

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1836.

AUGUSTA:
SMITH & ROBINSON,.....PRINTERS.

1836.

SIXTEENTH LEGISLATURE.

No. 66.

HOUSE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT
HUNDRED AND THIRTY SIX.

AN ACT to provide for the Education of Youth.

SECT. 1. *Be it enacted by the Senate and House of*
2 *Representatives, in Legislature assembled,* That each
3 School District in any town, plantation, or city in
4 this State, duly established according to law at the
5 time of the passage of this Act, be, and the same is
6 hereby confirmed as a limited Corporation, to be
7 known and recognized as such in law, by the name,
8 or designation of, its appropriate number established
9 by the town, plantation, or city in which it lies, and
10 by such name may sue and be sued, and may prose-
11 cute or defend any action at law, or in equity which
12 may arise out of any legal doings or acts of such
13 School District or otherwise. And it shall be the du-
14 ty of the inhabitants, being legal voters, in any such

15 School District, to assemble annually in the month of
16 March or April, at some convenient place within each
17 School District; not however, on the same day that
18 the annual meeting of the inhabitants of such town or
19 plantation is or may be held for the choice of town or
20 plantation officers, in which such School District may
21 lie, and at such time and place shall choose, by ballot,
22 a moderator to govern said meeting; a District Clerk,
23 who shall be sworn to the faithful performance of his
24 duty, by the moderator of said meeting; a District
25 Agent, who shall also be treasurer and collector, and
26 who shall be required to give bond to the treasurer of
27 his said town, plantation or city, with good and suffi-
28 cient surety or sureties, in such sum as the Selectmen,
29 Assessors, or Mayor and Aldermen, of such town,
30 plantation or city may direct, for the faithful perform-
31 ance of his duty; with such committee, or committees
32 as said meeting may deem expedient; and pass any
33 vote to raise money to discharge the just debts due
34 from said District; to purchase a site or sites for any
35 school house or school houses, out house or houses,
36 and other necessary appendages; to build, purchase, or
37 otherways procure, any school house or houses necessa-
38 ry for the convenience of the said District; to purchase
39 fuel or furniture for the use of such school or schools
40 as may from time to time be kept in such District; to
41 determine when any school shall be commenced, and
42 whether such school shall be kept by a master, or by

43 a mistress; and, by a major vote of at least two thirds
44 of the legal voters present, to locate any school house
45 or houses necessary to be procured for the use of
46 such District, or to remove any school house or hous-
47 es to a more convenient place in said District. And
48 all such meetings shall be called by the written war-
49 rant of the District Agent, attested by the District
50 Clerk and posted up in two or more of the most pub-
51 lic and conspicuous places in such District, at least
52 seven days prior to the day of said meeting, setting
53 forth specifically each and every subject which such
54 meeting may be required to act upon. And a certifi-
55 ed copy of such warrant and the doings of the meet-
56 ing thereon, shall be returned by said District Clerk
57 to the officer of the town, plantation, or city Clerk,
58 or Secretary, within ten days from the time of holding
59 such meeting. And any money so voted by any such
60 District for the purposes aforesaid, shall be assessed
61 by the Assessors of such town, plantation or city, on
62 the polls and estates of the inhabitants of such Dis-
63 trict lying therein, and on the estate of non-resident
64 proprietors of any real estate therein, in the same
65 manner that the town, plantation, or city taxes are as-
66 sessed, and shall transmit the same, as soon as may be,
67 together with a warrant for the collection thereof, of
68 the same import as the warrant given to the town,
69 plantation or city collectors to the District collector
70 for the time being. And the selectmen, or assessors,
71 or mayor and aldermen shall have the same authority

72 to abate any such tax, or any portion of such tax as
73 the selectmen, assessors, or mayor and aldermen of
74 towns, plantations and cities have to abate any town,
75 plantation or city tax. And the first meeting of the
76 inhabitants of any School District had under the ope-
77 ration of this Act, shall be in pursuance of a warrant
78 from the selectmen of the town, the assessors of the
79 plantation, or the mayor and aldermen of the city,
80 within which such School District lies, directed to any
81 constable of such town, plantation or city, or to any
82 legal voter within any such School District, being a
83 freeholder; and such warrant shall be published in
84 the same manner as is herein before provided for the
85 publication of District warrants.

