

# MAINE STATE LEGISLATURE

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# Public Documents of Maine:

BEING THE

## ANNUAL REPORTS

OF THE VARIOUS

# Public Officers and Institutions

FOR THE YEAR

❧ 1889 ❧

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VOLUME II.

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AUGUSTA:

BURLEIGH & FLYNT, PRINTERS TO THE STATE.

1890.

# LAWS OF MAINE

RELATING TO

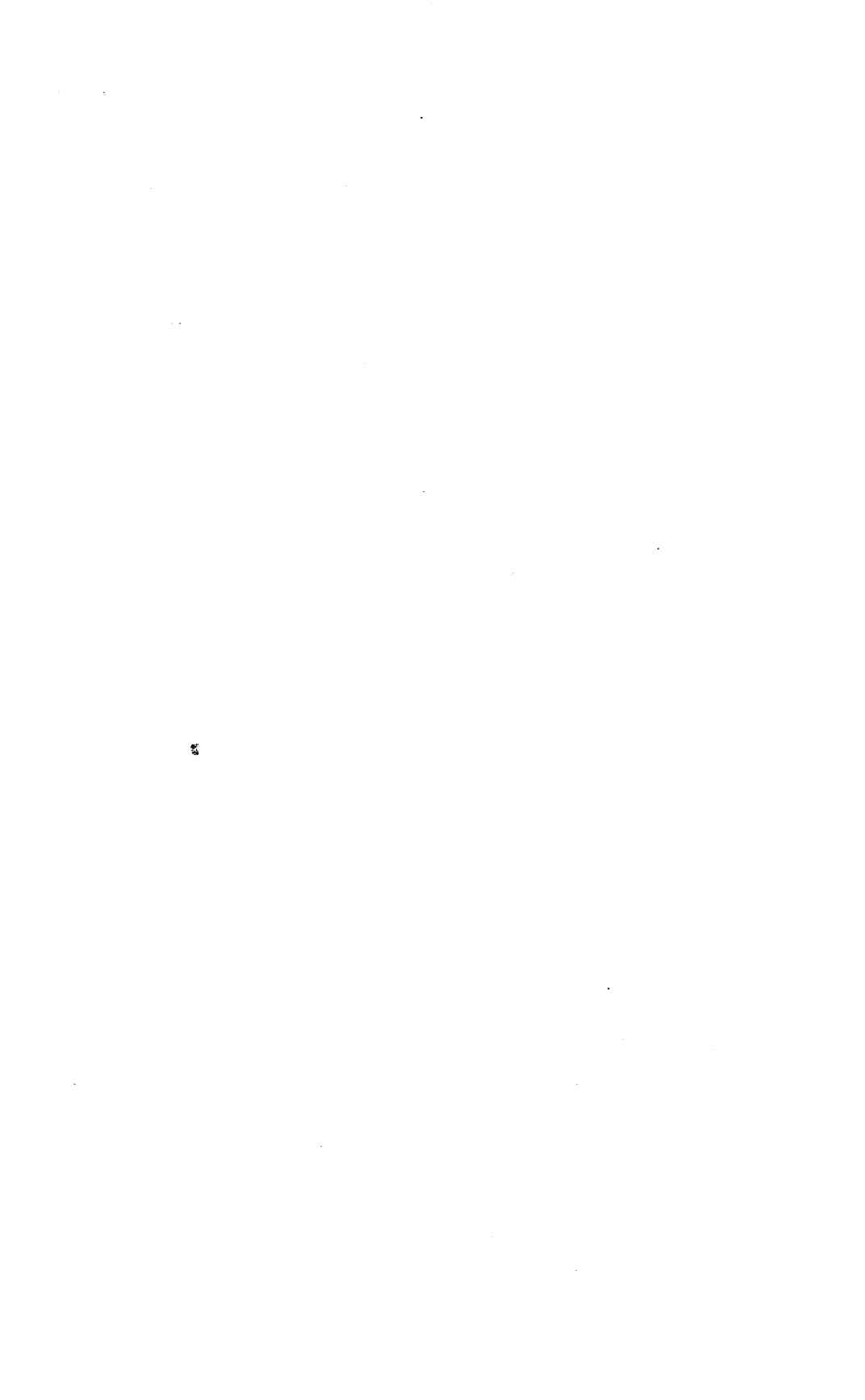
# PUBLIC SCHOOLS.

1889.

Compiled by the State Superintendent, and printed agreeably to An Act  
approved March 9, 1889.



AUGUSTA:  
BURLEIGH & FLYNT, PRINTERS TO THE STATE.  
1889.



LAWS OF MAINE  
RELATING TO PUBLIC SCHOOLS.

1889.

DUTIES OF TOWNS.

SECTION 1. A town at its annual meeting, or Towns may determine the number and limits of school districts. at a meeting called for that purpose, may determine the number and limits of the school districts therein, but they shall not be altered, discontinued or annexed to others, except on the written recommendation of the municipal officers and superintending school committee, accompanied by a statement of facts, and on conditions proper to preserve the rights and obligations of the inhabitants; but when in the judgment of the board, consisting of the municipal officers and school committee or supervisor, the number of scholars in any district becomes too few for the profitable expenditure of the money apportioned thereto, said board may suspend the school in said district School in a district may be suspended. and cause such money to be expended for the benefit of said scholars, in the adjoining district or districts. Said board shall make a record of its decision in relation to such school in said small district, sign the same and cause it to be recorded by the town clerk; and such decision shall remain in force until annulled by vote of the town, or by the action of a subsequent board. Said board may reserve not more than half of the How part of money may be used. money appropriated to such districts, to be

expended, in their discretion, for the conveyance of the scholars to and from school.

Remote parts may be omitted. SEC. 2. Any portion of a town too remote to be annexed to existing districts, and not having population sufficient to form a separate district, may be omitted in districting the town.

Towns may abolish school districts. SEC. 3. A town may abolish the school districts therein, and shall thereupon forthwith take possession of all the school-houses, lands, apparatus, and other property owned and used for school purposes, which districts might lawfully sell and convey. The property so taken shall be appraised under the direction of the town, and at the next annual assessment a tax shall be levied upon the whole town, equal to the whole amount of said appraisal, or such part thereof as the town shall vote, and the remainder of said appraisal, if any, shall be levied by tax upon the whole town at the second and third annual assessments thereafter, or at the second alone, as the town shall vote, and there shall be remitted to the tax payers of each district the said appraised value of its property thus taken, in the same proportion, annually, as the tax therefor shall be levied, or the difference in the value of the property of the several districts may be adjusted in any other manner agreed upon by the parties in interest. Upon the abolition or discontinuance of any district, its corporate powers and liabilities continue so far as may be necessary for the enforcement of its rights and duties.

Property to be appraised.

Tax therefor to be levied on town.

—to be remitted to district for property taken.

Certain powers and liabilities of districts continue.

[\*Whenever any town shall have abolished its school districts, as provided in section three of chapter eleven of the revised statutes, such action shall be held to abolish all union districts formed by said town in concurrence with other towns as provided in section seventy-one of said chapter, and all districts which may have been specially chartered by act of legislature. In case of the abolition of any such union district, when the school-house belong-

\*Act of 1835.

ing thereto is situate within the town abolishing, such town shall take possession of said house with all the appurtenances thereunto belonging, as in case of districts wholly within the town, but shall pay to the town or towns in which is situated the other part or parts of such district, for the benefit and use of such other part or parts, a sum equal to such portion of the value of said house and appurtenances as such part or parts shall be in equity entitled to, the same to be determined by agreement of the municipal officers of the towns out of which such union district has been formed, or in case such officers cannot so agree, by a board of referees by them agreed upon. In case the school-house belonging to such union district is not within the town abolishing, said town shall pay to the inhabitants of its part of said district, by abatement upon their taxes, a sum equal to their equitable interest in such school-house and appurtenances, the same to be determined by the municipal officers of said town. Whenever any town shall have abolished its school districts, such districts shall not be re-established within the three years next thereafter.]

SEC. 4. A town, at its annual meeting, may choose its school agents; and vacancies may be filled as in case of other town officers not chosen by ballot.

Towns may choose agents.

SEC. 5. A town, at its annual meeting, may empower the school district agents instead of the superintending school committee, to employ the teachers, and when such power is granted to said agents it shall remain in force until otherwise ordered by a vote of the town at its annual meeting.

Town may authorize agents to employ teachers.

SEC. 6. Every town shall raise and expend, annually, for the support of schools therein, exclusive of the income of any corporate school fund, or of any grant from the revenue or funds from the state, or of any voluntary donation, devise or bequest, or of any forfeiture accruing to the use of schools, not less than eighty cents for each inhabitant, according to the census by

Towns to raise for schools 80 cents per inhabitant.

which representatives to the legislature were last apportioned. —penalty. under penalty of forfeiting not less than twice nor more than four times the amount of its deficiency.

School fund and mill tax to be withheld from delinquent towns. **SEC. 7.** When the governor and council have reason to believe that a town has neglected to raise and expend the school money required by law, or faithfully to expend the school money received from the state, they shall direct the treasurer of state to withhold further payment to such town from the state school fund and mill tax until such town satisfies them that it has expended the full amount of school money required by law.

Towns shall provide school books, &c. **\*SEC. 8.** Towns shall provide school books for the use of the pupils in their public schools, at the expense of said town; and all moneys raised and appropriated for that purpose, shall be assessed like other moneys.

Distribution and preservation of. **\*SEC. 9.** School committees shall make such rules and regulations not repugnant to law, as they deem proper, for the distribution and preservation of school books and appliances furnished at the expense of the town.

School books, damages for injuring or destroying, how recovered of parent, &c. **SEC. 10.** When a pupil in the public school loses, destroys, or unnecessarily injures any such school book or appliance, furnished such pupil at the expense of said town, his parent or guardian shall be notified, and if the loss or damage is not made good to the satisfaction of such committee within a reasonable time, they shall report the case to the assessors, who shall include in the next town tax of the delinquent parent or guardian the value of the book or appliance so lost, destroyed or injured, to be assessed and collected as other town taxes.

Cities and towns may instruct in industrial or mechanical drawing, and may support evening schools. **SEC. 11.** Any city or town may annually make provision for free instruction in industrial or mechanical drawing, to persons over fifteen years of age, either in day or evening schools, under direction of the superintending school committee. †Cities and towns may raise and appropriate money for the support of evening

\*Amended, 1889. In effect August 1, 1890. †Act of 1889.



schools in addition to the sum they raise for the support of common schools. Said evening schools shall admit persons of any age, shall teach only the elementary branches and shall be under the direction and supervision of the local school board.

SEC. 12. The assessors and superintending school committee, or school supervisors of towns, may annually apportion twenty per cent of all money required to be raised by section six, and twenty per cent of all money received from the state for schools, except money received under section twenty-eight, among the districts in the several towns, in such manner as in their judgment shall give to the smaller districts, as nearly as may be, an equal opportunity for a common school education.

Apportionment of school money among the smaller districts in the several towns, &c.

SEC. 13. The assessors or municipal officers of each town, shall, on or before the first day of each May, make to the state superintendent of common schools, a certificate, under oath, embracing the following items :

Certificate of cities, towns, &c. to be returned annually to state supt.

I. The amount voted by the town for common schools at preceding annual meeting.

Amount voted by town.

II. The amount of school moneys payable to the town from the state treasury during the year ending with the first day of the preceding April.

—payable from state.

III. The amount of money actually expended for common schools during the last school year.

—expended for schools.

IV. The amount of school moneys unexpended, whether in the town treasury or in the hands of district agents.

—unexpended.

V. Answers to such other inquiries as are presented to secure a full and complete statement of school revenues and expenditures.

SEC. 14. The state superintendent shall prepare and furnish to the town officers such blanks as he deems proper to secure the fiscal returns required in the preceding section. He shall return to the treasurer of state on the first day of July, annually,

Blanks furnished to towns.

Supt. to make return to state treasurer.

a list of such towns as have made such fiscal returns; and no school moneys shall be paid by the treasurer of state to any town, so long as it neglects to make such returns.

Money withheld from delinquent towns.

Duties of assessors when agent fails to return scholars.

SEC. 15. When a school agent fails to return, in April, the number of persons in his district between four and twenty-one years of age, exclusive of those coming from other places to which they belong, to attend a college or academy, or to work in a factory therein, the assessors of the town shall cause an enumeration thereof to be made. They shall annually apportion to each district, and to any inhabitants not embraced in a district, the money so raised, and all funds derived from any source for the support of public schools in their town, in proportion to the number of scholars aforesaid.

Their duty in apportioning money.

Excess, how appropriated.

SEC. 16. A town raising more money than is required by section six, may, by vote, direct the excess to be apportioned to the several districts, as the assessors and superintending school committee determine.

School money, how paid by towns.

SEC. 17. No money appropriated by law for public schools shall be paid from the treasury of any town, except upon the written order of its municipal officers; and no such order shall be drawn by said officers, except upon presentation of a properly avouched bill of items.

— how avouched

Towns to choose superintending school committee or supervisor.

SEC. 18. Every town shall choose by ballot at its annual meeting, a superintending school committee of three, unless already done, to hold office as provided in section eighty-six, and shall fill vacancies arising therein at each subsequent annual meeting, or shall, in the same manner, choose a supervisor of schools, who shall perform the duties of said committee; and his election shall terminate the office of all members of such committee. No person is ineligible to the office of supervisor of schools, or of superintending school committee, on account of sex.

Sex no test of eligibility.

SEC. 19. The superintending school committee may appoint one of their number, who shall have all the power and perform all the duties specified in items five and twelve of section eighty-seven.

Committees may appoint one of their number.

SEC. 20. A town failing to elect members of superintending school committee or supervisor, as required by law, forfeits not less than thirty nor more than two hundred dollars.

Neglect to choose committee or supervisor

SEC. 21. Towns may make such by-laws, not repugnant to law, concerning habitual truants, and children between six and seventeen years of age not attending school, without any regular and lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society; and may annex a suitable penalty, not exceeding twenty dollars, for any breach thereof; but such by-laws must be first approved by a judge of the supreme judicial court.

Towns to make by-laws concerning truants.

Penalty.

SEC. 22. Such towns shall, at their annual meeting, appoint one or more persons, who alone shall make complaints for violations of said by-laws, and shall execute the judgments of the magistrate.

Who shall complain of violation of by-laws.

SEC. 23. Said magistrate, in place of fine, may order children proved to be growing up in truancy, and without the benefit of the education provided for them by law, to be placed for such periods as he thinks expedient, in the institution of instruction, house of reformation, or other suitable situation provided for the purpose under section twenty-one.

Truant children placed in suitable institutions.

#### COMPULSORY EDUCATION.\*

SEC. 24. Every person having under his control a child between the ages of eight and fifteen years, shall annually cause such child to attend, for at least sixteen weeks, some public school, which time shall be divided, so far as the arrangement of

Children between ages of 8 and 15 years shall attend public school at least 16 weeks annually.

\*Act of 1887.

school terms will allow, into two terms each of eight consecutive weeks, and for every neglect of such duty, the person offending shall forfeit a sum not exceeding twenty-five dollars to the treasurer of the city or town for the use of the public schools in such city or town; but if such child has been otherwise furnished for a like period of time with the means of education, equal to that taught in the common schools of the state, or if his physical or mental condition is such as to prevent attendance at school or application to study, such penalty shall not be incurred. Children living remote from any public school in the town in which they reside may be allowed to attend the public schools in an adjoining town under such regulations and on such terms as the school committees of said towns agree upon and prescribe, and the school committee of the town in which such children reside shall pay the sum agreed upon out of the appropriations of money raised in said town for school purposes.

**SEC. 25.** Cities and towns shall annually elect one or more persons, to be designated truant officers, who shall inquire into all cases of neglect of the duty prescribed in section one, and ascertain the reasons therefor, and such truant officers or any one of them, shall, when so directed by the school committee or supervisor in writing, prosecute in the name of the city or town any person liable to the penalty provided in said section. Every city or town neglecting to elect truant officers, and truant officers neglecting to prosecute when directed, as required by law, shall forfeit not less than ten nor more than fifty dollars to the use of the public schools in the city or town neglecting as aforesaid, or to the use of the public schools in the city or town where such truant officer resides. The municipal officers shall fix the compensation of the truant officers elected as prescribed in section twenty-five.

