

# MAINE STATE LEGISLATURE

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### Department of Education. Board. Commissioner.

**Sec. 1. Department of education.**—The department of education, as heretofore established, shall exercise such powers and perform such duties as are set forth in this chapter. The department of education shall consist of a state board of education, hereinafter in sections 1 to 9, inclusive, called the "board," a commissioner of education chosen by the board and such official and clerical staff as are hereafter provided for. (R. S. c. 37, § 1. 1945, c. 293, § 4. 1949, c. 403, § 1. 1951, c. 266, § 51.)

**Sec. 2. State board of education; expenses.**—The board, as heretofore created by previous enactment, shall consist of 10 members. The governor with the advice and consent of the council shall appoint 5 members representing each of the following groups and organizations which shall, in accordance with their particular by-laws or policies, submit 1 name, and if necessary, successive names, to the governor: 1 by the presidents of the liberal arts and teachers' colleges of the state, the person named not to be an active college president; 1 by the Maine municipal association, the person named not to be the active president of the association; 1 by the Maine superintendents' association, the person named not to be the active president of the association; 1 by the Maine congress of parents and teachers, the person named not to be the president of the organization; 1 by the Maine teachers' association, the person named not to be the president of the association; the other 5 members shall be appointed by the governor, with the advice and consent of the council. The members shall serve for a term of 5 years

and until their successors shall have been duly appointed and qualified. A vacancy shall be filled for the unexpired term in accordance with the provisions of the regular appointment. The members shall take the oath of office prescribed for state officers. Members of the board shall be subject to removal from office by the governor and council for cause. Members of the board shall serve without pay, other than their actual expenses while carrying out the functions of the board. (1949, c. 403, § 2. 1951, c. 155.)

**Sec. 3. Meetings.**—The board shall meet immediately after appointment at the call of the commissioner and organize by electing 1 of their members chairman, 1 vice-chairman and such other officers as the board deems necessary to perfect its organization. Meetings of the board shall be held quarterly in the offices of the department on call of the chairman of the board or the commissioner on 5 days' written notice to the members; and if both the chairman and commissioner shall be absent, or refuse to call a meeting, any 3 members of the board may call a meeting by similar notices in writing. (1949, c. 403, § 2.)

**Sec. 4. Commissioner of education.**—The board shall appoint a commissioner of education whenever a vacancy occurs and fix his salary, not to exceed \$9,000 per year. The commissioner shall be executive officer and ex officio secretary of the board. (1949, c. 349, § 68; c. 403, § 2. 1951, c. 412, § 12.)

**Sec. 5. Seal of board.**—The board shall adopt a seal and such seal shall be used by the commissioner to authenticate documents or copies of documents as such board or commissioner may deem advisable. (1949, c. 403, § 2.)

**Sec. 6. Records and report.**—The board shall keep in the office of the commissioner a complete record of the minutes of its meetings and other procedures, and biennially, on the 1st Monday of January, shall make a report to the governor which shall embody the report of the commissioner to the board. The board shall cause this report to be printed and shall distribute the same to the members of the legislature and to the educational officers in the various municipalities of the state. The cost of printing the report shall be paid from the appropriation of the office of the state department of education. (1949, c. 403, § 2.)

**Sec. 7. Recommendations to legislature.**—The board shall recommend to the legislature such new legislation or amendments to existing legislation as they shall deem necessary for the efficient conduct of the public schools of the state. (1949, c. 403, § 2.)

**Sec. 8. Personnel and organization.**—The board, in addition to other duties prescribed by law, shall select, subject to the provisions of the personnel law, such personnel as may be needed for the efficient operation of the department. Appointment of full-time employees in the department shall be made by the board from nominations by the commissioner. The board may, on recommendation of the commissioner, organize and, from time to time, reorganize the department into such divisions, branches or sections as may be found necessary or desirable in order that it may perform all proper functions and render maximum service to the operation and improvement of the state system of education. (1949, c. 403, § 2.)

**Sec. 9. Duties of commissioner.**—The commissioner shall perform all duties now prescribed by statute, or which may hereafter be prescribed, in accordance with the policies adopted by the board. (1949, c. 403, § 2.)

**Sec. 10. Office at the capital.**—An office shall be provided for the commissioner at the seat of government, where he shall perform his official duties, not meaning, however, to prohibit him from making such necessary journeys and performing such duties as are necessary or incidental to the immediate object of

such journey; he shall there preserve all school reports of this state and of other states which he may receive, the returns from the various towns and institutions of learning 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. (R. S. c. 37, § 2.)

**Sec. 11. Duties.**—In addition to the duties elsewhere specifically imposed on him the commissioner's duties are as follows:

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

See c. 15, § 20, re pupils in schools receiving school funds to be fingerprinted.

**II.** To obtain information as to the school systems of other states and countries and the condition and progress of public school education throughout the world; to disseminate this information, with such practical hints upon the conduct of schools, improved systems of instruction 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 by outlines, suggestions and directions concerning the management, discipline and methods employed in teaching, prepared for and distributed among the teachers of the schools and school officers of the state; 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;

**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, school superintendents and friends of education for consultation with reference to the interest of public schools and the most approved method of instruction;

**IV.** To encourage the formation of county teachers' associations, approve rules of government therefor and to supervise the conduct of conventions held by such associations. He shall also conduct summer training schools for teachers whenever provision is made by the legislature for holding such schools;

**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;

**VI.** To compile and distribute, in pamphlet form, to the municipal and school officers of the several towns copies of the amended school laws of the state; and 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;

**VII.** To prescribe the studies to be taught in the public schools and in private schools approved for attendance and tuition purposes, reserving to superintending school committees, trustees or other officers in charge of such public or private schools the right to prescribe additional studies, and the course of study prescribed by the commissioner shall be followed in all public schools and in all private schools approved by the said commissioner for attendance or tuition purposes; provided, however, that upon the approval by the said commissioner of any course arranged by the superintending school committee of any town, or by the trustees or other officers of any private school, said course shall be the authorized course for said town or private school; pro-

vided further, that the basic language of instruction in all schools, public and private, shall be the English language; and provided further, that American history and civil government, including the constitution of the United States and the declaration of independence, the importance of voting and the privileges and responsibilities of citizenship, shall be taught in all schools of elementary and secondary grades, both public and private, and that American history and civil government shall be required for graduation from all elementary schools, both public and private. Nothing in this section shall be construed to prohibit the teaching in elementary schools of any language as such; (1949, c. 276. 1951, c. 120)

See c. 25, § 3, re examination of works on hygiene by department of health and welfare.

**VIII.** To furnish to the school officers of each town, proper blank books in which shall be kept complete and itemized records of all matters relating to moneys appropriated, received and expended for schools, which said books shall remain the property of the state;

**IX.** To assume the control and management of all free public schools established and maintained by gifts or bequests, when said gifts or bequests are conditioned upon said commissioner assuming such control and management; and he shall carry out the provisions upon which such gifts or bequests are conditioned, when said conditions are approved by the governor and council;

**X.** To perform all duties imposed upon him by any charter or charters granted by the legislature to educational institutions in the state;

**XI.** Biennially, to report to the state board of education the result of his inquiries and investigations and the facts obtained from the school returns, with such suggestions and recommendations as in his judgment will best promote the improvement of public schools; (1951, c. 266, § 52)

**XII.** To cause an inspection to be made under the direction of the state board of education and to report to the school committee and to the state board of education his findings and recommendations when petitioned by 60% of the parents of the children of any 1 school or whenever the superintending school committee or the superintendent of schools of any town, or 20% of the legal voters, shall petition him or the state board of education to make an inspection of the schools of said town; and to prepare a list of standards of buildings, equipment, organization and instruction, and to give such ratings upon such list of standards to any schools that are inspected under the provisions of this subsection as their general condition, equipment and grade of efficiency may entitle them. Whenever such a petition is received by the commissioner or the state board of education, the board may determine the extent and conditions under which an inspection shall be made; (1951, c. 266, § 53. 1953, c. 25)

**XIII.** To supervise the state normal schools and teachers' colleges; (1949, c. 349, § 69)

**XIV.** To issue state high school equivalency certificates to residents of Maine, either war veterans or to other citizens 21 years of age or over, who demonstrate, through procedures prescribed by the commissioner, that they have attained a general educational development comparable to that of secondary school graduates. Certificates so issued shall have the legal status of high school diplomas. Fees sufficient to defray operating costs may be charged by the commissioner except that honorably discharged war veterans shall be exempt from payment of fees, which shall be paid from the income of the

permanent school fund. [1947, c. 131]. (R. S. c. 37, § 3. 1947, c. 131. 1949, c. 276; c. 349, § 69. 1951, c. 210; c. 266, §§ 52, 53. 1953, c. 25.)

See c. 36, § 54, re organized townships fund.

**Sec. 12. Blanks for school returns.**—The commissioner shall prepare and print blank forms for all returns required by law or deemed by him necessary, and shall, on the 1st day of each March, forward to the superintendents of schools of the several towns blanks for the annual school return as provided in section 71, and shall, on the 1st day of each May, forward to said superintendents blanks for the returns required by section 72. (R. S. c. 37, § 5.)

**Sec. 13. Supervisors.**—As a means of increasing the efficiency of education, the commissioner may appoint not more than 4 full-time supervisors whose duty it shall be to assist and direct rural elementary and secondary teachers, to work with local school officials upon request, and to perform such other duties in the field of general education as the said commissioner may direct. The salary and necessary traveling expenses of such supervisors shall be paid from an appropriation for said purpose. (R. S. c. 37, § 7. 1945, c. 48. 1951, c. 103.)

### Location of Schools.

**Sec. 14. Location of schools; school with few scholars suspended; conveyance; board.**—The location of any school legally established prior to the 17th day of March, 1893, continues unchanged, notwithstanding the district is abolished; but any town at its annual meeting, or at a meeting called for the purpose, may determine the number and location of its schools and may discontinue them or change their location; but such discontinuance or change of location shall be made only on the written recommendation of the superintending school committee and on conditions proper to preserve the just rights and privileges of the inhabitants for whose benefit such schools were established; provided, however, that in case any school shall hereafter have too few scholars for its profitable maintenance, the superintending school committee may suspend the operation of such school for not more than 1 year, but shall not close such school for a longer period nor again thereafter suspend operation of such school unless so instructed by the town, but any public school failing to maintain an average attendance for any school year of at least 8 pupils shall be and is suspended, unless the town in which said school is located shall, by vote at the annual meeting or at a meeting called for that purpose, after the said committee shall have made a written recommendation to that effect, instruct its superintending school committee to maintain said school. The superintendent of schools in each town shall procure the conveyance of all elementary school pupils residing in his town, a part or the whole of the distance, to and from the nearest suitable school, for the number of weeks for which schools are maintained in each year, when such pupils reside at such a distance from the said school as in the judgment of the superintending school committee shall render such conveyance necessary. In all cases, conveyance so provided shall conserve the comfort, safety and welfare of the children conveyed and shall be in charge of a responsible driver who shall have control over the conduct of the children conveyed. Contracts for said conveyance may be made for a period not to exceed 3 years. Provided, however, that the superintending school committee may authorize the superintendent of schools to pay the board of any pupil or pupils at a suitable place near any established school instead of providing conveyance for said pupil or pupils, when in their judgment it may be done at an equal or less expense than by conveyance.

Whenever a parent or guardian having children of compulsory school age in his care domiciles such children in a location remote from and inaccessible to schools or public highways, he shall be personally responsible for the cost of board-

ing these children within walking distance to an established public school or for providing suitable conveyance to a public highway. Failure to so provide conveyance or board shall be considered a violation of the truancy law and punished accordingly. (R. S. c. 37, § 8. 1949, c. 199, § 1.)

**Cross reference.**—See § 119, re transportation for community school districts.

**Vote to abolish school does not terminate teaching contract.**—A town which became party to a contract for teaching in its

free high school did not terminate its liability under that contract by vote at a town meeting to abolish the school. *Elsemore v. Hancock*, 137 Me. 243, 18 A. (2d) 692.

**Sec. 15. Schoolhouse lots by condemnation; damages; reversion to owner.**—When a location for the erection or removal of a schoolhouse and requisite buildings has been legally designated by vote of the town at any town meeting called for that purpose, 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 agent or attorney therein, they may lay out a schoolhouse lot and playgrounds, not exceeding 25 acres for any 1 project, and appraise the damages as is provided for laying out town ways, 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 for his use, the town designating it may take such lot to be held and used for the purposes aforesaid; and when such schoolhouse lot has ceased to be used by the town for school purposes for 2 successive years, said lot reverts to the owner, his heirs or assigns, on demand by him or them in writing made to the municipal officers of the town, subject to the right of the town to enter upon said lot and remove said schoolhouse at any time within 6 months after said demand. Any town or city may take real estate for the enlargement or extension of any location designated for the erection or removal of a schoolhouse and requisite buildings and playgrounds, as herein provided; and all schoolhouse lots and playgrounds that require fencing shall be fenced by the town or city. (R. S. c. 37, § 10. 1953, c. 289.)

**Under this section the municipal officers are not to locate a lot,** but to stake out a lot in a location already made. *Leavitt v. Eastman*, 77 Me. 117.

The designation of the location of a proposed school having been legally made, could not be changed; the laying out contemplated by this section must be in the same place as that before determined upon, and this section authorizes only a fixing of the boundaries, shape, and size of the lot, with the price to be paid for it. *Jordan v. School District No. 8*, 60 Me. 540.

**Officers not disqualified by pecuniary interest as taxpayers.**—The legislature evidently intended that the officers charged with the duties imposed by this section should act, notwithstanding their minute pecuniary interest as taxpayers. *State v. Bangor*, 98 Me. 114, 56 A. 589.

**Procedure to be same as that for laying out town ways.**—The requirement of this section that the laying out of a schoolhouse lot should be conducted in the same way and manner as is provided for laying out town ways, is not that the proceedings in the two cases shall be literally identical; but that the course should be the same so

far as the objects to be accomplished are analogous; the same, *mutatis, mutandis*. *Cousens v. School District No. 4*, 67 Me. 280.

**Notice to the landowner of an intention to lay out a lot and appraise damages therefor under this section held insufficient.** *Leavitt v. Eastman*, 77 Me. 117.

**Playgrounds or out-buildings need not be mentioned in proceedings.**—Playgrounds or out-buildings are mere incidents to the use of the land as a schoolhouse lot, and mentioning or omitting to mention them in the proceedings for laying out such lot cannot affect the validity of the proceedings. *Cousens v. School District No. 4*, 67 Me. 280.

**Laying out lot and assessing damages at same time.**—See *Cousens v. School District No. 4*, 67 Me. 280.

**Town may not enter upon land except on payment or tender of damages.**—Assuming the owners to have refused to sell or to have asked an unreasonable price for the lot in controversy, still the town has no right to enter upon, or take the lot, except "on payment or tender of such damages" as the municipal officers of the town



should appraise, in accordance with this section. *Storer v. Hobbs*, 52 Me. 144.

**One who participates in building schoolhouse without such payment is a trespasser.**—Where a town without payment or tender of damages, proceeds to erect a schoolhouse on the land, one who participates therein in so doing becomes a trespasser. *Storer v. Hobbs*, 52 Me. 144.

**And tender made after schoolhouse has been built is no justification.**—Tender of damages made after the schoolhouse has been erected and suit for trespass commenced can afford no justification. It should be made before the lot was taken. *Storer v. Hobbs*, 52 Me. 144.

**Land does not revert to owner where no**

**Sec. 16. Appeal.**—If the owner is aggrieved at the location of the lot or the damages awarded, he may apply to the county commissioners within 6 months, who may change the location and assess the damages. If the damages are increased or the location changed, such town shall pay the damages and costs; otherwise the costs shall be paid by the applicant. (R. S. c. 37, § 11.)

**“Location” refers to laying out of land by municipal officers.**—The word “location” as used in this section refers, not to the place decided upon as in § 14, but to the laying out referred to in § 15. The county commissioners are not only confined to the land of the petitioner, but must lay out the lot at the place designated by the municipal officers, and, in this respect, their duties are confined to such changes as

**schoolhouse built within two years.**—The provision of this section that, when such schoolhouse as is required of the town or district “has ceased” to be thereon for two years, the lot may revert to the owner, was intended to apply to an occupancy once had and abandoned. The provision 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 v. Haskell*, 63 Me. 189.

**A location is not void because including some part of a public way.** *Jordan v. Haskell*, 63 Me. 189.

**Quoted in** *Goodwin v. Nye*, 60 Me. 402.

may, in their judgment, render the location less inconvenient to the petitioner, having due regard to the interests of the district. *Jordan v. School District No. 8*, 60 Me. 540.

**Applied in** *Marble v. McKenny*, 60 Me. 332.

**Cited in** *Jordan v. Haskell*, 63 Me. 189; *State v. Bangor*, 98 Me. 114, 56 A. 589.

**Sec. 17. Schoolhouse lots, erroneous location.**—If any town, by its officers or by a committee, has designated, located and described a lot upon which to erect, move or repair a schoolhouse, and from mistake or omission has failed to comply with the law, whereby such location has been rendered invalid, 3 legal voters and taxpayers thereof may apply in writing to the selectmen of said town and have the lot, so designated or described, reappraised by them. (R. S. c. 37, § 12.)

**Sec. 18. Notice of appraisal and hearing.**—The selectmen of any town to whom such application as provided for in the preceding section has been made shall forthwith give not less than 7 nor more than 20 days’ notice to the clerk of said town 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 town either by buildings or otherwise; and shall, as soon as practicable, notify the town 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. (R. S. c. 37, § 13.)

**Sec. 19. Assessment and collection.**—The sum fixed as the value of said lot shall be assessed, collected and paid over as other school money. (R. S. c. 37, § 14.)

**Sec. 20. Tender.**—Any sum which has been tendered and is in the hands or under the control of the persons owning or having charge of such land shall be allowed in payment of said appraisal. (R. S. c. 37, § 15.)

**Sec. 21. Appeal by either party.**—If the town or persons owning or having charge of the land on which such location is made are dissatisfied with such appraisal, either party may within 10 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 town shall be final. (R. S. c. 37, § 16.)

**Sec. 22. Improvements inure to town.**—When any 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 and the same may be as completely occupied and controlled by such town as it would have been if such location had been in strict conformity to law. (R. S. c. 37, § 17.)

**Sec. 23. Tax not affected by error in location.**—The legality of a tax assessed to build, repair or remove a schoolhouse and to pay for a lot shall not be affected by any mistake or error in the designation or location thereof. (R. S. c. 37, § 18.)

**Sec. 24. Plan approved by committee.**—A plan for the erection or reconstruction of any schoolhouse voted by a town shall first be approved by the superintending school committee; and in case no special building committee has been chosen by the town, said superintending school committee shall have charge of said erection or reconstruction; provided, however, that they may, if they see fit, delegate said power and duty to the superintendent of schools. (R. S. c. 37, § 19.)

Quoted in *Lunn v. Auburn*, 110 Me. 241,  
85 A. 893.

**Sec. 25. Plans and specifications furnished.**—The commissioner shall procure architects' plans and specifications for school buildings of not exceeding 4 rooms each and full detail working plans therefor. Said plans and specifications shall be loaned to any superintending school committee or school building committee desiring to erect a new school building. (R. S. c. 37, § 20.)

Stated in *Lunn v. Auburn*, 110 Me. 241,  
85 A. 893.