SECT. 2. *Be it further enacted,* That when any seven,
2 or more, legal voters in any school district or adjoin-
3 ing districts in this State, shall judge that their con-
4 venience, and the education of their youth will be pro-
5 moted, by the formation of a new school district, such
6 persons may petition the selectmen of the town, the
7 assessors of the plantation, or mayor and aldermen of
8 the city in which such district or districts is situated,
9 for such purpose. And it shall be the duty of such
10 selectmen, assessors, or mayor and aldermen, forth-
11 with to appoint a day of hearing within the district in
12 which such petitioners, or the major part of them re-
13 side; and if said petitioners are inhabitants of a town
14 or plantation, they shall have their hearing before the

15 selectmen of such town, or the assessors of such plan-
16 tation; and if, of any city, then such hearing shall be
17 had before a committee to be appointed by the may-
18 or and aldermen of said city, from their own body.
19 And if, on such hearing, persons interested and oppos-
20 ed to the formation of such new school district shall
21 fail to shew cause why the prayer of said petition
22 should not be granted, then the selectmen, assessors,
23 or committee shall proceed to set off, by well defined
24 boundaries, such petitioners, together with such oth-
25 er persons and territory as they shall judge meet, and
26 shall cause their doings thereon to be entered at large
27 in the records of such town, plantation or city, and
28 shall cause the same to be laid before the people of
29 such town or plantation, at their annual meeting in the
30 months of March or April, or before the next meeting
31 of the Common Council of such city, for their accep-
32 tance. And if the doings of said selectmen, assessors,
33 or committee, shall be approved by a major part of
34 such meeting, or Common Council, present and vot-
35 ing thereon, then the selectmen, assessors, or mayor
36 and aldermen shall assign to such school district
37 its style by number, and shall cause the same to be
38 entered in the records of such town, plantation, or
39 city, and such school district shall thenceforth be enti-
40 tled to all the privileges, and subject to all the duties
41 and liabilities incidental to school districts, as is pro-
42 vided for in this Act. And any person or persons be-

43 longing to any school district, wishing to be set off
44 from the district to which he belongs to any other
45 school district, such person or persons may in like
46 manner petition, and on such petition the like pro-
47 ceedings shall be had as is herein provided, for the for-
48 mation of a new school district. And any alteration of
49 the boundaries or lines of school districts thus made
50 shall be entered at large in the records of the town,
51 plantation, or city in which school districts are situated.
52 And any seven or more persons inhabitants of two or
53 more adjoining towns, or of any two or more adjoining
54 plantations, or any adjoining towns or plantations wish-
55 ing to form themselves into a school district, such per-
56 sons may petition their several selectmen of towns, or
57 assessors of plantations therefor. And a day of hear-
58 ing shall be ordered thereon by the Selectmen or As-
59 sessors of the senior town or plantation, at the dwell-
60 ling house of one of said petitioners. And such hear-
61 ing shall be had before a committee consisting of one
62 from each town or plantation in interest, to be appoint-
63 ed by the selectmen, or assessors of each such town or
64 plantation, from their own respective boards; before
65 whom the like proceedings shall be had as is herein pro-
66 vided for the formation of a new school district; whose
67 decision, if unanimous, shall be final; otherwise to be
68 submitted to the inhabitants of the towns or planta-
69 tions in interest, at their next annual meeting in the
70 months of March or April, for the choice of town or
71 plantation officers for their acceptance, in like manner

72 as is provided for the formation of a new school dis-
73 trict in towns or plantations. And school districts thus
74 formed shall be considered as a school district within
75 the senior town or plantation from which it is con-
76 stituted; but the doings and lines concerning such dis-
77 trict shall be entered on the records of each town or
78 plantation in interest, at large. And school districts
79 thus formed shall be entitled to all the privileges and
80 subject to all the duties and liabilities incident to
81 school districts provided for by this Act; but all as-
82 sessments voted by such districts shall be assessed by
83 the assessors of each town or plantation in interest, on
84 such portion of the polls and estates of such district
85 lying within their respective towns or plantations.