**SEC. 26.** Every boy between the ages of ten and fifteen years who refuses to attend school as required in section one and who may be found

—penalty for neglect.

—when penalty shall not be incurred.

Children may attend school in adjoining town.

Cities and towns shall elect truant officers.

—duties.

Penalty for neglect.

Compensation of truant officers.

Boys of certain ages refusing to attend school to be sent to Reform school.

wandering about the streets or public places of any city or town during the school hours of the school day, while the school of which he is legally a scholar is in session, on complaint of the truant officers as provided in section three, shall be committed to the State Reform School; *provided, however,* that it shall be the duty of every truant —proviso. officer previous to making complaint under this section, to notify the truant or absentee from school, also the person having him under control, of the offence committed and the penalty therefor, and if the truant officer can obtain satisfactory pledges that the child will conform to section one of this act, he shall forbear to prosecute so long as such pledges are faithfully kept.

SEC. 27. Police or municipal courts and trial Jurisdiction of officers. justices shall have jurisdiction of the offences described in sections twenty-four, twenty-five and twenty-six.

#### FREE HIGH SCHOOLS.

SEC. 28. Any town which establishes and State aid to free high school. maintains a free high school as provided by this section and the seven following, for at least ten weeks in any one year, shall, on complying with the conditions hereinafter set forth, receive from the state one-half the amount actually expended for instruction in —amount. said school, not exceeding two hundred and fifty dollars; *provided,* that no town shall receive such state aid Proviso. unless its appropriation and expenditure for such school, has been exclusive of the amounts required by law for common school purposes. Such aid shall be paid from the How paid. state treasury on and after the first day of each December, upon certification by the governor and council as provided by section thirty-five. But whenever a town or district desires to draw its state aid semi-annually, it shall be paid on and after the first days of June and December; *provided,* Proviso. that the superintending school committee of such town makes, semi-annually, before said days, the report required in section thirty-five.

Free high schools, any town may establish two.

SEC. 29. Any town may establish and maintain not exceeding two free high schools; and in such case shall receive the same state aid as if the expenditures of both schools had been made for one. Two or more adjoining towns may unite in establishing and maintaining a free high school, and both shall receive the same state aid as if such school had been maintained by one town. So long as any town declines to avail itself of the foregoing provisions, any school district, or union of districts therein, may establish and maintain a free high school, and receive state aid the same as the town might have done; *provided*, that no more than two such free high schools shall be established in any town, and that the amount of aid extended to the districts in any town shall not exceed the sum that the town might have received. Two or more adjoining school districts in different towns may establish and maintain a union free high school, and, with the consent of both towns, may receive a proportional part of such aid, to be determined as provided by section thirty-five, but in no case to exceed the amount that either town might have received. Towns shall receive in trust and faithfully expend gifts and bequests made to aid in the maintenance of free high schools, and shall receive aid in such cases to the same extent and on the same conditions as if such schools had been established and maintained by taxation; and any town or district shall receive such state aid on any expenditure for a free high school or schools, made from the funds or proceeds of the real estate of an academy or incorporated institution of learning, surrendered or transferred to such town or district for educational purposes; but if any part of the money so paid by the state is expended for any other purpose than the support of such free high schools, as provided by this section, then each person so misapplying said money forfeits double the sum so misapplied, to be recovered in an action of debt, in the name and to the use of the town, by any inhabitant

—adjoining towns may maintain school.

—school districts may establish.

Proviso.

—adjoining school districts in different towns may establish.

Towns shall receive and expend donations and bequests.

Penalty for misapplying money appropriated by state.

thereof; and no town shall receive further support from the state for any free high school, until the amount so received, but misapplied, has been raised and expended for such free high schools by such town.

SEC. 30. Any town, or union of towns or dis- Location.  
tricts, voting to establish a free high school as herein provided, may locate the same permanently, or vote that the terms thereof be held alternately in such districts within the town or towns as may be selected, and as may accept said school. The district in which said school is thus School-rooms, &c., how supplied and furnished.  
held, shall supply appropriate equipments, and furnish a warm and suitable building for the same; *provided*, that such district may use its school-house for such Proviso.  
free high school, when not required for ordinary school purposes.

SEC. 31. The course of study in the free high Course of study, what it shall embrace.  
schools, shall embrace the ordinary English academic studies, especially the natural sciences in their application to mechanics, manufactures and agriculture; but the ancient or modern languages and music shall not be taught therein except by direction of the superintending school committees having supervision thereof.\* Exception  
Such schools, when established by any town or union of towns, shall be free to all the youth in such town or towns on such attainments of scholarship as shall be fixed by the committees having supervision thereof. When such school is established by any district or union of Schools to be free to youth in town or district.  
districts, it shall be free in the same manner to the scholars within such districts, and open also to scholars passing the required examination from without such districts, but within the towns in which said districts are situated, on payment to the agent of the district in which such school is located, of such tuition, to be fixed by the superintending school committee or committees having supervision of the same, as is equivalent to the cost a scholar of maintaining such school, after deducting the aid extended by the state.

\*Amended 1887 and 1889.

S. S. committees may admit pupils from without town on payment of tuition. Whenever in the judgment of the superintending school committees having the supervision of any free high school or schools, the number of pupils in the same may be increased without detriment, scholars from without the towns directly interested in such school or schools, may be admitted to the same on passing the required examination and paying such tuition as may be fixed by such committee, to the treasurer of the town in which the school is kept, when the school is maintained by a town or union of towns, or to the agent of the district in which the school is kept, when such school is maintained by a district or union of districts.

Free high schools subject to the school laws, except in certain cases. SEC. 32. Free high schools, established and maintained under the foregoing provisions, are subject to the laws relating to common schools, so far as applicable, except as otherwise provided. When

—established by towns, how managed. established and maintained by a town, they shall be under the supervision and entire management of the superintending school committee of such town. When

—established by union of towns. established and maintained by a union of towns, such school shall be under the supervision and entire management of the school committees of such towns, who constitute a joint board for that purpose. When estab-

—established by districts. lished and maintained by any district or union of districts in the same town, such school shall be under the supervision of the superintending committee of such town, or of the state superintendent, when the district or districts so elect, and under the financial management of the agent of the district in which such school is kept, who, in connection with said committee or superintendent, shall

—established by districts in different towns. employ teachers for the same. When established and maintained by two districts in different towns, such school shall be under the supervision of the superintending school committees of such towns, who constitute a joint board for that purpose, and under the financial manage-



ment of the agents of both districts, who, in connection with said committees, shall employ the teachers.

SEC. 33. Towns and school districts may raise money for establishing and maintaining free high schools, and erecting buildings and providing equipments for the same, in the same manner as for supporting common schools and erecting school-houses.

Towns may raise money to maintain free high schools.

\*SEC. 34. Any town may from year to year authorize its superintending school committee to contract with and pay the trustees or directors of any academy or high school for the tuition of scholars resident within such town, in the studies contemplated by the six preceding sections, under a standard of scholarship to be established by such committee; and the expenditure of any town for tuition in such academy or high school shall be subject to the same conditions, and shall entitle such town to the same state aid as if it had made such expenditure for a free high school.

Towns may contract with and pay academies and high schools for tuition of scholars.

—entitled to state aid for expenditure.

SEC. 35. Superintending school committees having the supervision of free high schools, shall, annually, before the first day of June, make returns under oath to the state superintendent, on blanks prepared and sent out by him, of the amount appropriated and the amount expended by each town or school district for instruction in such free high schools during the current year; also of the amount appropriated and the amount expended for common school purposes by each town or school district maintaining the same; the number of weeks during which such schools have been taught; the wages paid each teacher; the number of pupils registered; the average attendance; the number of pupils in each branch of study pursued, and the amount received for tuition. If the state superintendent is satisfied that the provisions of the seven preceding sections have been complied with, he shall certify to the governor and council the sum which

Superintending school committee to make annual return to state supt.

State superintendent to certify amounts to which towns are entitled.

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\*Amended 1889.

each town or district is entitled to receive from the state. Any town or district, dissatisfied with his decision, may appeal to the governor and council. The governor and council shall issue a certificate to the treasurer of the town, or agent of the district, for such amount as they adjudge such town or district entitled to receive from the state treasury. Any person connected with the management of such free high schools, either as teacher, agent, committee or supervisor, who in any way aids or abets in defrauding the state into the payment in support of said schools, of more than is contemplated by this chapter, shall forfeit not less than five hundred dollars, or be imprisoned in the county jail not less than one year.

Governor and council to certify amount to treasurer.

Penalty for defrauding state.

Trustees of academies, &c., may surrender property to establish free high schools.

SEC. 36. The trustees of any academy or other corporation formed for educational purposes may by a majority vote of such of said trustees as reside in the state, surrender the whole, or any part of the property belonging thereto, to the municipal officers of any town, or the trustees of any school fund in any town in which said academy or corporation is situated, for turning the same into a free high school as hereinafter provided, and said municipal officers or trustees, for the time being, shall be a board of trustees to take and hold said property for maintaining a free high school; and upon receiving said property, they shall use proper diligence to make the same produce income for the support of said free high school.

Trustees of free high schools, duties of.

Property, how conveyed.

SEC. 37. When such vote is so passed, the treasurer of said trustees shall convey, assign and deliver to the municipal officers of said town, or the trustees of such fund, all property belonging to said academy or corporation for the purposes indicated by the preceding section.

Income of property, how applied.

SEC. 38. The municipality accepting the property in trust, as named in section thirty-six, shall

apply the income thereof towards the support of a free high school, to be kept within said municipality, at least twenty-two weeks in each year, and provide suitable accommodations for the same, and the superintending school committee or supervisor in said municipality shall determine the qualifications necessary to entitle any applicant to enter or attend said free high school, and no one shall attend it without the certificate of said officers to that effect.

Qualification of pupils, how determined.

SEC. 39. All scholars residing within the municipality aforesaid, having such certificate, may attend said school without tuition fee, and all scholars not residents of said municipality, may attend said school, upon such terms and conditions as said school officers impose.

Tuition to be paid by non-residents.

#### POWERS AND OBLIGATIONS OF SCHOOL DISTRICTS.

SEC. 40. School districts, whether a part of one or more towns, which have exercised the privileges of a district for one year, are presumed to be legally organized; and all districts legally organized are corporations with power to hold and apply real and personal estate for the support of schools therein, and to sue and be sued. Executions against them may be satisfied as executions against towns are; and in all suits or business, they may be described by their numbers as fixed by the town, by the name which they have assumed, or if they have no certain name, by an appropriate general description.

School districts are corporations.

Executions against them, how satisfied.

SEC. 41. Any person qualified to vote in town affairs is a voter in his school district.

Who are legal voters.

SEC. 42. School district meetings may be called by the agent, on the written application of three or more voters, stating the reasons and objects thereof. When there is no agent, or when he neglects or refuses, they may be called by the municipal officers, or any justice of the peace, on like application.

Notice of meetings, how given.

Return of prop-  
er officer evi-  
dence of notice. SEC. 43. On receiving such application, the agent or municipal officers, or justice of the peace, as the case may be, shall cause notices specifying the time, place and purposes of the meeting, seven days before the time appointed, to be posted in two or more public places in the district, one of which must be on the school-house, if any, or published in a newspaper, if any, printed in the town. The certificate of such agent or municipal officers, justice of the peace, or any person required by their warrant to give notice, returned at the time and place of meeting, is evidence that the notice therein stated has been given.

Meetings of  
school districts  
made valid. SEC. 44. Meetings of any school district which, prior to March twenty, eighteen hundred and sixty, were duly called by selectmen, or by an agent of such district, without application in writing, signed by any number of the legal voters thereof, and stating the reasons and objects of such meeting, are as legal and valid as they would have been if called upon such application.

How notified. SEC. 45. The district, at a legal meeting, may determine the manner of notifying future meetings.

Moderator to be  
chosen. SEC. 46. At such meeting, a moderator shall be chosen, with the same powers and duties as a moderator of a town meeting, but need not be sworn; and at the first meeting every year, a clerk shall be chosen, be Clerk sworn sworn by the moderator or a justice of the peace, shall record all votes passed at district meetings during the year, and until another is chosen in his place and sworn, may certify copies from the records of such district, and correct errors, as provided in section ten of chapter three.

Choose agents. SEC. 47. Every school district at its annual meeting, shall choose a school agent by ballot, unless chosen by the town; and may fill a vacancy in that office at a meeting called for the purpose.

Powers of a  
district. SEC. 48. A school district, at any legal meeting called for the purpose, has power:

I. To raise money for erecting, repairing, May raise money, renting, purchasing and removing such school-houses and out-buildings as the wants of the district require; for purchasing or renting land therefor, and for yards and play grounds; for purchasing a library, utensils, black-boards, globes, maps and other useful apparatus; for providing water for school-houses by means of wells or aqueducts, with necessary conveniences for the health and comfort of teacher and pupils; and for enclosing the grounds and appurtenances of the school-houses.

II. To determine where school-houses shall be located. Locate school-houses.

III. To dispose of any school-house or other property, if necessary. Sell them.

IV. To determine at what age the youth therein may be admitted into schools kept by a master or mistress, and whether, and upon what terms, scholars may be admitted into their schools from other towns or places. Regulate admissions to schools.

V. To instruct the superintending school committee or supervisor at what time the schools commence; and the schools shall commence and continue as voted by the district, unless, in the opinion of the school committee or supervisor, it would be detrimental to the best interests of the district on account of contagious disease or other good reason; but in towns or cities that have abolished the district system, the school committee or supervisor shall determine the commencement, In towns with no districts. and duration of the schools therein.

VI. To allow the school-house to be used for meetings of religious worship, lectures and other similar purposes. Use of school-house.

SEC. 49. Any school district maintaining graded schools, may raise for the support of Graded district schools. schools therein a sum not exceeding that which it receives from the town in addition thereto.

Committee to  
superintend  
money affairs.

SEC. 50. A district may choose a committee to superintend the expenditure of money legally raised by it, to examine and allow accounts, and to draw orders on the town treasurer for the amount raised.

Minority dis-  
satisfied, may  
appeal to town.

SEC. 51. When, at a meeting of a school district called for raising money for any particular purpose, a majority of the legal voters present are opposed to raising a sum sufficient, in the opinion of the minority, for such purpose, the municipal officers, on written application of five or more voters, made within thirty days after such meeting, shall insert in their warrant for calling the next town meeting on town affairs, an article requiring the opinion of the town on the disagreement; and if the town thinks it necessary or expedient, they may require a sum sufficient for such purpose, if exceeding what the district was willing to

Proceedings in  
such cases.

raise, to be assessed on the polls and estates therein; and it shall be assessed, collected and paid, as if originally raised by the district; and thereupon the municipal officers shall appoint, in writing, three suitable inhabitants of said district, a committee to superintend the expenditure of the money for such purpose, with all the powers of a committee chosen by the district, in pursuance of the provisions hereof.

When the erec-  
tion, repairing,  
renting or pur-  
chasing of a  
school house  
may be ordered  
and completed  
by the town.

SEC. 52. When, in the opinion of the superintending school committee, any district in their town unreasonably neglects or refuses to raise money for erecting, repairing, renting or purchasing a school-house or school-houses and out-buildings, such as the wants of the district require, or for purchasing or renting land therefor and for yards and play grounds, the municipal officers, upon written application of said committee, shall insert in their warrant for calling the next town meeting for town affairs, an article to see if the town will vote to raise money in such district for said purposes. Any sum so voted shall be assessed upon the polls and estates therein and collected

and paid as if originally raised by the district, and thereupon said officers shall appoint three suitable inhabitants of the town a committee to superintend the expenditure of the money for such purpose, with the powers of a committee chosen by the district pursuant to law.

SEC. 53. In school districts not having any legal voters to transact district business, money may be raised and expended in the manner and for the purposes specified in the foregoing section.

Same in districts having no voters.

SEC. 54. Two or more districts, by vote at their district meetings, may unite to support a union school for advanced scholars, and appropriate therefor a portion of the school money assigned to each district. But if more than one-fourth of the voters present and voting at any meeting object, only the per capita share of the scholars attending such union school, shall be so appropriated, without the written assent of the superintending school committee.

Districts may unite for support of union school.

Provision, if one fourth object.

