trustees for the full term of six years upon the expiration of the term of office of any member of this board; vacancies occurring by death or resignation of any member of this board shall be filled by appointment of the State Board of Education for the unexpired term. All trustees shall take oath to perform faithfully their duties as required by this act, and shall hold office until their successors have been appointed and qualified. The board of trustees shall report biennially to the Governor before the meeting of each General Assembly the operation and condition of said school.

POWERS OF TRUSTEES.

SEC. 16. That said board of trustees above provided for, upon their election and qualification, shall be and become a body corporate and politic, with all the powers usually conferred upon such bodies and necessary to enable them to acquire and hold property, manage and conduct said school, and do all other things necessary for the carrying out of the provisions and purposes of this act.

SEC. 17. That as soon as said school shall have been located by the State Board of Education and the trustees herein provided

for shall have qualified, the chairman shall call a meeting of said trustees for the purpose of organizing said board as soon as practicable. After said organization the said trustees shall proceed to build and equip the necessary buildings for said school and shall make such rules and regulations for the government of said school as they may deem proper: *Provided*, that no rules shall be made that would discriminate against one county in favor of another in the admission of pupils into said school.

AMOUNT OF STATE AID AND LOCAL AID FOR BUILDINGS AND SITE.

SEC. 18. That the sum of fifteen thousand dollars (\$15,000) be and the same is hereby appropriated to be paid from any funds in the hands of the State Treasurer not otherwise appropriated for the purpose of aiding in erecting and equipping the buildings for said school, one-half of said sum to be paid in one thousand nine hundred and seven and one-half in one thousand nine hundred and eight: *Provided*, that the town or community in which said school is located shall contribute the sum of not less than twenty-five thousand dollars (\$25,000) toward the construction and equipment of said buildings, and the title to said buildings shall be in and held by the State Board of Education.

STATE AID FOR SUPPORT OF TRAINING SCHOOL.

SEC. 19. When it shall be certified to the State Board of Education by the trustees that said buildings of said school are completed and ready to be occupied, the sum of five thousand dollars (\$5,000) annually shall be and the same is hereby appropriated for the purpose of maintaining said school, to be paid out of the special appropriation of fifty thousand dollars (\$50,000) herein appropriated for high school instruction and teacher training.

SEC. 20. That this act shall be in force from and after its ratification.

In the General Assembly read three times, and ratified this the 8th day of March, A. D. 1907.

THE CHILD LABOR LAW.

The General Assembly of North Carolina do enact:

CONDITIONS FOR EMPLOYMENT OF CHILDREN.

SECTION 1. That no child under twelve years of age shall be employed or worked in any factory or manufacturing establishment within this State: *Provided*, that after one thousand nine

hundred and seven, no child between the ages of twelve and thirteen years of age shall be employed or work in a factory, except in apprenticeship capacity, and then only after having attended school four months in the preceding twelve months.

SIXTY-SIX HOURS A WEEK.

SEC. 2. That not exceeding sixty-six hours shall constitute a week's work in all factories and manufacturing establishments in this State.

No person under eighteen years of age shall be required to work in such factories or establishments a longer period than sixty-six hours in one week: *Provided*, that this section shall not apply to engineers, firemen, machinists, superintendents, overseers, section and yard hands, office men, watchmen, or repairers of breakdowns.

PENALTY FOR FALSE STATEMENTS AND VIOLATION.

SEC. 3. All parents, or persons standing in the relation of parent, upon hiring their children to any factory or manufacturing establishment, shall furnish such establishment a written statement of the age of such child or children so hired, and certificate as to school attendance; and any parent, or person standing in relation of parent to such child or children, who shall in such written statement misstate the age of such child or children being so employed, or their school attendance, shall be guilty of a misdemeanor, and upon conviction shall be punished in the discretion of the Court.

Any mill-owner, superintendent or manufacturing establishment who shall knowingly or wilfully violate the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished in the discretion of the Court.

NO NIGHT WORK UNDER 14 AFTER 1907.

SEC. 4. After one thousand nine hundred and seven no boy or girl under fourteen years old shall work in a factory between the hours of eight P. M. and five A. M.

SEC. 5. That this act shall be in force from and after January first, one thousand nine hundred and eight.

COMPULSORY ATTENDANCE LAW.

AN ACT TO REQUIRE ATTENDANCE UPON THE PUBLIC SCHOOLS FOR SIXTEEN WEEKS IN EACH YEAR BETWEEN THE AGES OF EIGHT AND FOURTEEN.

The General Assembly of North Carolina do enact:

SCHOOL DISTRICT OR TOWNSHIP MAY VOTE ON QUESTION.

SECTION 1. The County Board of Education of any county may in their discretion, upon a petition of a majority of the qualified voters of any township or school district in such county, order and hold an election, submitting to the qualified voters of such township or district the question of compulsory attendance. For such election the said board shall designate the time for holding the same, shall appoint a registrar and two poll-holders for each voting place, and shall advertise the same by posting notices at the court-house door and three other public places in the district or township thirty days before such election. If the election be for a school district, then the County Board of Education shall also designate the voting place; if for a township, the polling-places shall be those of the preceding general election. At such election those favoring compulsory attendance shall vote a ticket on which shall be written or printed the words: "For Compulsory Attendance," those who are opposed shall vote a ticket on which shall be written or printed the words "Against Compulsory Attendance." The result of such election shall be reported to the County Board of Education by the judges of election, and no other report shall be required. In all other respects, except as provided herein, the election shall be held under the law governing general elections as nearly as may be. The expense of such election shall be paid out of the county school fund. If it appear that a majority of the votes cast at such election are in favor of compulsory attendance, the County Board of Education shall order compulsory attendance upon the school or schools of the township or district named in the petition as provided for in this act.

COMPULSORY ATTENDANCE AGE 8 TO 14; TERM 16 WEEKS.

SEC. 2. Every parent or person having control of a child over eight and under fourteen years of age shall cause such child to attend the public school in the district where such parent or

person resides for sixteen weeks in each school year, such year beginning on the first day of July and ending on the thirtieth day of June, unless the parent or person having control of such child shall show that the child has elsewhere received during the year regular instruction for sixteen weeks in the branches of study taught in the public schools. Children over twelve years of age shall not be subject to the requirements of this act while lawfully employed at labor at home or elsewhere.

PENALTY FOR VIOLATION OF LAW AND EXCEPTIONS.

SEC. 3. Any person violating the provisions of the foregoing section two shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars nor more than twenty-five dollars: *Provided*, that if the parent or person having control of the child shall show that the child is destitute of clothing suitable for attending school, and such parent or person is unable to provide suitable clothing, or that the child's mental or physical condition is such as to render its instruction inexpedient and impractical, such parent or person shall not be convicted of a violation hereof.

SEC. 4. Every person who shall regularly employ any child under twelve years of age or shall authorize or permit the regular employment of such child upon premises under his control during the school hours while the school that such child should attend is in session shall be guilty of a misdemeanor, unless the child so employed shall have attended school for sixteen weeks prior to such employment and during the current school year, or unless such child is excusable under section three.

PENALTY FOR FALSE STATEMENTS AS TO AGE OF CHILDREN.

SEC. 5. The person taking the school census of any district shall obtain the information as to the age of each child in the district from the parent or person having control of such child, and the written reports sworn to by the census-taker shall be *prima facie* evidence in any court of the age of each child therein enumerated.

Every parent or person having control of a child, who shall make any false statement concerning the age of such child with the intent to deceive the census-taker or the teacher of any school or to the employer of such child, shall be guilty of a misdemeanor and fined not more than fifty dollars.

EVIDENCE OF NON-ATTENDANCE.

SEC. 6. At the end of the term of the public school, the teacher or principal of such school shall make a report to the County Superintendent of Schools of such county showing the names of the children between the ages of eight and fourteen who attended such schools and the number of days each child attended. Such statement shall be sworn to by the teacher or principal and shall be *prima facie* evidence in any court both as to the facts stated therein and that any child not enumerated therein did not attend such school.

METHOD OF PROSECUTION FOR NON-ATTENDANCE.

SEC. 7. It shall be the duty of the County Superintendent of Schools to furnish annually to the constable of such township in his county, or to some other lawful officer of the county, a list of the children who have not attended school as required by law, and upon such information it shall be the duty of said constable or officer upon an affidavit of some reputable person that any person has violated the provisions of this act to cause the offending persons to be prosecuted before some justice of the peace of such township.

IN DISCRETION OF COUNTY BOARD TO ENFORCE LAW.

SEC. 8. Whenever the County Board of Education shall order compulsory attendance upon any school or schools in any school district or township after an election as provided in section one hereof, the provisions of this act shall be in full force and effect in the territory described and for the schools named, but this act shall not apply to any school or the penalties herein prescribed be enforced except upon the order of the County Board of Education as herein provided.

CLERK OF COURT TO KEEP LIST OF SCHOOLS.

SEC. 9. It shall be the duty of the County Board of Education of each county to furnish to the Clerk of the Superior Court of such county a list of all schools which have been placed under the operation of this act. The said Clerk shall keep a list of the same in his office, and shall furnish to each justice of the peace of the county a certified list of all schools in the township of such justice of the peace which are so included; and the said list as kept by the said Clerk, or a certified statement made by him, shall be conclusive evidence in any court that the provisions

of this act shall apply to the school or schools therein named: *Provided*, that this act shall not apply to any territory now having compulsory attendance established by law.

COUNTIES EXCEPTED.

SEC. 10. That this act shall not apply to the following counties: Granville, Person, Johnston, Robeson, Camden, Currituck, Edgecombe, Wilson, Nash, Duplin, and Chatham.

SEC. 11. That this act shall be in force from and after its ratification.

In the General Assembly read three times, and ratified this the 11th day of March, A. D. 1907.

DEAF CHILDREN MUST ATTEND SCHOOL.

AN ACT TO COMPEL WHITE DEAF CHILDREN TO
ATTEND SCHOOL.

The General Assembly of North Carolina do enact:

SECTION 1. That every deaf child of sound mind in North Carolina shall attend a school for the deaf at least five school terms of nine months each, between the ages of eight years and fifteen years.

SEC. 2. That parents, guardians or custodians of a deaf child or deaf children between the ages of eight and fifteen years shall send said child or children, or cause to be sent, to some school for the instruction of the deaf, at least five terms or sessions of nine months each, between the ages of eight years and fifteen years.

SEC. 3. That parents, guardians or custodians of any deaf children between the ages provided in section two of this act, failing to send said deaf child or deaf children to some school for instruction as provided in this act, shall be guilty of misdemeanor, and upon conviction shall be fined or imprisoned at the discretion of the Court for each year said deaf child is kept out of school between the ages herein provided: *Provided*, that said parents, guardians or custodians may elect two years between said ages of eight and fifteen years that a deaf child or deaf children may remain out of school: *Provided further*, that this section shall not apply to or be enforced against the parent, guardian or custodian of any deaf child until such time as the superintendent of any school for the instruction of the deaf, by and with the approval of the executive committee of such institution, shall, in his and their discretion, serve written notice on such parent,

guardian or custodian, directing that such child be sent to the institution whereof they have charge.

SEC. 4. That it shall be the duty of the school census-taker to report name, age and sex of each deaf child in his district, and name of parents, guardians or custodians, and their post-office address, to the County Superintendent of Education, who shall send said report of names and addresses to the Superintendent of the North Carolina School for the Deaf and Dumb, located at Morganton, N. C. That said census-taker or County Superintendent failing to make reports as provided in this act, shall be fined five dollars (\$5) for each white deaf child not so reported.

SEC. 5. That said fine as provided in section three (3) of this act, and said fine of five dollars (\$5) provided in section four (4) of this act, when collected, shall be paid to the public school fund of the county in which such child lives.

SEC. 6. That this act shall take effect the first day of September, one thousand nine hundred and seven.

THE PUBLIC SCHOOL LAW.

The following is the Public School Law of one thousand nine hundred and five, as amended by the General Assembly of one thousand nine hundred and seven. Each division of the law is preceded by a succinct summary, and contains explanatory notes, the whole being followed by decisions bearing on its interpretation.

I. APPLICATION OF CHAPTER.

4029. THIS CHAPTER NOT APPLICABLE TO CERTAIN SCHOOLS ; SUCH SCHOOLS REGULATED. The provisions of this chapter shall not apply to any township, city or town now levying a special tax for schools and operating under special laws or charters, or to schools operating under section forty-seven, chapter one hundred and ninety-nine, Laws of one thousand eight hundred and eighty-nine. School districts in any city or town now operating under section forty-seven, chapter one hundred and ninety-nine, Laws of one thousand eight hundred and eighty-nine, are hereby continued, and all vacancies in the school committees therein shall be filled by the County Board of Education. If such districts comprise a township there shall not be appointed township school committee-men for such township, and all apportionments shall be made directly to the committee of such districts. *The superintendent and treasurer of all such schools receiving any part of the public school fund shall be required to make to the State Superintendent and the County Superintendent such reports as these officers shall demand, and as are made by other public schools to them, and shall be under the general supervision of the State Superintendent of Public Instruction.*

1901, c. 4, s. 73 ; 1903, c. 435, s. 25.

[This section requires the proper officers of town and city schools to make reports to the State Superintendent.]

II. THE STATE BOARD OF EDUCATION.

Summary: THE STATE BOARD CONSISTS OF THE GOVERNOR, THE LIEUTENANT-GOVERNOR, THE SECRETARY OF STATE, THE TREASURER, THE AUDITOR, AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION ; HAS CORPORATE POWERS ; THE GOVERNOR IS PRESIDENT, THE STATE

SUPERINTENDENT IS SECRETARY; IT MUST KEEP A RECORD OF ITS PROCEEDINGS AND SUCCEEDS TO ALL THE POWERS OF "THE PRESIDENT AND DIRECTORS OF THE LITERARY FUND." THIS BOARD MAY MAKE RULES FOR THE GOVERNMENT AND REGULATION OF THE PUBLIC SCHOOLS AND HAS VESTED IN IT THE PROPERTY AND MANAGEMENT OF THE LITERARY FUND OF THE STATE.*

4030. INCORPORATED. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Superintendent of Public Instruction, and Attorney-General shall constitute the State Board of Education, and by the name, the State Board of Education, are created a corporation, and by that name may sue and be sued; may have a common seal; may acquire, receive and hold real, personal and mixed property by purchase, gift, devise or otherwise, and may sell, dispose of and convey the same; and may contract and be contracted with for the purposes provided in this chapter, and for such other purposes as may be prescribed by law, and to that end may make such by-laws for its government and the exercise of its powers, and alter the same from time to time in its discretion, as shall not be in conflict with the laws of the State and of the United States; and shall be vested with all other powers conferred upon corporations under the general law relating to corporations.

Const., Art. IX, ss. 8, 9, 10; Code, s. 2503; 1881, c. 200; 1903, c. 567, s. 7.

4031. OFFICERS; QUORUM; MEETINGS; EXPENSES. Of the board, the Governor shall be president, the Superintendent of Public Instruction shall be secretary, and the Treasurer of the State shall be treasurer, and a majority of the board shall constitute a quorum for the transaction of business. The board shall hold its meetings in the executive office, and shall meet at such times as a majority of the members may appoint; but the Governor may call a meeting at any time. The contingent expenses of the board shall be provided for by the General Assembly.

Const., Art. IX, ss. 9, 12, 13; Code, s. 2504; 1881, c. 200, s. 2.

4032. PROCEEDINGS RECORDED. All the proceedings of the board shall be recorded in a well-bound and suitable book, which shall be kept in the office of the Superintendent of Public Instruction.

Code, s. 2505; 1881, c. 200, s. 3.

*The State Board of Education, in addition to the above, has control of the Colored Normal Schools (Rev. 1905, 4180-4186), and is the Text-book Commission (Rev. 1905, 4057-4084). The State Board also elects directors of State Normal and Industrial College (Rev. 1905, 4252). The trustees of the East Carolina Training School are also elected by this board (Laws 1907).

4033. SUCCEEDS TO POWERS AND PROPERTY, ETC., OF LITERARY FUND. The State Board of Education shall succeed to all the powers and trusts of the "president and directors of the literary fund of North Carolina," and shall have full power to legislate and make all needful rules and regulations for the government of the public schools and for the management of the State educational fund. But all such acts, rules and regulations of the board may be altered, amended, or repealed by the General Assembly, and when so altered, amended or repealed shall not be re-enacted by the board; and the board shall succeed to and have all the property, powers, rights, privileges and advantages which in anywise belonged or appertained to the "president and directors of the literary fund of North Carolina," and may, in its own name, assert, use, apply and enforce the same.

Const., Art. IX, s. 10; Code, s. 2506; 1881, c. 200, s. 4; R. C., c. 66; R. S., cc. 66, 67.

4034. ACCOUNTS KEPT; REPORTS MADE. The State Treasurer shall keep a fair and regular account of all the receipts and disbursements of the State literary fund, and shall report the same to the General Assembly at the same time when he makes his biennial account of the ordinary revenue; and the State Board of Education shall report to the General Assembly the manner in which the fund has been applied or invested, with such recommendations for the improvement of the same as to it shall seem expedient.

Code, s. 2507; R. C., c. 66, s. 4; 1825, c. 1268, s. 2; 1903, c. 567, s. 1.

4035. HOW FUNDS INVESTED. The State Board of Education is authorized to invest in North Carolina four per cent. bonds or in other safe interest-bearing securities, the interest on which shall be used as may be directed from time to time by the General Assembly for school purposes.

1891, c. 369.

NOTE.—Sections 4036-4052 concern Swamp Lands.