**Sec. 26. Heating, lighting and ventilating; readiness for occupancy and specifications; inspection and alterations; liability of town.**—Where the plans and specifications prepared by the commissioner are not used, all superintending school committees of towns in which new schoolhouses are to be erected shall make suitable provision for the heating, lighting, ventilating and hygienic conditions of such buildings, and all plans and specifications for any such proposed school building and plans for the reconstruction or remodeling of any school building, the expense for which shall exceed \$500, shall be submitted to and approved by the commissioner and the bureau of health before the same shall be accepted by the superintending school committee or school building committee of the town in which it is proposed to erect, reconstruct or remodel such building. The superintending school committee or the school building committee in charge of the erection of a new school building or of the reconstruction or remodeling of any school building as provided for by this section shall seasonably notify the commissioner of its readiness for occupancy and shall report to the commissioner, on blanks furnished by said commissioner, such facts relative to the arrangement, construction or reconstruction of said building as shall indicate whether or not the proposals in the plans and specifications previously approved have been met. Whenever it shall appear to the commissioner that such approved plans in their provisions for heating, lighting, ventilating and hygienic conditions have not been carried out, he may cause an inspection of said building to be made and shall notify said committee of changes required to be made to comply with the conditions

previously approved, and it shall be the duty of said committee promptly to rectify said conditions and failure to do so shall render the town liable to the provisions of section 31. (R. S. c. 37, § 21.)

**Plans submitted to state departments must contain provisions for heating, lighting, etc.**—A reasonable and consistent interpretation of this section requires that the plans should contain provisions for heating, lighting, ventilating and hygienic conditions before their submission to the state departments, so that when the plans go to the departments, they may contain, as fully as possible, all the details of these imperative requirements, and when returned be in form to enable immediate progress upon the work. *Lunn v. Auburn*, 110 Me. 241, 85 A. 893.

**And must first be approved by superintending school committee.**—Whatever the order of approval by the different departments, before any schoolhouse can be erected, its plans, in the particulars named in this section, must first be approved by the superintending school committee. A mutual agreement between the school committee and the state departments is contemplated at some time, before a plan can be used, and practical common sense, if not strict construction, requires approval in the first instance by the committee. *Lunn v. Auburn*, 110 Me. 241, 85 A. 893.

None of the powers and duties imposed by this section can be exercised in the first instance by the city council, state superintendent or board of health. But they must be exercised by the superintending school committee before any schoolhouse

can be built. This section so provides. *Lunn v. Auburn*, 110 Me. 241, 85 A. 893.

**Committee has no authority to build schoolhouse until plans are made and approved.**—Where no plans or specifications were furnished by the state to be used in the construction of a schoolhouse, the superintending school committee had no authority to erect or construct a schoolhouse until they had made plans and specifications for such proposed school building, and had submitted them to and had them approved by the state superintendent of public schools, and the state board of health. *Morse v. Montville*, 115 Me. 454, 99 A. 438.

**And cannot bind town for building materials.**—The superintending school committee and superintendent of schools, acting in violation of this section, had no authority to bind the town for building material used by them in their illegal act; for all persons furnishing materials to town or city officers must take notice at their peril of the extent of the authority of such officers. *Morse v. Montville*, 115 Me. 454, 99 A. 438.

**Nor can town ratify acts prohibited by this section.**—A town could not ratify so as to make legal the action of their agents or officers in doing acts prohibited by this section. *Morse v. Montville*, 115 Me. 454, 99 A. 438.

**Sec. 27. Proper exits; municipal officers to correct defects.**—Any building which is used in whole or in part as a schoolhouse shall be provided with proper egresses or other means of escape from fire sufficient for the use of all persons therein accommodated. These egresses and means of escape shall be kept unobstructed, in good repair and ready for use. Stairways on the outside of the building shall have suitable railed landings at each story above the first, accessible at each story from doors or windows; and such stairways, doors or windows shall be kept clean of snow, ice and other obstructions. In school buildings of more than 1 story there shall be at least 2 separate means of egress by inside or outside stairways, and each story above the first shall be supplied with means of extinguishing fire, consisting of pails of water or other portable apparatus or of a hose attached to a suitable water supply, and such appliance shall be kept at all times ready for use and in good condition. Upon written notification by the superintending school committee that any school building does not meet the specifications herein named, the municipal officers of the town shall at once proceed to correct the defects and any failure so to act shall render the town liable to the provisions of section 31. (R. S. c. 37, § 22.)

See c. 30, § 85, re care of steam heating plants; c. 97, § 48, re doors to open outwards.

### Duties of Towns.

**Sec. 28. Towns to raise money for schools; expenditure.**—Every town shall raise and expend, annually, for the support of public schools therein, exclusive of the income of any corporate school fund, or of any grant from the revenue or fund from the state, or of any voluntary donation, devise or bequest, or of any forfeiture accruing to the use of schools, not less than 80c for each inhabitant, according to the census by which representatives to the legislature were last apportioned, under penalty of forfeiting not less than twice nor more than 4 times the amount of its deficiency, and all moneys provided by towns or apportioned by the state for the support of public schools shall be expended for the maintenance of public schools established and controlled by the towns by which said moneys are provided or to which said moneys are apportioned; but nothing in this section shall be so construed as to annul or render void the provisions made in section 33 for the establishment and maintenance of union schools by adjoining towns. (R. S. c. 37, § 23.)

**Cross references.**—See c. 36, §§ 53, 54, re unorganized and organized townships funds; c. 57, § 56, re ministerial and school funds; c. 101, § 11, re plantations.

**History of section.**—See Opinion of the Justices, 68 Me. 582; Sawyer v. Gilmore, 109 Me. 169, 83 A. 673.

**The minimum tax only is established.** It may be increased for educational purposes to any extent that may be deemed advisable. No limitation is placed upon the sum to be raised but the good judgment of the inhabitants raising it. Piper v. Moulton, 72 Me. 155.

**And towns may voluntarily raise additional amounts.**—It has always been and still is within the power of the munic-

ipalities voluntarily to raise by taxation such amounts in addition to the required per capita tax as they may deem necessary and proper. Sawyer v. Gilmore, 109 Me. 169, 83 A. 673.

**And may receive money by devise or bequest.**—That a city or town may receive money by devise or bequest is fully recognized by this section. The gift becomes the property of the town, to be used for the purposes for which it was given. Piper v. Moulton, 72 Me. 155.

**Cited in** Talbot v. East Machias, 76 Me. 415; Burkett v. Youngs, 135 Me. 459, 199 A. 619; Elsemore v. Hancock, 137 Me. 243, 18 A. (2d) 692.

**Sec. 29. Expenditures by towns failing to account for permanent school funds.**—All towns incorporated since 1788, not formerly parts of other towns, which fail to account for the permanent school fund arising from sale or lease of school lands in said towns, shall annually raise and expend for the maintenance of public schools not less than \$45 in addition to the amount required by law to be raised and expended for the support of said schools. (R. S. c. 37, § 24.)

**Sec. 30. School money paid by towns.**—No money appropriated by law for public schools shall be paid from the treasury of any town except upon 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, said bill of items having first been approved by a majority of the members of the superintending school committee and certified by the superintendent of schools. (R. S. c. 37, § 25.)

**Sec. 31. School funds withheld from delinquent towns.**—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 to employ teachers certified as required by law, or to have instruction given in the subjects prescribed by law, or to provide suitable textbooks in the subjects prescribed by law, or faithfully to expend the school money received from the state or in any way to comply with the law prescribing the duties of towns in relation to public schools, they shall direct the treasurer of state to withhold from the apportionment of state school funds made to that town such amount as they may deem expedient, and the amount so withheld shall not be paid until such town shall satisfy said governor and

council that it has expended the full amount of school money as required by law and that it has complied in all ways with the law prescribing the duties of towns in relation to public schools; and whenever such town shall fail, within the year for which the apportionment is made, so to satisfy the governor and council, the said amount withheld shall be forfeited and shall be added to the general fund of the state. (R. S. c. 37, § 26. 1945, c. 350, § 2.)

**Sec. 32. Equal school privileges for all pupils.**—The school moneys of every town shall be so expended as to give as nearly as practicable the same aggregate annual length of terms in all its schools, and every town shall make provision for the maintenance of all its schools for not less than 36 weeks annually. Any town failing to maintain its schools as provided in this section shall be debarred from drawing its state school moneys until it shall have made suitable provisions for so maintaining them thereafter.

Five days constitute the school week and 4 weeks a school month. (R. S. c. 37, § 27. 1953, c. 40, § 1.)

**Sec. 33. Union schools; management and authority.**—Adjoining towns, upon the written recommendation of the school committees of said towns, may by concurrent action maintain union schools for the benefit of parts of said towns or may establish such schools, and shall contribute to their support each in proportion to the number of scholars in each of said towns attending such schools. Said schools shall be under the management of the school committee of the town in which their schoolhouses are located.

Two or more towns cooperatively may acquire property and construct, extend, enlarge, repair and maintain school projects on a common site when the plan for locating, owning, operating, administering and financing said project has been approved by each participating town and by the state board of education. (R. S. c. 37, § 28. 1951, c. 178.)

**Sec. 34. Certain facilities provided; schoolbooks.**—Towns shall provide schoolbooks, apparatus and appliances for the use of pupils in the public schools, including all free high schools, at the expense of said town as provided in section 240; provided, however, that any parent or guardian of any pupil in the public schools may at his own expense procure for the separate and exclusive use of such pupil the textbooks required to be used in such schools, and no second-hand books shall be purchased for the use of any school. Whoever violates this provision shall forfeit not exceeding \$500, to be recovered in an action of debt by any school officer or person aggrieved.

Towns shall also pay for the necessary repairs of school buildings and the improvement and maintenance of school yards and playgrounds out of a sum or sums of money raised and appropriated for that purpose, which shall be assessed like other money and shall be in addition to and independent of the amount which towns are required by law to raise, assess and expend for the support of schools as provided in section 240. (R. S. c. 37, § 29. 1953, c. 204, § 1.)

See § 240, re expenditure of state money by towns.

**Sec. 35. Distribution of books, etc.**—School committees shall make such rules and regulations not repugnant to law, as they deem proper, for the distribution and preservation of schoolbooks and appliances furnished at the expense of the town. (R. S. c. 37, § 30.)

**Sec. 36. Liability for injuring books or appliances.**—When a pupil in the public schools loses, destroys or unnecessarily injures any schoolbook furnished under the provisions of the preceding section 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 the school 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. (R. S. c. 37, § 31.)

**Sec. 37. Money raised for evening schools.**—Any city or town may, in addition to the sum raised for the support of the public schools, raise and appropriate money for the support of evening schools, which shall admit persons over 16 years of age and shall be under the direction and supervision of the superintending school committee. (R. S. c. 37, § 32.)

See § 193, re state aid for evening schools.

**Sec. 38. Industrial or mechanical drawing.**—Any city or town may annually make provision for free instruction in industrial or mechanical drawing to persons over 15 years of age, either in day or evening schools, under direction of the superintending school committee. (R. S. c. 37, § 33.)

**Sec. 39. Manual training schools.**—Any city or town may, in addition to the sum raised for the support of the public schools, raise and appropriate money for the support of manual training schools and may receive gifts and bequests for the use, maintenance and support of such schools. (R. S. c. 37, § 34.)

See §§ 192-194, re state aid.

**Sec. 40. Schools under direction of committee; rules and regulations.**—The schools referred to in sections 37 to 39, inclusive, shall be under the control, direction and supervision of the superintending school committee and shall admit such persons between the ages of 6 and 21 years and shall give such courses of instruction as said committee may determine. Pupils in such schools shall be subject to the same conditions, rules and regulations as are provided for public schools. (R. S. c. 37, § 35.)

**Sec. 41. Scholars at light stations.**—Persons between the ages of 5 and 21 years living at any light station, fog warning station or lifesaving station shall be admitted to any public school in the state without paying tuition; such scholars shall be entitled to all privileges and benefits and be subject to the same conditions, rules and regulations as scholars residing in the town in which they attend school. (R. S. c. 37, § 36.)

**Sec. 42. Schooling for children of parents with temporary residence; jurisdiction.**—In order to facilitate the education of children whose parents find it necessary, in the pursuit of their occupations, to move from place to place and whose children reside with them in such temporary residence, it is provided that the children of such person or persons shall be under the jurisdiction of the towns and plantations, or the commissioner if domicile is in unorganized territory, in which the parent has temporary residence and shall be subject to the school attendance laws and to the rules and regulations of the towns and plantations or the commissioner in which they with the parent have temporary residence; provided further, that this does not interfere with the free school privileges of such children in the towns and plantations of the permanent residence of the parent. (R. S. c. 37, § 37. 1949, c. 199, § 2.)

**Sec. 43. Transportation or board of children in temporary residences or on state owned property; payment.**—Where the distance from the place of temporary residence to the school is more than 2 miles and transportation is deemed advisable by the superintending school committee, the superintendent of schools shall report the same to the commissioner with such other information as may be required and if so directed by the commissioner shall procure transportation for such child or children or, if transportation is inadvisable, board in lieu thereof; provided that when there shall be reported to the commissioner

in connection with the annual report a bill of expenses incurred in connection with such transportation or board, the commissioner is authorized to reimburse such towns and plantations for such expenses, the same to be paid from the state school fund and at the time of the distribution of such fund. The commissioner is further authorized to make similar provisions for the transportation of any children who reside with a parent on state owned property located in towns of less than 100 inhabitants and in which conveyance for no other pupils is being provided by the town. (R. S. c. 37, § 38. 1951, c. 369.)

**Sec. 44. School age; kindergartens.**—In public schools of the state, only those children who are or will become at least 6 years of age on December 31 of the school year shall be admitted to grade 1.

In schools which offer the plan for the subprimary grade as outlined in the elementary school curriculum, only those children who are or will become 5 years of age on or before October 15 of the school year shall be admitted.

In schools which offer other plans of childhood education prior to grade 1, only those children who with regular progress through the program will attain the minimal age heretofore prescribed for grade 1 shall be admitted.

The superintending school committee of any city or town may maintain a kindergarten or kindergartens, and shall maintain such a school or schools as a part of the public school organization if a petition, signed by the parents or guardians of 30 or more eligible children, has been filed with the municipal officers of such city or town not less than 1 month before the annual meeting for appropriation of funds, unless otherwise instructed by the town or city. Only those pupils who are or will become at least 4 years of age on October 15 of the school year shall be allowed to attend a kindergarten. It is further provided that unless the average daily attendance in any kindergarten shall be 15 or more for any school year, the superintending school committee, upon the recommendation of the superintendent of schools, may discontinue the school; provided further, that no person shall be allowed to teach in any kindergarten maintained under the provisions of this section who has not completed at least a 2-year course in kindergarten training or its equivalent and received a certificate or diploma from a recognized kindergarten training school approved by the commissioner.

Subject to the foregoing provisions and further subject to such reasonable regulations as the superintending school committee shall from time to time prescribe, every person between the ages of 5 and 21 shall have the right to attend the public schools in the town in which his parent or guardian has a legal residence. (R. S. c. 37, § 39. 1945, c. 160.)

**Each child in state has right to attend some free public school.**—The legislature doubtless intends that each child in the state shall have the legal right to attend some free public school. In some states the residence of the child is made the determining factor. Here it depends upon the residence of parent or guardian. *Shaw v. Small*, 124 Me. 36, 125 A. 496.

**The word "guardian"** as used in this section is not limited to a guardian appointed as such by a court. *Shaw v. Small*, 124

Me. 36, 125 A. 496.

**A ward of the state**, by due court proceedings placed in custody of the state board of children's guardians, and placed by the board in performance of its duty in the care of a legal resident of Yarmouth, was entitled to attend the free public schools of Yarmouth, although the boy's parents did not reside in Yarmouth and he had no probate guardian. *Shaw v. Small*, 124 Me. 36, 125 A. 496.

**Sec. 45. Superintending school committee.**—Every town shall choose by ballot at its annual meeting a superintending school committee of 3, to hold office as provided in the following section, and shall fill vacancies arising therein at each subsequent annual meeting. (R. S. c. 37, § 41.)

**Cross references.**—See § 48, re penalty; Me. Const., Art. 9, § 1, re oaths or affirmations.

**Quorum.**—No law does so declare in ref-

erence to the duties of superintending school committees, but a majority of such committees shall constitute a quorum. *Stevens v. Fassett*, 27 Me. 266.

**Sec. 46. Terms; vacancies; restrictions.**—School committees first chosen shall designate by lot a member or members to hold office for 1, 2 and 3 years respectively, in manner as follows: one for 1 year, one for 2 years and one for 3 years; and they shall certify such designation to the town clerk to be by him recorded; and thereafterwards 1 member shall be chosen by ballot at the annual meeting of the town, to hold office for 3 years. Said committee may fill vacancies occurring between annual meetings, and the term of office of any member of the committee so chosen shall expire at the next annual meeting. No member of the superintending school committee of any town shall be employed as a teacher in any public school or contract high school or academy located within a supervisory union of which he is a member of the joint committee. In case any member of the superintending school committee shall remove from the town or be absent for more than 90 days, a vacancy shall be declared to exist and the remaining members shall within 30 days thereafter choose another member as hereinbefore provided. Whenever the remaining members fail to appoint a person to fill a vacancy, the same may be filled by election at a town meeting called for the purpose. (R. S. c. 37, § 42.)

**Sec. 47. Sections 45 and 46 not to apply to certain cities.**—The provisions of the 2 preceding sections shall not apply to cities whose charters specify the methods of election and term of office of a superintending school committee or board of education; nor to towns, cities and incorporated districts authorized by private and special laws to choose school committees other than those herein provided for. (R. S. c. 37, § 43.)

**Sec. 48. Neglect to choose committee.**—A town failing to elect members of the superintending school committee as required by law forfeits not less than \$30, nor more than \$200. (R. S. c. 37, § 44.)

**Sec. 49. Committee to serve without pay.**—Superintending school committees shall serve without pay unless otherwise voted by the town under the provisions of section 240. (R. S. c. 37, § 45. 1953, c. 204, § 2.)

**Sec. 50. Clean and sanitary toilets.**—In order to safeguard the health and morals of the children of the state, towns shall from their regular appropriations for schoolhouse repairs or from special appropriations for the purpose of sections 50 to 53, inclusive, provide and maintain sanitary, protected and clean toilets free from all obscene markings in all school buildings or in other buildings rented or used for school purposes. (R. S. c. 37, § 46.)

**Sec. 51. Requirements in construction.**—All school buildings or buildings used for school purposes shall be provided with toilet facilities that shall be installed in such manner and location as to insure privacy, cleanliness and supervision by teachers and that shall meet at least one of the following minimum requirements:

**I. Flush closets.** Flush water closets connected with sewer, filter bed, septic tanks or protected cesspool with separate compartments for the sexes, accessible only by separate passageways from schoolrooms or corridors.

**II. Chemical closets.** Chemical closets, of such types and manufacture as shall be approved by the commissioner, with separate compartments for the sexes, accessible only by separate passageways from schoolrooms or corridors.

**III. Privies.** Privies located in attached buildings provided with separate compartments for the sexes, accessible only by separate ventilated passageways from schoolrooms or corridors and constructed in such a manner that the vault of said privy shall be at least 10 feet from the nearest schoolroom wall and adjacent to the outside wall of the building in which said privy is located, provided that when conditions make it necessary, the above specifications may be



modified by written agreement of the commissioner and the superintending school committee. (R. S. c. 37, § 47.)

**Sec. 52. Plans for privies and chemical closets.**—The commissioner shall furnish to superintending school committees or building committees plans for privies of approved type, lists of chemical toilets of approved type and manufacture and such other information and material as may assist said committees in complying with the provisions of sections 50 to 53, inclusive. (R. S. c. 37, § 48.)

**Sec. 53. Cleaning vaults and tanks; inspection and report; school money withheld when requirements not met.**—Superintending school committees shall make provision for the cleaning of vaults and tanks and the repair and upkeep of accessories. Said committees shall annually cause an inspection to be made of sanitary conditions in school buildings and shall cause to be reported to the town such construction, reconstruction or repairs necessary to meet the conditions of sections 50 to 53, inclusive, and any town failing to meet the said conditions through neglect of its superintending school committee, or neglect to appropriate funds for the purpose, shall be liable to the penalties of section 31. (R. S. c. 37, § 49.)

**Sec. 54. Duties.**—Superintending school committees shall perform the following duties:

**I.** The management of the schools and the custody and care, including repairs and insurance on school buildings, of all school property in their towns.

**Cited in** Bunker v. Old Town, 130 Me. 510, 153 A. 441.

**II.** Direct the general course of instruction and approve a uniform system of textbooks, and perform such other functions as may be specified by law. No textbook thus approved shall be changed for 3 years unless by vote of the committee.