SEC. 55. Two or more districts may unite for the purpose of establishing and maintaining a system of graded free schools, for such time as they determine, when a majority of the voters present and voting at a meeting of each district, legally called for the purpose, so determines; and the clerk of each district shall forthwith furnish the town clerk with a certified copy of such votes, who shall enter said votes upon the town records; and thereafter such districts shall constitute one district, to be known by the name that its inhabitants adopt; and have all the rights and powers and be subject to all the liabilities of other school districts for said time; and, during said time, the town shall not alter or divide it, without the consent of a majority of its voters; and at the expiration of said time each district shall resume its district organization, unless a majority of the voters in each, vote to continue the united district; and at its annual meeting, it may raise money for the support of its schools, in addition to what it receives from the town, and not exceeding three-fifths

School districts may unite to maintain graded schools.

Proceedings in such cases.

Districts main-  
taining schools,  
may raise  
money.

thereof. Any school district maintaining graded schools may raise money for support of its schools as herein provided for districts composed of two or more districts.

Location of  
school-houses,  
how determined,  
in case of disa-  
greement.

SEC. 56. At any district meeting called for the purpose of removing a school-house or locating one to be erected, if more than one-third of the voters present and voting, object thereto, the clerk shall make a record of the fact; and the municipal officers, on written application of any three or more of said voters, or of any committee of the district, made within thirty days there-  
Proceedings. after, shall, as soon as may be, appoint a time and place in the district to hear the parties, and give the notice required for a district meeting; after such hearing, they may decide where the school-house shall be placed; and shall, within ten days, give a certificate of their determination to the clerk of the district, who shall forthwith enter it on his records; and the district shall proceed to erect, or remove the school-house, as if determined by a sufficient majority of the voters present at said meeting; but no such officer residing in the district, shall have a voice in such determination; and when a majority of them reside therein, or do not agree, the superintending school committee shall do all the duties herein required of the municipal officers; and if the district refuses or neglects for sixty days, to carry such determination into effect, the municipal officers or said school committee, at the expense of the district, shall, if need be, purchase a lot for said house, and cause it to be erected or removed thereon. In towns which have abolished  
In towns with  
no districts. their school districts, the location for the erection or removal of school-houses and requisite buildings and for play grounds shall be designated by vote of the town at any town meeting called for that purpose.



SEC. 57. When a location for the erection or removal of a school-house and requisite buildings has been legally designated, and the owner thereof refuses to sell, or, in the opinion of the municipal officers, asks an unreasonable price for it, or resides without the state and has no authorized attorney or agent therein, they may lay out a school-house lot, not exceeding one hundred square rods, and appraise the damages, as is provided for laying out town ways and appraising the damages therefor; and on payment or tender of such damages, or if such owner does not reside in the state, upon depositing such damages in the treasury of such town or district for his use, the town or district designating it may take such lot to be held and used for the purposes aforesaid; and when such school-house has ceased to be thereon for two years, said lot reverts to the owner, his heirs or assigns. And any town or city may take real estate for the enlargement or extension of any location designated for the erection or removal of a school-house and requisite buildings and playgrounds, as herein provided; but no real estate shall be so taken within fifty feet of a dwelling house.

Towns may lay out school house lots in certain cases.

Damages, how appraised

How paid.

Lots to revert to owner if not occupied for two years.

Land may be taken for school-house lots, playgrounds, &c. not within fifty feet of a dwelling.

SEC. 58. If the owner is aggrieved at the location of the lot, or the damages awarded, he may apply to the county commissioners within one year, who may change the location and assess the damages, and the proceedings shall be conducted as in section eight, of chapter eighteen. If the damages are increased, or the location changed, such town or district shall pay the damages and costs; otherwise the costs shall be paid by the applicant.

Owners aggrieved, issue may be tried by jury

SEC. 59. Any town or school district which, by its officers or by a committee, has designated, located and described a lot upon which to erect, move or repair a school-house, and from mistake or omission has failed to comply with the law, whereby such location has been rendered invalid, may, on petition of three legal voters and tax payers thereof, apply in writing to the selectmen of

School house lots, erroneous location of, re-established and made valid.

said town, and have the lot, so designated or described, re-appraised by them.

Notice of appraisal and hearing to be given.

SEC. 60. The selectmen of any town to whom such application has been made, shall forthwith give not less than seven nor more than twenty days' notice, to the clerk of said district and to the owner of such real estate, or to the persons having the same in charge, of the time and place by them fixed for such hearing, and shall, after examination and hearing of all interested, appraise the lot as set out and affix a fair value thereon, exclusive of improvements made by said district or town, either by buildings or otherwise; and shall, as soon as practicable, notify the district clerk, and the persons interested in said estate who had been notified as hereinbefore provided, of the sum at which said lot has been appraised.

Sum, how assessed and collected.

SEC. 61. The sum fixed as the value of said lot shall be assessed, collected and paid over as provided in section fifty-eight.

Tender to be allowed in payment.

SEC. 62. Any sum which has been tendered and is in the hands or under the control of the person owning or having charge of such land, shall be allowed in payment of said appraisal.

Land owners may appeal.

SEC. 63. If the district, or the persons owning or having charge of the land on which such location is made, are dissatisfied with such appraisal, either party may within ten days appeal to the county commissioners of the county in which the land lies, by filing a copy of the proceedings and a claim of appeal with said commissioners, and the determination of a majority of said commissioners not residents of said district, shall be final.

Improvements inure to town or district.

SEC. 64. When any school district or town has erected or moved a building upon such lot or in any way improved the same, such improvement shall inure to the benefit of such town or district, and the same may be as completely occupied and controlled by such town or district as it would have been if such location had been in strict conformity to law.

SEC. 65. The legality of a tax assessed to build, repair or remove a school-house and to pay for a lot, shall not be affected by any mistake or error in the designation or location thereof. Tax not affected by error in location.

SEC. 66. A plan for the erection or reconstruction of a school-house voted by a town or a district, shall first be approved by the superintending school committee. Plan to be approved by S. S. committee.

SEC. 67. A school district at a legal meeting, may determine what proportion of their school money shall be expended for the support of a summer school; and the school committee or supervisor shall expend it accordingly, if practicable. Summer schools.

SEC. 68. When the school is kept in part by a mistress, and in part by a master, the district may determine by vote, or may authorize the superintending school committee to determine, from time to time, what description of scholars shall attend each. Master and mistress' schools.

SEC. 69. Each district where more than one school is kept at the same time, may choose annually, or one third in each year, a committee to determine what description of scholars shall attend each school, to classify said scholars, and to transfer them from school to school; and unless such election is for one year only, they shall at their first meeting, determine their respective terms of office by lot, and certify the result to the district clerk; they or the district shall fill vacancies as they occur; and they shall transmit a copy of their annual report, if printed, to the state superintendent. Districts may choose committee to classify scholars.

SEC. 70. A district may appropriate not exceeding one-tenth of its school money for any year, to purchase a school library and apparatus for the use of the schools therein, and may make proper rules for the preservation and management thereof. Adjacent districts may, by vote of each, unite for the purpose aforesaid. Districts may purchase library

## SCHOOL DISTRICTS FORMED FROM TWO OR MORE TOWNS.

Two or more towns may concur in establishing districts. SEC. 71. Two or more adjoining towns may concur in establishing school districts from parts of each when convenient, in determining their limits, and in altering and discontinuing them; and they and their officers, except as herein otherwise provided, may exercise the powers and duties relating thereto, which a town may relating to its own districts. If such district has existed fifteen years, either town may disconnect its parts, without concurrence of the others, by leaving all the district property to what remains.

How such districts shall be superintended SEC. 72. The superintending school committee, municipal officers, assessors, treasurer, collector, and constables of the town where the school-house of such district is situated, or has been located, or where the school is kept; or if there is no such school-house or school, such officers of the oldest town from which a part of such district is taken, shall have all the powers and perform all the duties relating to it, which they have and perform relating to districts wholly in their own town; and such assessors shall assess all taxes, voted by such district, according to a valuation made by them, uniform throughout the district. The powers specified in section fifty-six, may be exercised in such district by the concurrent votes of said towns, or the joint acts of the municipal officers or superintending school committees thereof, and application shall be made to each of them accordingly. Sections fifty-seven and fifty-eight apply to such districts.

Assessors to apportion money to such districts. SEC. 73. The assessors of each town from which a part of such district is taken, shall annually apportion to it a share of the school money of their town, according to the number of scholars in such district living in their town.

Such district shall choose its agent. SEC. 74. Such district shall annually choose its agent, and his contract shall bind each town in

proportion to and not exceeding the amount which it is required to pay him as aforesaid; and all agents and officers thereof shall have the same powers and privileges and perform the same duties as in districts wholly in one town.

Powers of its officers.

### ASSESSMENT AND COLLECTION OF MONEY RAISED OR BORROWED BY DISTRICTS.

SEC. 75. When a district votes to raise money for any legal purpose, its clerk shall forthwith, or within the time prescribed by the district, certify the amount thereof to the assessors of the town, and the time when it must be raised; and within sixty days after receiving such certificate they shall assess it as they do town taxes, on the polls and estates of the residents and owners in the district at the time of raising said money, whether wholly in their town or not, and on the non-resident real estate in the district. They shall then make their warrant in due form of law, directed to any collector of their town or of the district, if any, if not to a constable, requiring him to levy and collect such tax and pay it to the town treasurer within the time limited in the warrant; and they shall give a certificate of the assessment to such treasurer, and may abate such taxes as in the case of town taxes.

School district taxes, how assessed and collected.

SEC. 76. The assessors may include in their assessment such sum over and above the sum committed to them to assess, not exceeding five per cent thereof, as a fractional division renders necessary, and certify that fact to the town treasurer.

Assessors authorized to assess 5 per cent overlay.

SEC. 77. The town treasurer shall pay the expense of assessing and collecting any school district tax out of the money of the district, upon the order of the selectmen.

Assessment of school district tax, how paid.

SEC. 78. Section one hundred and forty-two of chapter six, and all other sections relating to the same subject apply to taxes assessed by or for

District taxes assessed without authority.

school districts, so far as applicable ; but the district and not the town is liable.

Powers and duties of collectors; their compensation. SEC. 79. The collector or constable, and the town treasurer, or treasurer and collector, if one person is both, each have the same powers and are subject to the same duties and obligations in relation to district taxes, as to town taxes ; and they and the assessors shall be allowed by the district for their services, a compensation proportionate to what they receive from the town for similar services.

Money at disposal of district committee. SEC. 80. The money so raised and paid shall be at the disposal of the district committee, provided for in section fifty.

District may borrow money to build school-house. SEC. 81. A district, at a legal meeting called for that purpose, by a vote of two-thirds of the voters present and voting, may borrow money to erect a school-house, and to buy a lot therefor, on a time not exceeding ten years, payable in equal annual instalments, but for no other purpose, and in no other manner ; and when they do so, the clerk shall forthwith certify such vote to the assessors and treasurer of the town.

District may appoint agent to contract loan. SEC. 82. The district may appoint an agent or agents to contract such loan, who may bind the district, and give the necessary security therefor, a copy of which shall be filed by him with the town clerk, and entered on the town records. The money thus procured shall be received by the town treasurer, applied for the purposes aforesaid, and paid out in the same manner as money raised by taxation for the same purposes.

Duties of assessors in such cases. SEC. 83. At each annual assessment of town taxes after such loan, the assessors of the town shall assess the amount of the instalment and interest for that year, on the polls and estates in the district, as if the district had voted to raise it, and it shall, in like manner, be collected and paid to the town treasurer, who shall pay each instalment and interest as it becomes due, on demand of the owner of the security.

SEC. 84. A district voting to raise a sum exceeding three hundred dollars under the provisions hereof, may elect a collector by ballot, who shall give bond to the inhabitants thereof, with sufficient sureties, approved by the municipal officers; have the same powers and be subject to the same duties and obligations as a collector of town taxes; and receive such compensation for collecting and paying over such taxes as the district votes at the meeting when he is chosen. The district clerk shall file a certified copy of his election with the town clerk, who shall record it, and such record shall be evidence of the collector's election by the district.

Districts may elect collector when sum raised exceeds three hundred dollars.

POWERS AND DUTIES OF SUPERINTENDING SCHOOL COMMITTEES.

SEC. 85. Members of superintending school committees and supervisors shall be sworn.

Officers to be sworn.

SEC. 86. School committees, at their first meeting, shall designate by lot, one of their number to hold office three years, and another two years, and certify such designation to the town clerk, to be by him recorded. The third member shall hold office one year; and each member elected to fill the place of one whose term expires, shall hold office three years. They shall fill all vacancies in their number until the next annual town meeting. Two members constitute a quorum; and if there is but one in office, he may fill vacancies; *provided*, however, that if the one thus remaining in office declines or neglects to fill such vacancies, the municipal officers shall fill the same; and they shall fill all vacancies arising in the office of supervisor until the next annual election.

Supt. school committees when first chosen shall arrange terms of office.

Vacancies, how filled.

SEC. 87. Superintending school committees shall perform the following duties:

Duties.

I. They shall appoint suitable times and places for the examination of candidates proposing to teach in town, and shall give notice thereof by

Appoint time and place for examination of teachers.

posting the same in two or more public places within the town at least three weeks before the time of said examination, or by the publication of said notice for a like time in one or more newspapers having the largest circulation in the county. They shall employ teachers for the several districts in the town, unless the town otherwise vote, as provided in section five, and notify the several school agents of the teachers employed and the compensation agreed to be paid.

School week and month. Five days constitute the school week, and four weeks a school month.

Instructors of youth, examination of. II. On satisfactory evidence that a candidate possesses a good moral character, and a temper and disposition suitable to be an instructor of youth, they shall examine him in reading, spelling, English grammar, geography, history, arithmetic, book-keeping and physiology, and such other branches as they desire to introduce into public schools, and particularly into the school for which he is examined; also as to his capacity for the government thereof.

Certificate to teachers. III. They shall give to each candidate found competent, a certificate that he is qualified to govern said school and instruct in the branches above named, and such other branches as may be necessary to be taught therein; or they may render valid by indorsement, any graded certificates issued to teachers by normal school principals, county supervisors or the state superintendent.

Direct course of instruction and text-books. IV. Direct the general course of instruction, and select a uniform system of text-books, due notice of which shall be given; any text-book thus introduced, shall not be changed for five years unless by a vote of the town; any person violating this provision shall forfeit not exceeding five hundred dollars, to be recovered in an action of debt by any school officer or person aggrieved.

\*And when said committee have made such selection of school-books, they shall contract, under section eight, with the pub-

\*Amended 1889. In effect August 1, 1890.



lishers for the purchase and delivery thereof, and make such rules as they deem effectual for their preservation and return. Purchase and preservation of books.

V. Examine the schools, and inquire into the regulations and discipline thereof, and the proficiency of the scholars, for which purpose one or more of the committee shall visit each school at least twice in summer and twice in winter; and use their influence to secure the regular attendance at school of the youth in their town. Examine schools.

VI. After due notice and investigation, they shall dismiss any teacher, although having the requisite certificate, who proves unfit to teach, or whose services they deem unprofitable to the school; and give to said teacher a certificate of dismissal and of the reasons therefor, a copy of which they shall retain, and immediately notify the district agent of such dismissal, which shall not deprive the teacher of compensation for previous services. May dismiss teachers for sufficient cause.

VII. Expel any obstinately disobedient and disorderly scholar, after a proper investigation of his behavior, if found necessary for the peace and usefulness of the school; and restore him on satisfactory evidence of his repentance and amendment. Expel scholars.

VIII. Exclude, if they deem it expedient, any person not vaccinated, although otherwise entitled to admission. —exclude scholars not vaccinated

IX. Direct or approve in writing the expenditure of school money apportioned to inhabitants not included in any district. —direct expenditures.

X. Prescribe the sum, on the payment of which persons of the required age, resident on territory, the jurisdiction of which has been ceded to the United States, included in or surrounded by a school district, may attend school in such district; and when such territory adjoins two or more districts, they shall designate the one where they may attend. —prescribe sums to be paid in certain cases.

—Classify  
scholars.

XI. Determine what description of scholars shall attend each school, classify them, and transfer them from school to school in districts where more than one school is kept at the same time and no district committee is elected, and they may authorize the admission of scholars in one district into the schools of another.

—shall make  
annual report.

XII. At the annual town meeting, they shall make a written report of the condition of the schools for the past year, the proficiency made by the pupils, and the success attending the modes of instruction and government thereof, and transmit a copy to the superintendent of common schools.