SECT. 3. *Be it further enacted,* That in all cases that
2 the inhabitants of any school district cannot agree, by
3 the majority required in the first section of this Act,
4 on the location of the school house, or school houses;
5 or if having so agreed on said location, the owner or
6 owners of the land shall refuse for a reasonable compen-
7 sation, to sell or otherwise convey to the district for the
8 purpose aforesaid, such land as shall be deemed necessa-
9 rily for such purpose, then, on the written application
10 of any three or more persons, inhabitants and legal vo-
11 ters in said district, to the selectmen, assessors, or
12 mayor and aldermen of the town, plantation, or city
13 in which such district is situated, the selectmen, asses-
14 sors, or mayor and aldermen of such town, plantatⁿ,
15 or city shall forthwith proceed to locate, and lay out

16 by well defined boundaries, the land, or lands necessa-
17 ry for such purpose, and to assess the damages there-
18 for, in the same manner that damages are assessed and
19 allowed for lands taken for highways; and any person
20 aggrieved by the assessment of damages so made, shall
21 have the same remedy as is given by law for lands tak-
22 en for highways; and any lands taken for the accommo-
23 dation of school houses as aforesaid, shall be deemed
24 as lands taken for highways; and the damages so al-
25 lowed shall be assessed by the assessors of the town,
26 plantation, or city to which such district belongs, on
27 said district in the same manner as money voted by
28 school districts for like purposes is hereby required to
29 be assessed.

SECT. 4. *Be it further enacted,* That it shall be the
2 duty of the Towns and Plantations within this State, at
3 their annual meeting in the months of March or April,
4 to elect by ballot, two sober, discreet persons, of liter-
5 ary attainments, if any such there may be, inhabitants
6 of such town or Plantation, to be designated the *Ex-*
7 *amining School Committee*, whose duty it shall be to
8 examine the qualification of such persons as shall pro-
9 pose themselves as instructors or instructresses of
10 schools within such Town or Plantation, and to pass
11 thereon; and in conjunction with the School Agent of
12 each district, elected as is herein provided for by the
13 first Section of this Act, to form a visiting and examin-
14 ing Committee for such district, with power to estab-
15 lish, for the time being, such rules and regulations for

16 the government of said school as may be deemed ex-
17 pedient ; to determine what Books shall be used in
18 said school ; to determine, by ages or qualifications,
19 what scholars may attend a School taught by a Master,
20 and what by a Mistress, whenever a divison may be
21 necessary ; and to dismiss a Master or Mistress for
22 cause. And in like manner, it shall be the duty of the
23 Common Council of each city, in the months of March
24 or April annually to elect by ballot, two sober and dis-
25 creet persons, inhabitants of said city, of literary at-
26 tainments, to act in said city, as the Examining School
27 Committee, whose powers and duties shall be the same
28 as is herein provided for the like Committee for Towns
29 and Plantations. And such Examining School Com-
30 mittee shall be entitled to receive a reasonable com-
31 pensation for their services. And the Visiting School
32 Committee of any School District shall have power to
33 purchase for the use of any scholar attending the school
34 in said district, on written notice from the Instructor
35 or Instructress of such district, that the parent, master
36 or guardian of such scholar has neglected or refused
37 for seven days or more, to provide 'the necessary book
38 or books for such scholar ; and all sums thus expend-
39 ed by such Committee shall be allowed and paid by
40 the Selectmen, Assessors, or Mayor and Aldermen,
41 and added to the tax of such parent, master or guar-
42 dian, in the taxes for the next year.

SECT. 5. *Be it further enacted*, That it shall be the
2 duty of the agent of each School District within this

3 State, annually in the month of May to make return to
4 the Selectmen, Assessors, or Mayor and Aldermen, of
5 the town, plantation or city within which such School
6 District lies, verified by oath or affirmation as the case
7 may be, of the number of scholars contained within his
8 said District as it existed on the first day of said May,
9 between the ages of four and twenty-one years; the
10 number of scholars who usually attend school in said
11 district, the number and state of the school house or
12 school houses, and the average time a school or schools
13 have been kept therein for the year last past, designat-
14 ing what portion has been kept by a Master.