III. LOANS FOR BUILDING SCHOOL-HOUSES.

Summary: THE STATE BOARD MAY MAKE LOANS FROM THE LITERARY FUND TO THE COUNTY BOARD FOR BUILDING SCHOOL-HOUSES, ANY SUCH LOAN TO BE RELOANED BY THE COUNTY BOARD TO THE SCHOOL DISTRICT. SUCH LOANS BEAR 4 PER CENT. INTEREST AND ARE A LIEN ON ALL THE COUNTY SCHOOL FUNDS, AND MUST BE REPAYED IN

TEN EQUAL INSTALMENTS. ALL LOANS ARE MADE UNDER SUCH RULES AND REGULATIONS AS THE STATE BOARD MAY ADOPT.*

4053. MADE BY STATE BOARD. The State Board of Education, under such rules and regulations as it may deem advisable, not inconsistent with the provisions of this chapter, may make loans from the State literary fund to the County Board of Education of any county for the building and improving of public school houses in such county. But no warrant for the expenditure of any money for such purposes shall be issued by the Auditor except upon the order of the State Superintendent of Public Instruction, with the approval of the State Board of Education.

1903, c. 567, ss. 1, 2, 8.

4054. TERMS OF. Loans made under the provisions of this chapter shall be payable in ten instalments, shall bear interest at four per centum, payable annually, and shall be evidenced by the note of the County Board of Education, executed by the chairman and secretary thereof, and deposited with the State Treasurer. The first instalments of such loan, together with the interest on the whole amount then due, shall be paid by the county board on the tenth day of February after the tenth day of August subsequently to the making of such loan, and the remaining instalments, together with the interest, shall be paid one each year, on the tenth day of February of each subsequent year, till all shall have been paid.

1903, c. 567, s. 3.

4055. HOW SECURED AND PAID. At the January meeting of the County Board of Education, before any instalment shall be due on the next tenth day of February, the county board shall set apart out of the school funds an amount sufficient to pay such instalment and interest to be due, and shall issue its order upon the treasurer of the county school fund therefor, who, prior to the tenth day of February, shall pay over to the State Treasurer the amount then due. And any amount loaned under the provisions of this law shall be a lien upon the total school funds of such county in whatsoever hands such fund may be, and upon failure to pay any instalment or interest, or part of either when due, the State Treasurer may deduct a sufficient amount for the payment of the same out of any fund due any county from any special State appropriation for public schools, or he may bring action against the County Board of Education of such county,

*The State Superintendent, on application, will furnish the rules regulating this subject.

any person in whose possession may be any part of the school funds of the county, and the tax collector of such county. And if the amount of school fund then on hand be insufficient to pay in full the sum so due, then the State Treasurer shall be entitled to an order directing the tax collector of such county to pay over to the State Treasurer all moneys collected for school purposes until such debt and interest shall have been paid.

1903, c. 567, s. 4.

4056. LOANS BY COUNTY BOARDS TO SCHOOL DISTRICTS. The County Board of Education, from any sum borrowed under the provisions of this chapter, may make loans to any district in such county for the purpose of building school-houses in such district, and the amount so loaned to any district shall be payable in ten annual instalments, with interest thereon at four per centum, payable annually. At the January meeting of such county board it shall deduct from the apportionment made to any district which has borrowed under the provisions of this chapter the instalment and interest then due, and shall continue to deduct such amount at each annual January meeting until the whole amount shall have been paid, together with interest.

1903, c. 567, s. 5.

[Under this section the County Board of Education may make an additional apportionment out of its building fund to assist a district to repay its annual interest and instalment on its loan.]

IV. THE SCHOOL SYSTEM AND THE COURSE OF STUDY.

Summary: THE SYSTEM OF PUBLIC EDUCATION MUST BE UNIFORM AND FREE TO ALL CHILDREN BETWEEN THE AGES OF 6 AND 21 YEARS. SEPARATE SCHOOLS MUST BE PROVIDED FOR WHITE, COLORED, AND INDIAN CHILDREN, WITHOUT RACE DISCRIMINATION. THE COURSE OF STUDY MUST INCLUDE SPELLING, READING, WRITING, ARITHMETIC, DRAWING, LANGUAGE LESSONS AND COMPOSITION, ENGLISH GRAMMAR, GEOGRAPHY, HISTORY OF NORTH CAROLINA AND THE UNITED STATES, AND ELEMENTS OF CIVIL GOVERNMENT, CONTAINING THE CONSTITUTIONS OF NORTH CAROLINA AND OF THE UNITED STATES, AND TEXT-BOOK INSTRUCTION IN PHYSIOLOGY AND HYGIENE. OTHER SUBJECTS MAY BE TAUGHT IN ELEMENTARY SCHOOLS WHEN PRESCRIBED BY THE STATE BOARD OF EDUCATION. THE STATE SUPERINTENDENT PRESCRIBES THE COURSE OF STUDY FOR HIGH SCHOOLS UNDER THE LAWS OF 1907. ALL SCHOOL OFFICIALS ARE REQUIRED TO TAKE OATH FOR THE FAITHFUL PERFORMANCE OF THEIR DUTIES.

NOTE.—Sections 4057-4084 concern the Text-book Commission.

4085. UNIFORM SYSTEM; COMPULSORY ATTENDANCE. The people have the right to the privilege of education, and it is the duty of the State to guard and maintain that right; and religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The General Assembly shall provide by taxation, and otherwise, for a general and uniform system of public schools, wherein tuition shall be free of charge to all children of the State between the ages of six and twenty-one years. And the General Assembly is empowered to enact that every child, of sufficient mental and physical ability, shall attend the public schools during the period between the ages of six and eighteen years, for a term of not less than sixteen months, unless educated by other means.

Const., Art. I, s. 27; Art. IX, ss. 1, 2, 15.

4086. SEPARATE SCHOOLS FOR RACES; NO DISCRIMINATION AGAINST EITHER RACE. The children of the white race and the children of the colored race shall be taught in separate public schools; but there shall be no discrimination in favor of or to the prejudice of either race. All white children shall be taught in the public schools provided for the white race, and all colored children shall be taught in the public schools provided for the colored race; but no child with negro blood in his veins, however remote the strain, shall attend a school for the white race; and no such child shall be considered a white child. The descendants of the Croatan Indians now living in Robeson and Richmond counties shall have separate schools for their children as hereinafter provided in this chapter.

Const., Art. IX, s. 2; 1901, c. 4, s. 68; 1903, c. 435, s. 22.

[*It is the duty of the County Boards of Education to provide separate school facilities for the Cherokee Indian children residing in the western part of this State, when not otherwise provided for.*]

4087. WHAT TAUGHT. The branches to be taught in all the public schools shall be spelling, reading, writing, arithmetic, drawing, language lessons and composition, English grammar, geography, the history of *North Carolina and the United States* and *elements of civil government* containing the Constitution of North Carolina and of the United States, elements of agriculture and oral and text-book instruction in elementary physiology and hygiene, including the nature and effect of alcoholic drinks and

narcotics: *Provided*, that in public schools employing more than one teacher the elements of civil government, physiology and hygiene, including the nature and effect of alcoholic drinks and narcotics and such other subjects of study as the State Board of Education may direct, shall be taught after adequate provisions shall have first been made for the thorough teaching of the branches before named.

1905, c. 533, s. 9; 1901, c. 4, s. 37.

[High school branches cannot be taught in schools having only one teacher, and may be taught in schools having more than one teacher only after adequate provisions have first been made for the thorough teaching of the elementary branches mentioned in this section.]

4088. OATH OF OFFICE TAKEN BY OFFICIALS. ¶The members of the County Board of Education, the school committeemen, and the County Superintendent of Public Instruction shall, before entering upon the duties of office, take oath for the faithful performance thereof.

1901, c. 4, s. 45.

V. THE GENERAL POWERS AND DUTIES OF THE STATE SUPERINTENDENT.

Summary: THE SUPERINTENDENT IS REQUIRED TO PUBLISH THE SCHOOL LAW, MAKE A BIENNIAL REPORT TO THE GOVERNOR, KEEP HIS OFFICE AT THE CAPITAL, AND SIGN ALL ORDERS FOR MONEY PAID OUT OF STATE TREASURY FOR EDUCATIONAL PURPOSES. HE HAS GENERAL DIRECTION OF THE SCHOOL SYSTEM AND THE ENFORCEMENT OF THE SCHOOL LAW, ALL SCHOOL OFFICERS BEING REQUIRED TO OBEY HIS INSTRUCTIONS AND HIS INTERPRETATION OF THE LAW. HE IS REQUIRED TO BE ACQUAINTED WITH THE EDUCATIONAL CONDITION OF ALL SECTIONS OF THE STATE, AND HE MUST ALSO KEEP IN TOUCH WITH THE EDUCATIONAL PROGRESS OF OTHER STATES.*

4089. SHALL EQUIP OFFICE, PRINT AND CIRCULATE SCHOOL LAW, SUPERINTEND PUBLIC SCHOOLS. The Superintendent of Public Instruction of North Carolina shall have the school laws published

* In addition to these general duties, the State Superintendent has the following duties: Supervision and control of normal department of Cullowhee High School, Rev. 1905, 4228; secretary Text-book Commission, Rev. 1905, 4057; trustee of State Library, Rev. 1905, 5069; president of board of directors State Normal and Industrial College, Rev. 1905, 4252; chairman of trustees of East Carolina Training School, Laws 1907; chairman State Board of Examiners, Laws 1907; prescribes course of study for public high schools, Laws 1907; makes rules and regulations for rural libraries, Rev. 1905, 4175; and member board of trustees of Appalachian Training School, Laws 1907.

in pamphlet form and distributed on or before the first day of May of each year. He shall send to each officer a circular-letter, enumerating his duties as prescribed in this chapter. He shall have printed all the forms necessary and proper for the purposes of this chapter, and shall look after the school interests of the State, and report biennially to the Governor, at least five days previous to each regular session of the General Assembly, which report shall give information and statistics of the public schools and recommend such improvements in the school law as may occur to him. He shall keep his office at the seat of government, and shall sign all requisitions on the Auditor for the payment of money out of the State Treasury for school purposes. Copies of his acts and decisions, and of all papers kept in his office and authenticated by his signature and official seal, shall be of the same force and validity as the original. He shall be furnished with such room, fuel and stationery as shall be necessary for the efficient discharge of the duties of his office.

4090. SHALL CONSTRUE AND ENFORCE LAW ; ASCERTAIN BEST SCHOOL METHODS. He shall direct the operations of the system of public schools and enforce the laws and regulations in relation thereto. The County Board of Education and all other school officers in the several counties shall obey the instructions of the State Superintendent and accept his constructions of the school law. It shall be his duty to correspond with leading educators in other States, and to investigate systems of public schools established in other States, and, as far as practicable, render the results of educational efforts and experiences available for the information and aid of the Legislature and State Board of Education.

1901, c. 4, s. 8 ; 1903, c. 435, s. 1.

4091. SHALL COUNSEL COUNTY BOARDS ; HOLD INSTITUTES, ETC. It shall be his duty to acquaint himself with the peculiar educational wants of the several sections of the State, and he shall take all proper means to supply such wants, by counseling with County Boards of Education and County Superintendents, by lectures before teachers' institutes and by addresses to public assemblies on subjects relating to public schools and public school work.

1901, c. 4, s. 9.

4092. DUTIES AS TO LOAN FUND. He shall go to any county when necessary for the due execution of the law creating a permanent loan fund for the erection of public school houses. He shall include in his annual reports a full showing of everything done

under the provisions of the law creating the permanent loan fund for the erection of public school buildings.

1903, c. 751, ss. 11, 12.

VI. SCHOOL FUNDS PROVIDED BY THE STATE.

Summary: 1. THE INCOME OF THE PERMANENT SCHOOL FUND, OR LITERARY FUND, CONSISTS OF THE PROCEEDS OF THE FOLLOWING: (a) LAND GRANTS FROM UNITED STATES; (b) MONEYS, STOCKS, BONDS; (c) SALES OF SWAMP LANDS; (d) GRANTS, GIFTS OR DEVISES. ALL THESE SOURCES OF INCOME ARE AT PRESENT UNPRODUCTIVE EXCEPT (c). THE STATE BOARD OF EDUCATION NOW USES THE LITERARY FUND TO AID IN BUILDING SCHOOL-HOUSES, WHICH MAKES INOPERATIVE SECTIONS 4094-4096 BELOW. SEE SECTIONS 4053-56.

2. THE ANNUAL STATE APPROPRIATION OF \$100,000 FOR PUBLIC SCHOOLS, DISTRIBUTED PER CAPITA ACCORDING TO SCHOOL POPULATION, AND AN ADDITIONAL ANNUAL APPROPRIATION OF \$100,000 FOR THE PURPOSE OF SECURING A FOUR MONTHS' SCHOOL IN ALL THE SCHOOL DISTRICTS OF THE STATE*—IN ALL, \$200,000 ANNUALLY.

4093. SPECIAL PERMANENT FUND. The proceeds of all lands that have been or may hereafter be granted by the United States to this State, and not otherwise appropriated by this State or the United States, also all moneys, stocks, bonds and any other property now belonging to any State fund, for the purposes of education, also the net proceeds of sales of swamp lands belonging to the State and all other grants, gifts, or devises that have been made or hereafter may be made to this State, and not otherwise appropriated by this State or by the terms of the grant, gift or devise, shall be paid into the State Treasury, and, together with so much of the ordinary revenue of the State as may be set apart for that purpose, shall be faithfully appropriated for establishing and maintaining a system of free public schools, as established in pursuance of the Constitution, and for no other purpose whatsoever. And all funds of the State heretofore derived from the sources enumerated in section four, article nine of the State Constitution, and all funds that may be hereafter so derived, together with any interest that may accrue thereon, shall be a fund separate and distinct from the other funds of the State, to be known as the State literary fund.

Const., Art. IX, s. 4; 1901, c. 4, s. 4; 1903, c. 567, s. 1.

*The sum of \$7,500 for the establishment of rural libraries is deducted biennially from this additional \$100,000. The total literary fund now amounts to \$317,113.93.

4094. APPORTIONMENT OF INCOME OF SCHOOL FUND. The State Board of Education shall, on the first Monday in August of each and every year, apportion among the several counties of the State all the school funds which may be then in the treasury of the board, and order a warrant for the full apportionment to each county, which apportionment shall be made on the basis of the school population; but no part of the permanent school fund shall be apportioned or distributed, but only the income therefrom. The State Auditor shall keep a separate and distinct account of the public school funds, and of the income and interest thereof, and also of such moneys as may be raised by State, county and capitation tax, or otherwise, for school purposes.

1901, c. 4, s. 1.

4095. APPORTIONMENT, HOW PAID. Upon the receipt of the requisition of the Treasurer of any county, duly approved by the chairman and secretary of the County Board of Education for the school fund which may have been apportioned to such county, the State Board of Education shall issue its warrant on the State Auditor for the sum due such county, whereupon the Auditor shall draw his warrant on the Treasurer of the State Board of Education in favor of such County Treasurer for the amount set forth in the warrant of the State Board.

1901, c. 4, s. 2.

4096. WARRANTS, HOW DRAWN AND INDORSED. The State Treasurer shall receive and hold as a special deposit all school funds paid into the treasury, and pay them out only on the warrant of the Auditor, issued on the order of the State Board of Education in favor of a County Treasurer, duly endorsed by the County Treasurer in whose favor it is drawn, and it shall be the only valid voucher in the hands of the State Treasurer for the disbursement of school funds.

1901, c. 4, s. 3.

4097. ANNUAL APPROPRIATION FOR DISTRIBUTION. One hundred thousand dollars is hereby appropriated, annually, out of the State Treasury for the benefit of the public schools, to be distributed to the respective counties of the State, per capita as to school population, on the first Monday in January of each year, using the school census of the previous scholastic year as a basis of apportionment.

1901, c. 543, s. 1.

4098. WARRANTS. HOW DRAWN. The Superintendent of Public Instruction shall issue warrants upon the State Auditor for the amount due each county under the next preceding section, such warrants to be drawn in favor of the County Treasurer of each county, to be credited to the general public school fund of the county.

1901, c. 543, s. 2.

4099. ANNUAL APPROPRIATION TO EQUALIZE SCHOOLS. One hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated annually out of the State Treasury for the purpose of bringing up to the constitutional requirement for a four months' public school term in each school district in the State, those public schools whose terms, after the distribution and application of all other school funds, do not comply with such requirement, to be distributed and applied in the manner hereinafter set forth. The subsequent provisions of this subchapter shall apply only to the distribution of the hundred thousand dollars appropriated under this section, and in the event that such sum shall be insufficient for the purpose specified, then it shall be apportioned by the State Board of Education pro rata, or in such manner as that board may deem fair and equitable among the counties applying for aid hereunder.

1901, c. 543, s. 3; 1903, c. 751, s. 3.

4100. REPORTS REQUIRED TO OBTAIN PART OF FUND TO EQUALIZE SCHOOLS. At the January meeting of each year the County Board of Education of each county shall report to the State Superintendent of Public Instruction the school districts in such county which cannot have a four months' term, designating each by number and township, with a statement of funds available for school purposes for each of such districts, funds obtained by special local taxes and balances brought over from preceding fiscal year not to be included in such statement, the census and monthly running expenses thereof, the number of pupils enrolled, the average daily attendance, the salary paid to teachers in such district and such additional facts in regard thereto as may be required by the State Superintendent. The County Board of Education shall likewise report the school census of the entire county, the total school funds available, the total apportionment made at such January meeting and the total amount left unapportioned.

1903, c. 751, s. 4.

4101. STATE BOARD TO FIX AMOUNT TO BE PAID EACH SCHOOL. The State Superintendent shall forthwith lay these facts before the State Board of Education, which shall thereupon, after full investigation, fix and determine the amount which must necessarily be apportioned to each district to enable it to have a four months' term; but in fixing such amount no consideration shall be had of any funds available by reason of special local taxes, and any rural district having funds raised by such local tax shall be entitled to the same appropriation under this title as if there had been no such funds.

1903, c. 751, s. 5.

4102. STATEMENT OF APPORTIONMENT FILED WITH AUDITOR; WARRANTS ISSUED. When such apportionment shall have been so made, an itemized statement thereof shall be filed with the Auditor, who shall thereafter, upon the warrant of the State Superintendent of Public Instruction, issue his warrant upon the State Treasurer, payable to the County Treasurer of each of the respective counties in the sum shown by such itemized statement to have been appropriated to such county. The amount designated as having been apportioned to each district shall be available for that district only and only for the specific purpose of providing a four months' school term.