[\*Provision shall be made by the proper local school authorities for instructing all pupils in all schools supported by public money, or under state control, in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.

No certificate shall be granted any person to teach in the public schools of this state after the fourth day of July, eighteen hundred and eighty-five, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.]

Annual state-  
ment.

SEC. 88. They shall annually make a statement containing the following particulars :

I. The amount of money raised and expended for the support of schools, designating what part is raised by taxes, and what part from other funds, and how such funds accrued.

II. The number of districts and parts of districts in their town.

III. The number of children between four and twenty-one years of age, belonging to their town in each district, on the first day of April preceding.

IV. The number of such children who reside on islands, or in any other part of the town not in any district.

\*Act of 1885

V. The whole number and the average number of scholars attending the summer schools; the whole number and the average, attending the winter schools, also the total number of different scholars attending school two weeks or more of the preceding year, as shall appear from the teachers' register returnable to said officers agreeably to section ninety-six.

VI. The average length of the summer schools in weeks; the average length of the winter schools in weeks; and the average length of the schools for the year.

VII. The number of male, and of female teachers employed in the public schools during any part of the year.

VIII. The wages of male teachers a month, and the wages of female teachers a week, exclusive of board.

IX. They shall give in their returns, the number of scholars corrected to the first day of April preceding the time of making said returns, and full and complete answers to the inquiries contained in the blank forms furnished them by law; certify that such statement is true and correct, according to their best knowledge and belief; and transmit it to the office of the state superintendent on or before the first day of each May. When but one member of the committee remains, he shall make said returns.

SEC. 89. If any school agent neglects to make the return required in section ninety-four, the school committee shall immediately make such enumeration and be paid a reasonable sum therefor, to be taken from the amount to be apportioned to the district of such delinquent agent.

SEC. 90. They shall return under oath to the assessors, on or before the fifteenth day of May, annually, the number of scholars in each school district, according to the enumeration provided for in sections eighty-nine and ninety-four.

\*SEC. 91. If any parent, master or guardian, after notice from the teacher of a school that a child under his care is deficient in the necessary

—return of scholars.

—returns to supt. of common schools.

If agent neglects to make return of scholars, S. S. committee must.

Committee to return list of scholars in each district to assessors.

Committee to furnish books if parents or guardians neglect.

\*Repealed after August 1, 1890, by act of 1889.

school books, refuses or neglects to furnish them, the superintending school committee, on being notified by the teacher, shall furnish him with them at the expense of the town; and such expense may be added to the next town tax of the parent, master or guardian.

Delinquents may be taxed therefor.

SEC. 92. Superintending school committees and supervisors, on satisfying the municipal officers that they have made the returns to the superintendent of common schools required by law, shall receive for their services one dollar and fifty cents a day and all necessary travelling expenses, and no more, unless ordered by the town.

Compensation of S. S. committee.

#### POWERS AND DUTIES OF SCHOOL AGENTS.

SEC. 93. Each school agent elected by the town or district, shall be sworn by the moderator, town or district clerk, or a justice of the peace, and continue in office one year, and until another is chosen and qualified in his stead; his duties and powers are as follows:

Agents to be sworn; powers and duties.

I. In March or April, annually, to call a district meeting for the choice of an agent, and for other business, by causing notice to be given as provided in this chapter, which meeting shall be called by the agent without application therefor.

—to call school meetings.

II. To provide fuel and utensils necessary for the schools, make repairs upon the school-houses and out-buildings, and procure insurance of the same if the district so direct; but no more than one-tenth of the money apportioned to the district shall be expended for such repairs in one year, exclusive of fuel and insurance.

—provide fuel, &c.

III. He shall, within the year for which he is chosen, perform all the duties required by law, and if he refuses or neglects so to do, so far as practicable, the municipal officers, on complaint of any inhabitant of the district, and after due notice and investigation, may appoint a special agent to discharge such duties, who

If agent neglects, special agent may be appointed.

shall be sworn, and have all the powers and perform all the duties of school agent for the district.

IV. To return to the municipal officers, prior to the expiration of his term of service, an account of his official expenditures, with the necessary vouchers.

To account for expenditures.

V. When school district agents are empowered by the town to employ teachers, they shall, before the commencement of a term of school, give written notice to some member of the school committee or to the supervisor, when it is to commence, whether to be taught by a master or mistress, and how long it is expected to continue.

—to notify committee or supervisor about schools.

SEC. 94. Each school agent shall return under oath as aforesaid to the assessors and school committee, in April, annually, a certified list of the names and ages of all persons in his district, from four to twenty-one years, corrected to the first day of said month, leaving out of said enumeration all persons coming from other places to attend any college or academy, or to labor in any factory, or at any manufacturing or other business.

Agents to return list of persons from four to twenty-one years of age to S. S. committee.

SEC. 95. In school districts not having legal voters, the school committee of the town shall perform the duties imposed upon school agents by specifications two and four of section ninety-three.

S. S. committee may perform duties of agent.

#### DUTIES AND QUALIFICATIONS OF INSTRUCTORS.

SEC. 96. Every teacher of a public school shall keep a register thereof, containing the names of all the scholars who enter the school, their ages, the date of each scholar's entering and leaving, the number of days during which each attended, the length of the school, the teacher's wages, a list of text-books used, and all other facts required by the blank form furnished him; such register shall at all times be open to the inspection of the school committee, and be returned to them at the close of the school. No teacher shall be paid for his services, until such register, properly filled, completed, and signed,

Teachers to keep school register.

Not to be paid till register is completed.

is deposited with the school committee, or with a person designated by them to receive.

Instructors of colleges, etc., to inculcate morality, justice and patriotism. SEC. 97. The presidents, professors, and tutors of colleges, the preceptors and teachers of academies, and all other instructors of youth, in public or private institutions, shall use their best endeavors to impress on the minds of the children and youth committed to their care and instruction, the principles of morality and justice, and a sacred regard for truth; love of country, humanity, and a universal benevolence; sobriety, industry, and frugality; chastity, moderation, and temperance; and all other virtues which ornament human society; and to lead those under their care, as their ages and capacities admit, into a particular understanding of the tendency of such virtues to preserve and perfect a republican constitution, secure the blessings of liberty, and promote their future happiness: and the tendency of the opposite vices, to slavery, degradation and ruin.

Forfeiture for teaching without certificate. SEC. 98. Whoever teaches a district school without first obtaining a certificate from the school committee of the town, forfeits not exceeding the sum contracted for his daily wages, for each day he so teaches, and is barred from receiving pay therefor; and no certificate shall be valid for more than one year without the approval of the superintending school committee annually endorsed thereon; *provided*, that any town may, by vote, on Proviso. an article in the warrant calling any legal meeting, employ its supervisor to instruct any of its schools and fix his compensation therefor. In such case the certificate hereinbefore mentioned shall not be required.\*

#### SCHOOLS IN PLANTATIONS.

Powers of plantations to form school districts. \*SEC. 99. Plantations have the same powers and liabilities as towns, for the formation of dis-

\* Amended 1889.

tricts, electing committees or supervisors, treasurers, collectors, and school agents, and for raising, assessing and collecting school money, to be apportioned and expended as in towns; and the districts therein shall elect school-district officers, whose powers and duties shall be the same as those of like officers in towns. The assessors of plantations may take a census of the inhabitants thereof, at the expense of the plantation, and when so taken, the money raised therein for schools shall be upon the basis of such census and not upon the census of the state.

SEC. 100. School district meetings shall be called by the assessors of the plantation, on the written application of three or more legal voters in the district, stating the reasons and objects thereof, and notice shall be given as for meetings in town school districts.

SEC. 101. Such districts, at meetings called for the purpose, may raise money and choose committees to hire, buy or build a school-house for their use; and the plantation assessors shall make a valuation of the real and personal estate in the district, whether owned by residents or not, including wild lands, assess the money so raised on the polls and estates, and commit the tax to the collector, who shall collect it and pay it to the treasurer.

#### STATE SUPERINTENDENT OF COMMON SCHOOLS.

SEC. 102. The governor with the advice and consent of council, shall appoint a state superintendent of common schools, who shall be sworn and continue in office three years, or during the pleasure of the executive; vacancies shall be filled by a new appointment for a like term.

SEC. 103. An office shall be provided for him at the seat of government, where he shall preserve all school reports of this state and of other states which he may receive, the returns of the school committees of the various towns, and such books, apparatus, maps, charts, works on education, plans for school buildings, models, and

other articles of interest to school officers and teachers as may be procured without expense to the state.

Duties. SEC. 104. His duties are as follows :

I. To exercise a general supervision of all the public schools, and to advise and direct the town committees in the discharge of their duties, by circular, letters and personal conference, devoting all his time to the duties of his office.

To exercise general supervision of schools.

II. To obtain information as to the school systems of other states and countries, and the condition and progress of common school education throughout the world ; to disseminate this information, with such practical hints upon the conduct of schools and the true theory of education as observation and investigation convince him to be important, by public addresses, circulars, and articles prepared for the press ; and to do all in his power to awaken and sustain an interest in education among the people, and to stimulate teachers to well directed efforts in their work.

—obtain and disseminate information relating to school systems, etc.

III. To take such measures as he deems necessary to secure the holding of a state educational convention once each year, with a view of bringing together the teachers, school committees, and friends of education, for consultation with reference to the interest of common schools and the most approved methods of instruction.

—take necessary measures for holding state educational conventions.

IV. If sufficient encouragement is afforded by the citizens, to hold in each county once during each year a public meeting or institute for teachers and educators.

—may hold county institutes.

V. To prepare and cause to be printed and distributed such portions of the proceedings of state institutes or teachers' conventions as he deems important in the furtherance of education.

—to publish abstracts of proceedings of such conventions.

VI. To prescribe the studies to be taught in the common schools, reserving to town committees the right to prescribe additional studies.

—prescribe studies to be taught.



VII. Annually, to report to the governor and council the result of his inquiries and investigations, and the facts obtained from the school returns, with such suggestions and recommendations as in his judgment would best promote the improvement of common schools.

—make report to governor and council, annually.

\*VIII. Biennially, as soon as practicable after the adjournment of the legislature, to compile and have printed in pamphlet form, three thousand copies of the amended school law of the state and distribute the same to the municipal and school officers of the several towns.

—to compile, publish and distribute amended school laws.

\*IX. To prepare and issue biennially such circulars of information and advice to school officers, relating to new school enactments, as he shall deem necessary for the intelligent and effectual enforcement of such enactments.

—issue circulars of information and advice in relation to new laws.

SEC. 105. Such superintendent shall prepare and print blank forms for all returns required by law, or deemed by him necessary, and shall, on the first day of each March, forward to town clerks, blanks for the annual school return, and registers for the school year commencing on the first day of April following; and said clerks shall forthwith deliver the same to the school committees of their towns.

Superintendent to prepare and forward to town clerk blanks for school returns.

SEC. 106. He shall, on the first day of each June, notify the school committee of any town whose returns were not received at his office in May, and shall, annually, ascertain on the first day of July, the number of children between four and twenty-one years of age, in the towns from which returns are received, and furnish a list thereof to the treasurer of state.

To notify delinquent school committees; also to return to state treasurer number of children between 4 and 21.

#### TEACHERS' CONVENTIONS.

[I. Whenever not less than thirty of the teachers and school officers of any county shall have formed an association under

\*Act of 1889.

rules of government approved by the state superintendent of common schools, for the purpose of mutual improvement in the science and art of teaching, and of creating popular interest in, and diffusing a knowledge of the best methods of improving our public school system, by the holding of conventions at least once every year under the supervision of the state superintendent, the state shall defray the necessary expenses attending the holding of such conventions, for which purpose the sum of six hundred dollars is hereby annually appropriated, to be deducted and set aside therefor by the treasurer of state from the annual school fund of the state; *provided, however*, that no more than two such associations shall be formed in any county, and that the expenses as aforesaid of no more than two conventions of any such association in any year shall be defrayed by the state.

II. Teachers of public schools are hereby authorized to suspend their schools for not more than two days in any year during the sessions of such conventions within their counties, unless otherwise directed in writing by the school officers, and attend said conventions without forfeiture of pay for the time of such attendance, provided they shall present to the officers employing them, certificates signed by the secretaries of such conventions and countersigned by the state superintendent of common schools, showing such attendance.

III. The governor and council are hereby authorized to draw warrants on the treasurer of state for the payment of bills for the expenses herein provided for, when such bills shall have been approved by the state superintendent of common schools; *provided, however*, that no bills shall be so paid except those for advertising such conventions, and for actual travelling expenses of speakers and lecturers not residing in the counties in which such conventions are held.]\*

#### NORMAL SCHOOLS.

SEC. 107. The northern normal school at Farmington, the eastern normal school at Castine,

Three normal schools, where located.

\*Act of 1885.

and the western normal school at Gorham, shall be conducted for the purposes and upon the principles herein set forth.

I. They shall be thoroughly devoted to the training of teachers for their professional labors. Their objects.

II. The course of study shall include the common English branches in thorough reviews, and such of the higher branches as are especially adapted to prepare teachers to conduct the mental, moral and physical education of their pupils.

III. The art of school management, including the best methods of government and instruction, shall have a prominent place in the daily exercise of said schools.

IV. Said schools, while teaching the fundamental truths of Christianity, and the great principles of morality, recognized by law, shall be free from all denominational teachings, and open to persons of different religious connections on terms of equality. Christianity and morality to be taught.

V. The principals of the normal schools and of all other schools in which normal departments are supported, wholly or in part, by the state, shall keep a register containing the names of all students entering such schools or departments, the date of entering and leaving, their ages, number of days attendance, the length of the term, a list of text-books used, and all other information required in the blanks furnished by the state superintendent. Such register and blanks shall be returned to said superintendent by the first day of each December, and the information so furnished shall appear in his annual report, for the use of the legislature. Principals of normal schools or normal departments in other schools, required to forward to superintendent statistics of students therein; and the information to be laid before the legislature.

SEC. 108. The course of study shall occupy two years with suitable vacations; and with the terms of admission shall be arranged by said superintendent, subject to the approval of the governor and council. The trustees may arrange for a course of study, occupying three years, for such students as elect to pursue the same. Course of study arranged by superintendent. Trustees may extend it.

Diplomas provided for. SEC. 109. Any student who completes the course of study prescribed, and otherwise complies with the regulations of the school, shall receive a diploma certifying the same.

Applicants for admission, qualifications of. SEC. 110. Applicants for admission shall be sixteen years of age if females, and seventeen if males and shall signify their intention to become teachers and come under obligation to teach in this state for at least one year, and if they receive a diploma, two years after they have graduated; on these conditions shall be received without charge for tuition; but each pupil shall pay one dollar and fifty cents for incidental expenses of the school.

Trustees of normal schools, appointment of, &c. SEC. 111. Said schools are under the direction of a board of seven trustees, five of whom shall be appointed by the governor, with the advice and consent of the council, for not more than three years under one appointment; and the governor and superintendent of common schools are, by virtue of their office, members of the board. Each of the trustees appointed by the governor shall receive ten cents a mile for actual travel each way, and two dollars a day for his services when employed. Said board has charge of the general interests of said schools; shall see that the affairs thereof are conducted as required by law and by such by-laws as the board adopts; employ teachers and lecturers for the same; and, annually, on the first day of December lay before the governor and council, for the information of the legislature, a financial statement, furnishing an accurate detailed account of the receipts and expenditures for the school year preceding.

Annual appropriation of \$19,000. SEC. 112. For support of the three normal schools, nineteen thousand dollars is annually appropriated, to be expended under the direction of said trustees, which sum the treasurer of state shall deduct for said purpose from any school money raised for the support of common schools. The

Treasurer to deduct same from school moneys.

governor and council may, from time to time, as they think proper, draw warrants therefor on said treasurer in favor of said trustees.

Governor, &c., may draw warrants in favor of trustees.

#### PENAL PROVISIONS AFFECTING SCHOOLS.

SEC. 113. Forfeitures under this chapter, not otherwise provided for, may be recovered by indictment, and shall be paid into the treasury of the town where they occurred, for the support of schools therein, in addition to the amount required by law to be raised; but the costs of prosecution shall be paid into the county treasury; any town neglecting for one year, so to expend such money, forfeits an equal sum to any person suing therefor in an action of debt.

Forfeitures, how recovered and appropriated.

Penalty of town for neglect to expend money.

