

cause (being one of the preceding causes enumerated) on which the prayer of the petition is founded.

SEC. 7. That the courts aforesaid shall be and they are hereby authorized to hear witnesses in open court, on the stand, or to receive depositions taken, with notice to the adverse party, under the order of the court, or a judge at his chambers.

Witnesses may be heard in open court, or depositions received.

SEC. 8. That no want of form shall delay or obstruct the proceedings. Notice of the petition, and of the time of hearing the same, shall be published in a newspaper, printed within this Territory, eight weeks at least before a decree shall be made, or longer notice as the court may direct, and notice of taking depositions shall be given in all cases.

Proceedings not to be delayed for lack of form. Notice of the petition, &c., to be published.

SEC. 9. If either party shall claim a trial by jury of the facts set forth in the petition, the court shall thereupon make up an issue, and empanel a jury for the trial thereof, and render judgment upon the finding of such jury: *Provided*, That if the petition allege impotency as the cause of divorce, the courts shall hear and decide upon the same without the intervention of a jury.

Trial by jury may be claimed by either party.

Proviso.

APPROVED, December 29, 1838.

## EDUCATION.

AN ACT providing for the establishment of Common Schools.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That there shall be established a common school, or schools, in each of the counties of this Territory, which shall be open and free for every class of white citizens between the ages of four and twenty-one years: *Provided*, That persons over the age of twenty-one years may be admitted into such schools on such terms as the trustees of such district may direct.

Common schools to be established in each county.

SEC. 2. The county board shall from time to time form such districts in their respective counties, whenever a petition may be presented for that purpose by a majority of the voters resident within such contemplated district.

School districts to be formed by county board on petition.

SEC. 3. The legal voters in each district, to be established as aforesaid, may have a meeting at any time thereafter, by giving ten days' previous notice, at four of the most public places within the township or district, of the time and place of the same,

Election of officers.

at which meeting they may proceed, by ballot, to elect three trustees, one clerk, one treasurer, one assessor, and one collector, who shall severally take an oath of office faithfully to discharge their respective duties.

Duties of the trustees.

SEC. 4. It shall be the duty of the trustees to superintend the schools within their respective districts; to examine and employ teachers; to lease all land belonging to the district; to call meetings of the voters whenever they shall deem it expedient, or at any time, when requested so to do by ten legal voters residing within said district, by giving at least ten days' notice of the same, by putting up written or printed notices at three of the most public places in the district; to make an annual report to the county commissioner's court in the proper county, of the number of children living within the bounds of such district, between the ages of four and twenty-one years, and what number of them are actually sent to school, with a certificate of the actual time a school is kept up in the district, with the probable expense of the same.

School district constituted a body corporate.

SEC. 5. Each and every school district, when established and organized as a free school shall be and they are constituted a body corporate and politic, so far as to commence and maintain an action on any agreement made with any person or persons for the non-performance thereof, or for any damage done their school house, or any other property that may belong to, or be in the possession of, such school, and be liable to an action brought and maintained against them for the non-performance of any contract by them made.

Trustees to prosecute and defend suits, &c.

SEC. 6. It shall be the duty of the trustees to prosecute and defend all such suits, in the name of the trustees for the benefit of the school district, giving it its proper name, and that it shall be lawful for the said trustees, in the name and for said district, to purchase, or receive as a donation, and hold in fee simple, any property, real or personal, for the use of the said school district; and they may prosecute, or defend, any suit or suits relative to the same; and it shall be the duty of the trustees to give orders on the treasurer of the said district for all sums appropriated in paying teachers, and all other expenditures necessarily incurred in establishing, carrying on, and supporting all schools within their respective districts; and at the regular annual meeting of the

To give orders on the treasurer.

inhabitants of the district, the said trustees shall, together with the other officers, settle all accounts which shall have accrued during the year for which they were elected.

SEC. 7. That it shall be the duty of the clerk of each district to keep a book, in which he shall make true entries of the votes and proceedings of each meeting of the voters of the district, and of the trustees, which shall be held according to law, and to give attested copies thereof, which shall be legal evidence in all courts of this Territory.

Clerk to keep  
a record of pro-  
ceedings.

SEC. 8. That it shall be the duty of the treasurer of each school district to receive all moneys belonging to the same, and pay them over, for the use of the school, to the order of a majority of all the legal voters, by vote in general meeting, or the order of the trustees, requiring at all times a written voucher for such payment, stating the purpose for which it is made.

Duty of the  
treasurer.

SEC. 9. That it shall be the duty of the collector of each school district to collect all the moneys belonging to, or due to the same, when directed so to do, and to collect such taxes as, by the vote of the district, shall be levied, and to pay over all moneys, when collected, to the treasurer of said district, within twenty days after such collection, except five per cent. which he shall retain for his services, taking his receipt for the same.

Of the collec-  
tor.

SEC. 10. That it shall be the duty of the assessor of each school district to assess all such property, lying within and belonging to the inhabitants of said district, as he may be directed to assess by a majority of the voters in such district, and to make return of the same, within thirty days after such assessment, to the trustees of said district.

Of the assessor.

SEC. 11. That when any legal voter, living within any school district, shall be duly selected or appointed, according to the second section of this act, trustee, clerk, treasurer, collector, assessor, or to serve a notice, and shall refuse or neglect to discharge the duties of the same, he shall, if a trustee, be fined in the sum of ten dollars, if a clerk, in the sum of eight dollars, if a treasurer, in the sum of five dollars, if an assessor, in the sum of five dollars, and if a person appointed to serve a notice of any meeting, the sum of five dollars; and for a neglect to settle all of their respective accounts at the end of the year for which they were elected, the trustees, clerk,

Fines for non-  
performance of  
duties.

and treasurer shall be fined in the sum of twenty dollars, which, together with all other fines imposed in this act, shall be collected by suit before any justice of the peace within the proper county, and when collected shall be paid over to the treasurer of the district for the use of the school, or schools, within the same.

Powers of voters when legally assembled.

SEC. 12. That the legal voters within any school district, lawfully assembled, shall have the powers, to wit: To appoint a time and a place for annual meeting, to select a place within the district, to build a school house, to levy a tax, in conformity with the provision of the tenth section of this act, either in cash, or good merchantable produce at cash price, upon the inhabitants of their respective districts, not exceeding one half per centum, nor amounting to more than ten dollars per annum on any one person, to do all and every thing necessary to the establishment and support of schools within the same.

One of the trustees to preside at meetings.

SEC. 13. That one of the trustees shall preside at all meetings of the voters, who shall put all questions upon which a vote is to be taken, and when the vote is taken upon levying a tax upon the district, each of the voters present may propose a sum to be levied, and the vote shall be taken on the highest sum proposed, and in case of a disagreement, upon the next highest, and so on down, until a majority of all the legal voters within the district, so taxed, shall agree.

Trustees to furnish collector with a warrant.

SEC. 14. That it shall be the duty of the trustees, or a majority of them, to furnish the collector with a sufficient warrant to collect such taxes as may be so levied, which warrant shall be his authority for collecting the same.

Treasurer and collector to give bond and security.

SEC. 15. That the treasurer of each district shall, before he enters on his duties, give bond, with good and sufficient security, to the trustees of said district, in any sum agreed upon by said trustees, for the true and faithful performance of his duties. And the collector shall give bond in like manner.

APPROVED, January 1, 1839.