1903, c. 751, s. 6.

4103. SCHOOLS OF LESS THAN SIXTY-FIVE EXCLUDED, WHEN. No school with a school census of less than sixty-five shall receive any benefit under this subchapter unless the formation and continuance of such district shall have been for good and sufficient reasons, to-wit, sparsity of population or peculiar geographical conditions, such as intervening streams, swamps or mountains, such reasons to be set forth in an affidavit by the chairman of the county board and the County Superintendent, and to be approved by the State Superintendent of Public Instruction.

1903, c. 751, s. 7.

4104. WHAT NECESSARY TO PROCURE FUND FOR EQUALIZING SCHOOLS. No appropriation shall be made to any county unless the County Superintendent, the chairman of the Board of County Commissioners and the Clerk of the Superior Court shall make affidavit to the effect that all fines, penalties, forfeitures and other moneys properly belonging to the school fund have been so applied, and that the constitutional limit of taxation has been reached in such county.

1903, c. 751, s. 8.

4105. TEACHERS' SALARIES AS BASIS FOR APPORTIONMENT. In calculating the necessary monthly expenses of districts applying for aid under this subchapter, not more than the average monthly salary paid white teachers in the State for the preceding year shall be allowed each white teacher, and not more than the average monthly salary paid colored teachers in the State for the preceding year shall be allowed each colored teacher, and no second-grade teacher of either race shall be allowed more than the salary paid second-grade teachers of that race in that county. And to any school having more than one teacher only such average salary shall be allowed for every thirty-five pupils enrolled therein.

1903, c. 751, s. 9.

4106. EXCESSIVE APPROPRIATIONS FOR SCHOOL-HOUSES EXCLUDE FROM BENEFITS OF THIS SUBCHAPTER. No appropriation shall be made to any county wherein has been expended or set aside during the fiscal year for the purpose of building school-houses a percentage of the total school fund of such county greater than the following: In counties with a total school fund of five thousand dollars or less, not to exceed twenty per centum thereof; in counties with a total school fund of over five thousand dollars and not more than ten thousand dollars, not to exceed sixteen per centum thereof; in counties with a total school fund of over ten thousand dollars and not more than twenty-five thousand dollars, not to exceed ten per centum thereof; in counties with a total school fund of over twenty-five thousand dollars, not to exceed seven and one-half per centum thereof. Nor shall any appropriation be made under this subchapter to any county if it appear that the requirements of the school law in regard to the apportionment of funds to the various districts have not been complied with in all respects.

1903, c. 751, s. 10.

VII. SCHOOL FUNDS PROVIDED BY COUNTY AND LOCAL TAXATION AND APPORTIONMENT OF THE SAME.

Summary: 1. THE PROCEEDS OF THE SALE OF ESTRAYS: ALL FINES, PENALTIES AND FORFEITURES; LIQUOR LICENSE TAXES, AND AUCTIONEERS' LICENSE TAX.

2. THE PROCEEDS OF THREE-FOURTHS OF THE GENERAL POLL TAX, THE MAXIMUM OF WHICH IS TWO DOLLARS, ON ALL MALE PERSONS BETWEEN 21 AND 50 YEARS OF AGE.*

3. THE PROCEEDS OF AN 18 CENTS TAX ON EACH \$100 ASSESSED VALUATION OF REAL AND PERSONAL PROPERTY.*

*Revisal 1905, sections 5109 and 5110; Constitution, Art. V, sections 1 and 2.

4. THE PROCEEDS OF A MAXIMUM SPECIAL TAX OF 30 CENTS ON EACH \$100 ASSESSED VALUATION OF PROPERTY AND 90 CENTS ON EACH POLL MAY BE LEVIED BY A MAJORITY VOTE OF THE QUALIFIED VOTERS OF ANY INCORPORATED TOWN OR SCHOOL DISTRICT.

5. THE PROCEEDS OF A MAXIMUM TOWNSHIP HIGH SCHOOL TAX OF 30 CENTS ON EACH \$100 ASSESSED VALUATION OF PROPERTY AND 90 CENTS ON EACH POLL MAY BE LEVIED BY A MAJORITY VOTE OF THE QUALIFIED VOTERS OF ANY TOWNSHIP.

6. THE PROCEEDS OF SUCH SPECIAL SCHOOL TAX AS ANY TOWN OR CITY BY ITS CHARTER OR BY A SPECIAL ACT OF THE GENERAL ASSEMBLY, MAY ACQUIRE THE RIGHT TO LEVY BY THE APPROVAL OF A MAJORITY OF ITS QUALIFIED VOTERS.

THE APPORTIONMENT OF THE PROCEEDS OF THE STATE FUNDS AND THOSE INCLUDED IN 1-3 ABOVE IS CONTROLLED BY THE COUNTY BOARDS OF EDUCATION ACCORDING TO SECTION 4116 BELOW.; ALL OTHER SCHOOL FUNDS ARE ENTIRELY UNDER THE CONTROL OF THE LOCAL SCHOOL COMMITTEES OR BOARDS OF EDUCATION.

4107. COUNTY EDUCATIONAL FUND FOR FREE PUBLIC SCHOOLS. All moneys, stocks, bonds and other property belonging to a county school fund, also the net proceeds from sales of estrays, also the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as equivalent for exemption from military duties; also the net proceeds of any tax imposed on licenses to retailers of wines, cordials, or spirituous liquors and to auctioneers, shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties as established in pursuance of the Constitution. The amount collected in each county shall be reported annually to the State Superintendent of Public Instruction.

Const., Art. IX, s. 5; 1901, c. 4, s. 5.

4108. COUNTY OFFICERS FILE LIST OF FINES AND PENALTIES WITH COUNTY BOARD OF EDUCATION. The clerks of all State and municipal courts and the clerks or other officials having in custody the records of any city or town in the State shall furnish to the County Board of Education of their respective counties, on the first Monday of July and January of each year, a detailed statement of fines, forfeitures and penalties which go to the school fund that have been imposed, or which have accrued.

1901, c. 4, s. 62.

4109. TAX-LISTS TO HAVE SEPARATE COLUMNS FOR SCHOOL TAXES. The Auditor shall include on the form which he furnishes to the Board of County Commissioners and on which the tax-lists are to be made out, separate columns for school poll tax and school property tax *and for special county and district taxes on property and polls*. In one of these columns shall be written the total poll tax levied by the State and by the county authorities for schools, and due by the tax-payer. In the other column shall be written the total property tax levied by the State and by the county authorities, and due by the tax-payer.

1901, c. 4, s. 60.

4110. REGISTER OF DEEDS TO FURNISH ABSTRACTS OF TAX-LISTS TO COUNTY BOARD. The Register of Deeds shall furnish to the County Board of Education, as soon as the tax-lists are made out, an abstract of such lists, showing in separate columns the total amount of poll tax on such lists, and also the total amount of property tax thereon, *and also in another column the amount of special county and district poll taxes, and in a separate column the amount of special county and district property taxes*; and shall furnish such other information from his office as the County Board of Education may require.

1901, c. 4, s. 61.

4111. SHERIFF'S LIABILITY, CIVIL AND CRIMINAL, FOR FAILURE TO SETTLE SCHOOL TAX. The Sheriff of each county shall pay annually in money, to the treasurer of the county school fund, on or before the thirty-first day of December of each year, the whole amount for school purposes collected by both State and county, less his lawful commission for collecting the same, and such sum as may be allowed on account of insolvents for the current year; and on failing to do so shall be liable to an action on his official bond for his default in such sum as will cover such default, such action to be brought to the next ensuing term of the Superior Court in the name of the State upon the relation of the Board of County Commissioners. In making settlement with the Treasurer the Sheriff or tax collector shall make separate account of insolvents and delinquents allowed, whether on property or capitation tax. The County Superintendent shall make copies of the fines and penalties reported by justices of the peace and reported to Clerk of Superior Court and file the same with the county board.

Code, s. 723; 1901, c. 4, s. 54; 1905, c. 533, s. 20.

4112. SPECIAL TAX FOR SUPPORT OF PUBLIC SCHOOLS. If the tax levied for the State for the support of the public schools shall be insufficient to maintain one or more schools in each school district for the period of four months, then the Board of Commissioners of each county shall levy annually a special tax to supply the deficiency for the support and maintenance of such schools for the period of four months or more. The tax shall be collected by the Sheriff in money, and he shall be subject to the same liabilities for the collection of and accounting for such tax as for other taxes. The tax shall be levied on all property, credits and polls of the county; and in the assessment of the amount on each the Commissioners shall observe the constitutional equation of taxation; and the funds thus raised shall be expended in the county in which collected, in such manner as the County Board of Education may determine for maintaining the public schools for four months at least in each year. But the County Board of Education shall not be required to expend upon a district containing less than sixty-five pupils the same sum it may give to larger districts, notwithstanding an inequality of length of school terms may be the result. The County Board of Education, on or before the annual meeting of the Commissioners for levying county taxes, shall make an estimate of the amount of money necessary to maintain the schools for four months and submit it to the Board of County Commissioners.

1901, c. 4, s. 6.

4113. SPECIAL TAX MAY BE VOTED FOR TOWNSHIP HIGH SCHOOLS. In any township upon petition of one-fourth of the freeholders of the township, approved by the County Board of Education, the Board of County Commissioners, after thirty days' notice at the court-house door and three public places in the township, shall hold an election to ascertain the will of the people within the township whether there shall be levied in said township a special annual tax of not less than ten cents nor more than thirty cents on the one hundred dollars valuation of property and not less than thirty cents nor more than ninety cents on each poll, in addition to all other taxes levied for all other purposes, to be used for the establishment of a central high school or high schools in said township in case such special tax is voted. The Board of County Commissioners shall appoint a registrar and order a new registration for said township, and said election shall be held in the said township under the law governing general elections as nearly as may be, and the expenses of such election shall be paid

out of the general county school fund. At said election those who are in favor of the levy and collection of said tax shall vote a ticket on which shall be printed or written the words "For High School Tax," and those who are opposed shall vote a ticket on which shall be printed or written the words "Against High School Tax." In case a majority of the qualified voters at said election are in favor of said tax, then so much of the tax on property and polls herein provided for as in the judgment of the committee may be necessary shall be annually levied and collected in the manner prescribed for the levy and collection of other taxes. All moneys levied under the provisions of this section shall upon collection be placed by the treasurer of the county school fund to the credit of the township high school committee, composed of three members, appointed by the County Board of Education, and shall be expended exclusively by said committee in establishing and maintaining one or more high schools in said township under such rules and regulations as to its conduct and such course or courses of study as shall be prescribed by the State Superintendent of Public Instruction. The powers, duties and qualifications of the committeemen provided for in this section shall be similar to those of other school committeemen, and they shall have the same power to apportion the funds so raised as is conferred upon the County Board of Education for apportionment of the general fund among the schools of the township. And the provisions of this section shall not be so construed as to prevent the teaching of the elementary branches in such high schools as may be established nor so construed as to prevent the County Board of Education from making such apportionment of public school funds to such high schools as they may deem equitable and just: *Provided*, that township high schools may also be established without the levying of a special high school township tax where the public funds are sufficient for that purpose, under such rules and regulations as to organization and course of study as the State Superintendent of Public Instruction shall prescribe: *Provided further*, that high school subjects may be taught in all public schools employing more than one teacher according to such rules and regulations as to organization and course of study as shall be prescribed by the State Superintendent of Public Instruction where the public funds are sufficient to provide for such teaching; but the high school branches taught in such schools shall not interfere with the thorough teaching of the elementary branches.

4114. SPECIAL TAX MAY BE VOTED IN CITIES AND TOWNS. In every incorporated city or town in which there is not now levied a special tax for schools, upon a petition signed by one-fourth of the freeholders therein, the Board of Aldermen or Town Commissioners of said city or town shall, at the date of municipal or general election next ensuing, upon the presentation of said petition, order an election to be held to ascertain the will of the people whether there shall be levied in such city or town a special annual tax of not more than thirty cents on the one hundred dollars valuation of property and ninety cents on the poll to supplement the public school fund in such city or town. Said election shall be held in the different election precincts or wards under the law governing municipal or general elections in said cities or towns. At said election those who are in favor of the levy and collection of said tax shall vote a ticket on which shall be printed or written the words "For Special Tax," and those who are opposed shall vote a ticket on which shall be printed or written the words "Against Special Tax." In case a majority of the qualified voters at said election is in favor of said tax, the same shall be annually levied and collected in such town or city in the manner prescribed for the levy and collection of other city taxes. All moneys levied under the provisions of this section shall, upon collection, be placed to the credit of the town school committee, composed of not less than five nor more than seven members, appointed by the Board of Aldermen for said city or town, and shall be, by said committee, expended exclusively upon the public schools in said city or town; and there shall be but one school district in the said city or town, in which there may be established one or more schools for each race; and the school committee shall apportion the money among said schools in such manner as in their judgment will equalize school facilities.

1901, c. 4, s. 71.

4115. SPECIAL TAX MAY BE VOTED IN SPECIAL SCHOOL DISTRICTS. Special school tax districts may be formed by the County Board of Education in any county without regard to township lines under the following conditions: Upon a petition of one-fourth of the freeholders within the proposed special school district, endorsed by the County Board of Education, the Board of County Commissioners, after thirty days' notice at the court-house door and three public places in the proposed district, shall hold an election to ascertain the will of the people within the proposed special school district whether there shall be levied in such dis-

trict a special annual tax of not more than thirty cents on the one hundred dollars valuation of property and ninety cents on the poll to supplement the public school fund, which may be apportioned to such district by the County Board of Education, in case such special tax is voted. The Board of County Commissioners shall appoint a registrar *and two poll-holders and shall designate a polling-place* and order a new registration for such district, and the election shall be held in the district under the law governing general elections as near as may be, *and the registrar and poll-holders shall canvass the vote cast and declare the result, and shall duly certify the returns to the Board of County Commissioners, and the same shall be recorded in the records of said Board of Commissioners: Provided,* the expense of holding said election shall be paid out of the general school fund of the county. At such election those who are in favor of the levy and collection of the tax shall vote a ticket on which shall be printed or written the words "For Special Tax," and those who are opposed shall vote a ticket on which shall be printed or written the words "Against Special Tax." In case a majority of the qualified voters at the election is in favor of the tax, the same shall be annually levied and collected in the manner prescribed for the levy and collection of other taxes. All moneys levied under the provisions of this section shall, upon collection, be placed to the credit of the school committee in such district, which committee shall be appointed by the County Board of Education; and such school committee shall apportion the money among the schools in such district in such manner as in its judgment shall equalize school facilities. *Upon the written request of a majority of the committee or trustees of any special tax district, the County Board of Education may enlarge the boundaries of any special tax district established under this section, so as to include any contiguous territory, and an election in such new territory may be ordered and held in the same manner as prescribed in this section for elections in special tax districts; and in case a majority of the qualified voters in such new territory shall vote at such election in favor of a special tax of the same rate as that voted and levied in the special tax district to which said territory is contiguous, then the new territory shall be added to and become a part of the said special tax district; and in case a majority of the qualified voters at such election shall vote against said tax, the district shall not be enlarged.*

1901, c. 4, s. 72; 1903, c. 435, s. 24; 1905, c. 533, s. 14.

[This section provides a way by which local tax districts already established may be enlarged. If any district desires to repeal the special tax, the privilege of voting on the repeal must be granted by a special act of the Legislature and a majority of the qualified voters of the district must approve the repeal of the tax.]

4116. APPORTIONMENT OF SCHOOL FUNDS; RESERVATION OF CONTINGENT FUND. The County Board of Education shall, on the first Monday in January and the first Monday in July of each year, apportion the school fund of the county to the various townships per capita; but it shall, before apportioning the school fund to the various townships, reserve, as a contingent fund, an amount sufficient to pay the salary of the County Superintendent and per diem and expenses of the County Board of Education; and shall set aside one-sixth, if necessary, of the total school fund to be used in securing a four months' school term in every school in the county; and may further reserve, as a fund for building and repairing school-houses and for equipment, in counties with a total school fund of five thousand dollars or less, not more than twenty per centum thereof; in counties with a total school fund of over five thousand dollars and not more than ten thousand dollars, not more than sixteen per centum thereof; in counties with a total school fund of over ten thousand dollars and not more than twenty-five thousand dollars, not more than ten per centum thereof; in counties with a total school fund of over twenty-five thousand dollars, not more than seven and a half per centum thereof; to be used as directed in section four thousand one hundred and twenty-four. It shall be the duty of the County Board of Education to distribute and apportion the school money of each township so as to give to each school in the township for each race the same length of school term as nearly as may be each year. In making such apportionment the board shall have proper regard for the grade of work to be done and the qualifications of the teachers required in each school for each race. As soon as the apportionments are made it shall be the duty of the board to notify the school committeemen and the treasurer of the county school fund of the amount apportioned to each school, designating each school by number, and stating whether for white, colored or Indian, and naming the township and county. Funds unused by any district during any year shall, if still unused at the January meeting subsequent to the close of the school year, be returned to the general school fund for reapportionment, unless

such district shall have been prevented from using such funds during that year by providential or other unavoidable causes.

1901, c. 4, s. 24; 1903, c. 435, s. 9.