SEC. 114. Whoever, whether a scholar or not, enters any school-house or other place of instruction, during or out of school hours, while the teacher or any pupil is present, and wilfully interrupts or disturbs the teacher or pupils by loud speaking, rude or indecent behavior, signs or gestures; or wilfully interrupts a school by prowling about the building, making noises, throwing missiles at the school-house, or in any way disturbing the school, forfeits not less than two nor more than twenty dollars, to be recovered as aforesaid, or on complaint.

Penalty for disturbing schools.

SEC. 115. If a minor injures or aids in injuring any school-house, out-buildings, utensils or appurtenances belonging thereto; defaces the walls, benches, seats, or other parts of said buildings by marks, cuts or otherwise; or injures or destroys any property belonging to a school district, such district by its agent or committee, may recover of his parent or guardian, in an action of debt, double the damage occasioned thereby.

Parents or guardians liable.

SEC. 116. Whoever defaces the walls, benches, seats, blackboards, or other parts of any school-house or out-buildings belonging thereto, by obscene pictures, language, marks or descriptions, shall be fined not exceeding ten dollars, on complaint made within one year.

Penalty for defacing school-houses, out-buildings, &c.

## STATE SCHOOL FUNDS.

Permanent school fund. SEC. 117. The treasurer of state shall keep a separate account of all moneys received from sales of lands appropriated for the support of schools or from notes taken therefor, and of any other moneys appropriated for the same purpose; and such sum shall constitute a permanent school fund, which may be put at interest as the legislature directs. A sum equal to six per cent. of the amount of such fund, and all money received by the state from the tax on banks, shall be annually appropriated to the support of common schools, and distributed among the several towns according to the number of children therein between four and twenty-one years of age.

Treasurer to apportion school funds SEC. 118. The treasurer shall, immediately after the first day of July, apportion to the towns all state school funds for the year, according to the list of children furnished by the superintendent of common schools, as provided in section one hundred and six. The number of

Basis when returns are not received. scholars belonging to a town from which either the school committee or the municipal authorities have failed to make the returns required by law, shall be reckoned by taking the number used as a basis of the last apportionment, and deducting all scholars set off to other towns, or incorporated into a new town within a year, and one-tenth of the remainder, and the residue shall be the basis of the new apportionment. Immediately after making the apportionment, the treasurer shall notify each town of its proportion; which shall not be paid to any town until its return is made to the superintendent of common schools, nor so long as any state tax assessed upon such town remains unpaid.

Mill tax for support of schools SEC. 119. A tax of one mill on a dollar shall annually be assessed upon all the property in the state according to the valuation thereof, and shall be known as the mill tax for the support of common schools.

SEC. 120. This tax shall be assessed and collected in the same manner as other state taxes, How assessed and collected. and be paid into the state treasury and designated as the school mill fund.

SEC. 121. This fund shall be distributed by To be distributed in January annually. the treasurer of state on the first day of January, annually, to the several cities, towns and plantations according to the number of scholars therein, as the same shall appear from the official return made to the state superintendent for the preceding year.

SEC. 122. All of the school mill fund not distributed or expended during the financial year Any portion unexpended to be added to permanent school fund. shall at its close be added to the permanent school fund.

#### PROVISIONS RESPECTING LITERARY INSTITUTIONS.

SEC. 123. Presidents of colleges are removable at the pleasure of the trustees and overseers, Presidents of colleges, tenure of office. whose concurrence is necessary for their election.

SEC. 124. No officer of a college shall receive as perquisites any fees for a diploma or medical degree conferred by such college, but such fees shall be paid into the college treasury. Fees for degrees conferred.

SEC. 125. If an innholder, confectioner, or keeper of a shop, boarding-house or livery stable, Innholders, stable keepers, and certain others not to give credit to students. gives credit for food, drink, or horse or carriage hire to any pupil of a college or literary institution in violation of its rules, or without the consent of its president or other officer authorized thereto by its government, he forfeits a sum equal to the amount so credited, whether it has been paid or not, to be recovered in an action of debt by the treasurer of such institution; half to its use, and half to the town where it is located; and no person shall be licensed by the municipal officers for any of said employments, if it appears that within the preceding year he had given credit contrary to the provisions hereof.

SCHOOL FOR THE DEAF.

Governor and council may send deaf persons to Hartford Asylum or to Portland School for Deaf. SEC. 126. The governor, with approval of council, may send such deaf persons as he deems fit subjects for instruction at the expense of the state, to the American Asylum at Hartford, Connecticut, or to the Portland School for the Deaf at Portland, as the parents or guardian may designate in their written application for aid.

Governor to pay for instruction, &c, by warrant. SEC. 127. The governor may draw his warrant for the sums necessary to pay for the instruction and support of such pupils as may be sent to said institutions, respectively, pursuant to the preceding section, Not over \$175 a year per pupil. the same not to exceed one hundred and seventy-five dollars a year for each pupil sent to the American Asylum at Hartford, Connecticut, and not to exceed two hundred dollars a year for each pupil sent to the Portland School for the Deaf at Portland, Maine.\*

Form of application. SEC. 128. The following blank forms shall be used in all applications :

\_\_\_\_\_ , 18 .

To His Excellency, the Governor of the State of Maine :

I, \_\_\_\_\_, of the town of \_\_\_\_\_, in the county of \_\_\_\_\_, and State of Maine, respectfully represent to your Excellency that my \_\_\_\_\_, aged \_\_\_\_\_ years, is deaf, and cannot be properly instructed in the public schools of this state; and that I am unable, in addition to my other necessary expenditures, to defray the expense attending \_\_\_\_\_ instruction and support. I therefore respectfully request that your Excellency will send \_\_\_\_\_ either to the American Asylum at Hartford, Connecticut, or to the Portland School for the Deaf at Portland.

(Signed) \_\_\_\_\_.

\_\_\_\_\_ , 18 .

\*As amended 1885.



The undersigned, being acquainted with — —, a resident of the — of —, are of the opinion that the foregoing statement made by — is true, and that — — is entitled to the benefit of the legislative appropriation for the education of deaf persons.

(Signed)

_____ ,	Mayor	} of the city of _____.
_____ ,	} Aldermen	
_____ ,		
_____ ,		
_____ ,		
_____ ,		} Selectmen of the town of _____.
_____ ,		
_____ ,		
_____ ,		
_____ ,		

or

\_\_\_\_\_ , 18 .

I hereby certify that the above named — —, a deaf person, is free from all contagious diseases, and, as I believe, from all immoralities of conduct; is neither sickly nor mentally weak, and is a fit subject for instruction at the expense of the state.

(Signed)

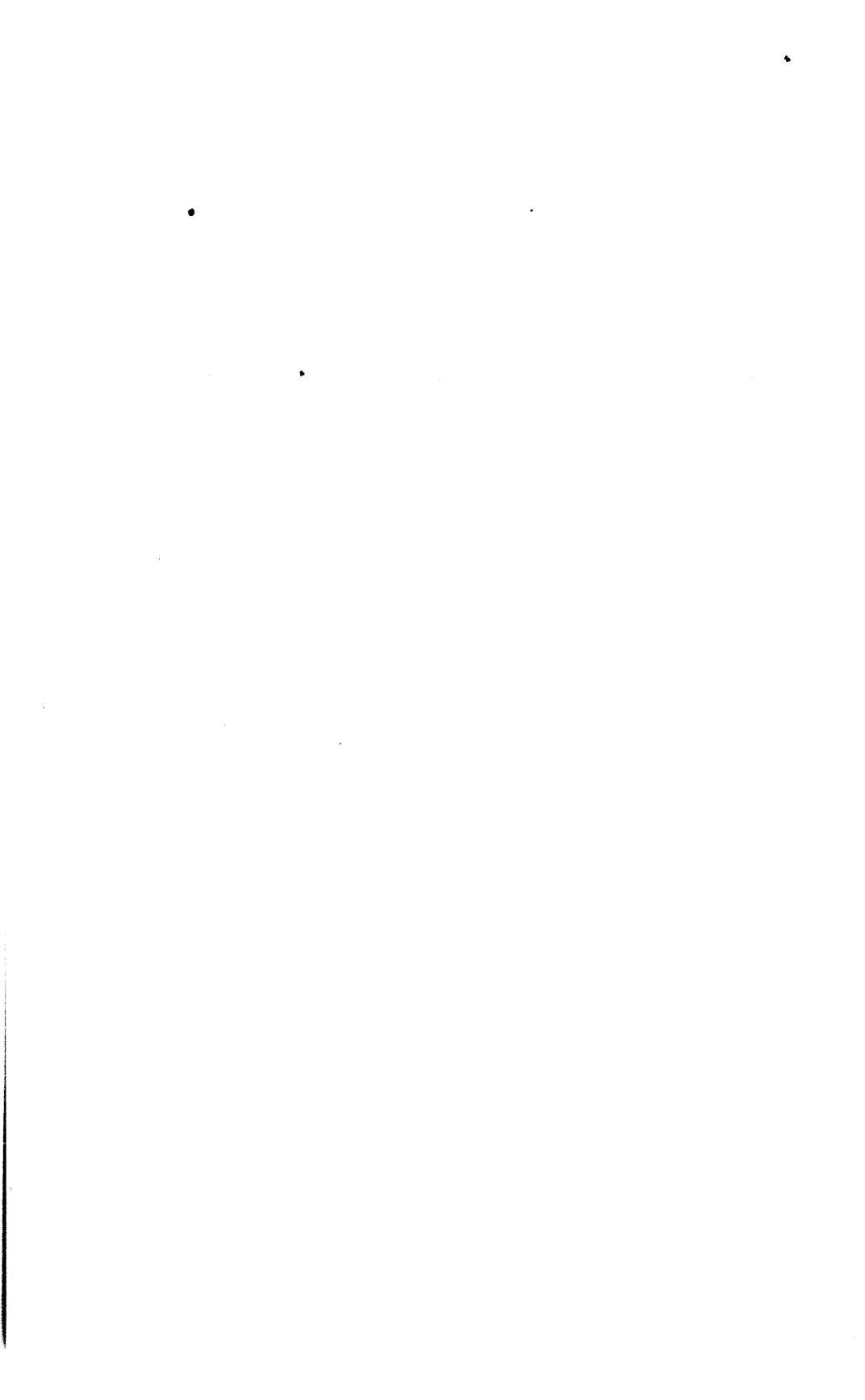
\_\_\_\_\_ , M. D.

Questions to be answered by the parent or guardian :

1. Names of parents.
2. Residence.
3. Birthplaces of parents.
4. Were either of them deaf and dumb?
5. Have they other children deaf and dumb?
6. Name of child.
7. Birthplace of child.
8. Was the child born deaf and dumb?
9. Has the child ever spoken?
10. If it has, when was hearing lost?
11. What was the cause?

12. Has the child ever been to school?
13. How much has the child been taught?
14. Do you prefer to have the child sent to the American Asylum at Hartford, or to the Portland School for the Deaf, at Portland?
15. Is the child mentally weak?
16. Does the child now speak; if so, how many words?
17. Remarks.

# APPENDIX.



ABSTRACT OF JUDICIAL DECISIONS IN REFERENCE TO SCHOOL  
LAWS, FOR INFORMATION OF SCHOOL OFFICERS.

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SECTION 1. In discontinuing and reconstructing its districts, a town may make its action to be conditional, dependent upon the consent of the district to be affected. And such action is not a delegation of authority. *Smyth vs. Titcomb*, 31 Me. 272.

If a town attempts to form two new districts out of an existing one, and one of them be legally established by the proceedings of the town, its rights will not be affected by a failure to establish the other district legally at the same time. *Whitmore vs. Hogan*, 22 Me. 564.

Should the town, under an article in the warrant for calling the meeting "to see if the town will divide district No. 2, in some convenient manner," include some portion of another district in one of the new ones, if the proceedings would not be legal, if objected to by the person aggrieved, yet mere strangers cannot make the objection to render the whole proceedings void.—*Ib.*

The vote of a town, at the annual meeting, under authority therefor in the warrant, "to set off" certain inhabitants named, "together with their estates, into a separate school district," defines the limits sufficiently to create a legal district. *Dean vs. Washburn*, 17 Me. 100.

The description, in a vote of a town, of a school district, as "all the territory between two given lines," is not so defective that the vote will be held to be void. *Allen vs. Archer and al.*, 49 Me. 346.

The action of a town in changing the limits of a school district without the "written recommendation of the municipi-

pal officers and superintending school committee, accompanied by a statement of facts," is void.—*Ib.*

The vote of a town to divide a school district, is unauthorized and void, where there has been no written statement of the facts submitted by the selectmen, as the statute requires. School District in Jackson *vs.* Stearns and al., 48 Me. 568.

When, in a town meeting held in October, a majority of the selectmen and the superintending school committee made a report recommending the division of an old school district and the creation of two new ones from it, and such report was then accepted by the town, and recorded upon its records, and the original placed on file, and, such proceeding being found to be nugatory, when at the next annual meeting, holden in March, under an appropriate article in the warrant calling the same, after hearing the record of the report read by the town clerk, the town voted to accept the report and to divide the district agreeably to its recommendation; *held*, that the two new districts were legally constituted out of the old one, and that the action had was equivalent to a report made directly to this last meeting, at which this vote was passed. Also, *held*, that, under the circumstances of this case, a recital in the report, (substantially) that although a division of the district would not be desirable if its inhabitants could agree among themselves to forego it, yet the state of feeling actually existing was such as to require the division, was a sufficient "statement of facts" upon which to base the action of the town. Webber et als. *vs.* Stover et als., 62 Me. 512.

It is not necessary that the recommendation of the municipal officers required by R. S., c. 11, § 1, as a condition precedent to any vote of the town, to alter or discontinue school districts, should indicate the precise changes to be made; but it may be in general terms. Grindle *vs.* School District in Brooksville, 64 Me. 44. And a vote of a town to discontinue one district, and to annex its territory to others, is not void because of an omission to make any provision

about the disposition of the school-house on the territory of the district discontinued.—*Id.*

Where, in defining a school district, the town directed that certain persons named should compose the district (the probable intention of the town that the lands occupied by those persons should form the district not being expressed in the town records), it was held that the limitation of the district was merely personal and therefore invalid. *Withington vs. Eveleth*, 7 Pick. 106. *Nye vs. Marion*, 7 Gray 244.

But it is not necessary that all the territory included in a district should be within continuous geographical lines. Where a district is laid out by such lines, and then certain individuals, "with their polls and estates," not adjoining the rest of the district, are added thereto, this operates as a permanent annexation of those individuals and their real estates to the district, and does not violate the rule which requires districts to be established by geographical limits. *Alden vs. Rounseville*, 7 Met. 218. And when a town voted "to divide school district No. 2 and annex A. B. and all northwest to school district No. 3, and the remainder of No. 2 district to district No. 1," and it appeared that A. B. lived upon the homestead in district No. 2, owned by him, and so situated with reference to the boundaries of that district that it practically divided all the land in the district northwest of his farm, from the rest of the district; *held*, that the reference to A. B., in the vote aforesaid, should be understood to mean the homestead owned and occupied by him. *Grindle vs. School District in Brooksville*, 64 Me. 44.

SECT. 4. The appointment of an agent, by the town, for a school district which has no existence, will not create one. *Tucker vs. Wentworth*, 35 Me. 393.

Towns alone are responsible for the support of schools and for the payment of instructors. The school district agent is the agent of the town for the transaction of business in the district. *Dorr vs. Billings*, 26 Me. 56.

Except, perhaps, in the case of school districts maintaining graded schools, towns alone are responsible for the support of schools and liable for the payment of teachers. *Norton vs. Soule et al.*, 75 Me. 385.

SECT. 19. When the superintending school committee appoint one of their number to exercise the powers and perform their duties as provided in section nineteen, they should make and keep a record of such appointment, and it would be well to cause a copy thereof to be filed with the town clerk.

SECT. 22. The warrant for the arrest of a truant may be served by a truant officer. *O'Malia vs. Wentworth*, 65 Me. 129.