**III.** They shall make provisions for the instruction of all pupils in 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.

**IV.** 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 such dismissal shall not deprive the teacher of compensation for previous services.

**Committee is a tribunal with visitatorial powers.**—This subsection constitutes the superintending school committee, in the proper exercise of its powers, a tribunal with visitatorial powers. Hopkins v. Bucksport, 119 Me. 437, 111 A. 734. See Searsmont v. Farwell, 3 Me. 450.

**Which cannot be transferred to others.** Searsmont v. Farwell, 3 Me. 450.

While only the superintendent can employ a teacher, the power of dismissal is vested alone in the committee, but only upon due notice and investigation, and then he can be lawfully dismissed only for proven unfitness or for services it deemed unprofitable to the school. Benson v. Newfield, 136 Me. 23, 1 A. (2d) 227.

**Its authority must be strictly pursued.**—The authority given to the committee, to vacate a contract, being an authority given to those who represent one party only, must be strictly pursued according to the provisions of this section, to have that effect. Hopkins v. Bucksport, 119 Me. 437, 111 A. 734; Benson v. Newfield, 136 Me. 23, 1 A. (2d) 227. See Searsmont v. Farwell, 3 Me. 450.

**Notice and investigation cannot be dispensed with.**—In order for the school committee to dismiss a teacher because unfit to teach or whose services it deems unprofitable to the school, there is absolute necessity of due notice and investigation, and that cannot be dispensed with

even by the teacher himself. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

The fact that a teacher remained silent when told by one of the committee that he was entitled to a hearing constitutes neither an estoppel nor waiver. The teacher, except by resignation, could not relieve the school committee from the full performance of its statutory duty. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

**Though dismissal is for failure of conditions in employment contract.**—If there were conditions in a teacher's employment contract, which had to do with discipline or the failure to follow the instructions of the superintendent, they came within this section and so, upon the failure of such conditions, if there were such, the teacher had a right to be heard and could not be dismissed without due notice and investigation upon the part of the school committee. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

**Sufficiency of notice.**—Notice to a teacher of her proposed dismissal was wholly insufficient where from it she could not know for what reason her dismissal was sought, whether upon the ground of moral unfitness, temperamental unfitness, or lack of educational qualifications; much less whether it was sought on the ground that her services were deemed to be unprofitable to the school. *Hopkins v. Bucksport*, 119 Me. 437, 111 A. 734.

**Committee must assign reasons authorizing dismissal.**—The superintending com-

**V.** 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.

**In expelling a child under this subsection the committee exercised quasi judicial powers.** If they act in good faith they are not liable in damages even if clearly wrong. After proper investigation they may expel a pupil. No appeal is provided for. If they act in good faith after proper investigation their decision is final. *Shaw v. Small*, 124 Me. 36, 125 A. 496.

**Proper investigation is required.**—Before expelling a pupil the committee must make

**VI.** Exclude, if they deem it expedient, any person not vaccinated, although otherwise entitled to admission, unless a parent or guardian of such person shall present a signed statement that such parent or guardian is opposed to vaccination, in which event such person may only be excluded in the event of an epidemic of smallpox.

**VII.** Prescribe the sum on payment of which persons of the required age, resident in territory the jurisdiction of which has been ceded to the United States, included in or surrounded by the town, may attend school in the town.

mittee not finding or assigning the reasons which by statute would authorize them to discharge a master, he cannot therefore be considered as having been discharged by any adequate or competent authority. *Searsmont v. Farwell*, 3 Me. 450.

**This section authorizes the dismissal of a teacher upon two grounds:** Unfitness to teach and failure of practical success in the work of the school, rendering the teacher's services unprofitable to the school. It is evident that these causes may run into each other; yet they are substantially distinct. Unfitness to teach, including in that term moral and temperamental unfitness as well as lack of educational training and ability, may be apparent either before or after the actual work of the school has begun, but failure of practical success in the work of the school can only become apparent after the work has begun. *Hopkins v. Bucksport*, 119 Me. 437, 111 A. 734.

The clause, "or whose services they deem unprofitable to the school" was evidently introduced into this section to cover cases frequently arising where from some cause it is apparent, after the school has begun, that the teacher's usefulness has become impaired, and that the good of the school requires the dismissal. Such action in vacating a contract can only be justified as for the good of the school, and should only be taken after notice and candid investigation. *Hopkins v. Bucksport*, 119 Me. 437, 111 A. 734.

a proper investigation. This duty cannot be wholly delegated to others. *Shaw v. Small*, 124 Me. 36, 125 A. 496.

**Complaint by teachers is not such investigation.**—A complaint by teachers is a sufficient reason for an investigation, but it is not an investigation, or at all events not such a proper investigation as this section contemplates. *Shaw v. Small*, 124 Me. 36, 125 A. 496.

**VIII.** Determine what description of scholars shall attend each school, classify them and transfer them from school to school where more than 1 school is kept at the same time.

**IX.** For the purpose of increasing the efficiency of the public schools of the state, superintending school committees and boards of education shall have authority to grant to any teacher, principal or other person regularly employed by them a leave of absence for a period of not to exceed 1 year and on not more than half pay; such leave of absence to be granted only after 7 years of service and under such conditions and with such regulations as may be determined by the governing board, and for the purpose of permitting said teacher, principal or other person to pursue a further course of study or to travel, to the end that he or she may be better fitted by education and culture for his or her position in the schools.

**X.** They shall have authority to adjust the salaries of teachers, principals and other persons legally employed by them who are compelled to be absent from their school duties on account of illness. The provisions of this and the preceding subsection shall apply only in cases of persons who are employed on yearly contracts or on tenure of service and who hold the legal qualifications necessary for such positions. (R. S. c. 37, § 50.)

**Cross reference.**—See c. 36, § 9, re instruction in forestry.

**Employment of teachers.**—The school committee has no authority to employ a teacher. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

The school committee may, by refusing to approve a nomination, exercise a veto power over the employment of one or more of those who are nominated as teachers. It may, undoubtedly, approve a

nomination conditionally and thereby exercise a large measure of control in designating the particular school in which a teacher shall be employed, or any other detail of employment which strictly speaking would not be within its jurisdiction. It may, under certain conditions, discharge a teacher. It may, indeed, discharge a superintendent. But it may not employ teachers. *Michaud v. St. Francis*, 127 Me. 255, 143 A. 56. See § 87, sub-§ V, and note thereto.

**Sec. 55. Chest X-ray certificate.**—On or before December 1st, biennially, except that for those persons in whom the disease is arrested the examination shall be annually, all superintendents of schools, supervisors, teachers, school nurses, janitors, school bus drivers and persons employed in the preparation of school lunches shall file with the superintending school committee a certificate that such employee has had a chest X-ray performed and interpreted as showing no significant evidence of tuberculosis by persons recognized as skilled and experienced in such performance and interpretation. No person whose X-ray examination shows active tuberculosis shall be employed in any school or continued in employment while having such active disease. So far as practicable the existing state facilities, including the state sanatoria, shall be made available to such employees for such X-rays. The cost of such examination shall be borne by the employee. If done by the state, there shall be no charge for the service except for the actual cost of materials used. Said certificates shall be kept on file in the office of the superintendent of schools or in the office of the head of the private school. The provisions of this section shall apply to both public and private schools and to all grades common to the public school system. Provided, however, that a certificate stating that a standard intradermal tuberculin test has been performed and found to be "negative" by a licensed physician may be substituted for X-ray examination. (1945, c. 341. 1947, c. 367. 1951, c. 266, § 55.)

**Sec. 56. Secret societies.**—No pupil of any public, elementary or secondary school shall participate in or be a member of any secret fraternity or secret society whatsoever that is in any degree a school organization. Superintending school committees shall enforce the provisions of this section and may expel or otherwise discipline any pupil for failure or refusal to comply with its provisions. (R. S. c. 37, § 51.)

**Sec. 57. School physicians.**—The superintending school committee of every city and town shall appoint one or more school physicians, and shall assign one to the medical inspection of not over 1,000 pupils of the public schools within its city or town, and shall provide them with all proper facilities for the performance of their duties as prescribed in sections 57 to 65, inclusive; provided, however, that the said committee has been so authorized by vote of the town at a regular town meeting or at a special town meeting called for that purpose. (R. S. c. 37, § 52.)

See § 65, re applicability of §§ 57-64.

**Sec. 58. Duties of physician.**—Every school physician shall make a prompt examination and diagnosis of all children referred to him as provided in sections 57 to 65, inclusive, and such further examination of teachers, janitors and school buildings as in his opinion the protection of the health of the pupils may require. (R. S. c. 37, § 53.)

See § 65, re applicability of §§ 57-64.

**Sec. 59. Treatment of pupils.**—The pupils examined by school physicians under the provisions of sections 57 to 65, inclusive, when treatment is necessary, shall not be referred to any school physician for such treatment unless such school physician is the regular family physician of such pupil; but shall be referred to the regular family physician of such pupil through the parents or guardian. (R. S. c. 37, § 54.)

See § 65, re applicability of §§ 57-64.

**Sec. 60. Examination of pupils after absence on account of sickness.**—The superintending school committee shall cause to be referred to a school physician for examination and diagnosis every child returning to a school without a certificate from the local health officer or family physician after absence on account of illness or whenever in the judgment of the teacher the circumstances of the absence were such as to require such a certificate, and every child in the schools under its jurisdiction who shows signs of being in ill health or of suffering from infectious or contagious disease, unless he is at once excluded from school by the teacher; except that in case of schools in remote and isolated situations, the school committee may make such other arrangements as may best carry out the purposes of sections 57 to 64, inclusive. (R. S. c. 37, § 55.)

See § 65, re applicability of §§ 57-64.

**Sec. 61. Notice of disease or defects.**—The superintending school committee shall cause notice of disease or defects, if any, from which any child is found to be suffering, to be sent to his parents or guardians. Whenever a child shows symptoms of smallpox, scarlet fever, measles, chicken-pox, tuberculosis, diphtheria or influenza, tonsillitis, whoopingcough, mumps, scabies or trachoma, he shall be sent home immediately or as soon as safe and proper conveyance can be found, and the local health officer and superintendent of schools shall at once be notified. (R. S. c. 37, § 56.)

See § 65, re applicability of §§ 57-64.

**Sec. 62. Examination of sight and hearing; notice of defect or disability to parent or guardian.**—The superintending school committee of every city or town shall cause every child in the public schools to be separately and carefully tested and examined at least once in every school year to ascertain whether he is suffering from defective sight or hearing, or from any other disability or defect tending to prevent his receiving the full benefit of his school work, or requiring a modification of the school work in order to prevent injury to the child or to secure the best educational results. Tests of sight and hearing shall be made by the teachers or by the school physicians. The committee shall cause notice of any defect or disability requiring treatment to be sent to the parent or

guardian of the child, and shall require a physical record of each child to be kept in such form as the commissioner shall prescribe after consultation with the department of health and welfare. (R. S. c. 37, § 57.)

See § 65, re applicability of §§ 57-64.

**Sec. 63. Directions for tests prescribed.**—The commissioner shall prescribe, after consultation with the department of health and welfare, the directions for tests of sight and hearing, and shall prescribe and furnish to the school committees suitable rules of instruction, test cards, blanks, record books and other useful appliances for carrying out the purposes of the 6 preceding sections. (R. S. c. 37, § 58.)

See § 65, re applicability of §§ 57-64; c. 15, § 20, re fingerprinting.

**Sec. 64. Expense that may be incurred by city or town.**—Expenses which a city or town may incur by virtue of the authority herein vested in the superintending school committee shall not exceed the amount appropriated for that purpose in cities by the city government and in towns by a town meeting under the provisions of section 240. The appropriation shall precede any expenditure under the 7 preceding sections and the sum appropriated shall be deemed sufficient appropriation in the municipality where it is made. Such appropriation need not specify to what section it shall apply and may be voted as a total appropriation to be applied in carrying out the purposes of sections 57 to 64, inclusive. (R. S. c. 37, § 59. 1953, c. 204, § 3.)

See § 65, re applicability of §§ 57-64.

**Sec. 65. Application of §§ 57-64.** — The provisions of the 8 preceding sections shall apply only to cities and towns having a population of less than 40,000 inhabitants. (R. S. c. 37, § 60.)

**Sec. 66. School register.**—Every teacher of a public school shall keep a register thereof, containing the names of all scholars who enter the school, their ages, the dates of each scholar's entering and leaving, the number of days during which each attended, the length of the school year, the teacher's wages, a list of textbooks used and all other facts required by the blank forms furnished him. Such register shall at all times be open to the inspection of the superintending school committee and be returned to them at the close of the school. Teachers may be paid for their services at the close of each school month or at such shorter intervals as the committee may determine, but no teacher shall receive final payment for services for any term until the register herein described, properly filled, completed and signed is deposited with the school committee or with the person designated by them to receive it. (R. S. c. 37, § 61.)

**Cross reference.**—See c. 30, § 50, re payment of wages. less the register required by law is properly kept. *Brown v. Chesterville*, 63 Me.

**No school teacher can recover pay, un-** 241.

**Sec. 67. Birth certificate when pupil first enrolled.**—Every child who enrolls as a pupil for the first time in any school in the state shall present within 60 days of such enrollment, to the teacher thereof, an official record of his birth. The state registrar shall, upon request of parents or guardians of such children, furnish copies of such records as may be on file at his office, without charge. (1945, c. 69.)

**Sec. 68. Duties of parents, teachers and superintendents.**—It shall be the duty of parents or guardians of such children to see that the children are provided with the records required in sections 67 to 70, inclusive. Teachers shall list with the superintendent of schools having jurisdiction, the names of all children who have not presented a certificate of birth within the 60 days specified above. The said superintendent thereupon shall send a complete list of all such

delinquent persons to the state registrar of vital statistics at Augusta, giving names of children and names and addresses of parents or guardians so delinquent. (1945, c. 69.)

**Sec. 69. Penalty.**—Any parent or guardian who refuses or unreasonably neglects to comply with the provisions of sections 67 to 70, inclusive, shall on complaint and conviction thereof be subject to a fine of not more than \$5 for each offense. (1945, c. 69.)

**Sec. 70. Duties of state registrar of vital statistics.**—Whenever the registrar of vital statistics has cause to believe that any parent or guardian has unreasonably refused or neglected to comply with the provisions of sections 67 to 70, inclusive, it shall be his duty to make complaint covering the circumstances to the nearest municipal court having jurisdiction. (1945, c. 69.)

**Sec. 71. Return to commissioner.**—Each superintendent of schools shall annually on April 1st make returns to the commissioner of the number of residents of the state enrolled in elementary and secondary schools in the towns under his jurisdiction. (R. S. c. 37, § 63. 1945, c. 330, § 2.)

**Cross reference.**—See c. 30, §§ 27, 28, re **Taking of school census under former** duty of superintendent of schools to issue **law.**—See Farmington v. Miner, 133 Me. 162, 175 A. 219.

**Sec. 72. Annual return of statistics.**—Each superintendent shall, on or before the 1st day of August, annually make under oath a full and complete return of all educational statistics for the year ending the 1st day of July next preceding, and any town that shall fail through its school officers to make the return required by this section shall be liable to the provisions of section 31. (R. S. c. 37, § 64.)

**Sec. 73. Flags in schools.**—Superintendents of schools shall see that the flag is displayed from the public school buildings on appropriate occasions. They shall report annually to the towns the amount necessary to furnish the public schools with suitable flags and flagstuffs, and towns shall annually appropriate, under the provisions of section 240, a sufficient amount to defray the necessary cost of the display of the flag. It shall be the duty of instructors to impress upon the youth by suitable references and observances the significance of the flag, to teach them the cost, the object and principles of our government, the inestimable sacrifices made by our forefathers, the important contribution made by all who have served in the armed services of our country since its inception and to teach them to love, honor and respect the flag of our country that cost so much and is so dear to every true American citizen. (R. S. c. 37, § 65. 1953, c. 204, § 4.)

See c. 10, § 22, sub- § XIX, re definition of word "town".

**Sec. 74. Exclusion of pupils from school on account of filth or disease.**—When a teacher becomes aware or suspects that any of the pupils attending his school are in a condition which renders them a source of offense or danger to the other pupils in school on account of filthiness, or because they are the bearers of vermin or parasites, or have an infectious or contagious disease of the skin, mouth or eyes, he shall notify the superintendent of schools. When a superintendent of schools knows or learns that any of the pupils attending any school within his jurisdiction are affected with any of the conditions, infections or diseases herein mentioned, he shall notify the parents to cleanse the clothing and the bodies of the children and to furnish them with the required home or medical treatment for the relief of their trouble, and he shall exclude such children from the schools until they are cured, cleansed and disinfected. (R. S. c. 37, § 66.)

See c. 25, § 70, re schoolroom infected.

**Sec. 75. Duty of parents; neglect.**—Parents notified according to the provisions of section 74 of the condition of their children shall forthwith have them and their clothing cleansed and shall promptly do what is necessary, or furnish them such medical treatment as may be required to rid the children of vermin, parasites or contagion; any parent who fails to do what is required so that the children may return to school with as little loss of time as is possible shall be punished by a fine of not more than \$5 for the first offense, and of not more than \$10 for a second or subsequent offense. (R. S. c. 37, § 67.)

#### **School District Meetings.**

**Sec. 76. School district meetings; validating clause.**—Where the inhabitants and territory of a single municipality constitute an incorporated school district, and the charter of such district contains no provisions for the calling and holding of meetings of such district, meetings of such school district shall be called by the municipal officers, in the manner provided by law for the calling of town meetings, on written request signed by trustees or other executive officers of the district, and any lawfully called meeting of the inhabitants of the municipality shall be a lawful meeting of the school district for the transaction of school district business. In cases in which the business of such school district has hitherto been transacted at meetings of the inhabitants, so called and held, such meetings are declared to be legal and valid meetings of the school district, and all votes passed thereat, and all actions taken in accordance therewith, which would have been legal had the meetings been lawfully called meetings of the school district, are ratified and declared legal. (1947, c. 269.)

#### **School Supervisory Unions.**

**Sec. 77. Unions for supervision; exceptions; appeal.**—It shall be the duty of the commissioner and the state board of education to regroup all the towns in the state, except as herein provided, into unions for the purpose of employing superintendents of schools. Such supervisory unions as have been formed on June 30, 1946 may be dissolved by the commissioner for the purpose of a more advantageous combination, provided that there has been obtained the approval of a majority vote of the members of the superintending school committees in the towns comprising such supervisory unions. Such approval shall not be required if the superintendent receives a salary of less than \$4,500. Regroupings shall be made only upon the expiration of the current contract of the superintendent or under conditions which will safeguard the provisions of such contract. Whenever regroupings are made, the commissioner and the state board of education shall have authority to reallocate any town or towns in the unions affected to unions already organized. In case of unions already regrouped or not subject to further regrouping, the term of the election of a superintendent may be made for a period not exceeding 5 years but in a union subject to regrouping such term of election shall not exceed 3 years. Provided, however, that any superintending school committee of a town dissatisfied with the combination proposed by the commissioner and the state board of education to include that town may appeal to the governor and council who shall make the final decision relative thereto. Whenever, upon the representation of the superintending school committee of any town, it shall appear to the commissioner to be to the advantage of said town and of the state to change the combination of towns comprising the union of which said town is a part, the commissioner shall have authority to direct the dissolution and organization of unions so that a more advantageous combination may be effected. Provided, however, that any superintending school committee of a town dissatisfied with the change in the combination proposed by the commissioner to include that town may appeal to the governor and council, who shall make the final decision relative thereto.

Provided further, that on presentation of a written plan of organization which has been approved by the superintending school committees of the towns involved, the commissioner and the state board of education are authorized to combine 2 or more school unions, or parts thereof, into a larger supervisory unit administered by a superintendent of schools and staff assistants, who may be employed by the joint committee as provided in section 79, and the commissioner shall have authority to adjust disbursements for supervision so that there will be no loss in state support because of the reorganization. (R. S. c. 37, § 68. 1947, c. 240. 1949, c. 403, § 3; c. 412. 1951, c. 266, § 56. 1953, c. 227.)