[No county which does not apportion its school fund according to this section can legally ask for aid from the second \$100,000. The apportionment of the school fund, therefore, strictly according to this section is highly important. The following are the successive steps to observe:

- 1. Determine, first of all, what the total school fund is.*
- 2. Next reserve the contingent fund to pay the salary of the County Superintendent and the mileage, per diem, and expenses of the county board.*
- 3. Reserve, if necessary, what may be needed for building, observing that the amount for this purpose is limited according to the amount of the total fund.*
- 4. Ascertain the school population of the whole county and calculate what the per capita is for each child, after deducting the sum of the contingent fund and the building fund.*
- 5. Multiply the per capita thus found by the whole number of children in each township, which will give the apportionment due each township.*
- 6. Then fix the salary to be paid the teacher, white or black, of each school in each township, and also fix the amount of incidental expenses for each school. The sum of the salary for the term and the incidental expenses will be the apportionment to each district.*
- 7. After this has been done, it can be easily ascertained what townships, if any, will not have a four months' term, and what townships, if any, will have more than a four months' term. If no township can thus be given a four months' term, the apportionment is then complete; but if it is found that some townships by this method will have more than a four months' term and some less, then as much of the school fund of those townships which will have more than a four months' term must be used to secure to all the schools of the other townships an increased school term, by as much as one-sixth of the total fund apportioned will increase it. In other words, an amount equal to one-sixth of the total fund apportioned as above directed, if necessary, should be taken from the apportionment to the stronger townships which will have more than a four months' term and used to aid the weaker townships to have as nearly as possible a four months' term. This reserve fund should be taken pro rata from the*

stronger townships and added to the fund of the weaker townships so as to equalize the school term.

8. If the apportionment made by adhering to the instructions in 1-6 above will result in giving all the schools of all the townships more than a four months' term, but will give to some townships a much longer term than to others, then it is the spirit of the law to use as much as one-sixth of the total fund apportioned to equalize the school term in the weaker townships.

It should always be remembered that no per capita apportionment of the school fund directly to the district is a legal apportionment in any county, under this section, and that no other method of apportionment than that outlined above is legal and equitable. For instance, if one first-grade salary is fixed for a district containing sixty-five children of school age, and one first-grade salary is fixed for another district containing forty-five children of school age in the same township, the apportionment to each district would necessarily have to be the same, unless there was a difference in the necessary incidental expenses or in the kind of first-grade teacher to be employed. The law contemplates only an apportionment to the township per capita, and then such a distribution of the funds of the township as will give each district in the township, large or small in population, the same length of school term. This cannot be done, unless the board fixes the salary to be paid the teacher of each school in the township and apportions the school fund of the township accordingly. Of course, it would be entirely proper not to fix the same salary for every first-grade teacher, without regard to the grade of work required in each school and the qualifications of individual first-grade teachers. What has been said above does not apply to special local tax funds under the control of the school committees. And finally, the term, "weak districts," necessarily applies to all the districts of a township, for there can otherwise be provided no such equality of school term in the townships as this section contemplates.]

4117. APPORTIONMENT, BASIS OF. The semi-annual apportionment of public school money shall be based upon the amounts actually received by the County Treasurer from all sources and reported by him to the County Board of Education as required by this chapter.

1901, c. 4, s. 25.

4118. FISCAL SCHOOL YEAR. The fiscal school year shall begin on the first day of July and close on the thirtieth day of June next succeeding.

1901, c. 4, s. 67.

Decisions of the Superintendent.

Would the investment of the proceeds of the sale of old school property in new property reduce by the amount of such proceeds the part of the general county school fund that may be annually invested in school buildings?

The purpose of limiting the amount of the school fund that can be annually expended for school buildings was to prevent the hurtful decrease of the school term. Using the proceeds of the sale of old school property for new and better property is simply exchanging school property, and need not be accounted for in the annual apportionment of the school fund of the county.

How may a special school tax levied under the Law of 1901 be repealed?

The law of 1901 does not provide any machinery by which a tax voted under its provisions may be repealed. In order to repeal such a tax, it would be necessary for the General Assembly to enact a law empowering the district to vote to repeal the tax in the same way by which it voted to establish the tax.

VIII. THE POWERS AND DUTIES OF THE COUNTY BOARD OF EDUCATION.

Summary: THE COUNTY BOARD IS COMPOSED OF THREE MEMBERS ELECTED BY THE GENERAL ASSEMBLY FOR A TERM OF TWO YEARS. CORPORATE POWERS AS TO ACQUIRING, HOLDING AND DISPOSING OF SCHOOL PROPERTY ARE CONFERRED ON THIS BOARD, AND IT HAS ADDITIONAL POWER TO MAKE REGULATIONS GOVERNING THE ATTENDANCE OF PUPILS ON THE SCHOOLS AND OF TEACHERS ON EDUCATIONAL MEETINGS. THIS BOARD ALSO CONTROLS THE TIME THE SCHOOLS MAY BE IN SESSION, THE BUILDING AND REPAIR OF ALL SCHOOL-HOUSES, AND MAY CREATE OR ABOLISH OR CONSOLIDATE SCHOOL DISTRICTS. IN ADDITION TO THE EXERCISE OF THE USUAL CORPORATE POWERS, THIS BOARD MAY CONDEMN LAND FOR SCHOOL SITES AND MAY PUNISH FOR CONTEMPT. ALL NECESSARY POWER TO ENFORCE THE SCHOOL LAW IS CONFERRED ON THIS BOARD, WITH EXPLICIT POWER TO REMOVE THE COUNTY SUPERINTENDENT UPON THE COMPLAINT OF THE STATE SUPERINTENDENT, AND TO REMOVE ANY TEACHER FOR IMMORAL CONDUCT.

4119. ELECTION OF; VACANCIES IN. HOW FILLED. The General Assembly shall biennially appoint three men in each county, of good business qualifications and known to be in favor of public education, who shall constitute the County Board of Education. The term of office of the members of the County Board of Education so appointed shall begin on the first Monday in July next succeeding their appointment, and shall continue for two years and until their successors are duly appointed and qualified. In case of a vacancy in the County Board of Education by death, resignation or otherwise, such vacancy shall be filled by the remaining members of such county board; but if such vacancy should remain unfilled for thirty days after it occurs, it shall be filled by the State Board of Education. Upon failure of the General Assembly to appoint the three members of the County Board of Education for any county as herein provided, or any one or more of such members, such failure shall constitute a vacancy, which shall be filled by the State Board of Education: *Provided*, that no person while actually engaged in teaching in the public schools shall be eligible as a member of the County Board of Education.

1901, c. 4, s. 12; 1903, c. 269, c. 435, s. 3; 1905, c. 533, s. 3.

4120. QUALIFICATION OF MEMBERS; FAILURE TO QUALIFY; VACANCY. Those persons who shall be appointed members of the County Board of Education by the General Assembly must qualify by taking the oath of office on or before the first Monday in July next succeeding their appointment. A failure to qualify within that time shall constitute a vacancy, which shall be filled by the State Board of Education. Those persons who shall be elected or appointed to fill a vacancy must qualify within thirty days after notification thereof. A failure to qualify within that time shall constitute a vacancy, to be filled by the board which made such election or appointment.

4121. INCORPORATED; POWERS AND DUTIES OF. The County Board of Education shall be a body corporate by the name and style of The County Board of Education of County, and by that name shall be capable of purchasing and holding real and personal estate, of building and repairing school-houses, of selling and transferring the same for school purposes, and of prosecuting and defending suits for or against the corporation. It shall have power and authority, and it shall be its duty, to institute and prosecute any and all actions, suits or proceedings against any and all officers, persons or corporations, or their sureties, for the

recovery, preservation and application of all moneys or property which may be due to or should be applied to the support and maintenance of the schools, except in case of a breach of his bond by the treasurer of the county school fund, in which case action shall be brought by the County Commissioners as is hereinafter provided.

1901, c. 4, s. 13; 1903, c. 435, s. 4.

4122. RULES AND REGULATIONS FOR SCHOOLS, TEACHERS AND PUPILS. The County Board of Education shall have power and authority to fix and determine the methods of conducting the public schools in their respective counties so as to furnish the most advantageous methods of education available to the children attending the public schools in the several counties of the State; and such board and the County Superintendent of Public Instruction shall have full power to make all just and needful rules and regulations governing the conduct of teachers and pupils as to attendance on the schools, discipline, tardiness and the general government of the schools.

1903, c. 435, s. 4.

[Under the provisions of this section the county board and the County Superintendent may make and enforce such attendance regulations as may be necessary to secure regular and prompt attendance on the part of the children. The same authority may also regulate the attendance of teachers on all meetings which may be thought to promote educational progress.]

4123. TIME OF OPENING AND CLOSING SCHOOLS. The time of opening and closing the public schools in the several public school districts of the State shall be fixed and determined by the County Boards of Education in their respective counties. The board may fix different dates for opening the schools in different townships, but all the schools of each township must open on the same date as nearly as practicable.

1903, c. 435, s. 4.

[This section simply means that the school term must not be divided and taught during different seasons of the year, unless some epidemic or other providential cause interferes with the regular term. The county board must exercise this control, if it would carry out the provisions of section 4116.]

4124. SCHOOL-HOUSES, BUILDING AND APPROVAL OF; CONTRACTS FOR. The building of all new school-houses shall be under the control and direction of and by contract with the County Board of Ed-

ucation. The board shall pay not exceeding one-half of the cost of the same out of the fund set aside for building under section four thousand one hundred and sixteen, and the school district in which any school-house is erected shall pay the other part, and upon failure of such district to provide its part by private subscription or otherwise the board is directed to take it out of the apportionment to that district. But the board shall not be authorized to invest any money in any new house that is not built in accordance with plans approved by the State Superintendent of Public Instruction. All contracts for buildings shall be in writing and all buildings shall be inspected, received and approved by the County Superintendent of Public Instruction before full payment is made therefor.

1903, c. 435, s. 4.

[This means that the county board, out of the building fund which it may reserve by the provisions of section 4116, shall pay one-half the cost of building any new school-house, the other half of the expense to be borne by the district. But the board has complete control of the whole subject, and may forbid the erection of a school-house in a district which ought not to exist. It must be remembered that no house can be built except it is built in accordance with plans approved by the State Superintendent, and the county board is charged with the duty of carrying into effect this provision to secure neat, comfortable, and attractive houses. Pamphlets containing plans of such houses as will be approved by the State Superintendent, together with specifications, estimates of cost and bills for material, will be furnished by the State Superintendent on application.]

4125. POWER OF, TO EXECUTE SCHOOL LAW. In addition to all other duties and powers imposed and conferred upon it by law, the County Board of Education shall have general control and supervision of all matters pertaining to the public schools in their respective counties and are given the powers to execute, and is charged with the due execution of, the school laws in their respective counties; and all powers and duties conferred and imposed by this chapter and other laws of the State respecting public schools, which are not expressly conferred and imposed upon some other official, are conferred and imposed upon the County Boards of Education; and an appeal shall lie from all other county school officers to such board.

1901, c. 4, s. 14.

4126. REMOVAL OF COUNTY SUPERINTENDENT, MEMBERS OF COUNTY BOARD, AND SCHOOL COMMITTEEMEN. In case the State Superintendent shall have sufficient evidence at any time that any County Superintendent of Public Instruction or any member of the County Board of Education is not capable of discharging, or is not discharging, the duties of his office as required by this chapter, or is guilty of immoral or disreputable conduct, he shall report the matter to the County Board of Education, which shall hear evidence in the case, and if, after careful investigation, it shall find sufficient cause for his removal, it shall declare the office vacant at once and proceed to elect his successor. Either party may appeal from the decision of the County Board of Education to the State Board of Education, which shall have full power to investigate and review the decision of the County Board of Education. This section shall not deprive any County Superintendent of the right to try his title to his office in the courts of the State. In case the County Superintendent shall have sufficient evidence at any time that any member of any school committee is not capable of discharging, or is not discharging, the duties of his office, he shall bring the matter to the attention of the County Board of Education, which shall thoroughly investigate the charges and shall remove such committeeman and appoint a successor if sufficient evidence shall be produced to warrant his removal and the best interest of the schools demand it.

1901, c. 4, ss. 10, 42.

4127. MAY HOLD INVESTIGATIONS; ISSUE SUBPŒNAS; SERVICE OF SAME; APPEAL TO SUPERIOR COURT. The County Board of Education shall have power to investigate and pass upon the moral character of any teacher in the public schools of the county, and to dismiss such teacher, if found of bad moral character; also to investigate and pass upon the moral character of any applicant for a teacher's certificate or for employment as teacher in any public school in the county. Such investigation shall be made after written notice, of not less than ten days, to the person whose character is to be investigated. The board shall have power to issue subpœnas for the attendance of witnesses. Subpœnas may be issued in any and all matters which may lawfully come within the powers of the board, and which, in the discretion of the board, require investigation. And it shall be the duty of the sheriffs, coroners, and constables to serve such subpœnas upon payment of their lawful fees. Appeals provided for in this chapter shall be regulated by rules to be adopted by the board. The Superior

Courts of the State may review any action of the County Board of Education affecting any one's character or right to teach.

1901, c. 4, s. 15.

4128. POWER TO PUNISH FOR CONTEMPT. The County Board of Education of each county shall have power to punish for contempt, for any disorderly conduct or disturbance tending to interrupt it in the transaction of official business.

1901, c. 4, s. 28.

4129. SCHOOL DISTRICTS, HOW FORMED. The County Board of Education shall divide the townships into convenient school districts, as compact in form as practicable. It shall consult the convenience and necessities of each race in setting the boundaries of the school district for each race, and shall establish no new school in any township within less than three miles by the nearest traveled route of some school already established in said township; nor shall it create any school district with less than sixty-five children of school age. Nothing in this chapter shall prevent the board, whenever it shall deem it necessary for the good of the public schools, from forming a school district out of portions of two or more contiguous townships. School districts may be formed out of portions of contiguous counties by agreement and consent of the County Boards of Education of the two counties; and, in case of the formation of such districts, the per capita part of the public school money due the children residing in one county shall be apportioned by the County Board of Education of that county and paid to the treasurer of the other county in which the school-house is located, to be placed to the credit of the school district so formed.

1901, c. 4, s. 29; 1903, c. 435, s. 12; 1905, c. 533, s. 7.

[This section limits the power of the county board in the creation of new districts. No district with less than 65 school population may be established, and then only when the new school-house will be farther than three miles from any other existing house. This section enables the board to consolidate districts and relocate the school-houses to the best advantage.]

4130. MAY ACCEPT DONATIONS; MAY SELL SCHOOL PROPERTY. The County Board of Education may receive any gift, grant, donation or devise made for the use of any school within its jurisdiction. When, in the opinion of the board, any school-house, school-house site, or other public school property has become unnecessary for public purposes, it may sell the same at public auction after

advertisement of twenty days at three public places in the county, or at private sale. The deed for the property thus sold shall be executed by the chairman and secretary of the board, and the proceeds of the sale shall be paid to the treasurer of the county school fund.

1901, c. 4, ss. 30, 36.

4131. SCHOOL SITES MAY BE ACQUIRED BY GIFT, PURCHASE OR CONDEMNATION. The County Board of Education may receive suitable sites for school-houses by donation or purchase. In case of purchase it shall issue an order on its treasurer for the purchase-money, and upon payment of the order the title to the site shall vest in the corporation in fee-simple. Whenever the board is unable to obtain a suitable site for a school by gift or purchase, it shall report to the County Superintendent of Public Instruction, who shall, upon five days' notice to the owner of the land, apply to the Clerk of the Superior Court of the county in which the land is situated, for the appointment of three appraisers, who shall lay off, by metes and bounds, not more than two acres, and assess the value thereof. The same means may be used to obtain more land in a district where there is a house or a site previously obtained, but not more than two acres shall be procured, including the site already obtained. They shall make a written report of their proceedings, to be signed by them, or by a majority of them, to the Clerk within five days from their appointment, who shall enter the same upon the records of the Court. The appraisers and officers shall serve without compensation. If the report is confirmed by the Clerk, the chairman and the secretary of the board shall issue an order on the treasurer of the county school fund in favor of the owner of the land thus laid off, and upon the payment or offer of payment of this order the title to such land shall vest in fee-simple in the corporation. Any person aggrieved by the action of the appraisers may appeal to the Superior Court in term, upon giving bond to secure the board against such costs as may be incurred on account of the appeal not being prosecuted with effect.

1901, c. 4, s. 31; 1903, c. 435, s. 13; 1905, c. 533, s. 8.

[Several acres of land ought always to be secured for the site of a rural school.]

4132. DEEDS TO BE FILED WITH CLERK; SECRETARY TO KEEP INDEX. All deeds to the County Board of Education shall be registered and delivered to the Clerk of the Superior Court for safe-keeping, and the secretary of the County Board of Education shall keep

an index, by township and school districts, of all such deeds in a book for that purpose.

1901, c. 4, s. 32; 1903, c. 435, s. 14.

[*This section requires the County Superintendent to keep a convenient index of the deeds for all the school property of the county.*]

4133. MEETINGS OF; DUTIES AT. The County Board of Education shall meet on the first Monday in January, April, July and October, and may, if necessary, continue in session two days, and it may have called meetings, of one day each, as often as once a month if the school business of the county require it. It shall at the meeting in January, April, July and October, examine the books and vouchers, and audit the accounts of treasurer of the county school fund. The boards of education of the several counties shall cause to be published annually on the first Monday of July the report of the treasurer of the school fund.

1891, c. 460; 1901, c. 4, s. 27; 1903, c. 435, s. 26; 1905, c. 533, s. 21.

4134. SUPERINTENDENT AND TREASURER TO MEET WITH, IN JULY, TO SETTLE ALL BUSINESS OF FISCAL YEAR. On the first Monday in July, the County Board of Education, County Superintendent of Public Instruction and treasurer shall meet at the office of the board and settle all the business of the preceding fiscal year. The board shall on that day examine the reports of treasurer and County Superintendent, and, if found correct, shall direct them to be forwarded to the State Superintendent, *within thirty days thereafter*.

1901, c. 4, s. 59; 1903, c. 435, s. 20.

COMPENSATION OF MEMBERS OF BOARD. The members of the County Board of Education shall receive two dollars per diem and the same mileage as is allowed to the members of the Board of County Commissioners of their counties.

Revisal of 1905, v. I, c. 66, s. 2786.

Decision State Superintendent.

What is the duty of the county board in the selection of a Superintendent?