The sentence for truancy may be to the reform school; and the alternative sentence required by the statute may be to the house of correction.—*Ib.*

Execution of the sentence may be delayed for such reasonable time as the court thinks proper, as such delay will only shorten the term of imprisonment, all sentences to the reform school being during minority.—*Ib.*

SECT. 40. The provisions of law that "every school district shall in all cases be presumed to have been legally organized, when it shall have exercised the franchise and privileges of a district for the term of one year," was intended to overcome all objections of a technical nature, on account of irregularities and informalities of proceedings in the organization of a district. *Call vs. Chadbourne*, 46 Me. 206. Evidence of an abortive attempt to organize a school district is not of itself sufficient to rebut the presumption of the legal existence of the district arising from its exercising the privileges of a district for one year. *Brown vs. Chesterville*, 63 Me. 241.

A school district not existing under the provisions of any statute nor formed by the town in pursuance of any statutory provisions, has no corporate powers. *Tucker vs. Wentworth*, 35 Me. 393. An action lies against a school district for money collected for a tax illegally assessed and paid under



duress, where the collector has deposited it with the town treasurer, it being by statute subject to the order of the district. *Starbird vs. School District in Falmouth*, 51 Me. 101; 39 Me. 183; 51 Me. 183. A school district cannot maintain an action to recover the school money assigned by the town for the support of schools in that district against their school agent, although he has received it of the town. *School Dist. in Sanford vs. Brooks*, 23 Me. 543. Where two new districts are formed from one, the title to the existing school-house is in the district in which it falls. *Whitmore vs. Hogan*, 22 Me. 564. And if the school-house was originally built by money furnished by voluntary subscription, it is the property of the district where it has been appropriated and used by the district for forty years.—*Ib.*.)

A school district is not divested of its property in its school-house, by an alteration, by the town, of the lines of such district, though, by such alteration, their school-house is left within the limits of another district. *Whittier vs. Sanborn*, 38 Me. 32.

SECT. 43. By an act of 1850, chap. 193, (\*R. S. chap. 11, sec. 42,) an agent of a school district is not authorized to call a district meeting upon his own motion, without the written application of three or more legal voters of the district. *School District in Sanford vs. Lord*, 44 Me. 374. But the annual meeting in March or April, may be called by him without such application. See section 93, item I.

Where there is no district agent, or he neglects or refuses to call a district meeting, the selectmen are authorized to call it; but such vacancy or refusal must exist and be shown, to render the proceedings of such meeting valid. *Starbird vs. School District in Falmouth*, 51 Me. 101.

School district meetings must be notified, in accordance with the act of 1850, chap. 193, art. 2, sect. 5, (\*R. S. chap. 11, sect. 42,) or in accordance with the vote of the district at a legal meeting, under sect. 7 of the same article, (\*R. S.

\*R. S., 1883.

chap. 11, sect. 45,) to make their proceedings binding. *Jordan vs. Lisbon*, 38 Me. 164.

When it appeared that there was no school house in the district, a return upon the warrant to call the meeting, made by the proper person, that he had notified, &c., "by posting up four copies of this warrant, one on the sign-post at the confluence of the B. and F. roads, one on the corner of the blacksmith's shop, one on the Methodist meeting-house, and one on the post-office, all of which places are in said district," was held to furnish sufficient evidence that the notices were posted, as to place, in the manner required by law. *Soper and al. vs. School District in Livermore*, 28 Me. 193.

When the selectmen issue their warrant to one of the applicants, directing him to "call a meeting at the school-house in said district," and he returns on the warrant, that he has posted up notice for the purpose, one at the school-house, one at the grist mill, both in said district, the return furnishes sufficient evidence that the notices were posted, as to place, as required by law. *Fletcher vs. Lincolnville*, 20 Me. 439.

Notice is given in sufficient time, if posted up on the sixteenth, when the meeting is to be on the twenty-fourth of the month.—*Ib.*

A school district meeting may be legally called by the selectmen of the town, on the written application of three or more qualified voters, then residing within the district, though they are not described as such in the application.—*Ib.*

An application to the selectmen to call a meeting of a district for the choice of officers, bearing date before the town meeting was held at which it should be determined whether the district would be permitted to exercise that right, is premature, and all action under it void. *School District in Sanford vs. Lord*, 44 Me. 374.

It is not essential that the application for a warrant from the selectmen to call a school district meeting, should be recorded or produced; or that the application should be recited in the warrant. That such application had been

made, may be proved by parol. *Soper vs. Livermore*, 28 Me. 193

In the proceedings of our numerous and various municipal corporations, we ought not to look for a scrupulous observance of the most approved formalities. Per. *Whitman C. J.*, 28 Me. 193.

To show that a meeting was held *de facto* by all the inhabitants who were qualified to attend, is not sufficient, without evidence of legal notification. *Moore vs. Newfield*, 4 Me. 44.

When the town had directed the mode of calling the meeting of a school district under the statute of 1822, chapter 196, it was held necessary in proving their transactions, to show that such direction had been pursued. *Moore vs. Newfield*, 4 Me. 44. If the inhabitants of a school district prescribe the mode of warning future meetings, the mode so prescribed must be pursued so long as the vote therefor remains unrescinded, and meetings cannot be otherwise called. *Hayward vs. North Bridgewater*, 2 Cush. 419.

When an officer in his return states that a school-house on which he has posted a notice, is a public place, it is sufficient evidence of the fact. *Wilson vs. Bucknam*, 71 Me. 545.

SECT. 46. As between a school district and a stranger, the possession of their records by the clerk, is the possession of the district; and replevin may be maintained therefor in the name of the corporation against one not legally elected as clerk.—*School District in Sanford vs. Lord*, 44 Me. 374. Parol evidence is inadmissible to prove the transactions of a school district meeting; the only legal evidence being the record itself, or an attested copy. *Moore vs. Newfield*, 4 Me. 44; *Jordan vs. Lisbon*, 38 Me. 164. But it is not essential that the application for a warrant from the selectmen to call a school district meeting should be recorded or produced; or that the application should be recited in the warrant. That such application has been made, may be proved by parol. *Soper vs. Livermore*, 28 Me. 193. A school district, at a legal meeting, may ratify and confirm proceedings of previous

meetings, which were not strictly legal. *Jordan vs. Lisbon*, 38 Me. 164. Where by the records, the school district officers appear to have been qualified by a magistrate, the presumption is, in the absence of all testimony, that they were made by the proper recording officer. *Tozier vs. Vienna*, 39 Me. 556.

SECT. 48. A vote to raise money to build a school-house, if not passed at a legal meeting, is void; and a tax based upon such illegal vote, and paid under protest, may be recovered back in an action at law against the school district, to whose benefit it enured. *Haines vs. School District in Readfield*, 41 Me. 246. A school district has no authority to raise money for fuel, or to make itself liable for it. *Estes vs. Bethel*, 33 Me. 170. A school district cannot be considered as promising to pay for unauthorized repairs upon their school-house, by using it afterwards. *Davis vs. Bradford*, 24 Me. 349. But where one built a school-house under a contract with persons assuming to act as district committee, but who had no authority, and a district school was afterwards kept in it by direction of the school agent, this was held to be an acceptance of the house on the part of the district, binding the inhabitants to pay the reasonable value of the building. *Abbot vs. Hermon*, 7 Me. 118. When there is no legal contract on the part of the district to build a school-house, nor any acceptance of the house, the building of such a house within the limits of the district imposes no legal obligation upon its member to pay for it. *Jordan vs. Lisbon*, 38 Me. 164. A school district is not divested of its property in its school-house, by an alteration, by the town, of the lines of such district, though by such alteration their school-house is left within the limits of another district. *Whittier vs. Sanborn*, 38 Me. 32. For the removal of such a house, built under a license, upon the land of another, the owner of the land can maintain no action of trespass, when no unnecessary damage is done to the freehold. And the district, when in actual possession, can authorize a third person to make such removal.—*Ib.* But where

two new districts are formed from one old one, the title of the existing school-house is in the district in which it falls on the division. *Whitmore vs. Hogan*, 22 Me. 563. And if the school-house was originally built by money furnished by voluntary subscription, it is the property of the district where it has been appropriated to and used for the district forty years.—*Ib.*

SECT. 48, *item II.* The law does not prescribe the place where a school-house may be purchased, nor the manner in which it may be removed or repaired. 39 Me. 558. It is no valid objection to the legality of a school district tax laid for removing and repairing a school-house, that the house is taken from the limits of another district; that in removing it is pulled down, and in repairing it is left in different shape and size from what it formerly was. *Tozier vs. School District in Vienna*, 39 Me. 556. When by the vote of a district, the selectmen are requested to locate their school-house, their acts under such votes are recommendatory only.—*Ib.*

When a meeting of a school district has been legally called, notified and held for the purpose of locating a school-house, the clerk thereof cannot so destroy the effect of the action of the district as to prevent an appeal therefrom, by refusing to record the application, warrant and return thereon, for the next meeting, so long as clear proofs of the facts can be made *aliunde*. *Marble vs. McKenney*, 60 Me. 322.

SECT. 48, *item III.* Before school districts are especially authorized to do so by statute, they might make sale of their old school-houses, which had become unfit for use. *Whitmore vs. Hogan*, 22 Me. 864.

Where a committee were authorized by vote of a school district to sell a school-house, a sale thereof on credit, instead of for cash, is void, unless ratified by the district afterwards. *School District in Dresden vs. Ætna Ins. Co.*, 62 Me. 330. Where the committee kept the proceeds of sale in their own hands, making no report in any form to the district of their doings, the district never receiving or using such

proceeds, or having any benefit therefrom, but at the first corporate meeting held after such sale, passing votes condemnatory thereof; no ratification can be inferred, although no district meeting was held for some months after such sale was known to individuals in the district, during which time the house was removed from the site it stood upon by the vendees.—*Ib.*

A school district is the exclusive and final judge of the necessity of the sale of its school-house. School District No. 6 in *Dresden vs. Ætna Insurance Co.*, 54 Me. 632. If a school district would rescind a sale of its school-house, on the ground of fraud between its selling committee and its purchasers, it must at least offer to restore to the purchasers what was received from them.—*Ib.*

SECT. 50. A committee chosen at any illegal meeting, by their acts in superintending the building of a school-house, cannot make the district liable to pay for it. *Jordan vs Lisbon*, 38 Me. 164. The power given to a committee of a school district to build a school-house, gives by implication such a control of the land and materials and work as to authorize them to give notice to the contractor to remove a building placed thereon by him, but not built according to the contract. *Hill vs. School District in Milburn*, 17, Me. 316. Where a party contracts to build a house in a particular manner, a substantial compliance is not sufficient. It must be completed according to the contract.—*Ib.* Where one contracts to build a house in a particular manner, to the acceptance of a district committee, on land belonging to the district, and erects one thereon which is not built according to the contract; and where the committee did not unreasonably refuse to accept it, and there was no express or implied acceptance; and where the district derived no benefit from the building, he cannot recover of the district the value of his materials.—*Ib.* If there were defects in the earlier stages of the work in erecting the building, and the committee had

waived those defects, yet the contractor would not be entitled to recover, unless the subsequent parts of the work had either been made conformable to the contract, or had been accepted.—*Ib.* After the committee had pointed out defects, and notified the contractor that the house would not be accepted unless those defects should be remedied, and the contractor had replied that he should do the work as he pleased, and did not wish for their adjudication or interference until the work was done, no implication can arise from the silence of the committee that their notice was withdrawn, or those defects waived.—*Ib.* A committee of three or more persons duly appointed by school district committee to superintend the erection of a school-house, and the laying out and expending the money raised by the district, if they employ another person to build the house, cannot maintain an action in their own names, for such services; but the action must be brought by the one rendering the services to the district. *Jenkins vs. Doughty Falls Union School District*, 39 Me. 220. And a majority of such committee may employ one of their own number for such service, and unless there is fraudulent or corrupt dealing, such person may in his own name recover of the district the amount of his claims.—*Ib.* Where the district raised a certain sum of money towards purchasing land and erecting a school-house of prescribed dimensions, they can interpose no objection to a claim made against them under a contract with their committee, that a larger sum was expended by the committee than that named in the vote.—*Ib.* Nor is it any defence to such claim, that the school-house was worth no more than the money voted.—*Ib.* But such contractor can only recover for his own services, not for what he has paid to another, for his bill against the corporation.—*Ib.* Where the inhabitants of a school district, in a suit against them for the building of a school-house, repudiated the special contract on which the action was founded, denying that it had ever been accepted by them, though executed by the plaintiff,

and it was proved that the district had agreed to build the house, raised money for the purpose, chose a committee to superintend the building, and said committee and inhabitants had seen the work progress without objection, it was held that the inhabitants of the district were liable to pay what the house was reasonably worth, though not built agreeably to the terms of the special contract. *Norris vs. School District in Windsor*, 12 Me. 293. And the circumstance that the district did not own the land upon which the house was erected, was held not to affect the plaintiff's claim—it appearing that the house had been erected on the spot designated by a vote of the district for that purpose.—*Id.* A promise may be implied on the part of the corporation, from the acts of its agent, whose powers are of a general character. *Abbott vs. Hermon*, 7 Me. 118. Therefore where one built a school-house under a contract with persons assuming to act as a district committee, but who had no authority, and a district school was afterwards kept in it by direction of the school agent, it was held that this was an acceptance of the house on the part of the district, binding the inhabitants to pay the reasonable value of the building.—*Id.* Where, at a legal school meeting, the district, after having voted to build a school-house, and having chosen a building committee to build the house, and “ascertain the probable sum of money that such a house can be built for,” &c., voted to “raise a sum sufficient to defray all the expenses incident to the building of the house;” and subsequently, after having built the house, reported at an adjourned meeting, the amount expended, which report was accepted; and thereupon the clerk certified to the assessors the amount reported;—Held, it was sufficient to authorize the assessment and collection of the amount. *Soper vs. Livermore*, 28 Me. 193.

SECT. 51. Unless it appears that the majority were opposed to raising any sum, or a sum less than that proposed, there is no such disagreement as will authorize the town to assess a tax upon the district for the purpose designated.



The mere refusal to vote for one sum named will not confer jurisdiction upon the town. *Powers vs. Sanford*, 39 Me. 183. A member of such district, whose property is taken to pay a tax assessed by the authority of the town where "such disagreement" appeared, may recover it back of the town.—*Id.* Such action would lie against the district where it was proved that the tax had been received and applied to the use of its members. *Soper vs. Livermore*, 28 Me. 193.

SEC. 52. The opinion of the superintending school committee, that any district in their town unreasonably neglects to raise money for the repair of its school-house, when communicated to the municipal officers in a written application under R. S., c. 11, § 52, is a conclusive finding of the fact of such neglect, and makes it the imperative duty of the selectmen to bring the subject before the town at its next meeting; so that errors and omissions in the records of the doings of the school district are immaterial, so far as its liability for repairs made under a vote of the town is concerned. *Knowles vs. School District in Chesterville*, 63 Me. 261. A statement, in the application of the superintending school committee to the municipal officers, that the district unreasonably neglects to repair its school-house, is a sufficient compliance with the statute, and indicates sufficiently a refusal to raise money for that purpose, so as to authorize the action of the town in the premises.—*Id.* And it is no defence to a suit to recover for labor and materials furnished in repairing a school-house, under a contract with a committee appointed by the municipal officers under R. S., c. 11, § 52, that the building has been unlawfully removed by the selectmen from the lot belonging to the district.—*Id.* Nor can it affect the contractor's right to payment if the tax assessed to raise funds for that purpose be illegally assessed or collected.—*Id.*

SECT. 54. Two or more districts uniting, do not thereby abolish the original district, or create a new one; it merely authorizes the several districts to use a portion of their school money, in concert, for greater facility in the instruc-

tion of their more advanced scholars, without impairing the rights or obligations of the original districts to maintain their own schools. *Tucker vs. Wentworth*, 35 Me. 393.

SECT. 55. The provisions of the act of 1852, chap. 243, (R. S. chap. 11, sect. 55,) are not unconstitutional. For, notwithstanding the legislature has conferred upon towns the authority to establish school districts and to fix the limit thereof, within their respective towns, its powers upon the subject were not thereby exhausted, so that it could not legitimately empower districts within a town, to unite, without the consent of the town. *Call vs. Chadbourne*, 46 Me. 206. Nor was the statute so far repealed by the act of 1854, chap. 103, sect. 1, (R. S., chap. 11, sect. 1,) as to take away from school districts the authority to unite, which was conferred by it.—*Ib.*

SECT. 56. The municipal officers of a town have no authority to decide where a school-house shall be placed, until "more than two-thirds of the voters present and voting" at a district meeting, legally called for the purpose, shall have objected to the place voted by the majority. *Goodwin vs. Nye*, 60 Me. 402.

