

CHAPTER 79.

SUPREME COURT.

AN ACT to amend "An act to re-organize the supreme court," approved January 22, 1848.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Appeals, etc., from fifth district taken to Ottumwa. That all cases of appeals, or writs of error, from the fifth judicial district, shall be taken to the supreme court at Ottumwa, in the third judicial district.

Approved, January 15, 1849.

[95] CHAPTER 80.

COMMON SCHOOLS.

AN ACT to establish a system of common schools.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Superintendent of public instruction to be elected. That at the township election on the first Monday in April, A. D. 1851, and triennially thereafter, there shall be elected a superintendent of public instruction, who shall hold his office for three years, and until his successor is duly elected and qualified.

SEC. 2. Take oath and give bond—bond, where filed and may be sued on. Before entering upon his duties he shall take and subscribe the usual oath of office, and shall also execute a bond in the penalty of twenty-five thousand dollars, payable to the state of Iowa, with securities to be approved by the governor, conditioned for the prompt discharge of his duties as superintendent of public instruction, and for the faithful application and disposition, according to law, of all school moneys which may come into his hands by virtue of his office. Said bond and oath shall be deposited with the secretary of state, and an action may be maintained thereon by the state, at any time, for a breach of the conditions thereof.

SEC. 3. Duty of superintendent. It shall be his duty to keep an office at the seat of government, and to file all papers, reports, and public documents transmitted to him by the school officers of the several counties, each year separately, and hold the same in readiness to be exhibited to the governor or to any committees of either house of the general assembly, and shall keep a fair record of all matters pertaining to the business of his office.

SEC. 4. Pay over moneys. He shall, without delay, pay over all sums of money which may come into his hands, by virtue of his office, to the officer or officers authorized to receive the same, in such manner as may be prescribed by law.

SEC. 5. Apportion interest of permanent fund, and duties relative thereto. On the twenty-fifth day of January of each year he shall apportion among the several counties of the state, the interest of the permanent school fund which shall have accrued up to the first day of January aforesaid, and shall immediately transmit to the school fund commissioner a statement of the amount

thus apportioned to their respective counties, accompanied with his warrant for the same on the officer in whose hands it may be deposited.

SEC. 6. Supervision of district schools—visit each county—deliver public lectures. He shall have a general supervision of all the district schools [96] of the state, and shall see that the school system is as early as practicable put into uniform operation; shall visit every county at least once during his term of office, confer freely with the several school officers, and give such advice relative to schools as he may deem necessary; he shall deliver a public lecture to the teachers and people of each school district, on the subject of education, if deemed practicable, and perform generally such duties as may tend to advance the interest of education.

SEC. 7. Examine and recommend text books. He shall examine and recommend to the several school districts a uniform series of text books, to be used in the schools thereof.

SEC. 8. Prepare suitable forms—give instructions, etc. He shall prepare and have printed suitable forms for all reports required by this act, and shall transmit the same with such instructions as he may deem proper for the organization and government of the public schools, and with such directions in reference to the course of studies as he may judge advisable, to the several officers entrusted with their management and care.

SEC. 9. Make rules and regulations. He shall make all further rules and regulations that may be necessary to carry the law into full effect according to its spirit and intent, which shall have the same force and effect as though contained herein.

SEC. 10. Cause copies of this act to be printed and distributed. He shall cause so many copies of this act, with the forms, regulations, and instructions herein contemplated, thereto annexed, to be from time to time printed and distributed among the several school districts of the state, as he shall deem expedient.

SEC. 11. Report to general assembly. He shall make a report to the general assembly at each regular session thereof, exhibiting the condition of the state university and public schools, and of the funds appropriated to each, and all such other matters relating to the affairs of his office as he may think proper to communicate.

SEC. 12. Compensation. He shall receive annually the sum of twelve hundred dollars as a salary for the services required under the provisions of this act, and also all necessary contingent expenses for postage, books and stationery pertaining to his office, to be audited and paid as the salaries and contingent expenses of other state officers are.

Election and Duties of School Fund Commissioner.

SEC. 13. School fund commissioner to be elected. At the annual township election on the first Monday in April, A. D. 1850, and biennially thereafter, in each organized county in this state, there shall be elected one school fund commissioner for the county, who shall hold his office for two years and until his successor is elected and qualified.