The board has no more important duty than this, of electing a County Superintendent. I beg to urge the observance of the following in the selection of a County Superintendent:

(1) Without fear, without prejudice, political or sectarian, having before your eyes only the welfare of the children and the success of the public schools, select the most competent man to be had

for the money, choosing him from your county if such a man is to be found there, and if not to be found in the county, seeking him wherever he can be found, as the law permits. (2) If your present County Superintendent possesses the necessary qualifications for a successful administration of his delicate, difficult and important duties, as I trust he may, re-elect him and give him a chance to show what is in him and to make a greater success of his work, by paying him, if possible, a sufficient salary, under section 2782, to justify him in giving all his time and thought to the work of supervision, and to justify you in requiring him to do this. (3) Take advantage of the law and pay your Superintendent as large a salary as your school fund will justify, but be sure that you get *more man and more time for more money.*

IX. THE POWERS AND DUTIES OF THE COUNTY SUPERINTENDENT.

Summary: THE COUNTY SUPERINTENDENT IS ELECTED FOR A TERM OF TWO YEARS BY THE COUNTY BOARD, ON THE FIRST MONDAY IN JULY. HE MUST BE A MAN OF LIBERAL EDUCATION AND OF GOOD MORAL CHARACTER, AND MUST ALSO BE A PRACTICAL TEACHER OR HAVE HAD TWO YEARS' EXPERIENCE IN TEACHING. DURING THE PUBLIC SCHOOL TERM HE MUST VISIT THE PUBLIC SCHOOLS, AND HE CANNOT ENGAGE IN SCHOOL WORK WHICH WILL NULLIFY THIS REQUIREMENT. THE COUNTY SUPERINTENDENT IS SECRETARY OF THE COUNTY BOARD, AND MUST HAVE HIS OFFICE AT THE COUNTY SEAT. HE IS REQUIRED TO HOLD TOWNSHIP TEACHERS' MEETINGS, SUPERVISE THE WORK OF THE TEACHERS, ATTEND THE STATE ASSOCIATION OF COUNTY SUPERINTENDENTS, MUST INSTRUCT COMMITTEEMEN AS TO THEIR DUTIES, MUST DISTRIBUTE THE BLANK FORMS FURNISHED HIM BY THE STATE SUPERINTENDENT, MUST MAKE REPORTS TO THE STATE SUPERINTENDENT, AND HE MUST FURNISH STATISTICS AS TO THE NUMBER OF DEAF, DUMB AND BLIND CHILDREN IN HIS COUNTY. IF THE COUNTY SCHOOL FUND EXCEEDS \$15,000 ANNUALLY, HE MAY BE PAID SUCH SALARY AS THE COUNTY BOARD MAY FIX. OTHERWISE, HIS SALARY MAY BE FIXED AT FOUR PER CENT. OF THE DISBURSEMENTS OF THE SCHOOL FUND, OR IT MAY BE FIXED AT NOT LESS THAN \$3.00 A DAY FOR THE TIME ACTUALLY EMPLOYED. NO VOUCHER IN THE HANDS OF THE TREASURER OF THE SCHOOL FUND IS A VALID VOUCHER UNLESS SIGNED BY THE COUNTY SUPERINTENDENT. UNDER CERTAIN CONDITIONS, THE COUNTY SUPERINTENDENT HAS CHARGE OF THE EXAMINATION AND CERTIFICATION OF TEACHERS.

4135. ELECTION, QUALIFICATION AND TERM OF OFFICE; VACANCY. The County Board of Education on the first Monday in July, one thousand nine hundred and five, and biennially thereafter, shall elect a County Superintendent of Public Instruction, who shall be, at the time of his election, a practical teacher, or who shall have had at least two years' experience in teaching school, and who also shall be a man of liberal education and shall otherwise be qualified to discharge the duties of his office as required by law, due regard being given to experience in teaching. Such Superintendent must be of good moral character and shall hold his office for a term of two years from the date of his election and until his successor is elected and qualified. Any person who has filled the office of County Superintendent for four years next preceding the eleventh day of March, one thousand nine hundred and one, shall be eligible to such office in Bertie and Bladen and Columbus counties, if the election of such person meets the approval of the State Board of Education. In case of vacancy by death, resignation, or otherwise, in the office of County Superintendent, such vacancy shall be filled by the County Board of Education.

1901, c. 4, s. 16; 1903, c. 435, s. 5.

[The County Superintendent's office is the most important office in the county. He need not be a resident of the county when elected. If possible he should be paid large enough salary to enable him to devote all his time to his work.]

4136. REPORT OF ELECTION OF, TO STATE SUPERINTENDENT. Immediately after the election of the County Superintendent of Public Instruction the chairman of the County Board of Education shall report to the State Superintendent of Public Instruction the name, address, experience and qualifications of the person elected; and the person elected shall report to the State Superintendent as soon as he shall have qualified, the date of such qualification.

1901, c. 4, s. 16; 1903, c. 435, s. 5.

4137. DISTRICTS IN CITIES AND TOWNS MAY JOINTLY EMPLOY. By and with the consent of the County Board of Education the school committees of two or more contiguous districts in any city or town may, by a majority vote of the committee in each district, employ a practical teacher, who shall be known as the Superintendent of the Public Schools of such districts, and he shall perform all the duties of the County Superintendent of Public Instruction as to such districts, and shall make to the County

Superintendent all reports that may be necessary to enable him to make his reports to the State Superintendent.

1889, c. 199, s. 47; 1901, c. 4, s. 74.

4138. NOT TO TEACH SCHOOL; TO RESIDE IN THE COUNTY. Every County Superintendent shall reside in the county of which he is Superintendent. It shall not be lawful for any County Superintendent to teach a school while the public schools of his county are in session; but the State Board of Education may, for good and sufficient reason, permit a County Superintendent to so teach.

1901, c. 4, s. 44.

[County Superintendents will be permitted to teach during the year, provided satisfactory arrangements be made for visiting the schools while in session and otherwise obeying the law. Whatsoever arrangements are made should be submitted to the State Superintendent and the State Board for approval.]

4139. EX OFFICIO SECRETARY TO THE BOARD; RECORDS TO BE KEPT. The County Superintendent of Public Instruction shall be *ex officio* the secretary of the County Board of Education. He shall record all proceedings of the board, issue all notices and orders that may be made by the board pertaining to the public schools, school-houses, sites, or districts (which notices or orders it shall be the duty of the secretary to serve by mail or by personal delivery without cost), and record all school statistics, look after all forfeitures, fines and penalties, see that the same are placed to the credit of the school fund and report the same to the board. The board shall provide the County Superintendent with an office at the county-seat *in the county court-house, if possible*, and with a suitable book in which to keep the records required by this section. The records of the board and the County Superintendent shall be kept in the office provided for that purpose by the board.

1901, c. 4, s. 36.

[It is very important to keep full and accurate records and to look closely after the proper disposition of all fines, forfeitures and penalties. An account book will be furnished on application to the State Superintendent. The Superintendent should report to the Solicitor all failures to apply the moneys from fines, etc., to their proper purpose.]

4140. TO HOLD TEACHERS' MEETINGS. The County Superintendent shall each year hold not less than one teachers' meeting in each

township, which the teachers shall be required to attend. If necessary, one school day must be set apart for this purpose.

1901, c. 4, s. 38; 1903, c. 435, s. 17.

4141. MUST ADVISE AND MAY SUSPEND TEACHERS; MUST ATTEND STATE ASSOCIATION OF SUPERINTENDENTS. It shall be the duty of the County Superintendent to advise with the teachers as to the best methods of instruction and school government, and to that end he shall keep himself thoroughly informed as to the progress of education in other counties, cities, and States. He shall have authority to correct abuses, and to this end he may, with the concurrence of a majority of the school committee, suspend any teacher who may be guilty of any immoral or disreputable conduct, or may prove himself incompetent to discharge efficiently the duties of a public school teacher, or who may be persistently neglectful of such duties. The County Superintendent shall be required to visit the public schools of his county while in session and shall inform himself of the condition and needs of the various schools within his jurisdiction. Unless providentially hindered, he shall attend continuously during its session the annual meeting of the State Association of County Superintendents, and the county board of his county shall pay out of the county school fund his traveling expenses and allow him his per diem while attending such meeting; but County Superintendents employed on salary shall not receive any per diem while in attendance on such meeting.

1901, c. 4, s. 39; 1903, c. 435, s. 18; 1905, c. 533, s. 10.

[It is mandatory that the County Superintendent visit the schools, and County Boards of Education must obey this law.]

4142. MUST DISTRIBUTE BLANKS AND BOOKS, AND ADVISE COMMITTEES. It shall be the duty of the County Superintendent to distribute to the various school committees of his county all such blanks as may be furnished by the State Superintendent of Public Instruction for reports of school statistics of the several districts; also, blanks for teachers' reports and for orders on the treasurer of the county school fund for teachers' salaries. He shall also distribute to the school committees school registers for their respective districts and necessary record books; he shall advise with the committee as to the best methods of gathering the school statistics contemplated by such blanks, and by all proper means shall seek to have statistics fully and properly reported.

1901, c. 4, s. 40.

4143. MUST MAKE REPORTS TO STATE SUPERINTENDENT. It shall be the duty of each County Superintendent, on or before the first Monday in July of each year, to report to the State Superintendent of Public Instruction an abstract statement of the number, grade, race and sex of the teachers examined and approved by him during the year; also, the number of public schools taught in the county during the year for each race; the number of children of school age in each school district; the number enrolled in each district; the average daily attendance in each district by race and sex, and the number of all persons in the county between the ages of twelve and twenty-one who cannot read and write. He shall also report by race and sex the number of pupils enrolled in all the schools, their average attendance, the average length of terms of the schools, and the average salary for the teachers of each race; the number of school districts for each race, and any new school districts laid out during the year shall be specified in his report. He shall also report the number of public school houses and the value of the public school property for each race; the number of teachers' institutes held; the number of teachers attending such institutes, together with such suggestions as may occur to him promotive of the school interest of the county. He shall record in his book an accurate copy of such report. If any County Superintendent fail or refuse to perform any of the duties required of him by this chapter he shall be subject to removal from his office by the County Board of Education upon the complaint of the State Superintendent of Public Instruction.

1901, c. 4, s. 41.

[Copies of all reports made should be recorded in the record book of the County Board for future reference. It would be well to record also the treasurer's reports.]

4144. TO REPORT AS TO DEAF, DUMB AND BLIND CHILDREN. It shall be the duty of the County Superintendent to require of the school committees, in enumerating the number of school children, to make a statement in the report of the number of deaf, dumb and blind between the ages of six and twenty-one years, designating the race and sex, and the address of the parent or guardian of such children; and the County Superintendents are hereby required to furnish such information to the principals of the deaf, dumb and blind institutions, and the Superintendent of Public Instruction, in preparing blanks for reports required to be made

to him, shall include questions, the answers to which will furnish the information required by this section.

1901, c. 4, s. 43.

SALARY OF COUNTY SUPERINTENDENT. The salary of the County Superintendent of Schools shall be fixed by the County Board of Education. It shall not be less than three dollars per day while engaged in the service of the public schools. The County Board of Education may fix an annual salary not to exceed four per cent. of the disbursements for schools under his supervision. The County Board of Education of any county whose total school fund exceeds fifteen thousand dollars may employ a County Superintendent for all of his time at such salary as may be fixed by said board: *Provided*, the County Superintendent of Iredell County shall not receive over six hundred dollars per annum.

Revisal of 1905, v. I, c. 66, s. 2782.

X. THE POWERS AND DUTIES OF THE SCHOOL COMMITTEE.

Summary: THE SCHOOL COMMITTEE IS COMPOSED OF THREE PERSONS, APPOINTED BY THE COUNTY BOARD ON THE FIRST MONDAY IN JULY FOR A TERM OF TWO YEARS. THESE MAY BE TOWNSHIP OR DISTRICT COMMITTEEMEN, AS THE COUNTY BOARD MAY DETERMINE. THE COMMITTEE MUST TAKE THE SCHOOL CENSUS, FOR WHICH THE COMPENSATION IS TWO CENTS FOR EACH NAME, BUT TOWNSHIP COMMITTEEMEN MAY ELECT TO BE PAID ONE DOLLAR A DAY FOR FOUR DAYS ANNUALLY INSTEAD. EACH SCHOOL COMMITTEE MUST ELECT A CHAIRMAN AND A SECRETARY AND KEEP AN ACCURATE RECORD OF ALL ITS PROCEEDINGS, AND CONTROL AND CARE FOR THE PUBLIC SCHOOL PROPERTY, IN THE PUBLIC INTEREST. THE COMMITTEE IS ALSO CHARGED WITH ASCERTAINING THE NUMBER OF DEAF, DUMB AND BLIND CHILDREN, AS WELL AS THE NUMBER OF ILLITERATE CHILDREN BETWEEN THE AGES OF TWELVE AND TWENTY-ONE EACH YEAR. THE SCHOOL COMMITTEE CANNOT EXPEND ANY MONEY APPORTIONED FOR INCIDENTAL EXPENSES WITHOUT THE CONSENT OF THE COUNTY BOARD. AND THEY MUST KEEP AN ACCURATE RECORD OF THE EMPLOYMENT OF TEACHERS AND OF ANY SPECIAL FUNDS DISBURSED BY THEM. THEY ARE PROHIBITED FROM OVERDRAWING THE AMOUNT APPORTIONED FOR TEACHERS' SALARIES, AND FROM MAKING A CONTRACT BEYOND THEIR TERM OF OFFICE. CONTRACTS WITH PRIVATE SCHOOLS MAY BE MADE BY WHICH THE PUBLIC SCHOOL MAY BE TAUGHT IN CONNECTION WITH SUCH SCHOOLS. NO MONEY FOR DISTRICT EXPENSES OF

ANY KIND OR FOR THE SALARIES OF TEACHERS MAY BE PAID BY THE COUNTY TREASURER EXCEPT ON AN ORDER SIGNED BY A MAJORITY OF THE COMMITTEE.

4145. QUALIFICATIONS AND ELECTION OF; CARE TAKEN OF SCHOOL-HOUSES. The County Board of Education of each county shall on the first Monday in July, one thousand nine hundred and five, and biennially thereafter, appoint in each of the townships of the county three intelligent men of good business qualifications, who are known to be in favor of public education, who shall serve for two years from the date of their appointment as school committeemen in their respective townships and until their successors are elected and qualified. If a vacancy shall occur at any time by death, resignation, or otherwise, it shall be the duty of the County Board of Education to fill such vacancy. Such board shall have the power to pay out of the reserve school fund to each member of the township committee thus appointed one dollar per day for not more than four days per annum. Such township committee must take the census in their township by districts and may elect to be paid for taking the same at the rate of two cents per name, or be paid each one dollar per day for the four days, but they cannot be paid for both. Every township committee shall appoint one man in each school district in the township to look after the school-house and property and advise with the committee. The County Board of Education in each county may, if it deem best, biennially, on the first Monday in July, instead of electing township committeemen, elect for each school of the several townships three school committeemen of intelligence and good business qualifications, who are known to be in favor of public education, who shall serve for two years from date of their appointment as committeemen and until their successors are elected and qualified. If a vacancy should occur at any time by death, resignation, or otherwise, it shall be the duty of the County Board of Education to fill such vacancy. And in case such school committeemen shall be elected as above, all the powers and duties conferred under this chapter on the township committeemen shall vest in such committeemen of the several schools of the township, who shall serve without compensation.

1901, c. 4. s. 17; 1903, c. 435, s. 6; 1905, c. 533, ss. 17, 18.

[The committee system should be uniform; there should be township committeemen only in a county, or only district committeemen. Those counties which have adopted the township sys-

tem find it much the most satisfactory. This is the experience of other States. The general adoption of the township system in this State would, therefore, be greatly desirable.]

4146. TO ELECT CHAIRMAN AND SECRETARY; APPEALS FROM. The school committee, as soon as practicable after their election and qualification, not to exceed twenty days, shall meet and elect from their number a chairman and secretary, and shall keep a record of their proceedings in a book to be kept for that purpose. The name and address of the chairman and secretary shall be reported to the County Superintendent of Public Instruction and recorded by him.

1901, c. 4, s. 18.

[A record book for committeemen will be supplied by the County Superintendent.]

4147. POWERS AND DUTIES AS TO SCHOOL PROPERTY. The school committee shall be intrusted with the care and custody of all school-houses, school-house sites, grounds, books, apparatus, or other public school property in the township, with full power to control the same as they may deem best for the interest of the public schools and the cause of education.

1901, c. 4, s. 19.

4148. CENSUS TO BE TAKEN; REPORTS; DEAF, DUMB, BLIND AND ILLITERATES TO BE REPORTED. The school committee is required to furnish to the County Superintendent a census report of all the pupils of school age in their township or district by name, age, sex and race, also the names of their parents or guardians. The blanks upon which such reports are to be made shall be furnished to the various school committees by the County Superintendent on the first Monday in August in each year, which report shall be duly sworn to by each one of the committee and returned to the County Superintendent on or before the first Monday in September of each year, and any committee failing to comply with the provisions of this section without just cause shall be subject to removal. The school committee shall be allowed a sum not exceeding two cents per name for all names reported between the ages of six and twenty-one. The committee shall also report to the County Superintendent, who shall in turn report to the County Board of Education, the number of public school houses and the value of all public school property for each race separately and furnish to the teacher at the opening of the school a complete copy of the census furnished to the County Superintendent, which

shall be recorded by the teacher in a register containing the name and age of each pupil of school age in that district. They shall also report by race and sex the number of all persons between the ages of twelve and twenty-one who cannot read and write, and the number of deaf, dumb and blind between the ages of six and twenty-one years, designating the race and sex, and the address of the parents or guardians of such children.

1901, c. 4, ss. 20, 43; 1901, c. 3, s. 1; 1903, c. 435, s. 7.

4149. TO KEEP A RECORD OF RECEIPTS AND EXPENDITURES; PURCHASE SUPPLIES. The school committee for each township or district shall keep a book in which shall be recorded an itemized statement of all moneys apportioned to, received and expended by them for each school and a copy of all contracts made by them with teachers. The committee shall have authority to purchase the supplies necessary for conducting the schools and for repairs to an amount not to exceed in the aggregate the sum of twenty-five dollars in any one year for each school. But nothing in this section shall be so construed as to give school committees the right to make expenditures without the order of the county board.