The simple adjournment for one month of a district meeting called for the purpose of locating a school-house, lays no foundation for the jurisdiction of the municipal officers in the premises.—*Ib.* The location of a school-house lot is not invalid, merely because the bounds of the location, by mistake in some way, over-lap upon a public road. *Jordan vs. Haskell*, 63 Me. 189. When more than one-third of the voters of a school district, present and voting at a school district meeting, object by their votes to the location of the majority, it is sufficient under R. S. c. 11, § 56, that the clerk of the district make a record of such fact. *Norton vs. Perry*, 65 Me. 183. The clerk is not required to record the names of the voters objecting. It is enough that he records the state of the vote.—*Ib.* The certificate of the municipal officers of a town, of their determination where a school-house is to be placed after an application, notice to all parties

interested, and a hearing as required by Sect. 56, is conclusive upon the district.—*Ib.* If the location is defective by reason of the vague description of the premises to be taken, such defect will not revive or render valid a proceeding and different location, without a sufficient statute majority, and to which more than one-third present and voting objected, and subsequently within the time required by statute, applied under the provisions of the statute, to the municipal officers of the town, to make a location.—*Ib.* But where a location by the municipal officers is void by reason of its insufficient and defective description of the premises to be taken, the district must proceed anew to make a valid location.—*Ib.* The municipal officers have ten days within which to give their certificate to the clerk of the district, of their determination of the place where the school-house is to be placed.—*Ib.* And they may make their certificate, notwithstanding at some previous time they may have been unable to agree, and may have so certified, if their certificate is not recorded, and is withdrawn, and their determination is duly filed within ten days.—*Ib.* The collection of an entire school-district tax, assessed without authority of law, may be perpetually enjoined, on a bill brought by all the tax-payers of the district jointly, or by any member thereof on behalf of themselves and all the others. *Carlton et als. vs. Newman*, 77 Me. 408. When municipal officers proceed to erect a school-house for a district under the provisions of R. S., c. 11, § 56, they can legally expend therefor so much money only as the district have voted for that purpose.—*Ib.*

SEC. 57. When a location for the erection of a school-house has been legally designated, and the owner thereof refuses to sell, the municipal officers may lay out a school-house lot and appraise the damages; and on payment or tender of such damages, the district may take such lot, but a district has no right to take such land for a school-house lot when the owner thereof refuses to sell, except on payment or tender of damages appraised. *Storer vs. Hobbs*, 52

Me. 144. The provision of R. S., c. 11 § 57, that a school-house lot shall revert to an owner, when a school-house has "ceased to be thereon" for two years, does not apply to a case where no house has been placed on such lot within two years from the time the lot is designated for location by the municipal officers of a town. *Jordan vs. Haskell*, 63 Me. 189.

When the warrant for the meeting of a school district regularly called and holden, and the votes passed at that meeting, taken as a whole, unmistakably show that the district have designated a certain lot of land adjoining the one occupied by their existing school-house, to be used in connection with it as a school-house lot for the erection of a new school-house, and the owner of the land refuses to sell the same, the selectmen may lawfully lay it out for a school-house lot under Sect. 56, and appraise damages therefor; and on payment or tender of such damages, the district may take and hold the same for the purpose of maintaining and erecting a school-house thereon, notwithstanding the vote of the district to which the municipal officers refer in the laying out of the lot speaks of an enlargement of their present school-house lot, and the notice given by said selectmen to the owner speaks of laying out a lot for a school-house and play grounds. *Cousins vs. School District No. 4 in Lyman*, 67 Me. 280.

When the district has previously designated the lot by metes and bounds, and has applied to the owner to sell the same and he has refused, the selectmen may appraise the damages at the time they lay out the lot.—*Ib.*

The proper place to record the return of such laying out and appraisal is on the district records and not on those of the town.—*Ib.*

When the lot is laid out for a school district, the town has no interest in it, and the provisions for a return to the town clerk, and action thereon by the town as in case of town ways, are inapplicable.—*Ib.*

SECT. 58. The phrase "location of the lot," as used in R. S. chap. 11, sect. 58, refers to the laying out of a school-

house lot mentioned in Sect. 57, and not to "where the school-house shall be placed" mentioned in Sect. 56. *Jordan vs. School District 8, in Cape Elizabeth, 60 Me. 540.*

Under section 58, a jury has no authority to designate the place on which the school-house shall stand, but to fix the boundaries and price of the lot.—*Ib.*

When the location has been legally designated by the municipal officers, upon the land of a certain person, a jury summoned under section 58 on petition of the owner, cannot change the location to the land of another or to that of the district.—*Ib.* Where an owner of land on which a school-house has been located, petitions the county commissioners for a change of location and an increase of damages, and proceedings are fully had on such petition, he cannot afterwards maintain an action for the occupation of the lot upon the ground that there were irregularities in the proceedings to take his land. *Jordan vs Haskell, 63 Me. 193.*

SECT. 71. Under an article in the warrant "to see if the town will set off a part of the districts, numbers 9 and 17," so as to form a school district with contiguous portions of an adjoining town, it is not competent for the town to set off a portion of a district other than those specified in the warrant. *Butterfield vs. School District No. 6 in Prospect, 61 Me. 583.*

SECT. 72. Where a union school district, lying partly in Farmington and partly in Chesterville, had a school-house in Farmington, and at its last vote to locate their house fixed its location within that town, and the school was actually kept in Farmington, which is the oldest town; *held*, that the teacher was justified in obtaining her certificate from and returning her register to the superintending school committee of that town. *Brown vs. Chesterville, 63 Me. 241.*

SECT. 75. A school district may lawfully raise money to defray the expenses of litigation growing out of the exercise of its powers in building a school-house. *Green vs. Bailey, 12 Me. 254.* If such district vote to raise money for a purpose not within its authority, the vote would be a nullity and the district would not be bound to indemnify a person acting

under such vote, to carry it into effect.—*Ib.* A vote to raise money to build a school-house is void if not passed at a legal meeting of the district, and a tax based upon such illegal vote, and paid under protest, may be recovered back of the district. *Starbird vs. School District in Falmouth*, 51 Me. 101. A vote to raise money, passed at a school district meeting of which no previous notice had been given, creates no liability upon the district to repay money borrowed in pursuance of such vote. *Lander vs. Smithfield*, 33 Me. 239. And a vote passed at a subsequent legal meeting, “to pay debts due from the district,” is no admission of indebtedness for money hired under the vote of an unauthorized meeting.—*Ib.* But a school district, at a legal meeting, may ratify and confirm proceedings of previous meetings which were not strictly legal. *Jordan vs. Lisbon*, 38 Maine 164. If a school district have legally voted to raise a sum of money, for the purposes within their authority, and the assessors assess a tax, such assessment is not rendered inoperative by the omission of the clerk to certify the vote to the assessors. *Smyth vs. Titcomb*, 31 Me. 272. Where at a legal meeting, the district, after having voted to build a school-house, and having chosen a building committee to build the house, and “to ascertain the probable sum of money that such a house can be built for,” &c., voted “to raise a sufficient sum to defray all the expenses incident to the building of the house;” and subsequently, after having built the house, reported at an adjourned meeting, the amount expended, which report was accepted; and thereupon the clerk certified to the assessors the amount reported:—Held, it was sufficient to authorize the assessment and collection of the amount. *Soper vs. Livermore*, 28 Me. 193. When a school district votes to raise money for any legal purpose, not only residents are to be assessed as heretofore, but also persons who at the time of raising said money own therein the class of property mentioned in the first clause of R. S., chap. 6, sect. 14, are liable to be assessed therefor. *Hartshorn vs. Ellsworth*, 60 Me. 276. A person seeking to recover a tax paid by him to a school dis-

trict, upon the ground that he was not, at the time of the assessment, a resident of the defendent district, but that the part of the town in which he resided had been formed into a new district with portions of a neighboring town, is not entitled to recover unless he shows that the towns co-operated in their corporate capacity to form such new district. *Butterfield vs. School District No. 6 in Prospect*, 61 Me. 583. Money raised for the erection of a school-house upon a lot other than the one legally designated by the municipal officers of a town, upon a proper appeal from the action of a school district, is deemed to be raised for an illegal purpose. *Marble vs. McKinney*, 60 Me. 332. An assessment of taxes, by the assessors of a town, pursuant to the vote of a district raising money for any purpose, is illegal, if such district was not formed by the town in pursuance of statutory provisions, and has no corporate powers. *Tucker vs. Wentworth*, 35 Me. 393. And prior to the statute now in force, providing that "assessors shall be responsible only for their own personal faithfulness and integrity," it was held that any inhabitant of such district, whose property should be distrained by virtue of the assessors' warrant to collect such tax might recover its value of the assessors.—*Ib.* But in *Trim vs. Charleston*, 41 Me. 504, it was held, that a town is not legally responsible for improper proceeding, wilful or otherwise, by the majority of a school district; and that assessors are responsible only for their personal fidelity and integrity in the assessment of such taxes as they are by law required to assess. No action can be maintained against a town, for the assessment and collection of an illegal school district tax. *Trafton vs. Alfred*, 15 Me. 258. Unless it appears from the proceedings of a legal meeting of the members of a school district, to raise money for a specific purpose, that the majority were opposed to raising any sum, or a less sum than proposed, there is no such disagreement as will authorize the town to assess a tax upon the district for the purpose designated. The mere refusal to vote for one sum named, will not confer jurisdiction upon the town. *Powers vs. Sanford*, 39 Me. 183. And a tax

assessed upon the polls and estates of the members of a school district by authority of the town, where no such disagreement appeared, is void.—*Ib.* A member of such district whose property is taken to pay such illegal tax, may recover it back of the town.—*Ib.* Such action would only lie against the district where it was proved that the tax had been received and applied to the use of its members.—*Ib.* By R. S. 1841, chap. 14, sect. 56, as amended (R. S. 1883, chap. 6, sect. 39,) the assessors of towns who are required to assess any tax upon a school district are liable only for their own personal faithfulness and integrity, and further liabilities, if any, shall rest solely with such school district.—*Ib.* But this enactment imposes no responsibility upon the district for errors committed by the town.—*Ib.* An action lies against a school district for money collected for a tax legally assessed and paid under duress, where the collector has deposited it with the town treasurer, it being by statute subject to the order of the district. *Starbird vs. School District in Falmouth*, 51 Me. 101. The collector of taxes of a town is under the same obligations to collect school district taxes, and the town treasurer to enforce their collection, as in cases of town taxes. *Smyth vs. Titcomb*, 31 Me. 272. A collector's warrant signed by two selectmen is illegal. *Haines vs. Readfield*, 41 Me. 246.

A certificate to a town treasurer by the assessors, that they have put into the hands of the collector a list of the assessments of a school district tax, "with a warrant in due form of law," justifies the treasurer in issuing a warrant of distress against the collector of taxes for a failure to collect such assessments and pay them into the treasury as required by law, whether the warrant from the assessors to the collector was, in fact, a good one or not. *Snow vs. Winchell*, 74 Me. 408.

SECT. 87, Item I. When a town has not empowered district agents to employ teachers, the power to employ them is with the superintending school committee. *Woodbury vs. Knox*, 74 Me. 462.



When the superintending school committee have the employment of teachers in a town, and they examine and give a certificate to a teacher employed by a district agent, and visit the school soon after the commencement and approve the teacher's management, their conduct was held to be a ratification of the teacher's employment.—*Ib.*

SECT. 87, Item III. The certificate of the majority of the superintending school committee, as to the qualification of a teacher, is *prima facie* evidence that they performed their duty, as well in notifying those who do not sign, as in making the necessary examination. *Jackson vs. Hampden*, 20 Me. 37. And the certificate required is of the existing committee; and one from the committee of a former year, though composed of the same individuals, is not sufficient.—*Ib.* But it may be made valid by the approval of the superintending school committee annually endorsed thereon. See section 98. The certificate of a majority of the superintending school committee of the town, produced by the master to the agent employing him, was held to be valid (although that majority did not act together in the examination), under the provisions of the R. S. 1841, chap. 17, that "no person shall be employed as a school-master, unless he shall produce to the agent employing him a certificate from the superintending school committee," &c. *Stevens vs. Fassett*, 27 Me. 266. In this case the court say, "By R. S. 1841, chap. 1, sect. 3, rule 3, (R. S. 1857, chap. 1, sect. 4, rule 3), all words imparting joint authority to three or more public officers or other persons, shall be considered as giving authority to a majority of such officers or persons, unless it shall otherwise expressly declare in the law giving such authority." "No law does so declare in reference to the duties of superintending school committees, but a majority of such committee shall constitute a quorum," R. S. 1841, chap. 10, sect. 12. But though it has been held that the certificate of the majority of the superintending school committee as to the qualification of a teacher, is to be regarded as *prima facie* evidence that they have performed their duty as well in notifying those who do not sign as in making the necessary examination, yet, if all the mem-

bers of the committee have not been notified, a certificate of a majority is void. *Jackson vs. Hampden*, 20 Me. 37. If the town, notwithstanding the employment of the master by the agent, would avail themselves of the want of the requisite certificates, they must prove that fact. *Rolfe vs. Cooper*, 20 Me. 154. A teacher is not authorized to teach, and cannot recover pay without the requisite certificate of the superintending school committee, even though all the members neglect or wantonly refuse to examine him, and though he has performed his duties according to his contract. *Jackson vs. Hampden*, 20 Me. 37; *Dore vs. Billings*, 26 Me. 56.

SECT. 87. Item IV. A requirement by the superintending school committee, that the Protestant version of the Bible shall be read in public schools of their town, by scholars who are able to read, is not in violation of any constitutional provision, and is binding upon the members of the school, although composed of divers religious sects. *Donahoe vs. Richards*, 38 Me. 379.

SECT. 87. Item VI. The superintending school committee have no power to dismiss a school master, unless for one of the causes mentioned in stat. 1821, chap. 117, sec. 3, providing that the "committee shall have power to dismiss any school master or mistress who shall be found incapable or unfit to teach any school," and this must be in writing, under their hands, specially assigning the cause of dismissal. *Searsmont vs. Farwell*, 3 Me. 450. When there are three members of the superintending school committee, two of them have no power to dismiss a master, under the provisions of stat. 1834, chap. 129, sect. 3, unless due notice has been given to the third that he might attend, and act with them. *Jackson vs. Hampden*, 16 Me. 184.

When after one day's notice to the teacher, the superintending school committee visited the school and made a full examination into charges against the teacher, and the teacher and his witnesses were fully heard, and no objection was made by him for want of due notice, nor any request for

delay or to be heard further, the teacher thereby waived any objection to the notice if insufficient, and is not entitled to his wages for teaching after being notified by the committee of his dismissal as the result of such investigation. *Woodbury vs. Knox*, 74 Me. 462.

SECT. 93. If a person be chosen as agent by the qualified voters of a district assembled together, but not at a district meeting legally called, such person is not agent of the district *Fletcher vs. Lincolville*, 20 Me. 439. But when a school agent acts for a year as such under color of his election, he is agent *de facto*, and his contract with the teacher is sufficient to bind the town, though the meeting at which he was elected was not duly notified, and he was never sworn. *Woodbury vs. Knox*, 74 Me. 462. A school agent's mere election and performance of official duties, raise no implied promise on the part of the town to pay him for such services; and in the absence of any implied contract or statutory provision entitling to pay for official duties rendered, a school agent can maintain no action therefor against his town. *Talbot vs. E. Machias*, 76 Me. 415. The school district agent is the agent of the town, for the employment of teachers in the district. *Dore vs. Billings*, 26 Me. 56. But when a town has not empowered district agents to employ teachers, the power to employ them is with the superintending school committee. *Woodbury vs. Knox*, 74. Me. 462.

A school district cannot maintain an action against the school agent to recover money assigned by the town for the support of schools in that district, and which the agent has received. *Sanford vs. Brooks*, 23 Me. 543. Towns alone are responsible for the support of schools, and for the payment of teachers. *Dore vs. Billings*, 26 Me. 56.

A vote of school district to authorize the agent "to lay out ten per cent. of the school money of the district for the present year, and ten per cent. of the next year's school money, or as near as may be, to repairing the school-house," does not authorize the agent to expend more than ten per cent.

of the school money for those two years, though more might be required to put the house in good repair. *Davis vs. Bradford*, 24 Me. 349.