SECT. 6. *Be it further enacted,* That it shall be the
2 duty of each town, plantation or city in this State an-
3 nually to raise for the support of schools, a sum not
4 less than forty cents for each inhabitant within such
5 town, plantation or city as it was at the time of taking
6 the next preceding census, under authority of the
7 United States; and in case any town or plantation, at
8 their annual meeting in the months of March or April,
9 shall neglect or refuse to vote such sum of money for
10 the use and support of schools within such town or
11 plantation; or if the Common Council of any city
12 shall so neglect to vote and ordain such sum of money
13 for the use and support of schools within such city,
14 then it shall be the duty of the Assessors of such town
15 or plantation, and of the Mayor and Aldermen of such
16 city in their annual assessment upon such town, plan-

17 tation or city, to assess upon the polls and estates of
18 the inhabitants of such town, plantation or city, and
19 upon the proprietors of real estate, being non-residents
20 within such town, plantation or city, the full amount
21 of money which such town, plantation or city are re-
22 quired to vote and raise, for the support of schools
23 therein, together with twenty-five per cent. addition
24 thereto, which assessment shall, to all intents and pur-
25 poses, be held legal, and shall be collected in the
26 same manner as though such sum had been legally
27 voted or ordained. And such money so raised and as-
28 sessed, shall as soon as may be after the same has been
29 collected, be paid over to the agents of the several
30 School Districts within such town, plantation or city,
31 in proportion to the number of scholars within such
32 district, as it existed on the first day of May in the
33 year in which such assessment may be made.

SECT. 7. *Be it further enacted,* That no man shall be
2 permitted to teach a public school in any district with-
3 in any town, plantation, or city in this State, except
4 he be a citizen of this State, or of the United States,
5 and be of good character, of sober and discreet habits,
6 and shall be capable of reading, writing and teaching
7 the English language grammatically, of mathematics,
8 except algebra, of geography, and the rudiments of
9 history and natural philosophy. And no woman shall
10 be permitted to teach any public school in this State,

11 unless she be of good moral character, of sober and
 12 discreet habits, and shall be capable of reading, writing
 13 and teaching the English language grammatically, and
 14 the rudiments of arithmetic, and geography. And no
 15 person shall be permitted to teach any such public
 16 school until he, or she shall have obtained the certifi-
 17 cate of the examining School Committee for the town,
 18 plantation or city in which such person proposes to
 19 teach school, that he or she is well versed in the
 20 branches of education herein before recited, and also
 21 in any additional branch of education usually taught in
 22 the schools in said town, plantation or city. And if
 23 the proposed teacher be a male, he shall further pro-
 24 cure the certificate of some person of a liberal educa-
 25 tion that he is qualified, by education and character,
 26 to perform the duties of Instructor in any district
 27 school in this State. And any person presuming to
 28 instruct any public school in this State contrary to the
 29 provisions of this Act, shall forfeit all claim for any
 30 such services, and an coequal sum to the use of school
 31 fund of the district in which such offence shall have
 32 been committed.

SECT. 8. *Be it further enacted,* That it shall be the
 2 duty of the Selectmen of towns, the Assessors of
 3 plantations, and the Mayor and Aldermen of cities, res-
 4 pectively, on or before the fifteenth day of January in
 5 each year, to make and return a true statement of the

6 number of school districts within their respective towns,
7 plantations or cities ; the number of scholars between
8 the ages of four and twenty-one years, as it existed on
9 the first day of May next preceding, in each district ;
10 the number and state of the school houses in each; the
11 number of scholars that usually attend school ; the
12 amount of money expended in each, designating what
13 part is raised from taxes, and what from funds, and the
14 average time a school or schools have been kept in
15 each, and what proportion has been kept by a master;
16 all of which shall be verified by oath or affirmation, to
17 the best knowledge and belief of the said officers.—
18 And it shall be the duty of the Secretary of State, on
19 or before the first day of February in each year, to
20 prepare and lay before the Legislature for the time be-
21 ing, a faithful abstract of all such returns, and also a
22 copy thereof for the use of the State Treasurer.
23 And if any town, plantation or city, shall neglect to
24 make such return, as aforesaid, then the Secretary of
25 State shall include such town, plantation or city from
26 the last return in his said office, noting its delinquency
27 and the date of the return of such delinquent town,
28 plantation or city. And it shall be the duty of the
29 State Treasurer on or before the tenth day of Febru-
30 ary in each year, to apportion to the several towns,
31 plantations and cities in this State, agreeably to said
32 abstract, and the number of scholars in each, as shall
33 therein appear, the fund arising from the Bank tax ap-