1901, c. 4, ss. 21; 35; 1905, c. 533, s. 19.

[The County Superintendent should furnish the committeemen a record book to keep their accounts.]

4150. MUST NOT OVERDRAW. No committee shall give an order unless the money to pay it is actually to the credit of the district, and no part of the school fund for one year shall be used to pay school claims for any previous year.

1901, c. 4, s. 34; 1903, c. 435, s. 16.

4151. PRIVATE SCHOOLS, COMMITTEE MAY CONTRACT WITH; EFFECT. In any school district where there may be a private school regularly conducted for at least six months in the year, unless such private school is a sectarian or denominational school, the school committee may contract with the teacher of such private school to give instruction to all pupils between the ages of six and twenty-one years in the branches of learning taught in the public schools, as prescribed in this chapter, without charge and free of tuition; and such school committee may pay such teacher for such service out of the public school fund apportioned to the district, and the agreement as to such pay shall be arranged between the committee and teacher. Every teacher of the public school branches in such school shall obtain a first-grade certificate before beginning his or her work, and shall from time to time

make such reports as are required of other teachers under this chapter. The County Superintendents of Public Instruction shall have the same authority in respect to the employment and dismissal of teachers under this section, and in every other respect, as is conferred in other sections of this chapter. And all contracts made under this section shall designate the minimum length of the public school term, which shall not be less than the average length of the public school term of the county of the preceding year. The amount paid such private school for each pupil in the public school branches, based on the average daily attendance, shall not exceed the regular tuition rates in such school for such branches of study. Every school to which aid shall be given under this chapter shall be a public school to which all children living within the district between the ages of six and twenty-one years shall be admitted free of charge for tuition: *Provided*, that in case of contract with the teacher of a private school under this section, tuition may be charged for instruction in higher branches of study not mentioned in section four thousand and eighty-seven if the apportionment of funds for the public school of the district would, in the opinion of the County Board of Education, be insufficient to provide instruction in these higher branches of study if the public school were taught separately. The committee may admit pay students over twenty-one years of age.

1901, c. 4, ss. 33, 65; 1903, c. 435, s. 15; 1905, c. 533, s. 12.

XI. THE TREASURER OF THE SCHOOL FUND.

Summary: THE COUNTY TREASURER IS TREASURER OF THE SCHOOL FUND, AND HE MUST GIVE A SEPARATE BOND FOR THE FAITHFUL DISCHARGE OF HIS DUTIES. HE IS ALSO REQUIRED TO KEEP AN ITEMIZED RECORD OF HIS RECEIPTS AND DISBURSEMENTS OF THE SCHOOL FUND, AND TO PAY NO ORDER FOR MONEY UNLESS PROPERLY SIGNED BY THE COMMITTEE AND COUNTY SUPERINTENDENT. THE TREASURER IS ALSO REQUIRED TO BE IN HIS OFFICE ON THE LAST SATURDAY OF EACH MONTH, AND TO KEEP AN ACCOUNT WITH EACH TOWNSHIP AND SCHOOL DISTRICT. ANNUALLY HE MUST REPORT TO THE STATE SUPERINTENDENT, AND TO THE COUNTY BOARD, SETTING FORTH ALL THE MONEY TRANSACTIONS OF THE YEAR. THE COUNTY BOARD MAY REQUIRE REPORTS OFTENNER THAN ONCE A YEAR. FAILURE TO MAKE PROPER REPORTS CONSTITUTES A MISDEMEANOR. THE COMPENSATION OF THE TREASURER IS TO BE FIXED BY THE COUNTY BOARD, NOT TO EXCEED 2 PER CENT. OF HIS DISBURSEMENTS.

4152. COUNTY TREASURER MADE TREASURER OF SCHOOL FUND; BOND. The County Treasurer of each county shall receive and disburse all public school funds, and shall keep the same separate and distinct from all other funds, but before entering upon the duties of his office he shall execute a justified bond, with security, in an amount to be fixed by the Board of County Commissioners, not less than the moneys received by him or by his predecessor during the previous year, conditioned for the faithful performance of his duties as treasurer of the county school fund, and for the payment over to his successor in office of any balance of school moneys that may be in his hands unexpended. The bond of the treasurer of the county school fund shall be a separate bond, not including liabilities for other funds, and shall be approved by the Board of County Commissioners, and that board may, from time to time, if necessary, require him to strengthen his bond.

1901, c. 4, ss. 46, 47.

4153. BOND, ACTIONS ON. The Board of County Commissioners shall bring action, in the name of the State upon the relation of such board, for any breach of the bond of the treasurer of the county school fund, and on its failure to bring such action it may be brought in the name of the State on the relation of any taxpayer.

1901, c. 4, s. 47.

4154. TO KEEP DETAILED ACCOUNT OF RECEIPTS; TO ACCEPT MONEY ONLY. The treasurer of the county school fund shall keep a book in which shall be entered a full and detailed account of all public school moneys received by him, the name of each person paying him school money, the source from which the same may have been derived, and the date of such payment. In his settlement with the Sheriff or other collecting officer of public school funds the treasurer shall receive money only.

1901, c. 4, s. 52.

4155. TO PAY ONLY SUCH ORDERS AS ALLOWED HEREIN. Every order for the payment of a teacher's salary, for building, repairs, school furnishing, or for the payment of money for any purpose whatsoever, before it shall be a valid voucher for the County Treasurer, shall be signed first by at least two members of the school committee, then by the County Superintendent. No order shall be signed by the County Superintendent for more money than is to the credit of that district for the fiscal year, nor shall he endorse the order of any teacher who does not produce a certificate as required by law. The treasurer shall not pay any

school money for building or repairing any school-house unless the site on which it is located has been donated to or purchased by the County Board of Education and the deed for the same regularly executed and delivered to such board and probated and registered in the office of the Register of Deeds for the county and delivered to the Clerk of the Superior Court, to be by him safely deposited with his valuable official papers, and surrendered to his successor in office.

1901, c. 4, s. 48.

4156. TO BE AT HIS OFFICE ON LAST SATURDAY IN MONTH. The treasurer of the county school fund shall, on the last Saturday of each month, attend at his office for the purpose of paying school orders; but this shall not prevent the payment of orders at other times.

1901, c. 4, s. 58.

4157. TO KEEP AN ACCOUNT WITH EACH TOWNSHIP AND DISTRICT; ANNUAL REPORT OF BALANCES. It shall be the duty of the treasurer of the county school fund to keep a book in which he shall open an account with each township in the county, showing the amount apportioned to such township by the County Board of Education. He shall also open an account with each school district showing the amount apportioned to such district. He shall record all payments of school money, giving the date, the amount, the person to whom paid, and for what purpose paid. He shall balance the account of each township and district annually, on the thirtieth of June, and shall report by letter or printed circular, within ten days thereafter, such balances to the County Board of Education and to the school committee.

1901, c. 4, s. 49.

4158. TO REPORT ANNUALLY TO STATE SUPERINTENDENT AND TO COUNTY BOARD. The treasurer of the county school fund shall report to the State Superintendent of Public Instruction on the first Monday of August of each year the entire amount of money received and disbursed by him during the preceding school year, designating by items the amounts received respectively from property tax, poll tax, liquor licenses, fines, forfeitures and penalties, auctioneers, estrays, from State Treasurer and from other sources. He shall also designate by item the sum paid to teachers of each race respectively, for school-houses, school sites in the several districts, and for all other purposes specifically, and in detail, by item, and on the same date he shall file a duplicate of such report in the office of the County Board of Education. He shall make

such other reports as the County Board of Education of the county may require from time to time. Whenever the Sheriff or other collecting officer pays over money to the treasurer of the school fund he shall designate the items as indicated in this section, and these items shall be stated in the receipts given by the treasurer.

1901, c. 4, ss. 51, 56.

4159. DUTIES ON EXPIRATION OF HIS TERM. Each treasurer of the county school fund in going out of office shall deposit in the office of the Board of Education of his county his books in which are kept his school accounts, and all records and blanks pertaining to his office. If the term of office of any treasurer shall expire on the thirtieth day of November during any fiscal school year, or if for any reason he shall hold office beyond the thirtieth day of November, and not for the whole of the current fiscal school year, he shall, at the time he goes out of office, file with the County Board of Education and with his successor a report, itemized, as required by the next preceding section, covering the receipts and disbursements for that part of the fiscal school year from the thirtieth of June preceding to the time at which he turns over the office to his successor, and his successor shall include in his report to the State Superintendent the receipts and disbursements for the current fiscal year.

1901, c. 4, ss. 57, 58.

4160. TO EXHIBIT BOOKS, VOUCHERS AND MONEY TO COUNTY BOARD. The treasurer of the county school fund shall, when required by the County Board of Education, produce his books and vouchers for examination, and shall also exhibit all moneys due the public school fund of the county at each settlement required by this chapter.

1901, c. 4, s. 50.

TREASURER FAILING TO REPORT. If any treasurer of the county school fund shall fail to make reports required of him at the time and in the manner prescribed, or to perform any other duties required of him by law, he shall be guilty of a misdemeanor, and be fined not less than fifty dollars and not more than two hundred dollars, or imprisoned not less than thirty days nor more than six months, in the discretion of the Court.

Revisal of 1905, v. I, c. 81, s. 3839.

XII. PRIVILEGES AND DUTIES OF TEACHERS.

Summary: ALL TEACHERS ARE EMPLOYED BY THE SCHOOL COMMITTEE, BUT CANNOT BE DISMISSED EXCEPT FOR CAUSE AFTER WRITTEN CHARGES HAVE BEEN PREFERRED AND AN INVESTIGATION HELD. NO CONTRACT IS LEGAL UNLESS IT WAS ENTERED INTO WITH THE COMMITTEE AT A REGULARLY CALLED MEETING, AND UNLESS THE CONTRACT DOES NOT EXTEND BEYOND THE TERM OF OFFICE OF THE COMMITTEE, AND UNLESS THE COMPENSATION WHICH THE CONTRACT NAMES IS WITHIN THE SALARY LIMIT PRESCRIBED BY THE COUNTY BOARD FOR THE PARTICULAR SCHOOL CONTRACTED FOR. THERE ARE THREE KINDS OF CERTIFICATES—THE ORDINARY CERTIFICATE OF THREE GRADES, GRANTED BY THE COUNTY SUPERINTENDENT; THE FIVE-YEAR STATE CERTIFICATE, WITH A MINIMUM SALARY OF \$35 PER MONTH TO THE HOLDER; AND THE HIGH SCHOOL CERTIFICATE, WITH A MINIMUM SALARY OF \$40 PER MONTH TO THE HOLDER. THE STATE AND THE HIGH SCHOOL CERTIFICATES ARE GRANTED BY THE STATE BOARD OF EXAMINERS. THE FIRST-GRADE CERTIFICATE GIVEN BY THE COUNTY SUPERINTENDENT ENTITLES THE HOLDER TO TEACH FOR TWO YEARS, THE SECOND-GRADE CERTIFICATE ENTITLES THE HOLDER TO TEACH ONE YEAR AND LIMITS THE HOLDER'S SALARY TO \$25 PER MONTH. HOLDERS OF THIRD-GRADE CERTIFICATES CAN BE EMPLOYED ONLY AS ASSISTANTS. ALL TEACHERS MUST BE 18 YEARS OF AGE. NO DIPLOMA OF ANY COLLEGE OR NORMAL SCHOOL GIVES ITS HOLDER THE RIGHT TO TEACH. EVERY TEACHER MUST KEEP CERTAIN RECORDS AND MAKE CERTAIN REPORTS BEFORE HE CAN COLLECT HIS SALARY, AS WELL AS ENCOURAGE MORALITY AND GOOD ORDER, AND MAINTAIN DISCIPLINE. EVERY TEACHER IS REQUIRED ONCE EVERY TWO YEARS TO ATTEND THE COUNTY INSTITUTE, IF HELD. IMMORAL AND WILFULLY DISOBEDIENT PUPILS MAY BE DISMISSED BY THE TEACHER. THERE IS NO REGULATION FORBIDDING CORPORAL PUNISHMENT.

4161. SCHOOL COMMITTEE TO EMPLOY AND DISMISS TEACHERS; NOTICE; CONTRACTS. The school committee shall have authority to employ and dismiss teachers, *but no teacher shall be dismissed until charges shall have been filed in writing with the County Superintendent and after a hearing shall have been had, before the committee of the district in which such teacher is teaching, after two days' notice to such teacher.* The committee shall meet at convenient times and places for the employment of teachers for the public schools, and no teacher shall be employed by any committee except at a regularly called meeting of such committee, due notice of such meeting having been given at three public

places by the committee. The County Superintendent shall be notified at once by the secretary of the committee of the name of the teacher elected, and a copy of the contract, duly signed and recorded, shall be filed with the County Superintendent; and no voucher for the salary of a teacher of any school shall be signed by any County Superintendent unless a copy of such teacher's contract has been filed with him as herein provided, and unless he shall have received satisfactory evidence that such teacher has been elected in strict accordance with this section. No contract for teachers' salaries shall be made during any year to extend beyond the term of office of the committee, nor for more money than accrues to the credit of the district for the fiscal year during which the contract is made.

1901, c. 4, ss. 20, 22, 34; 1901, c. 3, s. 1; 1903, c. 435, ss. 7, 16.

4162. EXAMINATION; PROFICIENCY; GRADES. On the second Thursday of July and October of every year the County Superintendent of Schools of each county shall publicly examine all applicants of good moral character for teachers' certificates on all subjects required to be taught in the public schools and also on the theory and practice of teaching. And the County Superintendent may continue the examination from day to day if necessary until all applicants have been examined, and with the approval of the County Board of Education he may, after giving at least ten days' notice, hold public examinations on two other dates during the year. All examinations of teachers shall be held at the county court-house, but for the convenience of teachers the County Superintendent may designate another place: *Provided*, due notice of the time and the place shall have been given. No private examination of applicants for teachers' certificates shall be given by the County Superintendent unless a reasonable excuse shall be rendered for failure to attend the public examination, and for every private examination each applicant for a certificate shall pay in advance to the County Superintendent a fee of three dollars, to be paid by him to the treasurer of the county school fund, to be placed to the credit of the general school fund of the county. A general average of ninety per cent. and over shall entitle the applicant to a first-grade certificate; a general average of eighty per cent. and less than ninety per cent. shall entitle the applicant to a second-grade certificate, and a general average of seventy per cent. and less than eighty per cent. shall entitle the applicant to a third-grade certificate. No certificate shall be valid except in the county in which it is issued.

First-grade certificates shall be valid for two years from date of issue; other grades of certificates shall be valid for only one year and shall not be renewed except upon examination. The County Superintendent may invite competent persons to assist in the examination of applicants for certificates, and he shall file in his office a copy of all examination questions and also preserve for at least one year the examination papers and grades of all applicants for certificates, and upon request of the State Superintendent of Public Instruction he shall send all examination papers and their gradation and a copy of all examination questions to the office of the State Superintendent of Public Instruction: *Provided*, that the State Superintendent of Public Instruction, in lieu of the provisions of this section in reference to the examination, the gradation and the certification of teachers, may in his discretion provide for a uniform system of gradation, examination and certification of public school teachers, prescribing the examination, the time and manner of conducting the same, and also for making provision for the classification of teachers' certificates into primary, intermediate and high school.

In addition to the three grades of certificates herein provided a certificate known as State certificate signed by the State Superintendent and Board of Examiners hereinafter provided shall be issued to any person who upon examination by said Board of Examiners shall make a general average of not less than ninety per cent. Said examination shall be in writing and may be conducted before the County Superintendent of Public Instruction in any county, or before any person selected by said Board of Examiners, under such rules and regulations as said board may adopt, but the questions for such examination shall be furnished by said Board of Examiners, and said board shall meet at the call of the State Superintendent of Public Instruction to examine and grade all papers submitted by applicants for such State certificate. The State Superintendent of Public Instruction shall be ex officio chairman of said board, and all persons who desire to be examined for a State certificate shall file an application with the State Superintendent of Public Instruction, who shall notify such person when and where such examination will be held: Provided, that no person shall be permitted to stand such examination without first filing with the State Superintendent of Public Instruction a statement from the County Superintendent of Public Instruction of the county in which said applicant last taught that said applicant holds a first-grade certificate and has taught suc-

cessfully at least one year. Said State certificate shall be valid in any county in the State, and no other examination or certificate as a prerequisite for teaching a public school shall be required of any person holding such State certificate, for a period of five years from the date of issue of said State certificate, and the minimum salary paid to any teacher holding such State certificate shall be thirty-five dollars per month. Said Board of Examiners, under the direction of the State Superintendent of Public Instruction, shall examine all teachers who apply to the State Superintendent for a high school teachers' certificate, and said examination shall be conducted in the same manner as the examination for State certificates as herein provided. Said State Board of Examiners shall consist of not less than three (3) and not more than five (5) practical school teachers, who shall be appointed by the State Board of Education upon the recommendation of the State Superintendent of Public Instruction, and they shall hold office for a term of four (4) years, and the members of said board actually serving shall be paid a per diem of four (4) dollars per day during the time that they are actually engaged, not to exceed fifteen (15) days annually, and in addition shall be repaid all money actually expended by them in payment of necessary expenses while so engaged, to be paid out of the public fund, and they shall make out and swear to an itemized statement of such expenses: Provided, that the State Superintendent of Public Instruction shall not be allowed any per diem for services as chairman of said Board of Examiners.

1905, c. 533, s. 9; 1901, c. 4, s. 37.

[No private examination should be given, unless the applicant was prevented from attending the regular examination on account of providential hindrances.]