SECT. 98. The production of the requisite certificates by the teacher is in a condition precedent to his lawful employment by the school agent, but he is *prima facie* entitled to receive his stipulated compensation upon proof that he has been employed by the agent, and that the agreed services had been rendered. And if the town, notwithstanding the employment of the teacher by the school agent, would avail themselves of the want of the requisite certificates, they must prove that fact. *Rolfe vs. Cooper*, 20 Me. 154. A person who instructs a town school without the statute certificate from the superintending school committee, cannot recover his wages against the town. And if for the year in which such school is kept, no superintending school committee has been chosen, such omission of the town will not aid the plaintiff to recover. Nor can such teacher collect his wages from the agent who employed him, although the district itself might not in all respects, have been originally legally established, or such agent might not have been sworn. *Jose vs. Moulton*, 37 Me. 367.

But if a town choose to pay an instructor his wages, notwithstanding he has not procured the requisite certificates, and actually pay the agent of the district a sufficient sum to pay the instructor, for that purpose, and it is received by the agent, it would become the property of the instructor, and he may maintain an action against the agent to recover it. But if it were not so paid and received, he would have no legal claim upon it. *Dore vs. Billings*, 26 Me. 543.

SECT. 114. If one over twenty-one years of age, voluntarily attend a town school, and is received as a scholar by the instructor, he has the same rights and duties, and is under the same restrictions and liabilities, as if under that age. *Stevens vs. Fassett*, 27 Me. 266. When a scholar in school hours, intrudes himself into the instructor's desk, and refuses to leave it on the request of the instructor, such scholar may

be lawfully removed by the instructor. And for that purpose, he may immediately use such force, and call to his assistance such aid from any other person, as is necessary to accomplish the object, without the direction or knowledge of the superintending school committee.—*Ib.* The stat., 1850, chap. 193, art. 10, sect. 13 (containing the provisions of sect. 114,) for the protection of schools, is applicable to private schools regularly established and in operation for instruction in the art of writing. *State vs. Leighton*, 35 Me. 195.

A school-master is not liable for inflicting corporal punishment upon a pupil, if it is not clearly excessive, in the general judgment of reasonable men. *Patterson vs. Nutter*, 78 Me., 509.

#### FORMS.

It is the duty of a school agent to call a district meeting in the month of March or April, annually, for the choice of an agent and for other business, by causing notice to be given as provided by law; which meeting may be called by the agent without application therefor. The form of notice for such meeting may be as follows:

##### No. 1.

##### *Notice for School District Meeting.*

To the legal voters of school district No. —, in the town of —,  
Greeting.

The inhabitants of said school district qualified by law to vote in town affairs, are hereby notified and warned to meet at the school-house in said district, on —, the — day of —, 18—, at — o'clock in the afternoon, then and there to act on the following articles:

*First*, To choose a moderator to preside at said meeting.

*Second*, To choose a clerk and school agent for said district.

*Third*, To see what instruction said district will give to the superintending school committee or supervisor, relating to the time when schools shall commence, and what amount

of the school money shall be expended for the support of a summer school to be taught in said district during the ensuing year.

*(Here state any further objects of the meeting.)*

Dated at —, the — day of —, 18—.

\_\_\_\_\_ } *Agent of School District*  
 \_\_\_\_\_ } *No. —, in —.*

The return upon the notice (or the certificate of notice) may be as follows :

#### No. 2.

The undersigned hereby certifies that he has posted up the within notice at two public and conspicuous places in said district; one at the school-house in said district and one at —, seven days at least before the day appointed for said meeting, to wit, on the — day of —, 18—.

Dated at —, the — day of —, 18—.

—, *School District Agent.*

School district meetings at other times than in March or April, can be called only upon the application therefor of three or more legal voters of the districts.

The form of application to a school agent may be as follows :

#### No. 3.

To the agent of school district No.—, in town of —.

You are hereby requested by the subscribers, legal voters in said district, to call a meeting of the legal voters of said district, to be held at the school-house in said district on the — day of —, 18—, at — o'clock in the afternoon, then and there to act upon the following articles ;

*First*, To choose a moderator to preside at said meeting.

(*Here state the further objects of the meeting.*)

Dated at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 18 —.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The notice to be given upon the foregoing application may be in the following form :

No. 4.

NOTICE.

To the legal voters of district No. —, in the town of —,  
 Greeting.

Written application of (*here insert the names of those signing the application*), being legal voters in said district, having been made to the undersigned, as school agent of said district, to call a meeting of the legal voters of said district at the time and place and for the purposes hereinafter named.

The inhabitants of said district qualified by law to vote in town affairs, are hereby notified and warned to meet at the school-house in said district, (*here insert the time and purposes of the meeting as set forth in the application.*)

Dated at said \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 18 —.

\_\_\_\_\_ } *Agent of School District*  
 \_\_\_\_\_ } *No. —, in —.*

Applications for school district meetings should first be made to the school agent, as municipal officers and justices of the peace are authorized to call such meetings only when there is no agent, or when he neglects or refuses to call a meeting.

The application made to the municipal officers of the town or a justice of the peace for calling a school district meeting may be in the following form :

No. 5.

To the selectmen of the town of \_\_\_\_\_ (*or to \_\_\_\_\_, Esq., a justice of the peace within and for the county of \_\_\_\_\_.*)

The school agent of the school district No. —, in the town of —, neglecting (*or refusing*) to call a meeting of the legal voters thereof on the written application of at least three legal voters of said district, for the purposes herein named, (*or there being no school agent for school district No. —, in the town of —*) you are hereby requested by the subscribers, legal voters in said district, to call a meeting of the legal voters thereof, to be held at the school house in said district, on the — day of —, 18—, at — o'clock in the afternoon, then and there to act upon the following articles :

*First*—To choose a moderator to preside at said meeting.

(*Here insert the further objects of the meeting.*)

Dated at said —, the — day of —, 18—.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The notice for a meeting on the foregoing application may be in the form following :

#### No. 6.

To —, one of the inhabitants of school district No. —,  
 In the town of —, Greeting.

The agent of said school district neglecting (*or refusing*) to call a meeting of the legal voters thereof on the written application of at least three legal voters of said district, for purposes herein named, (*or there being no school agent for said district*) and written application having been made to the undersigned, selectmen of said town, (*or a justice of the peace in and for the county of —,*) by (*here insert the names of those signing the application*) legal voters of said district, to call a meeting of the legal voters thereof, at the time and place and for the purposes hereinafter named, you the said — are hereby required in the name of the State of Maine, to notify and warn the inhabitants of said school district No. —, in the town of —, qualified by law to vote in town affairs, to meet at the school-house in said dis-



trict (*here insert the time and purposes of the meeting as set forth in the application therefor.*)

Dated at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 18—.  
 \_\_\_\_\_ } Selectmen of \_\_\_\_\_.  
 \_\_\_\_\_ } (*or Justice of the Peace.*)

The form of return (or certificate of notice) on the foregoing warrant may be as follows :

**No. 7.**

Pursuant to the within warrant, to me directed, I have notified and warned the inhabitants of school district No. —, in the town of \_\_\_\_\_, qualified as therein expressed, to assemble at the time and place and for the purposes therein expressed, by posting up an attested copy of said warrant at the school-house in said district, and at \_\_\_\_\_, being public and conspicuous places in said district, on the \_\_\_\_\_ day of \_\_\_\_\_, being seven days before said meeting.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 18—. \_\_\_\_\_.

Notice of selectmen for district meeting, under the provisions of sect. 56.

**No. 8.**

To the inhabitants of school district No. —, in the town of \_\_\_\_\_.

Application in writing having been made to the undersigned, as selectmen or the town of \_\_\_\_\_ by (*here insert the names of the applicants,*) legal voters in said district (*or by a committee of said district*) to call a meeting of the qualified voters thereof, for the purpose hereinafter named, you are hereby notified and warned to meet at \_\_\_\_\_, within said district, on the \_\_\_\_\_ day of \_\_\_\_\_ next, at — o'clock in the \_\_\_\_\_noon, for the purpose of hearing the inhabitants of said district on the subject of their disagreement respecting a suitable place to be selected for the erection of a school-house in said district, and of deciding where such school-house shall be located.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_ }  
 \_\_\_\_\_ } *Selectmen of* \_\_\_\_\_.  
 \_\_\_\_\_ }

## RECORD.

As between a school district and a stranger, the possession of their records by their clerk is possession of the district; and replevin may be maintained therefor in the name of the corporation against one not legally elected clerk. Where the clerk of a school district removed into an adjoining district, but within the same town, and another was chosen in his stead, but not sworn, it was held, that the first continued competent to act as clerk. A clerk of a district, who is duly sworn, is qualified to act as clerk by virtue of the statute which provides that he shall hold his office until another shall be chosen and sworn in his stead. The Revised Statutes, chap. 3, sect. 10, provides that when omissions or errors exist in the records or tax list of a town or school district, or in the returns of warrants for meetings thereof, they may be amended, on oath, according to the fact, by the officer whose duty it was to have made them correctly, while in or after he ceases to be in office; and that if the original warrant is lost or destroyed, the return, or an amendment of it, may be made upon a copy thereof.

Parol evidence is inadmissible to prove the transactions of a school district meeting, the only legal evidence being the record itself, or an attested copy. Such record should therefore be made and preserved with great care.

It is not essential that the application for a warrant or notice from the selectmen to call a district meeting should be recorded or produced; or that the application should be recited in the warrant, but it may be proved by parol that such application had been made. Yet, it is essential to the validity of a meeting, that there be evidence that the application therefor, in a case requiring one, has been made, and such evidence is made more certain and better perpetuated by a record than otherwise. It is therefore recommended that such applications be recorded.

After recording the applications, if any, and the notice for a meeting, with the certificate of notice (or return thereon), they should be attested by the clerk, as follows :

No. 9.

A true record of application, notice and certificate thereon.

Attest : ——— ———, *School District Clerk.*

The record may then proceed as follows :

Pursuant to the foregoing notice, the legal voters of School District No. —, in the town of ———, met at the school-house in said district on the — day of —, A. D. 18—, at — o'clock in the afternoon, and were called to order by —.

Whereupon — — was chosen moderator, and — — was duly elected clerk, and was sworn to faithfully and impartially perform the duties assigned to him by law, as clerk of school district No. —, in the town of ———, during the ensuing year, and until another should be chosen and sworn in his place.

By — —, Moderator (*or Justice of the Peace.*)

——— was duly elected by ballot, school agent, and was sworn to faithfully and impartially perform the duties assigned to him by law, as agent of school district No. —, in the town of ———, during the ensuing year, and until another should be chosen and qualified in his stead.

By — —, Moderator,

(*Or Dist. Clerk, or Justice of the Peace.*)

After recording such other proceedings as may be had the record should conclude as follows :

A true record—Attest : — —, *School Dist. Clerk.*

Certificates of superintending school committees to teachers have heretofore been in form similar to the following :

No. 10.

*To whom it may concern:*—This certifies that we have examined ——— as a school teacher, and that he is well

qualified to instruct youth in reading, spelling, writing, English grammar, geography, history, arithmetic, physiology, book-keeping and other branches usually taught in public schools, and particularly in school district No. —, in the town of —, for which he has been examined, and that he is qualified to govern the school in said district.

Dated at —, the — day of —, A. D. 18—.

*Superintending School Committee.*

The R. S., chap. 11, sect. 87, item I, provides that the superintending school committee shall appoint suitable times and places for the examination of candidates proposing to teach in town, and give notice thereof. And it has been held, that if all the members of a committee have not been notified, a certificate of a majority is void, and that a member does not waive his right to be notified by absence; but the certificate of the majority as to the qualification of a teacher, is to be regarded as *prima facie* evidence that they have performed their duty as well in notifying those who do not sign as in making the necessary examination.—20 Me. 37.

If the committee are desirous of showing in their certificate a full compliance with the statute requirement, on their part, in making the examination and issuing their certificate, the following form is recommended :

#### NO. II.

The undersigned, superintending school committee of the town of —, having received satisfactory evidence that — of —, possesses a good moral character, and a temper and disposition suitable to be an instructor of youth, have this day examined the said — in reading, spelling, writing, English grammar, geography, history, arithmetic, book-keeping, physiology and hygiene with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system, and other branches usually taught in public schools, and particularly in school district No. —, in the town of —, and also as to capacity for the govern-

ment thereof, and we do hereby certify that the said —— is qualified to govern said school and instruct in the branches above named, and such other branches as are necessary to be taught therein, notice of the time and place of said examination having been given to each of said committee.

Dated at —— the —— day of ——, A. D. 18—.

\_\_\_\_ ——— }  
 \_\_\_\_\_ } *Committee.*  
 \_\_\_\_\_ }

#### No. 12.

Certificate of superintending school committee of dismissal of a teacher.

The undersigned, superintending school committee of the town of ——, met at the school-house in district No. —, in said town, on the —— day of ——, 18—, due notice of which time and place of meeting and the purposes thereof having been given to each member thereof and to the teacher in said district, and after careful and deliberate investigation, we do hereby certify that we deem the services of ——, now employed as a teacher in said district, unprofitable to the school therein, and we accordingly dismiss said teacher for the reasons following, viz :

*(Here insert the reasons of dismissal.)*

Dated at said ——, the —— day of ——, A. D. 18—.

\_\_\_\_ ——— }  
 \_\_\_\_\_ } *Sup't School Com. of ——*  
 \_\_\_\_\_ }

#### No. 13.

Certificate of expulsion of a scholar.

The undersigned, superintending school committee of the town of ——, met at the school-house in school district No.—, in said town on the —— day of ——, 18—, due notice of which time and place of meeting and the purposes thereof having been given to each member of said committee, and after proper investigation of the behavior of ——, a scholar

in the school of said district, we have adjudged that the said — is an obstinately disobedient and disorderly scholar, and that we deem it necessary for the peace and usefulness of the school that he be removed therefrom, and we accordingly expel the said — from said school.

Dated at said —, the — day of —, A. D. 18—.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ } *Sup't. School Com. of —.*

## PRACTICAL HINTS.

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I. Notice of all meetings, stating the object for which they are called, should be given as prescribed by the school law, and the agent should see that paper and ink, and all necessary conveniences, are provided, so as to keep a proper record.

II. When the time for the meeting has arrived beyond doubt, it is proper for the agent or clerk to call the meeting to order, and nominate a moderator, who need not be sworn. When the nomination is seconded, the person making it should take the vote and introduce the moderator so elected.

III. The moderator must first call for the election of a clerk, who must be sworn by the moderator or by a justice of the peace.

IV. The clerk should record all motions voted upon by the meeting, complete the minutes, and present them for the approval of the meeting before its close. These minutes, signed by the clerk, should be properly recorded and preserved.

V. After the election of a clerk, the moderator should state the object of the meeting by reading a copy of the call. He should then state that the meeting is ready for any proposition relating to the business for which it is called. In conducting the business of the meeting, the following rules are observed in all rightly conducted deliberative assemblies :

1. All business should be presented in the form of a motion, order or resolution.

2. Any member of the meeting may present a motion, but to do this he must first rise, address the moderator, and be recognized by the moderator as having "a right to the floor."

3. No person is entitled to address the meeting, except under a pending motion, which has been seconded.

4. No person is entitled to speak more than twice upon the same question.

5. Any motion may be modified by a motion to amend, or to amend an amendment.

6. All amendments must be voted upon in the reverse order to which they are presented ; that is, the last amendment must be acted upon first.

7. There are certain motions which, from their nature, take precedence of all other motions, and in the following order : *First*—The motion to adjourn, which is not debatable, and supersedes all other motions whatsoever. *Second*—The motion to lay on the table, which is not debatable. *Third*—The motion for the previous question, which is not debatable. *Fourth*—The motion to postpone.

8. To suppress debate upon a pending proposition, any member may move the previous question. The moderator must then put the motion in this form : " Shall the main question now be put ? " This motion is not debatable. If it prevails, the main question must be put, exactly as it stands. If the motion for the previous question does not prevail, it is the custom of ordinary deliberative meetings to allow debate, commitment or amendment to proceed.

9. A motion already adopted may be re-considered. The motion to re-consider places the question in precisely the same state and condition, and the same questions are to be put in relation to it, as if the vote re-considered had never been taken. Ordinarily, the motion to re-consider is made by a person voting previously on the prevailing side, and during the same meeting at which the original proposition was passed.

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