34 appropriated for the benefit of primary schools, by an
 35 act entitled, 'An additional Act to provide for the edu-
 36 cation of youth,' passed March fourth, in the year of our
 37 Lord one thousand eight hundred and thirty-three, and
 38 distribute and pay the same over to the town, planta-
 39 tion or city treasurers, or to their orders respectively,
 40 any thing in said Act to the contrary notwithstanding;
 41 And the Selectmen of towns, assessors of plantations,
 42 and the Mayor and Aldermen of cities, as soon as may
 43 be after the receipt of such school fund, shall cause
 44 the same to be distributed, and paid over to the school
 45 agents of the several districts in their respective towns,
 46 plantations and cities in proportion to the number of
 47 scholars in each, agreeably to the last return from the
 48 district. And the distribution of all other school funds
 49 not specially provided for by this Act, shall be made
 50 upon the same principle.

· SEC. 9. *Be it further enacted,* That if any town or plan-
 2 tation in this State shall neglect or refuse at their an-
 3 nual meeting for the choice of town or plantation offi-
 4 cers, or if the common council of any city in this
 5 State shall so neglect or refuse to elect the examining
 6 school committee provided for by the third section of
 7 this Act, such town, plantation or city shall be sub-
 8 ject and liable to the doomage hereinafter provided for.
 9 And the selectmen of such town, the assessors of such
 10 plantation, or the mayor and aldermen of such city so
 11 refusing or neglecting to elect as aforesaid, shall forth-

12 with appoint two persons of like qualifications to serve
13 as such committee, whose powers and duties shall be
14 the same as though such committee-men had been duly
15 and regularly elected to said office: And said town,
16 plantation or city officers shall cause such neglect or
17 refusal to elect their examining school committee, as
18 aforesaid, to be entered on the records of the town,
19 plantation or city where such offence shall have been
20 committed, and shall thereupon order such town, plan-
21 tation or city to be doomed for the use and support of
22 schools therein, in a sum not less than four, nor more
23 than ten cents for each inhabitant of such town, planta-
24 tion or city, as it existed at the time of the taking of
25 the next preceding census thereof, at the discretion
26 of such officers. And it shall be the duty of the asses-
27 sors of such town, plantation or city so doomed, to
28 assess the same on the polls and estates of the inhabi-
29 tants, and non resident proprietors thereof, in the same
30 manner as State and County taxes are by law required
31 to be assessed; and such assessment shall, to all intents
32 and purposes, be held valid and binding in law as
33 though such sum so doomed had been legally voted or
34 ordained by such town, plantation or city.

SECT. 10. *Be it further enacted*, That if any district agent
2 shall neglect or refuse to make the return of the num-
3 ber of scholars, and of such other matters and things
4 as is required to be returned by the fourth section of
5 this Act, such agent shall forfeit and pay for the use

6 and support of schools in his district, a sum not less
7 than five, nor more than twenty dollars. And if the
8 selectmen of any town, the assessors of any planta-
9 tion, or the mayor and aldermen of any city shall neg-
10 lect or refuse to make the return to the office of the
11 Secretary of State in manner, and in matter as is re-
12 quired by the seventh section of this Act, such se-
13 lectmen, assessors, or mayor and aldermen so offend-
14 ing, shall forfeit and pay a sum not less than twenty,
15 nor more than two hundred dollars. And if the select-
16 men of any town, the assessors of any plantation, or
17 mayor and aldermen of any city neglecting or refusing
18 to elect their examining school committee, as required
19 by the third section of this Act, shall neglect or refuse
20 to appoint such committee, or shall neglect or refuse
21 to doom such town, plantation or city as required by
22 the eighth section of this Act: Or, if the assessors of
23 any town, plantation or city shall neglect or refuse to
24 assess the sum in which such town, plantation or city
25 shall have been doomed: Or, if the assessors of any
26 town, plantation or city which may have neglected or
27 refused to vote, or ordain the sum required to be rais-
28 ed in such town, plantation or city for the use and sup-
29 port of schools therein, as provided for by the fifth
30 section of this Act, together with the additional per
31 centage in such case ordered or ordained as is in said
32 section provided for, then such selectmen, assessors,
33 or mayor and aldermen so offending, shall forfeit and