Cited in *Michaud v. St. Francis*, 127 Me. 255, 143 A. 56.

**Sec. 78. Union to include 35-75 teachers; exception.**—Any school supervisory union formed under the provisions of the preceding section shall include not less than 35 nor more than 75 teachers unless the commissioner shall find upon representation of any school committee that owing to geographical situation or other reasons it is to the advantage of the state and of said towns that a union shall include fewer than 35 or more than 75 teachers. (R. S. c. 37, § 69.)

**Sec. 79. Meetings; union superintendent removed for cause; salary; tenure.**—The superintending school committees of the towns comprising a union shall form a joint committee, and for the purposes of this section and the 9 following sections, said joint committee shall be held to be the agents of each town comprising the union; provided, however, that the superintending school committee of any town may authorize one of its members to act for the committee in the meetings of the joint committee, and in such case, the member so authorized, may cast the votes for the full membership of his committee. Said joint committee upon notification by the commissioner shall meet between April 1 and June 30 annually, at a day and place agreed upon by the chairmen of the committees of the several towns comprising the union, and shall organize by the choice of a chairman and a secretary. Said joint committee shall determine the relative amount of service to be performed by the superintendent in each town, including the minimum number of visits to be made each term to each school, fix his salary, apportion the amounts thereof to be paid by the several towns, which amounts shall be certified to the treasurers of said towns, respectively, and to the commissioner, together with the amounts apportioned to each town, provided that the amount so certified shall be in proportion to the amount of service performed in the several towns. Said joint committee, at the time of its organization, or as soon thereafter as possible, and whenever a vacancy shall occur, shall, subject to the conditions hereinafter provided, choose by ballot a superintendent of schools for a term of not more than 5 years and the term for which a superintendent is elected shall, in all cases, end on the 30th day of June of the year in which the contract expires. In case the joint committee shall fail to legally elect a superintendent of schools by the 30th day of June in any year, a competent and qualified agent may with the advice and consent of the commissioner serve in said capacity until such time as his successor shall be legally elected. Provided, however, that said committee, by a majority vote of its full membership, after due notice and investigation, may, for cause, discharge a superintendent of schools before the expiration of the term for which he was elected, and after such discharge the salary of said superintendent shall cease; provided further, that such superintendent of schools may appeal from the decision of such committee to the commissioner for a public hearing. The election of a superintendent of schools, as herein provided, shall not be effective unless said election shall be approved by the superintending school committee of the town in the said union having a majority of the teachers in the towns comprising the union and paying not less than  $\frac{1}{2}$  of the salary aforesaid, exclusive of any sums paid by the state for the purpose. No person shall be eligible to the office of superintendent of schools under the provisions of this section,



unless he shall hold a state certificate of superintendence grade; and no person shall be eligible to said office if he is a member of the superintending school committee which elects said superintendent. This section, so far as it relates to the manner of the election or employment of superintendents of schools, shall not apply to cities, nor to towns authorized by special laws to employ or choose superintendents in manner otherwise than is herein provided. (R. S. c. 37, § 70. 1945, c. 330, § 3. 1949, c. 349, § 70.)

**Travel allowance to union superintendent.**—A joint committee was not authorized to grant a travel allowance to the union superintendent. The town was not compelled to make this payment. It had a

right to do so, however, if it saw fit. *Farmington v. Miner*, 133 Me. 162, 175 A. 219.

**Expenses of attending superintendents' convention.**—See *Farmington v. Miner*, 133 Me. 162, 175 A. 219.

**Sec. 80. Annual return; appropriation; expenses.**—The chairman and secretary of the joint committee, provided for in the preceding section, shall, upon the election of a superintendent of schools as provided by the preceding section, certify under oath to the commissioner, upon the forms prescribed by him, all facts relative to said union and employment of a superintendent. Annually, and whenever a new superintendent is chosen, said chairman and secretary shall make return of a similar certificate. Upon approval of said certificate, the superintendent so employed shall, on presentation of proper vouchers, receive monthly out of the sum appropriated for superintendence of towns comprising school unions a sum equal to the aggregate sum paid by the towns comprising the union, provided that the amount so paid for the benefit of a single union of towns shall not exceed \$1,350 in 1 year nor shall any school union receive less than \$1,150 per year. The commissioner annually shall cause an investigation to be made of the conditions of supervision in unions of towns, including the relative financial support for supervision by towns, the relative distances required to be traveled, and the relative amounts of expenses to be paid by superintendents of schools directly in connection with the supervision and administration of schools in unions of towns. When it appears to the commissioner that the efficiency of supervision in any union is or may be lessened because of the financial burden to towns, expenses for travel and other purposes required to be paid by the superintendent of such union because of the number and location of schools, geographical or other conditions, said commissioner, annually in August, shall issue to the governor and council a recommendation relative thereto and on the approval of said recommendation, the state controller upon the approval of the governor and council may draw a warrant for payment out of the sum appropriated for superintendence of towns comprising school unions in favor of the superintendent or superintendents of schools employed in said union within the school year ending June 30th immediately preceding; provided, however, that the amount so paid for the benefit of a single union shall not exceed \$350 annually and shall be in addition to other payments made to said superintendent as provided in this section, and provided further, that the amount so available for the equalization of such expenses shall not exceed 1/5 of the appropriation for superintendence of towns comprising school unions. (R. S. c. 37, § 71. 1945, c. 350, § 4. 1947, c. 404. 1949, c. 349, § 71. 1951, c. 266, § 57.)

**Sec. 81. Towns and cities having 75 teachers need not unite; report.**—The superintending school committee of a city or town having under its care and custody an aggregate of more than 75 teachers may employ a superintendent of schools without uniting with other cities or towns for the purpose. Said superintendent of schools shall be chosen in the same manner and for the same term, his salary shall be fixed and he may be discharged under the same conditions as superintendents employed under the provisions of section 79. Annually, in the month of June or whenever a superintendent of schools is chosen,

the chairman and secretary pro tempore of the committee or board of education shall certify to the commissioner, upon forms prescribed by him, all facts relative to the employment of a superintendent including the amount of the salary to be paid; then upon the approval of said certificate by the commissioner, the superintendent so employed shall, on presentation of proper vouchers, receive monthly out of the sum appropriated for superintendence of towns comprising school unions a sum equal to the amount paid by the town, provided that the amount so paid shall not exceed \$1,500 for 1 year for the superintendent of any 1 town. (R. S. c. 37, § 72. 1947, c. 381.)

**Sec. 82. Remote towns; agent.**—Whenever the commissioner shall find on investigation that any town or plantation is so situated that it is not practicable to form a union in accordance with the provisions of sections 77 to 81, inclusive, and sections 85 to 88, inclusive, he may place at the service of the committee of such town or plantation the general agent for the schooling of the children in unorganized townships, or any other agent of the commissioner, who shall, when so assigned, serve as the superintendent of schools of said town or plantation; when the said agent shall so serve he shall have the same powers and shall perform the same service as superintendent of schools of towns; provided, however, that his visits to the schools of said town or plantation shall be at such intervals as may be directed by the commissioner. (R. S. c. 37, § 73.)

**Sec. 83. Reimbursements.**—Whenever the schools of any town or plantation shall be placed under the supervision of agents of the commissioner, as provided by the preceding section, the treasurer of said town or plantation shall pay to the treasurer of state a sum which shall be at the rate of \$25 annually for each teaching position in said town or plantation, and the amount so received shall be credited to the general fund. (R. S. c. 37, § 74. 1945, c. 45, § 1; c. 350, § 5; c. 378, § 34.)

**Sec. 84. Appropriation for salary of superintendent.**—Towns shall appropriate for the salary of the superintendent of schools their proportion of the sum paid said superintendent to the amount certified by the joint committee to the town treasurer, and said proportion to be paid by any town shall be paid out of the appropriation made for the support or maintenance of public schools or high schools as provided under section 240. (R. S. c. 37, § 75. 1953, c. 204, § 5.)

**Sec. 85. Conference of instruction held.**—The commissioner shall annually hold a conference for the instruction of superintendents serving under the provisions of the 8 preceding sections; he may expend out of the appropriation for the superintendence of towns comprising school unions, an amount sufficient to defray the mileage expenses of such superintendents; but no superintendent shall be entitled to any part of such expenses unless he shall regularly attend all sessions of such conference. (R. S. c. 37, § 76. 1945, c. 45, § 2; c. 378, § 35.)

**Sec. 86. Regulations under which certificates issued.**—Persons employed to serve as superintendents of schools under sections 79 to 81 shall hold state certificates of superintendence grade which shall be issued under such regulations as may be prescribed by the commissioner. (R. S. c. 37, § 77.)

**Sec. 87. Powers and duties of superintendents.**—A superintendent of schools employed under the provisions of sections 79 to 81, inclusive, shall have the following powers and duties:

**I. Secretary ex officio.** He shall be, ex officio, secretary of the superintending school committee and of any school building committee chosen by the town, and shall perform such duties not herein enumerated as said committees shall direct.

**II. Auditor; vouchers to be approved by majority of board.** He shall keep a permanent record of all its votes, orders and proceedings; he shall place all orders for materials and supplies purchased by vote of the committee and shall be its agent in keeping all financial records and accounts. He shall issue vouchers showing the correctness of bills contracted on account of school appropriations, but such bills shall not be allowed for payment by the municipal officers of towns unless they shall have been approved by a majority of the members of the superintending school committee.

**III. Shall visit the schools; annual report.** He shall examine the schools and inquire into the regulations and the discipline thereof and the proficiency of the pupils, for which purposes he shall visit each school at least the minimum number of times each term which the joint committee may designate. At the annual town meeting, he shall make a written report of the condition of the schools for the past year, with a statement of the condition of school buildings, the proficiency made by the pupils and the success attending the modes of instruction and government thereof, and transmit a copy to the commissioner.

**IV. Shall keep account of finances and report once a term to committee of respective towns.** He shall keep a faithful and accurate account of school finances, and he shall report at least once a term in writing to each of the several committees of the supervisory union, including in such report a statement of the condition of the schools, a financial statement and a statement of the condition of school buildings and outbuildings in the matter of repair, cleanliness and sanitary arrangements.

**V. Shall nominate teachers; election to be approved by committee; probationary period; teachers may be elected under contract.** He shall nominate all teachers subject to such regulations governing salaries and the qualifications of teachers as the superintending school committee shall make, and upon the approval of nominations by said committee, he may employ teachers so nominated and approved for such terms as he may deem proper, subject to the approval of the school committee. Except that after a probationary period of not to exceed 3 years, subsequent contracts of duly certified teachers shall be for not less than 2 years, and furthermore, that unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract shall be extended automatically for 1 year and similarly in subsequent years, although the right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties. The right to terminate a contract, after due notice of 90 days, is reserved to the superintending school committee when changes in local conditions warrant the elimination of the teaching position for which the contract was made. Provided, in case the superintendent of schools and the superintending school committee fail to legally elect a teacher, the commissioner shall have authority to appoint a substitute teacher who shall serve until such election is made. (1951, c. 203)

**Purpose of subsection.**—The legislature very properly saw fit to regulate the employment of teachers not only in the interest of the public but as well in that of the teachers themselves. So it provided that the actual employment should be preceded by an election of a nominee for the position. This gives an opportunity for a painstaking consideration of the proposed teacher's worthiness and qualifications. It places responsibility directly upon the

members of the school committee and the superintendent of schools, each performing his statutory duty to the end that he who is best fitted be chosen. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

**Prerequisites to legal employment of teacher.**—To constitute a legal employment of a teacher, there must be a nomination by the superintendent, an approval of the nomination by the committee, and an employment by the superintendent of the

teacher so nominated and approved. *Michaud v. St. Francis*, 127 Me. 255, 143 A. 56; *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

**Nowhere is there authority for the employment of a teacher by the committee,** nor is the superintendent authorized to employ a teacher without the approval of the committee. *Michaud v. St. Francis*, 127 Me. 255, 143 A. 56.

**And contracts of employment by the committee do not bind the town.** *Michaud v. St. Francis*, 127 Me. 255, 143 A. 56.

One teaching under contract with the committee cannot recover from the town on a quantum meruit even though services were actually rendered and the price charged reasonable. Persons acting under the employment of town or city officers must take notice at their peril of the extent of the authority of such officers. *Michaud v. Francis*, 127 Me. 255, 143 A. 56.

**Duty of employing teachers rests upon superintendent.**—After nomination and approval there still remains an important act to be performed. The teacher must be "employed." And the duty of employing teachers rests upon the superintendent and on no one else. *Michaud v. St. Francis*, 127 Me. 255, 143 A. 56.

**VI. Shall supervise work of teachers.** He shall direct and supervise the work of all teachers.

**VII. Shall select and purchase textbooks on approval of committee.** He shall select textbooks, supplies and apparatus subject to the approval of the superintending school committee and shall make all purchases of the same under such regulations as the superintending school committee shall adopt.

**VIII. Shall distribute and account for supplies.** He shall see to it that all necessary apparatus and supplies are seasonably distributed to each school and accurately accounted for and economically used.

**IX. Shall enforce rules of committee.** He shall enforce or cause to be enforced all regulations of the superintending school committee.

**X. Shall devote entire time to superintendence.** He shall devote his entire time to superintendence in the towns comprising the union; provided, however, that he may, without violation of the provisions of this section, perform such educational service outside of the towns of his union as may be performed with the approval of the commissioner and with the consent of the committee employing him. (R. S. c. 37, § 78. 1951, c. 203.)

**The superintendent of schools is a public officer** and his acts in that capacity, so long as in line with the performance of his official duties, are presumed to have been done in accordance with law, for every

**But superintendent must employ teacher who has been legally elected.**—After legal election of a teacher it was the duty of the superintendent to employ the one elected, and the presumption obtained that he performed his duty as required by law. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

**Facts justifying finding of valid contract.**—That facts justified in law the conclusion of the referee that a valid contract of employment was entered into although the referee found that there was no formal nomination nor formal employment of the teacher by the superintendent. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

**Ratification of irregular employment.**—There were ample facts in the record to justify the finding of fact made by the referee that the action of the superintendent of schools in employing a teacher on the basis of approval voted at an allegedly irregular meeting of the committee was subsequently ratified. *Elsomore v. Hancock*, 137 Me. 243, 18 A. (2d) 692.

**Conditional employment.**—The school committee may approve a nomination conditionally, which implies the right in the superintendent to employ conditionally. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

person holding office or trust is presumed to perform his duties without its violation. This presumption may be rebutted. *Benson v. Newfield*, 136 Me. 23, 1 A. (2d) 227.

**Sec. 88. Appropriation of amount required for public school purposes; forfeiture for violation.**—If any part of the money raised by the towns or union of towns, or paid to them by the state for superintendence, is expended for any other purposes than those provided for in sections 80 and 81, then each

person so misappropriating said money shall forfeit 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 thereof; and no town or union of towns shall receive further aid under said sections until the amount so misapplied has been raised and expended for superintendence by such town or union of towns. (R. S. c. 37, § 79. 1953, c. 204, § 6.)

### Compulsory Education.

**Sec. 89. By-laws concerning truants; approval.**—Towns may make such by-laws, not repugnant to law, concerning habitual truants and children between 6 and 17 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 \$20, for any breach thereof; but such by-laws must be first approved by a justice of the superior court. (R. S. c. 37, § 80.)

**Cross reference.**—See c. 91, § 86, re purposes for which by-laws may be made.

**Quoted** in *Lewiston v. Fairfield*, 47 Me. 481.

**Sec. 90. Violation of by-laws.**—Attendance officers elected as provided in section 94 shall alone make complaints for violations of said by-laws and shall execute the judgments of the magistrate. (R. S. c. 37, § 81.)

**The word "judgments," as here used, is not limited to the sentence, or final decree** in the case; it is used in a broader sense, and includes an interlocutory as well as a final judgment; the determination to have the truant arrested and brought to trial, as well as the determination to send him to the reform school. *O'Malia v. Wentworth*, 65 Me. 129.

ant was not illegal because the warrant on which he was originally arrested and brought before the municipal court for trial, was served by a truant officer. The truant officer was the proper person to make the arrest. *O'Malia v. Wentworth*, 65 Me. 129.

**Stated** in *Lewiston v. Fairfield*, 47 Me. 481.

**Service of warrant.**—Detention of a tru-

**Sec. 91. Truant children placed in suitable institutions.**—A 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 89. (R. S. c. 37, § 82.)

**Quoted** in *Lewiston v. Fairfield*, 47 Me. 481.

**Sec. 92. Compulsory education; neglect; subnormal child.** — Every child between the 7th and 15th anniversaries of his birth and every child between the 15th and 17th anniversaries who cannot read at sight and write legibly simple sentences in the English language and every child between the 15th and 16th anniversaries who has not completed the grades of the elementary school shall attend some public day school during the time such school is in session, and an absence therefrom of ½ day or more shall be deemed a violation of this requirement; provided that necessary absence may be excused by the superintending school committee or superintendent of schools or teachers acting by the direction of either; provided also, that such attendance shall not be required if the child obtains equivalent instruction, for a like period of time, in a private school in which the course of study and methods of instruction have been approved by the commissioner, or in any other manner arranged for by the superintending school committee with the approval of the commissioner; provided further, that children shall not be credited with attendance at a private school

until a certificate showing their names, residence and attendance at such school, signed by the person or persons having such school in charge, shall be filed with the school officials of the town in which said children reside; and provided further, that the superintending school committee may exclude from the public schools any child whose physical or mental condition makes it inexpedient for him to attend. All persons having children under their control shall cause them to attend school as provided in this section, and for every neglect of such duty shall be punished by a fine of not more than \$25 or by imprisonment for not more than 30 days; provided further, that a child between the ages of 15 and 16 who, because of subnormal mental capacity, is unable to successfully pass the tests necessary to allow a regular work permit to be issued, may under conditions deemed proper receive a work permit issued jointly by the commissioner and the commissioner of labor, such persons to be employed in nonhazardous occupations. (R. S. c. 37, § 83. 1947, c. 150, § 2.)

**Cross reference.**—See c. 30, § 26, re employment of minors.

**Section applies to person having care of ward of state.**—One in whose care a child, a ward of the state, has been placed by the state board of children's guardians,

is made by the literal language of this section subject to a fine or imprisonment if she does not cause the child to attend school. *Shaw v. Small*, 124 Me. 36, 125 A. 496.

**Sec. 93. Children to attend school in adjoining town; tuition.**—Children living remote from any public school in the town in which they reside may be allowed to attend the public schools, other than a high school approved as provided in section 107, 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. Except as above provided, a child may attend a public elementary school in a town in which his parent or guardian does not have legal residence, after having obtained the consent of the superintending school committee of such town, or after a justice of the superior court has determined that such enrollment is conducive to the welfare of the child and to the interest of society, and the parent or guardian shall pay as tuition a sum equal to the average expense of each scholar in such school. (R. S. c. 37, § 84. 1949, c. 251.)

**Sec. 94. Attendance officers; authority and duties; vacancies; neglect of duty.**—The superintending school committee of every city and town shall annually elect one or more persons, to be designated attendance officers, who shall inquire into all cases of neglect of the duties prescribed in section 92 and ascertain the reasons therefor and shall promptly report the same to the superintending school committee, and such attendance officers or any of them shall, when so directed by the school committee or superintendent in writing, prosecute in the name of the state any person neglecting to perform the duties prescribed in said section, by promptly entering a complaint before a magistrate; and said officer shall, when notified by any teacher that any pupil is irregular in attendance, arrest and take such pupil to school when found truant; and such officers shall enforce the provisions of sections 232 to 234, inclusive. Attendance officers, when so directed in writing by the superintendent of schools or the superintending school committee of their respective towns, may visit the manufacturing, mechanical, mercantile and other business establishments in their several cities and towns during the hours in which the public schools of such city or town are in session, and ascertain whether any minors under the age of 14 years are employed therein, and shall report in writing any cases of such employment to the superintendent of schools or the superintending school committee of their city or town; and if any minors are employed therein contrary to the provisions

of chapter 30, they shall also report in writing such illegal employment to the commissioner of labor and industry. The owner, superintendent, overseer or agent of all manufacturing, mechanical, mercantile or other business establishments, upon request, shall produce for the inspection of such attendance officers all work permits and vacation permits required to be kept on file in such establishments under the provisions of chapter 30. Superintending school committees shall elect attendance officers at their first meeting after the annual meeting of the town; they shall fill any vacancies occurring during the year and they may fix the compensation of said officers, and said compensations shall be paid from the appropriation made for the salaries of attendance officers under section 240. Any attendance officer neglecting any duty required of him under the provisions of this chapter shall be punished by a fine of not less than \$10, nor more than \$50; and any town failing through its superintending school committee to meet said provisions shall be liable to the provisions of section 31. (R. S. c. 37, § 85. 1953, c. 204, § 7.)