[97] **SEC. 14. Take oath and execute bond—by whom approved—where filed and who to bring suit.** Within twenty days after his election he shall take and subscribe an oath that he will faithfully discharge the duties of his office, and shall also execute a bond to the state of Iowa, in the penalty of ten thousand dollars, with securities to be approved by the clerk of the district court and the sheriff of the county, conditioned for the faithful application of all school money that shall come into his hands. Said bond and oath shall be deposited with the clerk of the district court and suit shall be brought thereon at any time, in case of mal-practice in office, by the prosecuting attorney.

SEC. 15. Vacancy, how filled. Should he fail to qualify as above required, or if for any other reason there be a vacancy in the office, the clerk of the district court, prosecuting attorney, and sheriff of the county shall appoint a substitute, who shall qualify in like manner.

SEC. 16. Report to superintendent of public instruction on the 15th of October. He shall on the fifteenth day of October of each year, transmit to the superintendent of public instruction a report containing an abstract of the several particulars set forth in the reports of the district secretaries, together with a statement of the financial affairs of his office, and such suggestions as he may think proper to make relative to the schools of his county.

SEC. 17. Failure to report, to forfeit \$20. Should he fail to make his report, as required in the foregoing section, he shall forfeit the sum of twenty dollars, and suit shall be brought on his official bond for the collection of the same with damages, by the prosecuting attorney.

SEC. 18. Keep an accurate account of receipts and expenditures. He shall keep an accurate account of the receipts and expenditures of his office, and shall render an account current thereof at any time when required by the superintendent of public instruction.

SEC. 19. Take receipts for moneys paid, file warrants, etc. He shall take receipts for all monies paid out, in a book provided for the purpose, file all warrants and orders drawn on him by the respective presidents of the district boards, and all other papers transmitted to him pertaining to the business of his office, and shall hold the same subject to the inspection of the superintendent of public instruction or any of the school officers of his county.

SEC. 20. Keep accounts. He shall keep a correct account of all monies received from the township and county officers, specifying the particular source from which the same accrued.

SEC. 21. Distribute forms, circulars, etc. He shall distribute to the district officers within his county such blank forms, circulars, and other communications as may be transmitted to him for that purpose by the superintendent of public instruction.

SEC. 22. Apportion interest on permanent fund, and the county school tax. On the first day of March annually he shall apportion the interest of the permanent school fund to which his county is entitled, the county school tax, and all money in his hands appropriated for the [98] support of schools, among the several school districts of his county in proportion to the number of persons reported to him by the respective district secretaries, and shall record a statement thereof in his office.

SEC. 23. Notify school districts. He shall immediately notify the president of each school district of the amount to which his district may be entitled by said apportionment and shall pay the same over to the district treasurer, upon the warrant of the president countersigned by the secretary.

SEC. 24. Loan school fund. He shall loan out the principal of the permanent school fund, as the same may come into his hands, at the rate of ten per cent. interest per annum; said interest made payable at his office on the first day of January of each year.

SEC. 25. Money secured by note with security and mortgage. The payment of the money thus loaned, and the interest thereon, shall be secured by a promissory note, to be executed by the loanee, with two good securities, and by mortgage on real estate of the clear unincumbered value of double the amount of money loaned.

SEC. 26. Real estate upon which money is to be obtained to be appraised. The value of real estate proposed to be given in security for money loaned as herein provided, shall be fixed by three appraisers under oath, to be appointed

by the fund commissioner, who shall be allowed therefor the sum of fifty cents each, to be paid by the loanee.

SEC. 27. Loan not exceed \$500, nor for less time than one year. No loan to any person or company shall exceed the sum of five hundred dollars, nor shall any loan be made for a less term than one year or more than five years.

SEC. 28. School fund commissioner authorized to administer oaths. In all cases where it shall be necessary to administer any oath or affirmation under the provisions of this act, or any other act pertaining to the duties of the school fund commissioner, he is hereby authorized to administer the same.