4163. AGE, QUALIFICATIONS, CERTIFICATES, GRADES AND PAY OF; SCHOOL MONTH DEFINED. No person shall be employed as a teacher who does not produce a certificate from the County Superintendent, or State Superintendent of Public Instruction, dated within the time prescribed by law and continuing to the end of the term. No certificate to teach shall be issued to any person under eighteen years of age. Teachers of second grade shall receive not more than twenty-five dollars per month out of the public fund, and teachers of the first grade may receive such compensation as shall be agreed upon. Teachers of the third grade shall receive not more than twenty dollars per month, but no third-grade certificate shall be renewed and no holder of a third-grade certificate

shall be employed except as an assistant teacher. No teacher shall receive any compensation for a shorter term than one month unless providentially hindered from completing the term. Twenty school days of not less than six hours nor more than seven hours each day shall be a month. The school term shall be continuous as far as practicable. All laws and clauses of laws granting to, or conferring upon, the graduates or ex-students or students of any institution of learning, private or public, within this State or elsewhere, immunity, exemption, or freedom from the operation of laws of this State requiring persons who desire to teach in free public schools of the State to submit to and pass regular examinations before the County Superintendents before being duly qualified to serve as such teachers, are hereby repealed. The County Board of Education shall fix, within the limits above prescribed, the maximum salary to be paid to teachers in each school in the county.

1901, c. 4, ss. 22, 24, 27, 34; 1901, c. 3, s. 2; 1901, c. 535; 1903, c. 435, ss. 9, 16.

[Committeemen cannot contract to pay any teacher more than the salary fixed for the school by the county board.]

4164. SALARY, HOW PAID; CLOSING SCHOOLS FOR NON-ATTENDANCE OF PUPILS. At the end of every term of a public school, the teacher or principal of the school shall exhibit to the school committee a statement of the number of pupils, male and female, the average daily attendance, the length of term and the time taught. If the committee is satisfied that the provisions of this chapter have been complied with, they shall give an order on the treasurer of the county school fund, payable to such teacher, for the full amount due for services rendered; but monthly, and, if required by the County Superintendent, weekly statements and reports shall be made by the teacher to the committee and to the County Superintendent; orders on the treasurer shall be valid when signed by two members of the committee and countersigned by the County Superintendent. When a monthly or weekly report of any school where the district does not contain over one hundred and fifty children shows an average daily attendance of less than one-fifth of the school census, the committee may, with the approval of the County Superintendent of Schools, order the school to be closed, and the money due such school shall remain to the credit of that school; but all funds remaining to the credit of such school at the close of the school year, unused because of non-attendance, shall be returned to the general fund for reappor-

tionment, unless such non-attendance shall have been caused by providential or other unavoidable causes. And the County Board of Education, upon the recommendation of the County Superintendent, shall have authority to close any school for either race in any township before it shall have continued for the average length of school term for the township, in case the attendance does not justify the continuance of the school, and the money remaining to the credit of such district thus closed for non-attendance shall be returned to the general school fund.

1901, c. 4, ss. 23, 24; 1903, c. 435, ss. 8, 9; 1905, c. 533, s. 4.

[Monthly reports should be required of every teacher so that this section can be intelligently carried out.]

4165. KEEP RECORD; REPORT TO COUNTY SUPERINTENDENT, ALSO TO STATE SUPERINTENDENT, WHEN. Every teacher or principal of a school to which aid shall be given under this chapter shall keep such records of the attendance and classification of pupils as shall be prescribed by the State Superintendent of Public Instruction or the County Board of Education, and at the end of each term and when requested at other times, every teacher or principal shall report to the County Superintendent of Schools in such form and manner and on such blanks as shall be furnished by the County Superintendent of Schools or the State Superintendent of Public Instruction. At the end of every term every principal or teacher of a public school shall report to the County Superintendent of Schools the length of term of the school, the race for which it was taught, the number, the sex and average daily attendance of the pupils, and the number of the district in which the school is taught, the number of children on census blank not attending any school, number of children under seventeen years of age not attending any school, stating some causes why they did not attend, how many families having children of school age did not send any of their children to school, how many families did, stating what personal effort has been made to get the children to attend school. The County Superintendent shall not approve the final voucher for the salary of any principal or teacher until all reports have been made according to law and until the register has been properly filled out and filed with the chairman of the school committee or with the County Superintendent of Schools. The principal or Superintendent of every school or institution of learning supported in whole or in part by public funds shall report to the State Superintendent at such time and in such form as he may direct, and shall also report to

the County Superintendent of the county in which such school or institution of learning is situated.

1901, c. 4, ss. 64, 66; 1903, c. 435, s. 21; 1903, c. 533, s. 11.

[The County Superintendent should always require all reports to be fully and accurately made before he signs the teachers' voucher for the last month's salary.]

4166. TO MAINTAIN ORDER AND ENCOURAGE VIRTUE; TO DISMISS IMPROPER PUPILS. It shall be the duty of all teachers of free public schools to maintain good order and discipline in their respective schools; to encourage morality, industry, and neatness in all of their pupils, and to teach thoroughly all branches which they are required to teach. Pupils who wilfully and persistently violate the rules of the school and any of immoral life and character shall be dismissed by the teacher.

1901, c. 4, s. 63.

4167. TEACHERS' INSTITUTES AND SCHOOLS, HOW CONDUCTED; TEACHERS MUST ATTEND. The County Board of Education of every county may biennially appropriate an amount not less than two hundred dollars nor more than two hundred and fifty dollars out of the public school funds of the county, the definite amount between the minimum and maximum thus fixed to be determined by the State Superintendent of Public Instruction, for the purpose of conducting biennially a teachers' institute and school for the training of the public school teachers of the county at some convenient and satisfactory place. The biennial county teachers' institute and school provided for in this section shall be conducted by some practical teacher or teachers appointed by the State Superintendent of Public Instruction at such time and place as shall be determined by the State Superintendent of Public Instruction after consultation with the County Superintendent of Schools and the County Board of Education. All public school teachers of any county in which such institute and school is conducted are hereby required to attend the same continuously during its session unless providentially hindered, and failure to attend the biennial institute and school shall debar any teacher so failing to attend continuously from teaching in any of the public schools of the State for a period of one year, or until such teacher shall have attended according to law some county institute and school as herein provided for in some other county. The rules and regulations governing all teachers' institutes, the course of study to be pursued, and the proper credits for attendance on the same shall be prescribed by the State Superintendent of Public

Instruction. And proper and just provision shall be made for the training of the teachers of each race in separate institutes and schools: *Provided*, that counties whose total annual public school fund is less than eight thousand dollars may arrange with an adjoining county for holding a biennial teachers' institute and school as herein provided for, making such biennial appropriation and arrangement with an adjoining county as shall be equitable and satisfactory, which appropriation and arrangement and the terms of the same shall first be approved by the State Superintendent of Public Instruction: *and provided further*, that a properly signed certificate of continuous attendance at some summer school of good standing for a period of not less than three weeks may be accepted by the County Superintendent of Schools as a substitute for attendance on the biennial teachers' institute and school herein provided for under such rules and regulations as shall be prescribed by the State Superintendent of Public Instruction.

1905, c. 533, s. 5; 1903, c. 435, s. 10; 1901, c. 4, s. 26.

XIII. RURAL LIBRARIES.

Summary: IN ANY SCHOOL DISTRICT, INCORPORATED TOWNS HAVING AS MANY AS 1,000 INHABITANTS EXCEPTED, THERE MAY BE ESTABLISHED A SCHOOL LIBRARY. THE PATRONS AND FRIENDS OF THE SCHOOL ARE REQUIRED TO RAISE BY PRIVATE DONATIONS AS MUCH AS \$10 AND TENDER IT TO THE COUNTY TREASURER. THEREUPON THE COUNTY BOARD OF EDUCATION SHALL APPROPRIATE \$10 OUT OF THE GENERAL SCHOOL FUND OF THE COUNTY AND THE COUNTY SUPERINTENDENT SHALL CERTIFY THE SAME TO THE STATE SUPERINTENDENT. THE STATE SUPERINTENDENT IS THEN REQUIRED TO SEND \$10 FROM THE STATE APPROPRIATION TO THE TREASURER OF THE COUNTY, AND THE \$30 USED IN THE PURCHASE OF BOOKS SELECTED FROM A LIST APPROVED BY THE STATE SUPERINTENDENT. THE COUNTY BOARD IS REQUIRED TO FURNISH OUT OF THE GENERAL SCHOOL FUND A NEAT BOOKCASE, WITH LOCK AND KEY. THE LIBRARY THUS ESTABLISHED SHALL BE CONDUCTED UNDER RULES AND REGULATIONS PRESCRIBED BY THE STATE SUPERINTENDENT. LIBRARIES MAY BE ENLARGED BY THE ADDITION OF \$15 WORTH OF BOOKS, \$5 OF WHICH MUST BE RAISED BY PRIVATE DONATIONS, \$5 BE APPROPRIATED OUT OF THE GENERAL COUNTY SCHOOL FUND, AND \$5 BE GIVEN OUT OF THE STATE APPROPRIATION. AND THE ADDITIONAL BOOKS MUST BE SELECTED FROM A LIST APPROVED BY THE STATE SUPERINTENDENT.

NOTE.—Sections 4168-4171 relate to Croatan Indians and are printed after rural library sections.

4172. HOW ESTABLISHED; DUTIES OF SCHOOL OFFICIALS; MANAGER APPOINTED. Whenever the patrons and friends of any free public school in which a library has not already been established by aid of the State shall raise by private subscription and tender to the treasurer of the county school fund, for the establishment of a library to be connected with such school, the sum of ten dollars, the County Board of Education shall appropriate from the general county school fund the sum of ten dollars for this purpose and shall appoint one intelligent person in the school district the manager of such library. The county board shall also appoint one competent person well versed in books to select books for such libraries as may be established under these provisions from lists of books approved by the State Superintendent of Public Instruction.

1901, c. 662, s. 6; 1903, c. 226, s. 1; 1905, c. 381.

4173. STATE BOARD OF EDUCATION TO CONTRIBUTE. As soon as such board shall have made an appropriation for a library in the manner prescribed, the County Superintendent shall inform the secretary of the State Board of Education of the fact, whereupon the State Board shall remit to the Treasurer of the county school fund the sum of ten dollars additional for the purchase of books.

1901, c. 662, s. 7; 1903, c. 226, s. 2; 1905, c. 381, s. 2.

4174. BOOKS AND BOOKCASES, HOW PURCHASED. Within thirty days after the payment of the money to the treasurer of the county school fund, the person appointed to select the books shall submit the list of books to be purchased and prices of same to such treasurer, who shall order the books at once. The treasurer shall receive no compensation except his regular commission. The county board shall furnish, at the expense of the general county school fund, a neat bookcase, with lock and key, to each library, upon application of the County Superintendent.

1901, c. 662, s. 8; 1903, c. 226, s. 3; 1905, c. 381, s. 3.

4175. RULES TO BE MADE BY STATE SUPERINTENDENT. The local manager of every library shall carry out such rules and regulations for the proper use and preservation of the books as may be established by the State Superintendent of Public Instruction, and shall on or before June thirtieth of each year make to the State Superintendent of Public Instruction such reports as he shall require.

1901, c. 662, s. 9; 1903, c. 226, s. 4; 1905, c. 381, s. 4.

[The State Superintendent will furnish a copy of the rules on application.]

4176. EXCHANGE OF LIBRARIES. The local managers of two or more libraries may by agreement exchange libraries; but no exchange shall be made oftener than once in six months, and no part of the expense of exchanging libraries shall be paid out of the public funds.

1901, c. 662, s. 10; 1903, c. 226, s. 5; 1905, c. 381, s. 5.

4177. ENLARGEMENT OF LIBRARIES, APPROPRIATIONS FOR. Whenever the patrons and friends of any free public school in which a library has been established under the provisions of this subchapter shall raise by private subscription and tender to the treasurer of the county school fund the sum of five dollars for the enlargement of the library, the County Board of Education shall appropriate from *the general school fund* the sum of five dollars and the State Board of Education shall remit to the treasurer of the county school fund the sum of five dollars. The money thus collected and appropriated shall be used for the enlargement of libraries already established under the same rules and restrictions as govern the establishment of new libraries.

1903, c. 226, s. 6; 1905, c. 381, s. 6.

4178. NUMBER OF LIBRARIES LIMITED; CITIES AND TOWNS EXCLUDED, WHEN. Not more than six new libraries, in addition to those already established biennially in any county under the provisions of the preceding sections, and not more than six libraries already established in any county, shall be entitled biennially to the benefits of section six of this act: *Provided*, that after November thirtieth, one thousand nine hundred and six, and after November thirtieth of every second year thereafter, if any of the aforesaid biennial appropriation for the years ending on such date shall still be in the hands of the State Treasurer, any free public school which shall fulfill the condition set forth in the preceding sections shall be entitled to receive the benefits of this act, regardless of the number of libraries already established in the county in which said school is located, until the aforesaid balance of each biennial appropriation available for the purpose is exhausted. No school district in any incorporated town with a population exceeding one thousand persons shall receive any moneys under the provisions of this act.

1901, c. 662, s. 12; 1903, c. 226, s. 8; 1905, c. 381, ss. 8, 9.

[*After the biennial period has passed, the libraries not taken during that period may be taken by any county desiring them.*]

4179. ADDITIONAL APPROPRIATION OF STATE FUNDS. The sum of seven thousand five hundred dollars of the appropriation for the

public schools of the State is hereby biennially appropriated and set apart to be expended by the State Board of Education under the provisions of this subchapter: *Provided*, that of each biennial appropriation a sum not exceeding five thousand dollars may be expended by the State Board of Education in the establishment of new libraries, and a sum not exceeding two thousand five hundred dollars may be expended by the State Board of Education in the enlargement of libraries according to the provisions of section four thousand one hundred and seventy-seven of this subchapter.

1901, c. 662, s. 11; 1903, c. 226, s. 7; 1905, c. 381, s. 7.

XIV. SEPARATE SCHOOLS FOR CROATANS.

The provisions of the school law relating to the Croatan Indians of Richmond and Robeson counties are as follows:

4168. SEPARATE SCHOOLS FOR. The persons residing in Robeson and Richmond counties, supposed to be descendants of a friendly tribe once residing in the eastern portion of this State, known as the Croatan Indians, and their descendants, shall be known and designated as the Croatan Indians, and they and their descendants shall have separate schools for their children, school committees of their own race and color, and shall be allowed to select teachers of their own choice, subject to the same rules and regulations as are applicable to all teachers in the general school law, and there shall be excluded from such separate schools for the Croatan Indians all children of the negro race to the fourth generation.

1885, c. 51, s. 2; 1889, c. 60, s. 1.

4169. COUNTY BOARD TO CARRY PROVISIONS INTO EFFECT. It shall be the duty of the County Board of Education to see that the next preceding section is carried into effect, and shall for that purpose have the census taken of all the children of such Indians and their descendants between the ages of six and twenty-one, and proceed to establish such suitable school districts as shall be necessary for their convenience, and take all such other and further steps as may be necessary for the purpose of carrying such section into effect. And where any children, descendants of such Indians, shall reside in any district in such counties of Robeson and Richmond in which there are no separate schools provided for their race, they shall have the right to attend any of the public schools in the county provided for their race, and their share of the

public school fund shall be appropriated to their education upon the certificate of the school committee in the district in which they reside, stating that they are entitled to attend such public schools.

1885, c. 51, ss. 3, 4.

4170. PRO RATA SHARE OF SCHOOL FUNDS KEPT SEPARATE. The treasurer of the county school fund and other proper authorities whose duties it is to collect, keep and apportion the school fund, shall procure from the County Board of Education the number of children in the county between the ages of six and twenty-one, belonging to such Indian race, and shall set apart and keep separate their pro rata share of the school funds, which shall be paid out upon the same rules in every respect as are provided in the general school law and in the next preceding section.

1885, c. 51, s. 4.

4171. GENERAL SCHOOL LAW APPLICABLE TO. The general public school law shall be applicable in all respects to such separate schools for the Croatan Indians, except where such general law is repugnant to these special provisions relating to such schools; and these special provisions for separate schools for Croatan Indians shall apply only to the counties of Robeson and Richmond.

1885, c. 51, s. 5.

APPENDIX.

LAWS RELATING TO THE TEXT-BOOK COMMISSION.

The following sections of chapter 89, Revisal of 1905, as amended by the Public Laws of 1907, are not properly a part of the public school law, but these sections are reprinted for information:

TEXT-BOOK COMMISSION.

4057. *Created.* The State Board of Education is hereby constituted a State Text-book Commission, whose duty it is to select and adopt a uniform series or system of text-books for use in the public schools in the State of North Carolina; and who shall serve without compensation. The Governor shall be *ex officio* president of such commission, and the Superintendent of Public Instruction its secretary.

1901, c. 1, ss. 1, 2, 7, 20.

4058. *Powers; term of contracts made by.* The commission may, from time to time, make any necessary regulations, not contrary to the provisions of this chapter, to secure the prompt distribution of the books herein provided for, and the prompt and faithful performance of all contracts. After the expiration of the contracts now in force for furnishing books to the public schools the commission may advertise for new bids, or proposals, as required by this chapter, and enter into such other contracts as they may deem best for the interest of the patrons of the public schools of the State. Any contract entered into, or renewed, shall be for the term of five years.

4059. *Term of office and powers.* The commission shall maintain its organization during the five years of the continuance of the contract now in force and after the expiration of the same shall advertise for new bids, or proposals, as required by this chapter in the first instance, and enter into such other contracts as it may deem best for the interest of the patrons of the public schools of the State; and the commission may from time to time make any necessary regulations not contrary to the provisions of this chapter to secure the prompt distribution of books herein provided for and the prompt and faithful performance of all contracts.

1901, c. 1, s. 14.

4060. *Character and requisites of books to be adopted.* The uniform series of text-books to be selected by the commission shall include the following branches, to-wit: Orthography, defining, reading, writing, drawing, arithmetic, geography, grammar, language lessons, history of North Carolina containing the Constitution of the United States, physiology, hygiene, nature and effect of alcoholic drinks and narcotics, elements of civil government, elements of agriculture, theory and practice of teaching. None of such text-books shall contain anything of a partisan or sectarian character, and all shall be written or printed in English. 1901, c. 1, ss. 2, 8.