34 pay for each and every such offences, a sum not
35 less than fifty, nor more than five hundred dollars:
36 And all fines and forfeitures for any offence committed
37 by the selectmen of towns, the assessors of plantations,
38 or the mayor and aldermen of cities, as provided for in
39 this section, shall be for the use and support of the
40 schools of the town, plantation or city to which such
41 offending officers belong. And it shall be the duty of
42 the examining school committee in each town, planta-
43 tion or city in this State to prosecute and sue for any
44 and every fine or forfeiture which shall accrue and
45 inure to the use and support of schools, under any of
46 the provisions of this Act, in the town, plantation or
47 city to which such committee belongs, which may
48 come to their knowledge, such suit to be by action of
49 debt, to be commenced and prosecuted to final judg-
50 ment before any court of competent jurisdiction to try
51 the same, such suit to be in the name, and to the use of
52 the primary schools of the town, plantation, city or
53 district, as the case may be, in which the alleged offence
54 is supposed to have been committed. And if any ex-
55 amining school committee shall wilfully neglect or re-
56 fuse to prosecute for any fine or forfeiture as is herein-
57 after provided, such examining school committee so
58 offending shall forfeit and pay for every such offence,
59 a sum not less than thirty , nor more than five
60 hundred dollars, to be recovered in action of debt, be-
61 fore any court of competent jurisdiction, one moiety

62 thereof to the use of the person who may first sue
63 therefor, and the other to the use and support of
64 schools in the town, plantation or city to which such
65 committee shall belong; or, by indictment before any
66 grand jury for the county in which such town, plantation
67 or city lies; and all such fines and forfeitures recover-
68 ed by indictment as aforesaid, shall be for the use of
69 schools of the town, plantation or city in which the
70 offence was committed. *Provided however*, that no prose-
71 cution against any examining school committee shall be
72 sustained unless such prosecution shall have been com-
73 menced within one year from the time the offence shall
74 have been committed; nor shall any prosecution by
75 any examining school committee be sustained unless the
76 same shall have been commenced within one year from
77 the time when the offence for which such committee
78 might prosecute shall have been committed; *And pro-*
79 *vided further*, that the person who may prosecute any
80 examining school committee to conviction, such per-
81 son, at any time within six months thereafter, shall have
82 a right to commence an action of debt against the de-
83 linquent officer or officers for any fine or forfeiture
84 which shall be the subject matter of complaint against
85 said committee, and pursue the same to final judgment
86 and execution, one moiety thereof to the use of such
87 person, and the other to the use of the school or
88 schools of the town, plantation, city or district, to
89 which such delinquent officer or officers belong.

SECT. 11. *Be it further enacted,* That all money,
2 whether derived from funds, taxes or from fines and
3 forfeitures which may inure to towns, plantations or
4 cities, for the use and support of schools therein, shall
5 be distributed and apportioned to the districts, or parts
6 of districts lying and being therein, according to the
7 number of scholars in such district as it existed on the
8 first day of May next preceding such distribution and
9 apportionment.

SECT. 12. *Be it further enacted,* That all Acts and
2 parts of Acts relating to the education of youth, except
3 such as make specific appropriations for the support of
4 primary schools existing at the time of the passage of
5 this Act, be and the same are hereby repealed from and
6 after the first day of October next. *Provided,* That
7 this repeal shall not bar any suit which shall then be
8 pending for the recovery of any fine or forfeiture aris-
9 ing under any law hereby repealed.

STATE OF MAINE.

**HOUSE OF REPRESENTATIVES, }
March 18, 1836. }**

Read first and second time, and Monday next assigned for a third reading, and 500 copies ordered to be printed for the use of the Legislature.

[Extract from the Journal.]

Attest: JAMES L. CHILD, Clerk.