SEC. 29. Divide districts and number the same. He shall divide into school districts, and number the same, each township or election precinct in his county, or any part thereof, where the same has not heretofore been districted, and may alter and change the boundaries of districts thus formed, or those formed under other acts, from time to time, as the convenience of the inhabitants of the aforesaid townships and election precincts may require; and shall proceed to make such change at any time when petitioned by two-thirds of the legal voters of any district.

SEC. 30. Form districts of parts of two or more townships—or parts of two or more counties—proviso. He may form a district from parts of two or more adjoining townships, and shall number said district as belonging to one of the several townships from which it is formed; a district may also be formed from parts of two or more adjoining counties, by the concurrence of the respective fund commissioners: *provided*, that the persons in said district between the ages of five and twenty-one years shall be reported by the secretary of the district to the fund commissioner of the county within which they reside, and that the school money to which they may be entitled by virtue of said reports shall be paid to the treasurer of said district.

SEC. 31. Compensation. He shall receive such sum per annum for his service as may be allowed by the county commissioners, to be paid out of the county treasury.

Organization and Powers of School Districts.

SEC. 32. School districts a body corporate—may hold property and be a party to suits. Each school district formed and organized under any former law, or under the provisions of this act, is hereby declared to be a body corporate by the name and style of school district No. —, of the township of —, in the county of —, and state of Iowa, and in that name it may hold property and be a party to suits and contracts.

SEC. 33. Formation of new district, some qualified voter to be notified. Upon the formation of a new school district, the fund commissioner shall notify some qualified voter thereof, by written notice, describing the boundaries of the district, and also the time and place of the first meeting.

SEC. 34. Duty of such voter. Such qualified voter shall notify each elector in the district of the same, by personal service, as far as convenient, and shall post a notice at the place of meeting, and also in three other public places in the district, stating the boundaries of the district and the time and place of meeting, at least six days before the time of said meeting.

SEC. 35. The electors to organize and to appoint president and secretary. The qualified electors of the district, when assembled in accordance with the notice required in the foregoing section, shall organize by appointing a president and secretary who shall act as judges of the election, and the name of each elector shall be recorded by the secretary.

SEC. 36. To elect a president, secretary and treasurer by ballot. They shall then elect by ballot one president, one secretary and one treasurer, who to-

gether shall constitute a board of directors for the district, and shall hold their offices until the next succeeding annual district election, and until their successors are elected and qualified.

SEC. 37. Directors to take oath—forfeiture. Said directors shall, within ten days after their election, appear before some justice of the peace and take an oath for the faithful performance of their duties; and in case they fail so to do, they shall each forfeit the sum of five dollars for the use of the district.

SEC. 38. Time of holding district meetings. The regular meetings of each school district shall be held on the first Monday in May and October of each year.

SEC. 39. Powers of electors. The qualified electors of the district, when assembled, shall have power,

[100] 1st. To appoint a chairman and secretary, in the absence of the regular officers.

2nd. To adjourn from time to time as occasion may require.

3rd. **Determine the number of schools to be established.** To determine the number of schools which shall be established in the district, and the length of time that each shall be taught.

4th. **Fix site for school house.** To fix the site for each school house, taking into consideration in doing so the wants and necessities of the people of each portion of the district.

5th. **Lay tax, etc.—proviso.** To lay such tax on the taxable property of the district as the meeting shall deem sufficient to purchase or lease a suitable site for a school house or school houses, and to build, rent, or purchase a school house or school houses, and to keep in repair and furnish the same with the necessary fuel and appendages, and for procuring libraries for the schools, books and stationery for the use of the board and the district meetings, and to defray all other contingent expenses of the district: *provided, however,* that said tax shall not exceed one and one-half per cent. on the taxable property aforesaid in any one year.

6th. **Sell school house, etc.** To direct the sale or other disposition to be made of any school house or the site thereof, and of such other property, real or personal, as may belong to the district, and to direct the manner in which the proceeds arising therefrom shall be applied.

7th. **Determine what branches shall be taught.** To determine what branches of learning shall be taught in the schools of their districts.

8th. To delegate any or all of the powers contained in the foregoing specifications to the district board.

9th. **Fix compensation of officers.** To fix the compensation of the secretary and treasurer of the district, and to transact generally such business as may tend to promote the cause of education in accordance with the provisions of this act.