See § 177, re school agents in unorganized territory.

**Sec. 95. Habitual truant; complaint.** — If a child without sufficient excuse is habitually and willfully absent from school or fails without such excuse to attend school for 5 day sessions or for 10 half-day sessions within any period of 6 months, he shall be deemed an habitual truant; and the superintendent of schools or the superintending school committee shall notify him and any person under whose control he may be that, unless he conforms to section 92, the provisions of the 2 following sections will be enforced against them; and if thereafter such child continues irregular in attendance, the attendance officers or any of them shall, when so directed by the superintending school committee or superintendent, in writing, enforce said provisions by complaint. (R. S. c. 37, § 86. 1949, c. 49.)

**Sec. 96. Persons responsible for truancy punished.**—Any person having control of a child who is an habitual truant, as defined in the foregoing section, and being in any way responsible for such truancy, and any person who induces a child to absent himself from school, or harbors or conceals such child when he is absent, shall be punished by a fine of not more than \$20, or by imprisonment for not more than 30 days. (R. S. c. 37, § 87.)

**Sec. 97. Habitual truants committed to state institutions; warrants.**—On complaint of the attendance officer, an habitual truant, if a boy, may be committed to the state school for boys, or if a girl, to the state school for girls, or to any truant school that may hereafter be established. Municipal courts and trial justices shall have jurisdiction of such complaint and of the offenses described in sections 92, 94, and 96. All warrants issued by said courts or trial justices upon such complaint, or for an offense committed under said sections, and all legal processes issued by said courts or trial justices for the purpose of carrying into effect the provisions of this section and of said sections 92, 94 and 96, may be directed to and executed by the attendance officer or either of the attendance officers of the town where the offense is committed. All fines collected under said 2 last named sections shall be paid to the treasurer of the city or town in which the offense is committed, for the support of the public schools therein. (R. S. c. 37, § 88.)

**Cross reference.**—See c. 149, § 37, re probation officers have for some purposes authority of attendance officers. **Applied in** *Cushing v. Friendship*, 89 Me. 525, 36 A. 1061.

### Free High Schools.

**Sec. 98. Classification of high schools.**—No school shall be regarded as

a high school within the meaning of any of the provisions of this chapter unless such school shall be included in one of the following classes:

**Class A.** This class shall include such schools as maintain at least 1 approved course of study through 4 years of 36 weeks each and of standard grade, together with approved laboratory equipment, and shall employ at least 2 teachers; provided the town or union maintaining such school shall appropriate and expend for instruction therein at least \$850 annually exclusive of all tuition received.

**Class B.** This class shall include such schools as maintain 1 approved course of study through at least 2 years of 36 weeks and of standard grade, together with approved equipment; provided the town or union maintaining such school shall appropriate and expend for instruction therein at least \$500 annually exclusive of all tuition received.

**Junior High School.** This class shall include such schools as maintain a diversified program of studies approved by the commissioner, for such grades or years as he shall prescribe, throughout a school year of at least 36 weeks; provided that the last 2 years of the elementary schools and not more than 2 grades or years of the high school may be included in such a school, and provided that the cost of maintenance may be taken from high school funds, or from high school funds and elementary school funds combined, in proportion to the cost of maintenance of the several grades. A school of this class may be maintained in connection with or as a part of a class A high school as defined in this section. (R. S. c. 37, § 89.)

Cited in *Maine Central Institute v. Palmyra*, 139 Me. 304, 30 A. (2d) 541.

**Sec. 99. Towns not obliged to pay tuition; exception.**—A town or union maintaining a class A high school as defined in section 98 shall not be required to pay tuition except as provided by section 107. A town or union maintaining a class B or junior high school as defined in section 98 shall not be required to pay tuition for any pupil until he has completed that part of the course or the equivalent thereof of said school approved by the commissioner except as provided by section 107. (R. S. c. 37, § 90. 1945, c. 214.)

**Sec. 100. Schools inspected.**—All schools of secondary grade receiving state aid shall be inspected under the direction of the commissioner and the expense thereof shall be paid from the state appropriation for the support of high schools; and he shall determine what schools are included in the classification of section 98, what schools maintain the courses of study, what schools are entitled to state aid and what schools maintain approved courses for the reception of tuition scholars. (R. S. c. 37, § 91.)

**Sec. 101. Free high schools; conveyance or board; gifts, bequests and funds surrendered by academies; state aid; misapplication of money.** — Any town may establish and maintain not exceeding 2 free high schools; and in such case shall receive the same state aid as if the expenditure for 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 1 town. Any town may, in addition to the sums raised for the support of high and public schools, raise and appropriate a sum for the payment of conveyance or board of pupils attending secondary schools, said sum to be expended under the direction of the superintending school committee. Provided that in cases of pupils who reside on islands within towns and cities and on which there is no secondary school and from which regular transportation lines are established and in operation, said towns and cities shall pay transportation charges of said children; provided, however, that such transportation shall be over regular lines, at not to exceed regular fares and no subsidy; provided also that transportation lines shall have the privilege of estab-



lishing such school fares, not to exceed the regular fare, as may be agreed upon by the officials of said transportation lines and the school board or school committee of the town or city of which said islands are a part. 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 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 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 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 school by such town. (R. S. c. 37, § 92.)

**Sec. 102. Course of study; schools free to youth in any town or union of towns; admission of pupils from without towns.**—The course of study in the free high schools shall embrace the ordinary English academic studies which are taught in secondary schools, 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. Such schools, when established by any town or union of towns, shall be free to all the youth in such town or towns who have such scholastic attainments as will fit them to attend such schools with profit, and the superintendent or superintending school committee having supervision thereof shall make such examination of candidates for admission to said schools as they consider necessary.

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. (R. S. c. 37, § 93.)

**Sec. 103. Free high schools subject to school laws; management and supervision.**—Free high schools, established and maintained under the provisions of sections 98 to 102, inclusive, are subject to the laws relating to public schools, so far as applicable, except as otherwise provided. When 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 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. (R. S. c. 37, § 94.)

Cited in *Elsemore v. Hancock*, 137 Me. 243, 18 A. (2d) 692.

**Sec. 104. Free high schools maintained by towns.** — Towns may raise money for establishing and maintaining free high schools, and erecting buildings and providing equipment for the same, in the same manner as for supporting public schools and erecting schoolhouses. (R. S. c. 37, § 95.)

Cited in *Elsemore v. Hancock*, 137 Me. 243, 18 A. (2d) 692.

**Sec. 105. Pupils in towns having no free high schools.**—Any town

which does not maintain a free high school of standard grade may authorize its superintending school committee to contract for 1 to 5 years with and pay the superintending school committee of any adjoining town or towns, or the trustees of any academy located within such town or in any adjoining town or towns, for the schooling of pupils within said town in the studies contemplated by section 98. When the amount to be paid under the contract shall equal or exceed the income of the academy for the preceding year, exclusive of sums paid said academy by the contracting town, a joint committee shall be formed consisting of the superintending school committee of said town and an equal number of the trustees of the academy; provided that by a formal vote at an annual town meeting such action is requested. Said joint committee shall be empowered to select and employ the teachers for the academy, to fix salaries, to arrange the course of study, to supervise the instruction and to formulate and enforce proper regulations pertaining to other educational activities of the school. The superintendent of schools of the contracting town in which the academy is located shall be secretary ex officio of the joint committee and shall be assigned such supervisory duties in connection with the school as the joint committee shall determine. When a town has made a contract as provided for in this section, or as provided in the act of incorporation of any such academy and amendments thereto prior to May 1, 1907, the tuition liability of said town shall be the same as if a free high school were maintained in accordance with section 98, and the expenditure of any town for schooling of pupils as provided in this section shall be subject to the conditions of sections 107 and 108 for the purposes of state subsidy to the municipality or community school district under the provisions of section 237. (R. S. c. 37, § 96. 1945, c. 216; c. 321, § 1. 1951, c. 393, § 1. 1953, c. 185.)

**Cross reference.**—See c. 91, § 100, re purposes for which money may be raised.

**History of section.**—See *Maine Central Institute v. Palmyra*, 139 Me. 304, 30 A. (2d) 541.

**Section impliedly amends § 107.**—See note to § 107.

**Discretion of school committee.**—Under this section a town has the right to vote to

authorize its superintending school committee to “contract with schools in two of the adjoining towns to the exclusion of the school in the third adjoining town.” It is a matter of exercise of sound discretion by the superintending school committee. *Maine Central Institute v. Palmyra*, 139 Me. 304, 30 A. (2d) 541.

**Sec. 106. State aid.**—No town shall receive state aid under the provisions of section 105 if a free high school of standard grade is maintained in such town. (R. S. c. 37, § 97.)

**Sec. 107. A youth residing in town not supporting a secondary school may attend such school elsewhere; occupational courses; tuition; board.**—Any youth who resides with a parent or guardian in any town which does not support and maintain a standard secondary school may attend any approved secondary school to which he may gain entrance by permission of those having charge thereof, provided the said youth shall attend a school or schools whose courses are approved by the commissioner. When a town not maintaining a secondary school has authorized its superintending school committee to contract, as provided for in section 105, with the trustees or superintending school committees of 2 schools, and when the officials of one of these schools refuses to enter a contract, then the superintending school committee may authorize pupils residing within said town to attend that noncontracting school and may pay the trustees or superintending school committee of the receiving school the legal tuition charge thereof. Any youth who resides with a parent or guardian in a town that maintains, or contracts for school privileges in, an approved secondary school which offers less than 2 approved occupational courses of study, and whose qualifications for such training are approved by the superintending school committee of the town, may elect to attend some other approved secondary school to which

he may gain admission for the purpose of studying an occupational course not offered or contracted for by the town of his legal residence.

In the case of any youth attending school under conditions as provided for in the preceding paragraph, in schools in which the enrollment of tuition students is 10% or more of the total enrollment or attending any community high school, the annual tuition shall not exceed 115% of the average cost per pupil in all secondary schools of the state for the preceding fiscal year; except that, in a secondary school in which the enrollment of tuition pupils is less than 10% of the total enrollment or in which at least 3 courses of study, 2 of which are industrial or occupational, are not offered, the tuition shall not exceed the average cost per pupil in all secondary schools of the state for the preceding fiscal year. Said tuition shall be paid by the town in which said youth resides as aforesaid, and said tuition shall be payable for the fall term of school on January 1st; for the winter term of school on April 1st; and for the spring term of school on July 1st. Said tuition so paid shall be made a part of the secondary school fund of the town or academy receiving the same. Towns shall raise annually, as other school moneys are raised, a sum sufficient to pay such tuition charges. Provided, however, that no youth shall be entitled to free tuition under the provisions of this section unless he shall have satisfactorily passed an examination in elementary school branches, said examination having been given under the direction of the superintendent of schools of the town wherein such youth resides on papers procured from the commissioner, or unless such youth shall have satisfactorily completed a standard elementary school course of study which has been approved by the commissioner; except that any youth who has satisfactorily completed the course of a class B or junior high school, as provided by section 98, shall be entitled to his free tuition, as hereinbefore provided, for the completion of the 4 years of a standard secondary course without the examination herein prescribed; provided further, that such free tuition privilege shall continue only so long as said youth shall maintain a satisfactory standard of deportment and scholarship. Any youth who otherwise meets the requirements of this section with reference to admission to secondary schools shall be entitled to the payment of his tuition, as herein provided, in any high school of the B class or junior high school for such part of the course of such high school as may be approved as equivalent in grade to the corresponding years of a standard secondary course. Superintendents of schools shall issue certificates of free tuition privilege to persons who may be entitled to free tuition under the provisions of this section. Any school receiving tuition pupils under the provisions of this section shall provide, without additional charge, all textbooks, apparatus and appliances used by said pupils, subject to the provisions of sections 34 to 36, inclusive.

It is further provided that in the case of any youth qualified for attendance at secondary school in accordance with the preceding paragraph, who resides with his parents, legal guardian or person acting in loco parentis, on a Maine coast island without highway connection with the mainland in any town not maintaining a standard grade high school, so located that in the judgment of the commissioner attendance at secondary school necessitates boarding away from home and the arrangement is approved by him in advance upon a form provided for the purpose, the town wherein said pupil resides shall pay an amount for this purpose toward his board not to exceed \$180 for the school year or a prorated amount for any fraction thereof. Payment for said board shall be made, upon receipt of a satisfactory attendance record, at the end of periods not longer than 1 school month and shall be charged to the same account as that of secondary school tuition. (R. S. c. 37, § 98. 1945, c. 120, § 1; c. 270. 1947, c. 237; c. 400, § 1. 1949, c. 443, § 1. 1951, c. 393, § 2. 1953, c. 21, § 1.)

**Cross reference.**—See c. 27, § 88, re School from state school for girls.  
entrance of pupils in Hallowell High Section impliedly amended by § 105.—

The amendments of 1905 and 1911 to the statute now codified as § 105, because of direct and positive repugnancy to the then existing law (now this section), impliedly amended it, so that, since those amendments, if a legal contract has been made under § 105, a youth who resides with his parent or guardian in a town which has no high school cannot at the town's expense for tuition attend any outside school to which he may gain entrance, but if no such contract has been made, he has that right. *Maine Central Institute v. Palmyra*, 139 Me. 304, 30 A. (2d) 541.

**School may maintain action in its own name to recover tuition.**—A school receiving pupils under the provisions of this section may maintain in its own name an action against the town in which such pupils reside with their parents or guardians, to

recover tuition for such pupils. The action to recover the tuition in such cases need not be brought in the name of the parent or guardian. *Ricker Classical Institute v. Mapleton*, 101 Me. 533, 64 A. 948.

**Action to recover tuition voluntarily paid by parent.**—Under the provisions of this section, a minor, residing with his father, who never undertook to make any contract in his own behalf respecting his tuition at a school attended by him, and who personally incurred no legal indebtedness, made no expenditure and sustained no loss, cannot maintain an action against a town to recover the amount voluntarily paid as tuition for him to such school, by his father. *Goodwin v. Charleston*, 100 Me. 549, 62 A. 606.

**Cited in** *Guilford Trust Co. v. LaFleur*, 148 Me. 162, 91 A. (2d) 17.

**Sec. 108. Reimbursement to towns for tuition and board for pupils attending secondary schools.**—When any town shall have been required to pay and has paid tuition for pupils attending secondary schools, as provided by section 107, the superintendent of schools of such town shall make a return under oath to the commissioner before the 1st day of September, annually, for the preceding school year, stating the name of each pupil for whom tuition has been paid, the amount paid by the town for each and the name and location of the school which each has attended. Tuition charges for each pupil may be paid by towns to an amount not exceeding the receiving school's average cost per pupil for the fiscal year preceding that for which the tuition is paid; except that payments in excess of said average cost may be made by vote of the sending town, but such payment by a town for any pupil for any 1 year shall be subject to the limitations of section 107. Provided further, that the average cost per pupil shall be determined as follows: (1) Add the amounts paid for certified or licensed teachers' salaries, fuel, janitor service, textbooks, supplies, utility services, premiums paid on insurance and 6% of the insured value of the school buildings and equipment (2) divide the total by the average daily membership of all regularly enrolled students. Provided further, that any town not maintaining a high school may pay tuition for any student who with parents or guardian resides in said town and who attends an approved school of secondary grade in a town adjacent to the state of Maine in another state, when distance and transportation facilities make attendance in a Maine high school or academy inexpedient; or who attends an approved school of secondary grade in another state when said school specializes in the correction of physical defects and when by reason of a physical disability the individual requires a specialized type of training available in said school but not obtainable in any approved secondary school in the state of Maine.

Provided, however, that when pupils are sent from one city, town or plantation to an approved secondary school in another, if any accounts for tuition of such pupils are not paid on or before the 1st day of September of that year, the commissioner shall pay such accounts, or so much thereof as he shall find to be rightly due, to the treasurer of the receiving city, town, plantation, academy, institute or seminary at the next regular annual apportionment, together with interest on such accounts at the rate of 6% annually, computed from said 1st day of September, and the commissioner shall charge any such payment against the apportioned fund of the sending city, town or plantation.

When any town shall have been required to pay and has paid board for a youth

or youths attending secondary school in accordance with the provisions of section 107, the superintendent of schools of such town shall make a return under oath to the commissioner on a form provided for the purpose before the 1st day of September, annually, for the preceding school year, stating the name and exact residence of each youth for whom board has been paid, the amount paid by the town for each and the name and location of the school which each has attended. Upon the approval of said return, the commissioner shall apportion to such town a sum equal to  $\frac{1}{2}$  the amount thus paid by such town but not to exceed \$700 annually for this purpose. (R. S. c. 37, § 99. 1945, c. 93; c. 120, § 2; c. 199; c. 378, § 36. 1947, c. 400, § 2; c. 401. 1949, c. 443, § 2. 1951, c. 393, § 3. 1953, c. 21, § 2.)

**Sec. 109. Tuition for state wards.**—Towns which do not maintain or support a secondary school shall be reimbursed by the department of health and welfare for the amounts expended by them for secondary tuition of state wards residing in such towns. (R. S. c. 37, § 100.)

See c. 25, §§ 353 and 377, re schooling of children of Indian tribes.

**Sec. 110. Returns to commissioner of expenditure for free high schools; amounts certified; appeal.**—Superintendents shall, annually, before the 1st day of July, make returns under oath to the commissioner on blanks prepared and sent out by him, of the amount appropriated and the amount expended by each town for instruction in such free high schools during the current year; also of the amount appropriated and the amount expended for elementary school purposes by each town 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, and the number of pupils in each branch of study pursued, and the amount received for tuition. If the commissioner is satisfied that the provisions of sections 98 to 105, inclusive, have been complied with, he shall certify to the governor and council the sum which each town is entitled to receive from the state; provided that in case any town has failed to comply with any of said provisions by reason of circumstances beyond its control, he may after proper investigation certify such part of the high school aid as circumstances may justify. Any town dissatisfied with his decision may appeal to the governor and council, and the governor and council shall issue a certificate to the treasurer of the town for such amount as they adjudge such town entitled to receive from the state treasury. (R. S. c. 37, § 101.)

**Sec. 111. Defrauding state.** — Any person connected with the management of free high schools coming under the provisions of section 110, either as teacher, agent or superintendent, 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 be punished by a fine of not less than \$500, or by imprisonment for not less than 1 year. (R. S. c. 37, § 102.)

### Community School Districts.

**Sec. 112. Community school districts.**—The inhabitants of and territory within 2 or more towns may form a community school district which shall be a body politic and corporate by proceeding as follows: the municipal officers in each of the several towns may call a meeting of the inhabitants of their respective towns in the manner provided by law for the calling of town meetings, and such meetings shall vote to favor or oppose similar articles in substantially the following form:

Article . . . . . To see if the town will vote to join with the towns of

(naming them) to form a community school district to be known as "..... Community School District."

Article ..... To see if the town will vote that the district be authorized to acquire and hold property of a value not in excess of \$..... for the purpose of operating (name type of school or schools).

Article ..... To see if the town will vote to authorize said community school district from time to time to borrow money and to issue its bonds and notes therefor in an amount not in excess of \$..... outstanding at any 1 time, exclusive of refundings, for the purpose of acquiring land, constructing and equipping a community school building, or buildings and related recreational and athletic facilities and for other purposes of the district.