4061. *Exclusive use of books adopted by.* The books adopted by the commission as a uniform system of text-books shall be introduced and used as text-books, to the exclusion of all others, in all the public free schools in the State for a period of five years from the date of adoption; and it shall not be lawful for any school officer, director or teacher to use any books upon the same branches other than those adopted by the commission. Nothing herein shall prevent the use of supplementary books; but such supplementary books shall not be used to the exclusion of the books prescribed or adopted under the provisions of this chapter. Nor shall anything herein prevent the teaching in any school any branch higher or one more advanced than is embraced in the next preceding section; nor the use of any book upon such higher branch of study; but such higher branch shall not be taught to the exclusion of the branches mentioned and set out in the next preceding section.

4062. *Can purchase elsewhere when contractor fails to supply; teacher allowing other books dismissed.* Nothing herein shall prevent or prohibit the patrons of the public schools throughout the State from procuring books in the usual way, in case no contract shall be made, or the contractor fails or refuses to furnish the books provided for in this chapter at the time required for their use in the respective schools. If any teacher shall wilfully use, or permit to be used, in his school, any text-book upon the branches embraced in this chapter, where the commission has adopted a book upon that branch, other than the one so adopted, the County Board of Education shall discharge and cancel the certificate of such teacher, or School Superintendent; but they may use, or permit to be used, such book or books as may be owned by the pupils of the school at the time of the adoption until such books are worn out, not exceeding one year from the date of adoption.

1901, c. 1, ss. 2, 16, 17, 18.

4063. *Subcommission to be appointed.* It shall be the duty of the Governor to appoint a subcommission of not less than five nor more than ten, to be selected from among the teachers, or city or county superintendents, actually engaged in the school business in this State, not more than two of whom shall be taken from the same congressional district, *and members of the subcommission actually serving shall be paid a per diem of four dollars per day, during the time that they are actually engaged, not to exceed thirty days, and in addition shall be repaid all money actually expended by them in payment of necessary expenses, to be paid out of the public fund, and they shall make out and swear to an itemized statement of such expenses.**

1901, c. 1, s. 3.

4064. *Oath of subcommissioners.* Each member of the subcommission, before entering upon the discharge of his duties, shall take and subscribe an oath to act honestly, conscientiously, and faithfully, and that he is not now, has not, within two years prior to his appointment, been agent or attorney for or in the employment of, or interested in, any book or publishing house, concern or corporation, making or proposing to make bids for the sale of books, pursuant to the provisions of this chapter; and that he will carefully and faithfully examine all books submitted, and make true report thereon, as herein directed and prescribed. Such oath shall be filed in the office of the Secretary of State.

1901, c. 1, s. 5.

4065. *Examination of books by subcommission, and report thereon.* To the subcommission shall be referred all books sent to the State Text-book Commission as specimen copies or samples, upon which bids are to be based; and it shall be the duty of the subcommission, in executive session, to examine and report upon the merits of the books, irrespective of the price; taking into consideration the subject-matter of the books, their printing, their material, and their mechanical qualities, and their general suitability and desirability for the purposes for which they are desired and intended. The subcommission shall report to the commission at such time as the commission shall direct, arranging each book in its class, or division, and reporting books in the order of their merit, pointing out the merits and demerits of each, and indicating what book it recommends for adoption first, what book is its second choice, and its third choice, and so on, pursuing this plan with the books submitted upon each branch of study;

*Words in italics are an amendment to this section by the General Assembly of 1907.

and if the subcommission shall consider different books upon the same subject, or of the same class or division, of approximately even merit, all things being considered, it shall so report, and if it considers that any book offered is of such a class as to make it inferior and not worthy of adoption, shall, in its report, so designate such book. In its report it shall make such recommendations and suggestions to the commission as it shall deem advisable and proper to make.

1901, c. 1, ss. 3, 4.

4066. *Report, when opened and where filed.* The report of the subcommission shall be kept secret and sealed up and delivered to the secretary of the commission, and shall not be opened by any member of the commission until the commission shall meet in executive session to open and consider the bids or proposals of publishers or others desiring to have books adopted by the commission. And when such commission shall have finished with such report it shall be filed and preserved in the office of the Superintendent of Public Instruction, and shall be open at all times for public inspection.

1901, c. 1, ss. 4, 6.

4067. *Selection and adoption of books by the commission.* The commission in its selection and adoption of a uniform series of text-books shall consider the merits of the books, taking into consideration their subject-matter, the printing, binding, material, and mechanical quality, their general suitability and desirability for the purposes intended, and the price; and shall give due consideration to the report and recommendations of the subcommission. The commission shall select and adopt such books as will, in its judgment, accomplish the ends desired; and is hereby authorized and directed, in case any books are deemed by it suitable for adoption, and more desirable than other books of the same class, or division, submitted, and it further considers the price at which such books are offered to be unreasonably high, and that they should be offered at a smaller price, to immediately notify the publisher of such books of its decision and request such reduction in price as it deems reasonable or just, and if it and such publishers shall agree on a price, it may adopt such books; but if not, it shall use its sound judgment and discretion whether to adopt those or the books deemed by it to be the next best in the list submitted.

1901, c. 1, s. 6.

4068. *Advertisement for bids.* As soon as practicable after the expiration of the now existing contracts, and not later than thirty days thereafter, the commission shall advertise in such manner, and for such a length of time, and at such places as may be deemed advisable, that at a time and place, fixed definitely in the advertisement, sealed bids or proposals will be received from the publishers of school text-books for furnishing books to the public schools in the State of North Carolina, through agencies established by the publishers in the several counties, and in the several places in the counties of the State as may be provided for in such regulations as the commission may adopt and prescribe. The advertisement shall also state in substance the requirements of the next succeeding section, and shall reserve the right to the commission to reject all bids.

1901, c. 1, ss. 1, 7, 11, 14.

4069. *Bids, how made; contents of.* The bids or proposals shall be for furnishing books for a period of five years, and no longer, and no bid for a longer period shall be considered. The bids shall state specifically and definitely the price at which books are to be furnished and shall be accompanied by ten or more specimen copies of each and every book proposed to be furnished; and it shall be required of each bidder to deposit with the Treasurer of the State a sum of money, such as the commission may require, not less than five hundred nor more than twenty-five hundred dollars, according to the number of books each bidder may propose to supply; and such deposits shall be forfeited absolutely to the State if the bidder making the deposit of any sum shall fail or refuse to make and execute such contract and bond as is hereinafter required, within such time as the commission shall require. All bids shall be sealed and deposited with the Secretary of State, to be by him delivered to the commission when in executive session, for the purpose of considering the same, when they shall be opened in the presence of the commission. And each person, or publisher, making a bid for the supplying of any books, shall state in such bid or proposal the exchange price at which such books shall be furnished. It shall be the duty of the Secretary of State to carefully preserve in his office, as the standard of quality and excellence to be maintained in such book during the continuance of the contracts for furnishing the same, the specimen or sample copies of all books which have been, the basis of any contract, together with the original bid or proposal.

1901, c. 1, ss. 7, 9, 10.

4070. *Bid and proposals may be rejected.* The commission shall have and reserve the right to reject any and all bids or proposals, if of the opinion that any or all should for any reason be rejected. And in case it fail, from among the bids or proposals submitted, to select or adopt any books upon any of the branches prescribed by this chapter, may re-advertise for sealed bids or proposals, under the same terms and conditions as before, and proceed with its investigations in all respects as in the first instance, and as required by the terms and provisions of this chapter. And the commission shall have and reserve the same rights in cases of advertisement for and presentation of bids and proposals for manuscripts and unpublished books hereinafter provided for in this chapter.

1901, c. 1, s. 11.

4071. *Manuscripts and unprinted books may be adopted.* In the event that the commission rejects the bid for furnishing any book, or in case it fail to adopt any book of the classes required, it may advertise for sealed bids or proposals, from authors or publishers of text-books who have manuscripts or books not yet published, for prices at which they will publish and furnish in book form such manuscripts for use in the public schools of North Carolina, proceeding in like manner as in bids for furnishing books; but the State itself shall not, under any circumstances, enter into any contract binding it to pay for the publication of any book, but in the contract with the owner of the manuscript it shall be provided that he shall pay the compensation to the publisher for the publication and putting in book form the manuscript, together with the cost and expense of copyrighting the same. All such bids or proposals shall be accompanied with a cash deposit of from five hundred to twenty-five hundred dollars, as the commission may direct, and as heretofore provided in this chapter; and it is expressly provided that any person now doing business, or proposing to do business, in this State shall have the right to bid for the contract to be awarded hereunder in manner as follows: In response to the advertisement such person may submit his written bid to edit, or have edited, published, and supplied for use in the public schools in this State any book provided for hereunder. Instead of filing with the bid or proposal a sample or specimen or copy of each book proposed to be furnished, he may exhibit to the commission in manuscript, or printed form, the matter proposed to be incorporated in any book, together with such a description and illustration of the form and style

thereof as will be fully intelligible and satisfactory to the commission; or he may submit a book, the equal of which in every way he proposes to furnish; and he shall accompany his bid or proposal with the cash deposit hereinbefore required. All such books and manuscripts shall be examined and reported upon by the subcommission before being adopted.

1901, c. 1, s. 11.

4072. *Commission to deliver sample books to subcommission.* It shall be the duty of the commission to meet at the time and place designated in the advertisement and take out the sample or specimen copies submitted, upon which the bids are based, and refer and submit them to the subcommission, as provided for and directed in this chapter, with instructions to the subcommission to report at a time specified, with the classification and recommendation, as provided in this chapter.

1901, c. 1, s. 8.

4073. *Adoption of books.* When the report of the subcommission is submitted, it shall be the duty of the commission to meet in executive session to open and examine all sealed proposals submitted and received in pursuance of the notice or advertisement provided for in this chapter. It shall be the duty of the commission to examine and consider all such bids or proposals, together with the report and recommendation of the subcommission, and determine, in the manner provided in this chapter, what books, upon the branches hereinabove mentioned, shall be selected for adoption, taking into consideration the size, quality as to the subject-matter, material, printing, binding, and the mechanical execution, and price, and the general suitability for the purpose desired and intended. After the selection or adoption shall have been made, the commission shall award the contracts and shall by registered letter notify the publishers or proposers to whom the contracts have been awarded. But the commission shall not, in any case, contract with any person for the use of any book which shall be sold to patrons for use in any public school in the State in excess of the price at which such book is to be furnished by such person, under contract to any State, county, or school district in the United States, under like conditions as those prevailing in this State and under this chapter.

1901, c. 1, ss. 8, 9.

4074. *Contract, how executed.* Upon the awarding of the contracts, it shall be the duty of the Attorney-General to prepare the same in accordance with the terms and provisions of this

chapter. On behalf of the State the contracts shall be executed by the Governor and Secretary of State and the seal of the State shall be set thereto. All such contracts shall be executed in triplicate, of which one shall be kept by the secretary of the commission, one shall be filed in the office of the Secretary of State, and one shall be retained by the contracting party. All contracts entered into or renewed under the provisions of this chapter shall be for the term of five years.

1901, c. 1, ss. 8, 14.

4075. *Contract; stipulations as to prices and exchange of books.* It shall be stipulated in each contract that the contractor has never furnished, and is not now furnishing under contract, any State, county, or school district in the United States, where like conditions prevail as are then prevailing in this State, and under this chapter, the same books as are embraced in the contract at a price below that stipulated in the contract, and the commission is hereby authorized and directed, at any time that it may find that any books have been sold at a lower price under contract to any State, county, or school district, to sue upon the bond of the contractor and recover the difference between the contract and the lower price for which books have been sold. And it shall also be stipulated in the contract that the contractor shall take up school books in use in this State at the date of such contract and receive the same in exchange of new books, allowing a price for such old books not less than fifty per cent. of the contract price of the new books.

1901, c. 1, ss. 9, 10.

4076. *Contract, as to liability of State.* It shall always be a part of the terms and conditions of every contract made in pursuance of this chapter that the State of North Carolina shall not be liable to any contractor in any manner for any sum whatever, but all such contractors shall receive their pay and compensation solely and exclusively from the proceeds of the sale of books as provided for in this chapter.

1901, c. 1, s. 10.

4077. *Contracts may be changed or altered.* Nothing in this chapter shall prevent the commission, and any contractor agreeing thereto, from in any manner changing or altering any contract, if four members of the commission shall agree to the change and think it advisable and for the best interest of the public schools of the State.

1901, c. 1, s. 9.

4078. *Books must come up to sample.* The books furnished under any contract shall, at all times during the existence of the contract, in all respects be equal to the specimen or sample copies furnished with the bid.

1901, c. 1, s. 9.

4079. *Bond of contractor.* At the time of the execution of the contract the contractor shall enter into a bond in the sum of not less than ten thousand dollars, payable to the State of North Carolina, to the amount of the bond within such limit to be fixed by the commission, conditioned for the faithful, honest, and exact performance of his contract, and shall further provide for the payment of reasonable attorneys' fees in case of recovery in any suit upon the same, with three or more good and solvent sureties, actual citizens and residents of this State, or any guaranty company authorized to do business in this State may become the surety on such bond; and it shall be the duty of the Attorney-General to prepare and approve such bonds. The commission may at any time, by giving thirty days' notice, require additional security or additional bond.

1901, c. 1, ss. 8, 9.

4080. *Actions on the bond.* In case any contractor shall fail to execute specifically the terms and provisions of his contract, the commission is hereby empowered and directed to bring an action upon the bond of such contractor for the recovery of any and all damages. Such action shall be in the name of the State of North Carolina, and the recovery shall be for the benefit of the public school fund of the State and counties, and when collected shall be placed in the treasury of the school fund. The bond shall not be exhausted by a single recovery, but may be sued on from time to time until the full amount thereof shall be recovered. And it is expressly provided that should any party contracting to furnish books, as provided for in this chapter, fail to furnish them, or otherwise break his contract, in addition to the right of the State to sue on the bond hereinabove required, the chairman of the County Board of Education, or any member thereof, may sue in the name of the State in the courts of the State having jurisdiction, and recover on such bond the full value of the books so failed to be furnished, for the use and benefit of the school fund of the county. In all such cases service of process may be made on any agent of the contractor in the county, or if no agent is in the county, then service may be made on any agent in charge

of any depository, and such service shall be, and stand in the place of, service on the defendant contractor.

1901, c. 1, ss. 8, 9, 13.

4081. *Deposits by bidders, when returned and when forfeited.* When any person shall have been awarded a contract, and shall have given the bond required, the commission, through its secretary, shall so inform the Treasurer of the State, and it shall then be the duty of the Treasurer to return to such contractor the cash deposit made by him; and the commission, through its secretary, shall inform the Treasurer of the names of the unsuccessful bidders or proposers, and the Treasurer shall, upon the receipt of this notice, return to them the amounts deposited by them in cash at the time of the submission of their bids. But should any person fail or refuse to execute a contract and give the bond as required by this chapter, within thirty days after the awarding of the contract to him, and the mailing of the registered letter containing notice thereof, which shall be sufficient evidence that the notice was given and received, the cash deposit shall be deemed and is hereby declared forfeited to the State of North Carolina, and it shall be the duty of the Treasurer to place such cash deposit in the treasury of the State to the credit of the school fund.

1901, c. 1, s. 8.

4082. *Prices to be printed on books.* It shall be the duty of all contractors to print plainly on the back of each book the contract price as well as the exchange price at which it is agreed to be furnished, but the books submitted as sample or specimen copies, with the original bid, shall not have the price printed on them before they are submitted to the subcommission. And all books shall be sold to the consumer at the retail contract price, and on each book shall be printed the following: "The price fixed hereon is fixed by State contract, and any deviation therefrom should be reported to your County Superintendent of Public Instruction or to the State Superintendent at Raleigh."

1901, c. 1, ss. 9, 13, 19.

4083. *Agencies for the distribution of books to patrons of public schools; penalty.* There shall be maintained in each county in the State not less than one and as many more agencies as the commission, upon recommendation of the County Board of Education, shall order, to be located at such points as the county board may recommend, for the distribution of books to the patrons; or the contractor shall be permitted to make arrangements with mer-

chants or others for the handling and distribution of the books; and parties living in the county where no agency has been established, or no arrangement made for distribution, may order the same from one of the contractors, and it shall be the duty of the contractor or contractors to deliver any book so ordered, to the person ordering, to his post-office address, freight, express, postage, or other charges prepaid, at the retail contract price, if the price of the books so ordered shall be paid in advance. And every contractor shall be required to keep on hand at all times at every established agency in every county an ample supply of books to meet all demands of patrons and purchasers, and upon failure to do so, or upon failure to establish agencies when ordered to do so by the commission as directed herein, the contractor shall be liable to a penalty of five hundred dollars for each and every failure to comply with the provisions of this section, to be sued for by the Attorney-General in the name of the State in the Superior Court of the county of Wake, for the benefit of the school fund of the county injured by such failure; and if any contractor, against whom judgment shall be obtained for such penalty, shall fail to pay the same within thirty days after the docketing thereof, he shall forfeit his contract, and the commission shall so declare, and shall thereupon proceed to make a new contract for books with some other contractor. The County Superintendent shall notify the contractors annually of the date of opening the public schools at least thirty days before they open.

1901, c. 1, s. 13; 1903, c. 691, ss. 1, 2.

4084. *Contract proclaimed by Governor; notices issued by State Superintendent.* As soon as the commission shall have entered into a contract for the furnishing or supplying of books for use in public schools, it shall be the duty of the Governor to issue his proclamation announcing such fact to the people of the State. And as soon thereafter as practicable the State Superintendent shall issue a circular-letter to each County Superintendent in the State, and to such others as he may desire, which letter shall contain the list of books adopted, the prices, location of agencies, and method of distribution, and such other information as he may deem necessary.

1901, c. 1, ss. 12, 15.

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