SEC. 40. Objects for which tax is raised to be specified—secretary to assess and collect. In levying a tax the district meeting shall designate the respective objects for which the same is raised, and the amount to be raised for each object; and the aggregate amount shall be assessed and collected by the secretary as herein provided.

SEC. 41. To determine whether a school of higher grade—proviso—extra compensation to teachers of school of higher grade to be paid by private subscription. They may determine whether a school of a higher grade shall be established in the district, the number of teachers to be employed, and the course of instruction to be pursued therein; and may erect for the purpose one or more permanent school houses, and shall cause the district board to

make such classification of the pupils thereof as they may deem necessary: *provided*, that in selecting the site for such school house or school houses the permanent interest and future welfare of the people of the entire district shall be consulted: *And provided further*, that the extra compensation required for teacher's sala-[101]ries in such school or schools shall be paid by private subscription, in such proportionate parts as the board of directors may determine.

SEC. 42. Adopt rules of order—proviso. They may adopt such rules of order, not incompatible with the provisions of this act and instructions of the superintendent of public instruction, for the government of district meetings, and may alter and change the same, from time to time, as occasion may require, and may prescribe the manner of taking the sense of the meeting upon any question: *provided*, that the last specification shall not apply to the election of officers.

Election, Powers, and Duties of District Officers.

SEC. 43. President, secretary and treasurer to be elected and constitute a board of directors. There shall be elected in each organized school district, at the regular district meeting, on the first Monday in May of each year, one president, one secretary, and one treasurer, of the district, who together shall constitute a board of directors for the district, and shall hold their offices for one year and until their successors are elected and qualified.

SEC. 44. Directors to qualify. Said directors shall qualify in the manner herein prescribed for directors elected upon the formation of a new school district, and in case they neglect or refuse so to do they shall be subject to the same penalty.

SEC. 44. Board may hold meetings. The board of directors may hold such regular, special, or adjourned meetings as they may from time to time determine.

SEC. 46. Duties of president. The president, when present, shall preside at all meetings of the board and of the district, sign all warrants for the collection of taxes, all orders on the treasurer for the payment of money, and shall draw all drafts upon the school fund commissioner for money apportioned to his district.

SEC. 47. Drafts and orders must specify the fund on which drawn. All drafts and orders drawn on the district treasurer, as required in the foregoing section, shall specify the fund on which they are drawn, and the use for which the money is designed.

SEC. 48. Board to employ and pay teachers—proviso. The district board shall employ all teachers necessary for the schools of the district, and pay them by draft on the treasurer: *provided*, they do not overdraw the amount due from the teacher's fund, and when there shall not be sufficient funds in the hands of the treasurer for the payment of such teachers, the balance shall be paid by the persons sending pupils, in such manner as may be agreed upon by the teachers and the district board.

SEC. 49. President appear in suits—proviso. The president shall appear in behalf of his district in all suits brought by or against the same: *provided*, that where he is individually a party this duty shall be performed by the secretary.

[102] **SEC. 50. Duties of secretary.** The secretary shall record all the proceedings of the board and of the district meeting, in separate books to be kept for that purpose, and shall preserve copies of all reports made to the school fund commissioner, and shall file all papers transmitted to him by other school officers pertaining to the business of the district, and shall countersign all drafts, warrants, and orders drawn by the president.

SEC. 51. Take census of persons between 5 and 21 years. He shall, between the first and fifteenth day of September of each year, take and keep on record a list of the names of all the white persons in the district between the ages of five and twenty-one years, and shall deliver a copy of the same to the principal teacher of each school in the district.

SEC. 52. Keep account of expenses of district. He shall keep an accurate account of all the expenses incurred by the district, and shall present the same to the district board to be audited and paid as herein provided out of the school house fund.

SEC. 53. Give ten days notice of meetings. He shall give ten days previous notice of all regular and special meetings of the district, as herein authorized, by posting up a written notice in five different places therein, and shall furnish a copy of the same to the teacher of each school in the district, to be read once in the presence of the pupils thereof.