The clerk in each of the several towns shall file a return of such votes with the secretary of state. If a majority of those voting in each of the towns shall favor each of the 3 propositions, the inhabitants of and the territory within said towns shall thereupon become a community school district, which shall, subject to the provisions hereof, bear the name so determined upon and shall have authority to acquire and hold property and to borrow money not in excess of the respective amounts so determined upon. The inhabitants of the participating towns in meetings similarly called and held may vote to change the name of the school district, or to increase the maximum amount of property to be held by the school district or the maximum amount of money which the school district may borrow.

The inhabitants of each town which has heretofore participated in the formation of a secondary school district may, in meetings similarly called and held, vote to authorize the district to acquire and hold property for the purpose of operating a primary or primary schools and to authorize said district from time to time to borrow money and to issue its bonds and notes therefor. (1947, c. 357. 1949, c. 249, § 1. 1953, c. 336, § 1.)

Cited in Guilford Trust Co. v. LaFleur, 148 Me. 162, 91 A. (2d) 17.

**Sec. 113. Organization; compensation.**—When the inhabitants of 2 or more towns have voted to form a community school district, as provided in the preceding section, the municipal officers of each of the towns in the proposed school district shall appoint 3 persons, resident in such town, to be incorporators of said proposed school district who shall become trustees of said district. Said 3 trustees shall be appointed, one for 1 year, one for 2 years and one for 3 years, and thereafter 1 each year shall be elected for a term of 3 years in each of the participating towns by the inhabitants of the community school district who are voters in their respective towns. Said elections shall take place at the annual town meeting and trustees elected or appointed shall serve until their successors are elected and qualified. Vacancies in the office of trustees shall be temporarily filled by appointment by the municipal officers of the town where the former trustee resided until a successor trustee is elected for the unexpired portion of the term, if any, at the next annual town meeting in said town.

The incorporators so appointed as soon as convenient thereafter shall meet upon call of one of their number after reasonable notice. They shall organize as a board of trustees and shall elect from their number a chairman, a treasurer, a clerk and such other officers as they shall decide upon, and shall adopt by-laws and an official seal.

When the corporation is thus organized, the trustees shall make a return to the secretary of state setting forth the fact of the organization of the district, the names of the trustees and the officers thereof, the amount of property it is authorized to acquire and hold and the amount of its borrowing power.

If the secretary of state finds that the community school district has been organized and the trustees thereof elected or appointed, according to law, he

shall issue to it a certificate of organization and such certificate shall be conclusive evidence of the lawful organization of the community school district and of the election or appointment of the trustees thereof. Whenever the membership of a community school district is changed, by the addition of new territory or by appointment, election or resignation of trustees or otherwise, a return to that effect shall promptly be so filed. A copy, certified by the secretary of state, of a return so filed shall be conclusive evidence of the change in the community school district or in the membership thereof.

Only those towns the inhabitants of which vote to join such community school district shall be bound by the terms of sections 112 to 121, inclusive. (1947, c. 357. 1949, c. 249, § 2.)

**Sec. 114. Duties of trustees.**—All of the affairs of said district, except election of teachers who shall serve in said school or schools and the fixing of their salaries, the courses of study, the terms of school and other matters pertaining to the education of pupils, which matters shall be controlled by a community school committee hereinafter provided for, shall be managed by said board of trustees. (1947, c. 357. 1949, c. 249, § 3. 1951, c. 118. 1953, c. 336, §§ 2, 3.)

**Sec. 115. Power to borrow money.**—To procure funds for authorized purposes of the district, the trustees of said district are authorized to issue bonds and notes of the district, not to exceed in the aggregate at any 1 time outstanding, the limit of indebtedness of said district as established under section 112 or 5% of the total of the last preceding state valuation of all of the participating towns, whichever is the lesser; provided, however, that contracts, leases or agreements with the Maine School Building Authority shall not be debts or liabilities within the provisions of this section. Each bond or note shall have inscribed upon its face the words: “..... Community School District” and shall be dated at such time or times, shall be in such denomination, shall bear such rate of interest, not exceeding 5% per annum, payable semiannually, be in such form, subject to the provisions of sections 112 to 121, inclusive, and be sold in such manner, at public or private sale as the trustees shall determine. Each issue of said bonds shall mature in substantially equal annual installments, so that the first installment shall be payable not later than 2 years after the date of issue and the last installment not later than 25 years from the date thereof; provided, however, that if the proceeds of an issue of bonds are used in whole or in part to fund temporary notes of the district or renewals thereof, the period during which such issue of bonds shall be outstanding, plus the period of the loan represented by such temporary notes or renewals thereof, shall not exceed 25 years. All notes or bonds issued by said district shall be signed by the treasurer and countersigned by the chairman of said district, and if coupon bonds be issued, each coupon shall be attested by a facsimile signature of the treasurer printed thereon. Notes issued by the district shall mature not later than 1 year from their date but may be renewed from time to time, provided that the period of the original note plus that of renewals thereof shall not exceed 2 years. Said notes and bonds and said contracts, leases and agreements with the Maine School Building Authority shall be legal obligations of said district, which is declared to be a quasi-municipal corporation within the meaning of section 136 of chapter 53, and all the provisions of said section shall be applicable thereto. (1947, c. 357. 1949, c. 249, § 4. 1953, c. 336, § 4.)

**Sec. 116. How financed.**—The trustees of the “..... Community School District” shall within 90 days after authorization by vote of the participating towns as provided in section 112 and thereafter annually before April 1st of each year determine the sum required each year to meet the bonds falling due and what further sum is necessary to meet the interest on said bonds or other

obligations, and all other expenses necessary for the operation of the district, including the rentals and other charges provided in any contract, lease or agreement with the Maine School Building Authority. The trustees shall thereupon issue their warrants, in substantially the same form as the warrant of the treasurer of state for taxes, to the assessors of each participating town, requiring them to assess upon the taxable polls and estates within said town an amount in proportion to the total sum required each year as that town's state valuation bears to the total state valuation of all the participating towns, except that if the apportionment for maintenance and operation of the school or schools results in a per pupil cost to any participating town in excess of 150% of the average per pupil cost for operating the school or schools, the town's apportionment shall be 150% of the average per pupil cost and the balance shall be apportioned among the remaining towns according to the last preceding state valuation; and to commit the assessment to the constable or collector of said town who shall have all the authority and powers to collect said taxes as is in him vested by law to collect state, county and municipal taxes. On or before the 31st day of December of the year in which said tax is so levied, the treasurer of each town shall pay the amount of the tax so assessed against the taxable polls and estates within his said town to the treasurer of the district. In the case of the failure on the part of the treasurer of said town to pay said sum or any part thereof on or before said 31st day of December in the year in which said tax is levied, the treasurer of the district may issue his warrant for the amount of said tax or so much thereof as shall then remain unpaid to the county sheriff requiring him to levy by distress and sale on the real and personal property of any of the inhabitants of said district living in the town where such default takes place and the sheriff or any of his deputies shall execute said warrant, except as otherwise herein provided. The same authority as is vested in county officials for the collection of county taxes under the provisions of the revised statutes is vested in the trustees of said district in relation to the collection of taxes within such town. (1947, c. 357. 1949, c. 9; c. 249, § 5. 1951, c. 266, § 58. 1953, c. 336, § 5.)

**Sec. 117. Community school committee; powers.** — A community school committee shall consist of not more than 9 members, the total number to be determined by the trustees of the district. The representation of each town shall be in approximately the same ratio to the total membership of the committee as the town's enrollment is to the enrollment in that school; provided, however, that no town shall have less than 1 nor more than 3 representatives on the committee. The superintending school committee of each town shall choose from its membership the representation on the community school committee to which that town is entitled as above provided and membership on the community committee shall be coterminous with the member's term of office on the superintending school committee of the town which he represents. Vacancies shall be filled by the school committee of the town in whose representation the vacancy occurs. Adjustments in the representation of the several towns shall be made whenever changes in the enrollment from the individual towns make the existing representation in conflict with the provisions of this section. The committee shall at its first meeting and annually in April thereafter choose by ballot from its membership a chairman and a secretary. The community school committee shall have all the powers and duties with respect to the community school conferred upon superintending school committees under the general statutes and those enumerated in section 114. (1947, c. 357.)

**Sec. 118. Application of general law.** — Community schools as herein provided, when established, may be considered the official schools of the participating towns and all provisions of the general law relating to public education shall apply to said schools. Special courses and other bases for allocations to towns because of these schools shall be divided according to proportional assess-



ment of each town as determined in section 116. (1947, c. 357. 1949, c. 249, § 6. 1953, c. 336, § 7.)

Quoted in *Guilford Trust Co. v. LaFleur*,  
148 Me. 162, 91 A. (2d) 17.

**Sec. 119. Transportation.** — Transportation shall be provided by the community school committee in the same manner as is provided for transportation of elementary school pupils in section 14, the expenditures for transportation to be considered an expense of operation of said school or schools. (1947, c. 357. 1953, c. 336, § 8.)

**Sec. 120. Superintendent of schools.**—The superintendent of the community school or schools shall be selected by the community school committee and shall have the same duties, powers and responsibilities with respect to said school or schools and their committee as are prescribed by law for public school superintendents. (1947, c. 357. 1953, c. 336, § 9.)

**Sec. 121. Participating towns; withdrawal.**—The inhabitants of and territory within any town not originally in the district may be included upon vote of all the towns concerned in a manner similar to that prescribed for the establishing of the community school or schools under such terms and arrangements as may be recommended by the community school trustees and approved by such vote; provided the cost to the inhabitants and territory so applying shall be based on a fair valuation as determined by the state board of equalization.

When the inhabitants of a participating town have indicated their desire to withdraw from a community school district by a 2/3 vote of the legal voters in said town present and voting at a special meeting, called and held in the manner provided by law for the calling and holding of town meetings, such withdrawal may be authorized by special act of the legislature upon such terms as shall be contained in such special act; provided, however, no such withdrawal shall be permitted while such community school district shall have outstanding indebtedness. (1947, c. 357. 1949, c. 249, § 7. 1953, c. 336, § 10.)

### Academies and Seminaries.

**Sec. 122. Trustees of academies, etc., may surrender property to establish free high schools.**—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. (R. S. c. 37, § 103.)

**Sec. 123. Property conveyed.**—When the vote described in section 122 is passed, the treasurer of the trustees mentioned in section 122 shall convey, assign and deliver to the municipal officers of said town, or the trustees of the said school fund, all property belonging to such academy or corporation for the purposes indicated by the preceding section. (R. S. c. 37, § 104.)

**Sec. 124. Income of property; qualifications of pupils; tuition by nonresidents.** — The municipality accepting the property in trust, as named in section 122, shall apply the income thereof towards the support of a free high school to be kept within said municipality, within the requirements of the laws relating to the establishment and maintenance of free high schools, and provide

suitable accommodations for the same; the superintending school committee 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 certificate of said officers to that effect.

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 superintending school committee may impose. (R. S. c. 37, § 105.)

**Sec. 125. Academy defined; approval of instruction; reports.**—Wherever in sections 125 to 129, inclusive, the word “academy” occurs, it shall be construed to include “seminary” or “institute.”

When in the judgment of the commissioner, from returns made as herein provided, it appears that any incorporated academy in the state is prepared to give instruction equivalent to that required by law to be given in free high schools, that pupils attending the said academy are qualified to receive such instruction and that the teachers in the said academy are certified or licensed to give instruction in secondary school studies, such academy may provide approved secondary education under the conditions of sections 107 and 108. Every academy receiving state funds, either directly or indirectly, and every academy approved for tuition and attendance purposes shall annually, on or before the 15th day of July, report to the commissioner such information as may be required for the performance of his duties. (R. S. c. 37, § 106. 1945, c. 336. 1947, c. 124. 1949, c. 305. 1951, c. 50; c. 397, § 1.)

**Sec. 126. State board of education regulations.**—The state board of education may make such reasonable regulations regarding tuition charges, accounting and other aspects of academy and municipal relationships as are deemed necessary for carrying out the purposes and provisions of sections 125 to 129, inclusive. Except as otherwise provided by law, the creation of a board consisting of representatives of an academy and a municipality for the purpose of administering the affairs of the academy is prohibited under the provisions of this section. (R. S. c. 37, § 107. 1951, c. 266, § 59; c. 397, § 2.)

**Sec. 127. Certain academies to have audit.**—Every academy, eligible to receive tuition payments from municipalities which are eligible for general-purpose aid under the provisions of section 237, shall on or before September 1st of each year furnish to the state auditor satisfactory proof that the books, accounts, financial documents and reports to the commissioner of said institution for the fiscal year preceding have been examined and found to be in a satisfactory and accurate condition with proper vouchers on file, said audit to be made by the state department of audit or by individuals or firms recognized as competent auditors by training and experience or by qualified public accountants. (R. S. c. 37, § 108. 1947, c. 25. 1951, c. 397, § 3.)

**Sec. 128. State auditor or commissioner may cause audit made.**—The state auditor may cause an audit to be made of the books, accounts and financial documents of institutions mentioned in section 127, which have or have not complied with the provisions of said section, when requested to do so by 3 or more duly elected and qualified officers of said institution, said audit in all cases to be conducted at the expense of the institution. When in the opinion of the commissioner an audit is necessary, he shall request the state auditor to cause such audit to be made, the audit in such instance to be at no expense to the institution in question. (R. S. c. 37, § 109.)

**Sec. 129. Forfeiture of tuition payments.**—Academies which have not complied with the provisions of sections 125, 127 or 128 before the 1st day of September of each year shall not be eligible to receive tuition payments from mu-

municipalities receiving state subsidy under the provisions of section 237. (R. S. c. 37, § 110. 1951, c. 397, § 4.)

### University of Maine.

**Cross Reference.**—See 1931, c. 216, Art. I, § 1, re audit.

**Sec. 130. Board of trustees; commissioner of education ex officio member.**—As the state is providing large appropriations for the support of the University of Maine, the state should have a more direct connection with its affairs both financial and educational, therefore, it is provided that the commissioner shall be ex officio a member of the board of trustees of the University of Maine with all of the powers and privileges of members and that his membership on said board shall be coetaneous with his term of office as commissioner.

The trustees of the University of Maine shall serve without pay but shall receive their actual traveling and other expenses incurred in the performance of their official duties. (R. S. c. 37, § 111.)

**For history of statutes governing University of Maine,** see *Orono v. Sigma Alpha Epsilon Society*, 105 Me. 214, 74 A. 19.

**Sec. 131. State agency.**—The University of Maine is declared to be an instrumentality and agency of the state for the purpose for which it was established and for which it has been managed and maintained under the provisions of chapter 532 of the private and special laws of 1865 and supplementary legislation relating thereto. (1945, c. 98.)

**Sec. 132. Trust funds.**—Endowment, trust and other nonexpendable funds for investment held by the trustees of the University of Maine, which have been and may be hereafter created and established by private donors for the benefit of said university or for any purpose related directly to the activities of said university, shall be preserved in their several separate identities in the books of account of the university and administered according to the terms of the gift; and the trustees of the University of Maine, for the purpose of investment only, and in order to afford to each fund the advantage of a diversification of risk wider than can be obtained by preserving the investment unity of each fund, and in the absence of any conditions or restrictions to the contrary made by the donor, may combine, pool and merge any such funds with other similar funds, and account for profits, losses and income to each individual fund in the proportion which its value bears to the total value of the merged fund as of the date of merger; and whenever a new fund is so merged in an existing combination of funds for the purpose of determining the proportionate shares, the assets of such existing combination of funds shall be calculated at the then market value, and the future shares of each individual fund shall be determined in the proportion of its value to the whole of the new combination. (R. S. c. 37, § 112.)

**Sec. 133. Full-time treasurer; compensation.** — The trustees of the University of Maine shall appoint a full-time treasurer who shall give bond for the faithful performance of his duties in such amount and with such conditions and sureties and shall receive such compensation as the said trustees may determine. (R. S. c. 37, § 113.)

**Sec. 134. Duties and powers of treasurer.**—The treasurer of the University of Maine shall receive and have custody of all moneys received for the University of Maine, and shall make all expenditures upon vouchers authenticated and approved in a manner designated by the trustees. The treasurer shall have no authority to contract debts and obligations, excepting loans in anticipation of assured revenues when approved by vote of the trustees, and other loans when directed by vote of the trustees and duly and properly authorized by the governor and council. (R. S. c. 37, § 114.)

**Sec. 135. Treasurer's report.**—The treasurer shall prepare a complete report for the periods ending on June 30th and December 31st of each year and forward a copy of said semiannual report of the colleges to the governor and council and also the board of trustees. (R. S. c. 37, § 115.)

### War Orphans.

**Sec. 136. "Orphan of veteran," defined.**—For the purposes of administering the provisions of sections 136 to 139, inclusive, an orphan of a veteran shall be defined as a child not under 16 and not over 22 years of age whose father served in the military or naval forces of the United States during World War I, World War II or the Korean Campaign and was killed in action or died from a service connected disability as a result of such service. War orphans, whose fathers entered the service from Maine or who have resided in the state for 5 years immediately preceding application for aid under the provisions of said sections and which children have graduated from high school and are attending a vocational school or an educational institution of collegiate grade, shall be eligible for benefits provided under said sections. (R. S. c. 37, § 119. 1951, c. 157, § 3.)

**Sec. 137. Appropriation; purposes and distribution.** — Any sum or sums appropriated under the provisions of sections 136 to 139, inclusive, shall be used for the purpose of providing for tuition, matriculation fees, board, room rent, books and supplies; provided, however, that the maximum amount payable in any 1 year for any person eligible under the provisions of said sections shall not exceed \$150. The state department of education shall determine the eligibility of the children who make application for the benefits provided under said sections and shall determine the amount to be awarded to each eligible applicant, not in excess of the maximum amount specified in this section, giving due consideration in each case to the necessary expenses for attending school and the resources available to the applicant for meeting these expenses. The department shall provide such forms and make such rules and regulations as it considers necessary for carrying out the provisions of said sections. (R. S. c. 37, § 120.)

**Sec. 138. Free tuition.**—All children qualifying as war orphans under the provisions of sections 136 to 139, inclusive, shall be admitted to state supported institutions of collegiate grade free of tuition. (R. S. c. 37, § 121.)

**Sec. 139. Appropriations.**—Appropriations for the administering of the provisions of sections 136 to 139, inclusive, shall be determined from the recommendation of the commissioner, who shall furnish estimates of the costs of carrying out the provisions of the said sections in the same manner as other appropriations accruing to the department of education are handled. (R. S. c. 37, § 122.)

### Instructors. Duties and Qualifications. Degrees. Holidays. Moral Instruction.

**Sec. 140. Presidents of colleges, tenure.**—Presidents of colleges are removable at the pleasure of the trustees and overseers whose concurrence is necessary for their election. (R. S. c. 37, § 123.)

**Sec. 141. Conferring literary or academic degrees without authority of legislature; state department of education to collect and preserve records.**—No person, partnership, institution or corporation, or their legal representatives, shall be empowered to confer educational, literary or academic degrees unless thereunto expressly authorized by an act of the legislature. Any person, partnership, institution or corporation, or any of their legal representatives, offering or conferring degrees without being thereunto duly authorized, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

The trustees or officers of any college or other institution of learning, whether incorporated or not, upon going out of existence or ceasing to function as an educational institution, may turn over its records of all grades attained by its students to the state department of education to be preserved as important material of historical and record value.

The commissioner shall, when requested, prepare transcripts of all grade records, which may, at any time, become necessary to the former student for further scholastic work at another institution of learning, for certification for teaching and for other professional positions. Whenever such transcript is made from the original and certified by the commissioner, it shall thereafter be considered and accepted as legal evidence and, for all other purposes, the same as the original itself. The state department of education shall charge a nominal fee for the actual cost of preparing such transcripts.

The commissioner shall further collect all records of educational institutions within the state which are now extinct, or shall hereafter become extinct, and shall deposit all such records in a place of safety and accessibility for future preservation and use.