SEC. 54. Assess property—post a list of the names of persons taxed and amount due from each. Whenever a tax has been voted by the district, the secretary shall obtain a transcript of the last assessment roll of the county, and shall add thereto any taxable property therein omitted, having himself assessed the value thereof, and shall post up a list of the names of the persons taxed, at three or more places in the district, with the amount due from each, set opposite their respective names, so far as their names may be known, at least thirty days previous to his proceeding to collect the tax.

SEC. 55. Call meeting of board to correct assessment. During the said thirty days should any person file a complaint of being taxed beyond his due portion, with the secretary, he shall call a meeting of the district board, who shall correct said assessment if they deem it erroneous.

SEC. 56. President issue warrant—secretary to collect tax. At the expiration of the said thirty days the president of the board shall issue his warrant to the secretary, who shall proceed to collect the tax and to pay it over on the order of the president to the treasurer.

SEC. 57. Persons refusing to pay tax, to proceed by distress. Should any one when called on neglect or refuse to pay such tax, the secretary shall proceed to collect the same by distress and sale of goods and chattels found within this district, having first posted up, at least ten days previous notice of such sale, in three of the most public places in the district.

SEC. 58. Owner of lands failing to pay tax, secretary to report to county collector—failing to sell lands at the proper time to be subsequently sold. When the owner of lands fails to pay the tax thereon, such failure shall be reported by the secretary to the county collector of [103] taxes, in time for the same steps to be taken by such collector as are prescribed for the sale of lands for delinquent county taxes for the same year; the lands shall be sold in like manner and with the same consequences as though sold for delinquent county taxes. And if for any cause they shall not be thus sold at the proper time, they may be sold the following or any subsequent year in the same manner and with the same consequences as is above contemplated.

SEC. 59. Collector to hold tax subject to order of president. The amount of tax collected by the county collector, in accordance with the provisions of the foregoing section, shall be held by him subject to the order of the president of the proper district, and shall be paid over accordingly.

SEC. 60. Secretary to make report to school fund commissioner. On the first day of October of each year, he shall make out and file in the office of the school fund commissioner, a report of the affairs of the district, containing,

1st. The number of white persons between the age of five and twenty-one years.

- 2nd. The number of schools and the branches taught in each.
- 3rd. The number of pupils in each school.
- 4th. The number of teachers employed in each school, and the average compensation of each per month.
- 5th. The number of days each school has been taught, and by whom.
- 6th. The average cost of tuition for a pupil per month in each school.
- 7th. The books used in each school.
- 8th. The number of volumes in the library of each school.
- 9th. The aggregate amount paid teachers during the year, the source from which the same was received, and the amount of the teachers' fund in the hands of the treasurer.
- 10th. The number of district school houses, and the cost of each.
- 11th. The amount raised in the district by tax for the erection of school houses, and for all other purposes authorized in this act, and such other information as he may deem useful.

SEC. 61. **Secretary failing to file report forfeit \$10.** Should the secretary fail to file his report as above directed, he shall forfeit the sum of ten dollars, and shall be liable to make good all loss resulting to the district from such failure; suit to be brought in both cases by the president in the name of the district on his official bond.

SEC. 62. **Treasurer to have custody of money, and pay the same on the order of the president.** The treasurer shall have the custody of all monies belonging to the district and shall pay out the same upon the order of the president, and shall keep an account of the receipts and expenditures thereof in a book provided for the purpose.

[104] SEC. 63. **Duty of treasurer as to funds.** The moneys for the payment of teachers, shall be called the "teachers' fund," and those for school houses and district expenses, the "school house fund," and the treasurer shall keep the same distinct, and keep separate accounts with them, and no warrant for money shall be paid by the treasurer, which does not specify the fund on which it is drawn, and the specific use to which it is to be applied; the school house fund shall consist only of taxes collected in the district, and all other school moneys belonging to the district, shall go to the teachers' fund, and shall be applied to no other use except to pay the wages of school teachers in the district.

SEC. 64. **Apply to fund commissioner for funds.** The treasurer shall apply for and receive all money apportioned to the district, by the school fund commissioner, when notified of said apportionment.

SEC. 65. **To render a statement.** He shall render a statement of the finances of the district, as shown by the records of his office, at any time when required by the district board.

SEC. 66. **Board to make contracts, etc.** The district board shall make all contracts, purchases, payments and sales, necessary to carry out any vote of the district for procuring any site for a school house, renting, repairing, or furnishing the same, or disposing thereof, or for keeping a school therein, and perform such other duties as may be delegated to them by the district meeting.

SEC. 67. **Admit pupils from other districts—proviso.** They may with the concurrence of the board of directors of an adjoining district or districts, admit pupils from either of said districts, to a school within their own district: *provided*, that said pupils shall be enumerated in their respective districts, and that the portion of the school money to which they may be entitled by said enumeration, shall be applied to the support of said school: *provided further*, that the parents or guardians of said pupils shall pay such portion of the con-

tingent expenses and of the amount to be contributed by voluntary subscription for the support of said school, as the respective boards may deem equitable.

SEC. 68. Secretary and treasurer to give bond—bond may be increased—bond, where filed. The district board shall require the secretary and treasurer each to give bond to the district, in such penalty and with such securities, as in their opinion will secure the district against any loss, conditioned for the faithful application of all moneys that may come into their hands by virtue of their respective offices. Said penalty may be increased from time to time, as the interest of the district may require; the bond shall be filed with the president of the board, and in case of a breach of the conditions thereof, he shall bring suit thereon in the name of the district.

[105] **SEC. 69. Board act as judges.** In each organized district, they shall act as judges of all district elections.

SEC. 70. Examine books and make settlement with treasurer—statement of receipts and expenditures. They shall from time to time examine the books and accounts of the treasurer, and make settlement with him; and shall at each regular meeting of the district, present to the same a full statement of the receipts and expenditures of the district, and such other matters as may be deemed important.

SEC. 71. Committee to visit schools. They shall appoint a committee from their own body, to visit the respective schools of the district monthly, and to aid the teachers in establishing and enforcing rules for the government of schools, and to see that the teachers keep a correct list of the pupils, the time during which they attend school, the branches of learning which each pupil is studying, and such other matters as may in the opinion of the board tend to promote the welfare of the school.

SEC. 72. Examine teachers. Before employing any person to act as teacher, the board of directors shall examine or cause to be examined all such applicants, in the following branches of an English education: To-wit; spelling, reading, writing, arithmetic, geography, history of the United States and English grammar; and if the applicant is found qualified, the board may employ such applicant.

SEC. 73. Audit and allow claims. They shall audit and allow all just claims against the district, and the president shall draw an order for all demands thus audited on the district treasurer.

SEC. 74. Call special meeting—notices of special meetings to state object, etc. They shall, upon the written request of five legal voters of the district, or whenever they deem it expedient, call special meetings thereof; but in all such cases, the notice for such meeting, shall clearly state the precise object for which it is called, and the time and place at which it is to be held.

SEC. 75. Vacancy in board to be filled by appointment. Should a vacancy occur in the board, they may fill the same by appointment, unless it is deemed expedient to call a special meeting of the district for the purpose.

County School Tax.

SEC. 76. County commissioners to levy tax—collected by county collector. The county commissioners of each county shall at the time of levying the tax for county purposes, levy a tax for the support of schools within the county, of not less than one half mill, nor more than one mill on the dollar, on the assessed value of all real and personal property within their county, which shall be collected by the county collector at the same time, and in the same manner, as state and county taxes are collected, except that it shall be receivable only in cash.

[106] **SEC. 77. Collector to pay over—render statement.** The collector shall, on the tenth day of February of each year, pay over the amount of said tax, which shall have been collected, to the school fund commissioner, and shall render him a statement of the amount uncollected; the amount unpaid shall be collected at any subsequent time, as delinquent county taxes are collected, and shall be paid over when collected, to the school fund commissioner aforesaid.

SEC. 78. Fees for collecting—forfeiture. The collector shall be allowed one per cent. by the fund commissioners for collecting said tax, and should he fail, at any time, to pay over the same, as herein provided, he shall forfeit the sum of fifty dollars, and double damages, to be collected on his official bond.

Miscellaneous Provisions.

SEC. 79. Collection made under laws heretofore enacted. The collection and distribution of school moneys, until the first day of April next, shall be made under the laws heretofore enacted, as if this act had not been passed.