The provisions of this section shall be mandatory in the case of all new educational institutions and corporations chartered after June 30, 1933. (R. S. c. 37, § 124. 1945, c. 252.)

**Sec. 142. Approval of degree-granting institutions.**—Any educational institution seeking authority to grant any educational, literary or academic degree shall make application to the secretary of state, in a manner prescribed by him, not later than the May 1st immediately preceding the legislative session.

Upon notification from the secretary of state, it shall be the duty of the commissioner to obtain full information regarding the merit of the institution to confer the degree. He shall use those standards which are commonly accepted in the accreditation of American educational institutions; and shall prepare for the use of the legislature a report regarding the adequacy of the institution's buildings, instructional facilities and provisions for the safety and well-being of students; the qualifications of the faculty; the character of the program of studies and of the requirements for award of diplomas; practices in the admission of students; the adequacy of financial resources; and the governing policies of the institution. The report, with recommendations of the state board of education, shall be delivered to the secretary of state at least 10 days before the opening of the regular legislative session.

Any institution not previously authorized to confer a degree must have been in regular operation at least 2 years before the legislature grants authority to confer a degree.

An institution authorized to confer a degree shall inform the commissioner of any substantial reduction in its educational program or resources available to students. If in the judgment of the state board of education these changes are sufficient to warrant review of the institution's authority to confer degrees, it shall be the duty of the commissioner to report these changes to the current membership of the legislative committee which originally considered the measure. (1953, c. 359.)

**Sec. 143. Fees for degrees.**—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. (R. S. c. 37, § 125.)

**Sec. 144. Instructors of colleges, etc., to inculcate certain virtues; kindness to birds and animals taught in public schools.**—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 to promote their future happiness; and the tendency of the opposite vices, to slavery, degradation and ruin; all teachers in the public schools of the state shall devote not less than  $\frac{1}{2}$  hour of each week of the school term to teaching to the children under their charge, in correlation with other studies of the school curriculum, the great principles of humanity as illustrated by kindness to birds and animals and regard for all factors which contribute to the well-being of man. (R. S. c. 37, § 126.)

Cited in *Patterson v. Nutter*, 78 Me. 509, 7 A. 273.

**Sec. 145. Readings from scriptures in public schools; no sectarian comment or teaching.**—To insure greater security in the faith of our fathers, to inculcate into the lives of the rising generation the spiritual values necessary to the well-being of our and future civilizations, to develop those high moral and religious principles essential to human happiness, to make available to the youth of our land the book which has been the inspiration of the greatest masterpieces of literature, art and music, and which has been the strength of the great men and women of the Christian era, there shall be, in all the public schools of the state, daily or at suitable intervals, readings from the scriptures with special emphasis upon the Ten Commandments, the Psalms of David, the Proverbs of Solomon, the Sermon on the Mount and the Lord's Prayer. It is provided further, that there shall be no denominational or sectarian comment or teaching and each student shall give respectful attention but shall be free in his own forms of worship. (R. S. c. 37, § 127.)

**Sec. 146. Moral instruction.**—The school committee of each city or town is authorized and empowered to provide for the moral instruction of pupils subject to the jurisdiction of such committee in the manner provided for in sections 146 to 152, inclusive. (R. S. c. 37, § 128.)

**Sec. 147. Survey of religious affiliation.** — The school committee of each city or town may authorize and complete a survey of the religious affiliations of all pupils attending the public schools within such city or town, and ascertain those pupils who desire and have the consent of parent or guardian for moral instruction. On a day in each week, to be fixed by the board, it may excuse such pupils for at least 1 hour for the purpose of attending their respective places of worship, or some other suitable place, there to receive moral instruction in accordance with the religious faith of said pupils. (R. S. c. 37, § 129.)

**Sec. 148. Rules and regulations.**—Each school committee is authorized to adopt rules and regulations for carrying into effect the provisions of sections 146 to 152, inclusive, and to make such arrangement with the respective persons in charge of the several denominations for the giving of the aforesaid moral instruction. (R. S. c. 37, § 130.)

**Sec. 149. Credit for time spent at places of worship.**—Pupils attending their several places of worship for moral instruction therein at the time specified and for the period fixed shall be credited with the time so spent as if such pupils had been in actual attendance at school. (R. S. c. 37, § 131.)

**Sec. 150. Children to remain in school or be present at place of worship.**—Any child which, for any reason fails to receive the aforesaid moral instruction, shall remain in school during the period when such instruction is

being given as herein provided, but such child shall not receive any educational advantage over children receiving said instruction. (R. S. c. 37, § 132.)

**Sec. 151. Expense.**—The aforesaid moral instruction shall be given without expense to any city or town, the pupils of which receive such instruction, and no city or town, or the school committee thereof, shall incur any expense for such instruction beyond the cost of the original survey, hereinbefore mentioned. (R. S. c. 37, § 133.)

**Sec. 152. Intent of §§ 146 to 152.**—It is declared to be the intent of the legislature that the provisions of sections 146 to 152, inclusive, shall be permissive and not mandatory. (R. S. c. 37, § 134.)

**Sec. 153. Temperance day; commissioner to prepare material.** — The 1st Friday in March of each year or the school day in each year nearest that date shall be designated as Temperance day, and in every public school in this state not less than 45 minutes of the school session shall be set apart and used for instruction and appropriate exercises relative to the history and benefits of temperance laws; said schools to continue their work so far as practicable during the remainder of the day.

It shall be the duty of the commissioner to prepare suitable material for the observance of Temperance day. It shall be the duty of all school officials in the several towns of the state and all public school teachers within the state to comply with the provisions of this section. (R. S. c. 37, § 135.)

**Sec. 154. School holidays; special observances.**—The following days shall be observed as school holidays, namely: Patriot's day, April 19; Memorial day, May 30; Independence day, July 4; Labor day, 1st Monday in September; Armistice day, November 11; Christmas day, December 25; Thanksgiving and Arbor day, as appointed by the governor and council: provided, however, that Arbor day shall not be recognized as a school holiday unless observed by teacher and pupils for the purpose for which it is designated by the governor and council; and provided further, that Lincoln day shall be observed by devoting some part of the day to the study of the life and character of Abraham Lincoln. All teachers of public schools in the state shall close their schools on the above-named days and draw pay the same as if their schools had been in session. When any one of the above-named holidays falls on a Sunday, the Monday following shall be observed as a school holiday, with all the privileges applying to any of the days above-named. In addition to the foregoing, New Year's day, January 1; Washington's birthday, February 22; Columbus day, October 12, shall, upon vote of the superintending school committee of any town, be observed by teachers and pupils of the public schools of said town by an exercise appropriate thereto, such exercise to be held during such part of the school session as the teacher of each school may designate. The exercises so held shall aim to impress on the minds of the youth the important lessons of character and good citizenship to be learned from the lives of American leaders and heroes and from a contemplation of their own duties and obligations to the community, state and nation of which they constitute a part. In the absence of any vote of the superintending school committee, said days shall be observed as legal school holidays with the closing of schools. (R. S. c. 37, § 136.)

See c. 11, § 12, re National Arbor day.

### Teachers' Associations.

**Sec. 155. Teachers' associations.**—Whenever not less than 30 of the teachers and school officers of any county shall have formed an association under rules of government approved by the commissioner 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 commissioner, the state shall defray the necessary expenses attending the holding of such conventions. Whenever a superintendent of schools shall hold a meeting or institute of the teachers of several towns for the purpose of giving instruction in methods of teaching or the conduct of schools or for the training of teachers already in service in a manner approved by the commissioner, financial assistance may be given by the state in defraying the expenses of such meetings. (R. S. c. 37, § 137.)

**Sec. 156. Teachers may suspend schools during conventions.**—Teachers of public schools may suspend their schools for not more than 2 days in any year during the sessions of such conventions within their counties and also for not more than 2 days in any year during the sessions of any state teachers' convention approved by the commissioner, 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 commissioner, showing such attendance. (R. S. c. 37, § 138.)

#### Schools in Plantations.

**Sec. 157. Plantations to maintain schools.**—Plantations have the same powers and liabilities as towns for electing superintending school committees, superintendents of schools, treasurers and collectors, and for raising, assessing and collecting school money, to be apportioned and expended as 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. (R. S. c. 37, § 140.)

**Cross references.**—See c. 36, § 54, re plantations.  
organized townships fund; c. 101, § 3, re **Cited in** Bragg v. Burleigh, 61 Me. 444.  
organization of townships; c. 101, § 11, re

**Sec. 158. School moneys of plantations.**—All moneys due plantations from the state treasury for school purposes shall be paid to the treasurers of such plantations under the same conditions as in case of towns, and the same shall be expended by such plantations under the same restrictions and limitations as are required of towns. (R. S. c. 37, § 141.)

#### Schooling in Unorganized Territory.

**Sec. 159. Children between 5 and 21 in unorganized territory entitled to school privileges; "unorganized territory" defined.**—All children between the ages of 5 and 21 years who reside with a parent or legal guardian in unorganized territory within this state shall be entitled to school privileges, which shall be provided under the direction of the commissioner under such rules and regulations as may be made from time to time by him and approved by the governor and council. Within the meaning of sections 157 to 183, unorganized territory shall include all territory not a part of any city, town or plantation, and an unorganized unit shall be any unorganized township, gore, strip, tract, surplus, point, patent, peninsula, island, deorganized town or plantation or any other distinct and separate portion of unorganized state territory. (R. S. c. 37, § 142.)

**Sec. 160. Elementary schools established or children sent to other schools; tuition; transportation; board.**—Elementary school privileges may be provided by the commissioner by establishing and maintaining in the unorganized territory such elementary schools, the minimum school year of which



shall be 36 weeks, as may seem advisable and by sending such children to elementary schools anywhere within the state as tuition pupils as he may deem expedient. All children so sent by the commissioner as tuition pupils to any public elementary school in the state shall be admitted by the school authorities having charge thereof upon receiving notice of such intention from the commissioner or any of his duly authorized agents, and they shall be entitled to all privileges and benefits and be subject to the same rules and regulations as children residing in the municipality to which they are sent; tuition shall be paid by the state for said pupils in accordance with the proportional cost per pupil of the school attended unless a rate of tuition is otherwise agreed upon; transportation or board, in full or in part, may be paid for such pupils at the discretion of the commissioner. (R. S. c. 37, § 143. 1953, c. 40, § 2.)

**Sec. 161. State to pay tuition in secondary school; board.**—Any youth who resides with a parent or legal guardian in the unorganized territory of this state and who may be judged by the commissioner qualified to enter a secondary school may attend any such school in the state to which he may gain entrance by permission of those having charge thereof, provided said school shall be of standard grade approved by the commissioner. In such case the tuition of said youth, not to exceed the same amount towns not supporting and maintaining a standard secondary school are required by law to pay annually for secondary school tuition, shall, provided a satisfactory standard of scholarship and deportment is maintained, be paid by the state under such rules and regulations as may be made by the commissioner.

It is further provided that, in the case of any youth qualified for attendance at secondary school in accordance with the provisions of the preceding paragraph, who resides with his parents, legal guardian or person acting in loco parentis, on a Maine coast island in the unorganized territory, so located that in the judgment of the commissioner attendance at secondary school necessitates boarding away from home and the arrangement is approved by him in advance upon a form provided for the purpose, the state shall pay an amount for this purpose toward his board not to exceed \$180 for the school year or a prorated amount for any fraction thereof. Payment for said board shall be made, upon receipt of a satisfactory attendance record, at the end of periods not longer than 1 school month. (R. S. c. 37, § 144. 1945, c. 119.)

**Sec. 162. Tuition charges.**—The superintending school committee of any municipality may, when it seems advantageous and to the best interest of the children concerned, arrange for children who are entitled to school privileges in their respective municipalities to attend schools maintained by the state in unorganized territory, subject to such terms and conditions as the commissioner may determine. Per pupil tuition charges for such an arrangement shall be computed as follows: The gross cost of schooling for the preceding fiscal year, for the unorganized unit in which the school is located, plus the total amount of assessment for capital expenditures, if any, as made for the preceding fiscal year, divided by the average daily attendance of pupils attending school in the unorganized unit during the preceding school year. That portion of tuition income based on capital expenditure shall be credited to the unorganized territory capital working fund for the fiscal year in which it is earned and shall reduce the indebtedness charged against the unorganized unit in which it was earned. The balance of tuition income shall be credited to the general fund of the state for the year in which it is earned and shall be a credit in computing any school assessment on the property of the unorganized unit concerned. The commissioner is authorized to make such allowances or adjustments as he deems reasonable for conveyance or other services furnished by a sending municipality for pupils sent as tuition students to a school in an unorganized unit.

The superintending school committee of a municipality shall pay, prior to June

30 of the school year for which a schooling agreement is made under the provisions of this section, any sums agreed upon and shall charge such sums to the appropriations of money raised in said municipality for school purposes. (1951, c. 410, § 1.)

**Sec. 163. Schooling of children on government reservation.**—Special arrangements may be made to provide elementary school privileges in cooperation with the United States government for a child or children residing with a parent or legal guardian at any light station, fog warning station, lifesaving station or other place within a United States government reservation under such rules and regulations as may be made by the commissioner and approved by the governor and council. (R. S. c. 37, § 145.)

**Sec. 164. Unorganized territory school fund.** — Such amounts as are necessary to carry out the provisions of sections 159, 160, 161, 164, 165, 177 and 183 shall be paid out of the unorganized territory school fund heretofore established. The commissioner is authorized to use this fund for any purpose in connection with the schooling of children in the unorganized territory of the state, including: salaries, board and traveling expenses of teachers and supervisors; conferences, training programs and professional improvement of teachers; fuel and janitor service; tuition, board and transportation of elementary school pupils; secondary school tuition; text and reference books, school apparatus and supplies; leases or rentals of lots or school buildings; minor repairs to school buildings or equipment; services, expenses and fees of agents, attendance officers and clerical assistance; office expenses; utility service; school medical and dental services; and any other expenses he may deem necessary to carry out the purposes of the above-mentioned sections. (R. S. c. 37, § 146. 1945, c. 350, § 7. 1951, c. 260, § 2; c. 410, § 2.)

See c. 36, § 53, re funds in unorganized territory school fund.

**Sec. 165. Census before school privileges provided.**—Before school privileges are provided in accordance with sections 159 to 163, inclusive, for a child or children in any unorganized unit, it shall be the duty of the commissioner through his agents to procure returns showing the number of persons, including the names and ages of those between 5 and 21 years, resident therein, together with such other information as he may deem necessary, and similar returns shall be required by him annually thereafter on the 1st day of April, or corrected to the 1st day of April, as long as school privileges are so provided. (R. S. c. 37, § 147.)

**Sec. 166. School tax rate.**—

**I.** On April 1, annually, the total cost of school privileges provided in any unorganized unit under sections 159, 160, 161 and 164, for the school year ending on the preceding June 30, together with an additional charge of 8% of such total cost for administration, but with deductions for the amount of interest on lands reserved, if any, prorated to allow for the allocation provided by subsection I of section 53 of chapter 36, of said unorganized unit for said school year and any other sums credited to the unorganized territory school fund on behalf of said unit, shall be assessed upon the property of said unorganized unit by the state tax assessor in accordance with the provisions of section 79 of chapter 16; provided said assessment shall be limited to the average of school tax rates of the municipalities of the state for the preceding school year. It shall be the duty of the commissioner to furnish on or before February 10 of each year to the state tax assessor a statement of expenditures for school purposes in each unorganized unit during the preceding school year and deductions on account of interest on lands reserved and other credits as hereinbefore provided for such unorganized units, for use in making said tax

assessment and as a permanent record thereof. A copy of said statement shall also be furnished to the commissioner of finance and administration, who shall credit the amount of said tax assessment to the unorganized territory school fund for the fiscal year following the date of such statement. (1945, c. 41, § 30; c. 350, § 8. 1951, c. 260, § 3. 1953, c. 265, § 6; c. 308, § 62)

**II.** The state tax assessor shall include the amounts of such school tax assessment, as made in accordance with the provisions of section 79 of chapter 16, in the statements referred to in section 82 of chapter 16. He shall collect such taxes and deposit the receipts with the treasurer of state daily. Payment and collection of such school taxes shall be in accordance with the provisions of sections 83 to 85, inclusive, of chapter 16. (1951, c. 260, § 3)

**III.** Such additional amounts as are recommended by the commissioner as necessary to carry out the provisions of sections 159, 160, 161, 164, 165, 177 and 183 shall be paid out of such sums as may be appropriated by the legislature and credited to the unorganized territory school fund. (1951, c. 260, § 3)

**IV.** Any unexpended balance in the unorganized territory school fund shall be carried forward and shall not lapse into the unappropriated surplus account. [1951, c. 260, § 3]. (R. S. c. 37, § 148. 1945, c. 41, § 30; c. 350, § 8. 1951, c. 260, § 3. 1953, c. 265, § 6; c. 308, § 62.)

**Sec. 167. Unorganized territory capital working fund.**—The unorganized territory capital working fund, as heretofore established and hereinafter in sections 167 to 176, inclusive, referred to as the "fund," shall be a continuing fund in the books of the state to be used as provided in section 168. Any unexpended balances shall not lapse, but shall remain a continuing carrying account. (1951, c. 410, § 3. 1953, c. 369.)

**Sec. 168. Use of fund.**—The commissioner is authorized to use the fund for erection, equipment, major repair, remodeling and alteration of school houses and other requisite buildings; the purchase of lots or buildings for school purposes; the purchase, equipment and major repair of school buses; and for any other necessary capital expenses in connection with the schooling of children in the unorganized territory of the state. (1951, c. 410, § 3.)

**Sec. 169. Assessment for capital outlay.**—Expenditures for capital outlay made during any school year ending June 30 in any unorganized unit, as defined in section 159, shall be assessed upon the property of said unorganized unit by the state tax assessor and added to the state tax for the year in which it is assessed, provided that said assessment shall not exceed 1% of the state valuation of said unorganized unit in any 1 year; provided further that should such assessment fail in any 1 year to equal the amount expended, any balance remaining shall be assessed each succeeding year upon the property of said unorganized unit in amounts that shall not exceed in any 1 year 1% of the valuation of the said unorganized unit, until the whole expenditure has been returned to the fund. It shall be the duty of the commissioner to file on or before March 15 of each year with the state tax assessor a statement of expenditures made during the preceding fiscal year under the provisions of section 168 and of any balances due in accordance with this section for use in making said tax assessment and as a permanent record thereof. A copy of said statement shall also be furnished the commissioner of finance and administration who shall credit the unorganized territory capital working fund with the amount of said tax assessment. (1951, c. 410, § 3. 1953, c. 265, § 6; c. 308, § 63.)

**Sec. 170. Additional assessment.**—The assessment or assessments provided under section 169 shall be in addition to any other assessment made on the property in an unorganized unit for school purposes. (1951, c. 410, § 3.)

**Sec. 171. Assessment basis; validity.**—All assessments made under the provisions of sections 167 to 176, inclusive, shall be based on the valuation of each unorganized unit as determined for the year in which the assessment is made by the state board of equalization, and set forth in the statement filed by it as provided in section 67 of chapter 16. Any assessments made shall be valid, and all remedies heretofore or hereafter provided for the collection of state taxes shall apply. (1951, c. 410, § 3. 1953, c. 308, § 64.)

**Sec. 172. Assessment and collection.**—The state tax assessor shall, not later than April 1, following the filing of the statement by the commissioner as provided by section 169, make an assessment of the total amount certified and shall determine the amount of tax due in accordance with the provisions of section 79 of chapter 16 and include such amount in the statement referred to in section 82 of chapter 16. The state tax assessor shall collect such taxes and deposit the receipts with the treasurer of state daily. Payment and collection of such taxes shall be in accordance with provisions of sections 83 to 85, inclusive, of chapter 16. (1951, c. 410, § 3. 1953, c. 156, § 6.)