SEC. 80. The superintendent of public instruction and school fund commissioners, shall continue in office until their successors shall be elected and qualified, under the provisions of this act.

SEC. 81. Terms of office of school inspectors—basis of appropriation. The school inspectors, under the laws heretofore in force, shall continue in office until the first day of April next, and then shall pay over all school moneys in their hands to the school fund commissioner of their respective counties, who shall apportion the amount received from each township, among the organized school districts thereof, on the first day of March then next ensuing, taking as the basis of said apportionment, the number of persons between the ages of five and twenty-one years, as shown by the last annual reports of the respective secretaries of said districts, then in the possession of said fund commissioner.

SEC. 82. School directors—pay over to successors. The school directors, under former laws, shall continue in office until the regular district election, to be held on the first Monday in May next, and shall be superceded by the district officers, to be then elected under this act; and they shall, on being so superceded, pay over and deliver to their said substitutes and successors, all funds, property, evidences of rights and other matters held or controlled by them, in their official capacity, to be by their said successors held and disposed of, according to the provisions made by this act, for similar funds thereafter to be collected.

SEC. 83. Cases of controversy settled by arbitrators—awards to be returned to fund commissioner. In all cases where the alteration of school districts, as provided in this act, shall give rise to controversy respecting the adjustment of the rights and liabilities of the district or districts affected, upon which they cannot amicably agree, the matter shall be settled by arbit- [107] rators, appointed by the school fund commissioner, as justice and equity may require. All awards made under this act, shall be returned to the said fund commissioner, who shall at the request of either party, who may wish to except thereto, file the same in the district court, to be dealt with as other awards under the statute on that subject.

SEC. 84. In suits, counsel may be employed—expense of suit. In all cases where suits may be instituted by or against any of the school officers, contemplated or created by this act, to enforce any of the provisions herein contained, counsel may be employed, if necessary, by the officer instituting the

suit, and the expense of suit, shall be borne by the district, county, or state, in whose name or against whom the same may be instituted.

SEC. 85. Forfeitures belong to district—application of forfeitures. All forfeitures, provided for in this act, shall, when they accrue, belong to the respective districts or counties, in which the same may be incurred, and the district treasurers for their districts, and the school fund commissioners for their counties, are hereby authorized to receive and apply the proceeds of such forfeitures, as the interest of the permanent fund is now or may hereafter be applied.

SEC. 86. Fines, moneys, arising from sale of lost goods, water crafts, and estrays, belong to school fund. The clear proceeds of all fines collected within the several counties of this state for breaches of the penal laws, and all fines paid for exemption from, or as an equivalent for military duty, and all funds arising from the sale of water crafts, lost goods and estrays, shall be paid over in cash, by the persons collecting the same, within twenty days after collection, to the school fund commissioner of the county in which the same have accrued, and shall be by him apportioned to school districts as provided in this act.

SEC. 87. To be kept separate from other funds. *Provided, however,* that all funds arising from a breach of the penal laws, and paid for exemption from, or as an equivalent for military duty, shall be kept and apportioned separate and apart from all other school funds.

SEC. 88. Property of blacks and mulattoes exempt. All real and personal property of blacks and mulattoes in this state, shall be exempt from taxation for school purposes.

SEC. 89. Punishment for carelessness or neglect of duty. Each and every officer, created by the provisions of this act, who shall receive, by virtue of his office, any books or papers, and shall refuse to deliver the same to his successor in office, or shall wilfully mutilate or destroy the same, or any part thereof, shall be liable to a fine of not less than fifty nor more than one hundred dollars, to be recovered with damages on their respective official bonds.

SEC. 90. Repealing section. All acts and parts of acts for the establishment of schools, heretofore in force in this state, are hereby repealed.

SEC. 91. Take effect—superintendent to forward papers. This act shall take effect and be in force from and after its publication in the Iowa Capital Reporter and Iowa Republican, news- [108] papers published in this state, and the superintendent of public instruction shall send a copy of the aforesaid papers, containing this act, to the school fund commissioner and clerk of the board of county commissioners of each county.

Approved, January 15, 1849.

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