**Sec. 173. Expenditures for 2 or more units.**—When 2 or more unorganized units share the advantages of a capital expenditure made under the provisions of sections 167 to 176, inclusive, the commissioner shall determine as equitably as possible the amount of such expenditures to be assessed on the property of the respective units as provided in section 169. (1951, c. 410, § 3. 1953, c. 308, § 65.)

**Sec. 174. Transfer of property or equipment.**—Whenever any property or equipment is purchased under the provisions of sections 167 to 173, inclusive, a depreciation control of the asset shall be kept and when it is transferred from one unorganized unit to another, a credit for remaining use value, as determined by the commissioner, shall be given to the unorganized unit from which the property is transferred and a corresponding amount shall be charged in accordance with the provisions of section 169 to the unorganized unit receiving the property. (1951, c. 410, § 3. 1953, c. 308, § 66.)

**Sec. 175. Assessment after organization of units.**—Whenever any unorganized unit, in which capital expenditures have been made under the provisions of sections 167 to 176, inclusive, becomes organized as a town or plantation, the state tax assessor shall add annually to the state tax of such town or plantation the amount such town or plantation would have paid in accordance with the provisions of section 169 had it not become organized. (1951, c. 410, § 3. 1953, c. 308, § 67.)

**Sec. 176. Treasurer of state authorized to accept gifts, bequests and other funds.**—The treasurer of state is authorized to accept gifts, bequests and other funds from public or private agencies, subject to any conditions contained therein provided such conditions are approved by the state board of education, to be credited to the capital working fund. When any such gift, bequest or grant is made for a particularly designated purpose, the amount so received shall be used to reduce the total amount of capital outlay involved in the project designated and due to be returned to the fund as provided in section 169. (1953, c. 284.)

**Sec. 177. School agents and attendance officers appointed; duties.**—The commissioner shall have authority to appoint agents for the whole and any portion of the unorganized territory, and said agents shall perform such duties in connection with the schooling of children as the commissioner may authorize or delegate in each particular appointment. Said agents shall act as attendance officers for the territory covered by their appointment. Special attendance officers as may appear necessary may be appointed by said commissioner for any

unorganized unit. Attendance officers for the unorganized territory shall have the same authority and be under the same obligations as provided in section 94, with such changes as provided in section 183. (R. S. c. 37, § 149.)

**Sec. 178. Land for schoolhouses taken; damages.**—When a location for a schoolhouse and requisite buildings in any unorganized unit has been designated by the commissioner, and the owner thereof refuses to sell, or, in the opinion of the said commissioner asks an unreasonable price for it, or resides without the state and has no authorized agent or attorney therein, the said commissioner or his duly authorized agent, any time after 30 days from the time of notifying the said owner of the designation of said lot, may lay out a schoolhouse lot, not exceeding 3 acres, and appraise the damages; and on payment or tender of such damages, or if said owner does not reside in the state, upon depositing such damages with the treasurer of state for his use, may take such lot to be held and used for the purposes aforesaid, and should a school building not be erected thereon within a period of 3 years from the date the lot was taken by the state, it shall revert to the owner, his heirs or assigns. The said commissioner may take real estate for the enlargement or extension of any location designated for the erection or removal of a schoolhouse and requisite buildings and playgrounds, as herein provided; but no real estate shall be so taken within 50 feet of a dwelling house, and all schoolhouse lots and playgrounds that require fencing shall be fenced by the state. (R. S. c. 37, § 150.)

**Sec. 179. Appeal.**—If the owner is aggrieved at the location of the lot or the damages awarded, he may apply to the state tax assessor within 3 months, who may change the location and assess the damages. If the damages are increased or the location changed, the state shall pay the damages and costs; otherwise the costs shall be paid by the applicant. (R. S. c. 37, § 151.)

**Sec. 180. Payment for school buildings on organization.**—Whenever any unorganized unit becomes organized as a town or plantation, such town or plantation shall, within 5 years of the date of said organization, through the commissioner, pay to the treasurer of state for each school building within its limits erected or remodeled prior to August 20, 1951, a sum to be determined by the commissioner and approved by the state board of education, which sum shall be credited to the general fund of the state. A record shall be kept by the commissioner of the cost of all such buildings, lots and improvements, which shall be used as a basis for such settlement. It is further provided that any town or plantation dissatisfied with the sum determined upon by the said commissioner in such case may, after a vote taken by the town or plantation at a regular or special meeting called for the purpose, appeal to the governor and council who shall make the final decision relative thereto. (R. S. c. 37, § 152. 1945, c. 350, § 9. 1951, c. 410, § 4. 1953, c. 308, § 68.)

**Sec. 181. School property taken by state; deorganized towns.**—Any school building in unorganized territory may be used and held for school purposes by the commissioner and all repairs, changes or additions thereto shall be made under his direction or that of a duly authorized agent. All school buildings not privately owned in unorganized territory are declared to be the property of the state. Whenever a town or plantation becomes deorganized by act of the legislature, all school property therein shall become the property of the state and under the charge of the commissioner, the same as other school property in unorganized territory. (R. S. c. 37, § 153.)

**Sec. 182. Failure to elect officers, state to take charge.**—Whenever the civil organization of any town or plantation becomes defunct through failure to hold the annual town or plantation meeting, failure to fill vacancies in necessary offices or in any other manner, it shall be the duty of the commissioner to

assume charge of all school property therein, to require an accounting for all town or plantation school funds and to provide school privileges for children between 5 and 21 years of age whose parents are residents of such town or plantation, until such time as it shall recover its civil organization or is deorganized by act of the legislature. The commissioner may provide the school privileges in such manner as he may deem expedient under the supervision of any of the agents of the unorganized territory or a special agent appointed by him for the purpose. The expense of such school privileges shall be paid from the appropriation for schooling in unorganized territory, and in case any such town or plantation recovers its civil organization within a period of 2 years, the amount of any such expense paid by the state shall, upon recommendation of the commissioner, be deducted by the treasurer of state from any school funds that may subsequently become payable to such town or plantation by the state and credited to the appropriation for schooling in unorganized territory. (R. S. c. 37, § 154.)

**Sec. 183. Laws applicable.**—The compulsory school attendance laws, child labor laws and sections 74 and 75 and 231 to 234, inclusive, shall apply to children of the unorganized territory of the state the same as to the children of cities, towns and plantations with such changes thereof relative to officials, courts, disposal of fines, etc., as may be made by the commissioner and approved by a justice of the supreme judicial court, to make these laws applicable to the unorganized territory while retaining the general principles of the laws; and it shall be the duty of the said commissioner to have these laws, with the changes as made, printed in sufficient quantity for use in the unorganized territory and to supply them to any person making application therefor. (R. S. c. 37, § 155.)

#### State Examination of Teachers.

**Sec. 184. Certificate; examination; regulations; revocation.**—Certificates of qualification signed by the commissioner shall be granted to all candidates who pass satisfactory examinations in such branches as are required or permitted by law to be taught in the public schools and who in other respects fulfill the proper requirements; provided, however, that no person shall be eligible for a certificate unless he is at least 17 years of age and has completed not less than a standard secondary school course or unless he shall present satisfactory evidence of such educational attainment otherwise secured as may be adjudged by the commissioner to be the equivalent of said standard secondary school course. Such certificate shall be either probationary or permanent, and shall indicate the grade of schools which the person named therein is qualified to teach; provided, however, that no certificate of secondary grade shall be granted to any person who has not completed the equivalent of 2 years of a college or normal school course. No certificate shall be granted to any person to teach in the public schools of the state unless he furnishes evidence of good moral character and meets such requirements as to preliminary education and training as may be prescribed by the commissioner; nor shall a certificate be granted to any person to teach in the elementary schools who cannot present satisfactory evidence of such training in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system. Provided, however, that the certificate may be granted without the examination herein prescribed to graduates of colleges and Maine state normal schools or of other normal training schools having a 2 years' course for graduates of high schools or academies and to teachers of 2 years' service and satisfactory fitness, on the presentation of such evidence of fitness and under such special conditions as the commissioner may prescribe. Provided further, that certificates may, under the rules prescribed by the commissioner, be granted to persons holding state certificates granted by authority of other states. Provided further, that any certificate granted under this or any preceding law may for sufficient cause be revoked and annulled. Nothing in this

section relative to revocation of teachers' certificates shall be retroactive. Any teacher whose certificate has been revoked shall be granted a hearing on request before a committee; one member to be selected by the commissioner, the second by the teacher involved and the third by the other 2 members. The hearings before this committee may be public at their discretion and their decision shall be final. (R. S. c. 37, § 156.)

Cited in Perkins v. Standish, 143 Me. 353, 62 A. (2d) 321.

**Sec. 185. List of persons certificated.**—A list of persons certificated under the provisions of the preceding section shall be kept in the office of the commissioner and copies of the same with such information as may be desired shall be sent to school committees and superintendents upon their request. (R. S. c. 37, § 157.)

**Sec. 186. State certificate necessary for employment.**—No persons shall be employed to teach in any school under the supervision and control of any school board of any city, town or plantation of this state who do not hold a state certificate as provided for in this chapter. Provided further, that all state certificates granted before July 12, 1913 shall continue in force in accordance with the terms stated therein. The commissioner is authorized to formulate all rules and regulations necessary for the carrying out of the provisions of this section and of the 2 preceding sections. (R. S. c. 37, § 158.)

**Certificate a condition precedent to authority of town to employ teacher.**—Under this section and § 187, the actual holding of a state teachers' certificate by a teacher was a condition precedent to the authority of the town to employ her, and it was a

condition precedent to her right to teach; such conditions precedent cannot be waived by the town or anyone acting in its behalf. Perkins v. Standish, 143 Me. 353, 62 A. (2d) 321.

**Sec. 187. Teaching without certificate.**—Whoever teaches a public school without first obtaining a state teachers' certificate, as provided in this chapter, is barred from receiving pay therefor and shall forfeit to the town in which he so taught such amounts as he shall have received for wages for such illegal teaching. (R. S. c. 37, § 159.)

Applied in Jose v. Moulton, 37 Me. 367; Perkins v. Standish, 143 Me. 353, 62 A. (2d) 321.

### Registration of Teachers.

**Sec. 188. Registration; lists furnished; fee.**—Any person holding a state teachers' certificate, or eligible to receive such may, upon the payment of \$3 and upon application to the commissioner in such manner as may be prescribed by him, register as a candidate for employment as a teacher in the public schools within the state. It shall be the duty of the said commissioner to furnish to superintending school committees or superintendents of schools, upon request, information relative to persons registered as hereinbefore provided, and to furnish persons thus registered information relative to vacancies in positions in public schools within the state; but neither the said commissioner nor any person employed under his direction shall be held responsible for, nor be understood to vouch for, the fitness or success of any teacher who may secure a position in a public school through the operation of this section, nor shall the acceptance of this enrollment and the payment of the required fee be construed as a guarantee for securing employment as a teacher. The payment of the above fee shall entitle the person registering to the benefit of such registration for a period of 3 years. (R. S. c. 37, § 160.)

**Sec. 189. Clerical assistance; disposition of fees.**—The commissioner shall make the necessary rules and regulations for carrying out the provisions of

section 188 and for obtaining whatever information is required as to the experience, qualifications and character of persons seeking employment as teachers, and a teacher shall be entitled to consideration for employment only so long as he complies with such rules and regulations. He shall employ such clerical and other assistants as may be required, subject to the provisions of the personnel law, and they shall perform their duties under the general supervision of said commissioner. He shall collect and receipt for all registration fees and report and pay such fees to the treasurer of state forthwith; such fees shall be credited to the general fund. (R. S. c. 37, § 161. 1945, c. 350, § 10.)

### Industrial Education.

**Sec. 190. Industrial education.**—The commissioner shall be charged with the duty of extending the investigation of methods of industrial education; he shall advise and aid in the introduction of industrial courses into free high schools and academies aided by the state and shall report on all special schools in which industrial education is provided. He shall inspect the courses of study offered in such free high schools and academies and he shall have authority to approve such courses in all schools aided by the state. (R. S. c. 37, § 163.)

See c. 27, § 3, re industrial education in state institutions.

**Sec. 191. Courses in normal schools and teachers' colleges.**—The state board of education shall cause to be introduced into all of the normal schools and teachers' colleges such courses in manual arts, domestic science and agriculture as will enable their graduates to teach elementary courses in those subjects in the rural and grade schools. In not more than one of said schools, the course in manual training shall be so extended as to offer opportunity to persons desiring to qualify as special teachers of that branch, and in not more than one, the course in domestic science shall be so extended as to offer similar opportunity to persons desiring to qualify as special teachers thereof. For the 2 special courses thus offered, the said board is authorized to expend annually such sums as may be available in appropriations for the support of said normal schools and teachers' colleges. (R. S. c. 37, § 164. 1945, c. 350, § 12; c. 378, § 37. 1951, c. 266, § 60.)

**Sec. 192. State aid for agriculture, industrial arts and home economics instruction.**—Whenever the superintendent of schools of any municipality or community school or the trustees of any incorporated academy shall certify to the commissioner, on forms prescribed by him, that instruction has been provided pupils of elementary schools, high schools or academies for the year preceding, said instruction having been approved as to course content, equipment and teacher qualifications, in general agriculture, industrial arts or general home economics, the commissioner is authorized to make apportionments of state aid as follows:

I. For municipal programs, the reimbursement payable in accordance with the provisions of section 237; (1951, c. 397, § 5)

II. For academy programs, the tuition reimbursement to the sending municipality as provided in sections 107, 108 and 237. [1951, c. 397, § 5]. (R. S. c. 37, § 165. 1945, c. 350, § 13. 1949, c. 407, § 1. 1951, c. 393, § 4; c. 397, § 5.)

**Sec. 193. State aid for evening schools.**—Whenever the superintending school committee of any town shall have maintained during the school year an evening school as provided by section 37, said town shall be reimbursed by the state a sum equal to  $\frac{1}{2}$  the amount paid for instruction in such evening school. Such schools shall meet the approval of the commissioner in regard to the qualifications of instructors, length of term, class attendance and subjects offered. (R. S. c. 37, § 166. 1951, c. 104.)



**Sec. 194. State aid for general industrial schools.**—The superintending school committee of any town, when authorized by vote of the town, shall establish and maintain as a part of the public school system of such town a general industrial school for the teaching of agriculture, household science, the mechanic arts and the trades. Such general industrial schools shall be open to pupils who have completed the elementary school course or who have attained the age of 15 years. The authority and duties of the superintending school committee and of the superintendent of schools in relation to such industrial schools shall be the same as in the case of the elementary and secondary schools, but the support of such schools shall be derived from funds raised in addition to any sums appropriated for the support of elementary and secondary schools. Whenever it shall be made to appear to the governor and council that any town has provided instruction in the trades and industries in a general industrial school maintained therein for a period of 36 weeks during the school year, and employing at least 1 teacher whose work is devoted exclusively to such instruction and having an average attendance of at least 20 pupils, the governor and council shall direct the treasurer of state to pay to the treasurer of such town a sum equal to  $\frac{2}{3}$  the total amount spent for instruction in said school, provided that not more than \$2,000 shall be paid by the state to any 1 town in any year. (R. S. c. 37, § 167.)

**Sec. 195. Reports.**—All reports required under the preceding 5 sections shall be filed annually with the commissioner on or before the 1st day of July and state aid shall be payable during the month of December next succeeding. (R. S. c. 37, § 168.)

### Vocational Education and Schools.

**Cross Reference.**—See c. 25, § 30, re vocational rehabilitation.

**Sec. 196. Vocational education.**—The state, having accepted the provisions of the act of congress entitled “An Act to Provide for the Promotion of Vocational Education; to Provide for Cooperation with the States in the Promotion of such Education in Agriculture and the Trades and Industries; to Provide for Cooperation with the States in the Preparation of Teachers of Vocational Subjects; and to Appropriate Money and Regulate Its Expenditure,” approved February 23, 1917, will observe and comply with all the provisions of said act. (R. S. c. 37, § 169.)

See c. 27, § 3, re vocational education in state institutions.

**Sec. 197. Treasurer of state custodian of funds.**—The treasurer of state is designated as custodian for all moneys received by the state from appropriations under the provisions of the act of congress of the United States referred to in section 196; for all moneys received by the state from the appropriations made by the congress of the United States for the vocational rehabilitation of persons disabled in industry or otherwise; and for all moneys received by the state from the federal government for vocational training, and the said treasurer of state is authorized to receive and provide for the proper custody of the same and to make disbursements therefrom upon the order of the state board of education or other legal authority. (R. S. c. 37, § 170. 1949, c. 349, § 73. 1951, c. 266, § 61.)

**Sec. 198. Cooperation with federal board.**—The state board of education, heretofore created, shall have all necessary power to cooperate with the federal board of vocational education in the administration of the provisions of the act of congress referred to in section 196. The members of said board shall serve without compensation. (R. S. c. 37, § 171. 1949, c. 403, § 4.)

**Sec. 199. Act of congress accepted.**—The state, having accepted the

provisions and benefits of the act of congress entitled "An Act to Provide for the Promotion of Vocational Rehabilitation of Persons Injured in Industry or Otherwise" approved June 2, 1920, will observe and comply with the provisions of said act. (R. S. c. 37, § 173.)

**Sec. 200. State board of education to administer.**—The state board of education is authorized to cooperate with the federal board for vocational education in the administration of the provisions of sections 199 to 202, inclusive; to prescribe and provide such courses of instruction and training as may be necessary for the vocational rehabilitation of persons injured in industry or otherwise, and to provide for the instruction and supervision of such training. (R. S. c. 37, § 175. 1949, c. 403, § 5.)

**Sec. 201. Cooperation with industrial accident commission.**—The state board of education is authorized to cooperate with the industrial accident commission to formulate a plan of cooperation in accordance with the provisions of sections 199 to 202, inclusive, and the act of congress referred to in section 199. (R. S. c. 37, § 176. 1949, c. 403, § 6.)

**Sec. 202. Gifts accepted; special fund; appropriation.**—The state board of education is authorized and empowered to receive such gifts and donations, either from public or private sources as may be offered unconditionally, or under such conditions related to the vocational rehabilitation of persons injured in industry or otherwise as in their judgment are proper and consistent with the provisions of sections 199 to 202, inclusive. All moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of disabled persons, to be used by said board to defray the expenses of vocational rehabilitation in special cases, including the payment of necessary expenses of persons undergoing training. (R. S. c. 37, § 177. 1949, c. 403, § 7.)

**Sec. 203. Technical and vocational schools.**—In addition to its duties connected with vocational education and vocational rehabilitation, the state board of education shall have authority to establish, maintain and operate state technical and vocational institutes to promote specialized training for returned veterans of World War II and other persons who give evidence of special aptitude or need and who desire specialized training designed specifically to train for service in trade, industry or commerce. (1947, c. 382. 1951, c. 266, § 62.)

**Sec. 204. Powers and duties.**—For the purposes of sections 203 and 204, the state board of education shall have power to accept and expend all funds received by it from the department of education on appropriation from the general fund of the state or from such gifts and donations either from public or private sources as may be offered unconditionally, together with fees as herein provided. The said board shall have authority to offer such courses of study, give such diploma or certificate on completion of a course of study, charge such tuition and other reasonable fees and set up such qualifications for admission as it deems necessary in any such technical and vocational schools. (1947, c. 382. 1951, c. 266, § 63.)

**Sec. 205. Part-time schools for persons over school age.**—In order to improve the industrial and civic efficiency of persons between the ages of 14 and 18 now engaged in industrial occupations and who have not reached the proficiency in reading, writing, arithmetic, language, geography, history and citizenship required for the completion of the elementary school course as recognized in the schools of the state, the superintending school committee and boards of education of the towns and cities of the state are authorized to establish part-time or part-time continuation schools and classes for the benefit of such persons. For the purpose of this section and the following section a part-time continuation school

or class shall be understood to mean such schools or classes as are conducted during the regular working hours of the persons employed. Such schools shall cover 144 hours per year and meet the standards set up by the state board of education. (R. S. c. 37, § 178, 1951, c. 266, § 64.)

**Sec. 206. Reimbursement from state and federal funds.**—Whenever the superintendent of schools of any town or city, on or before the 1st day of July, shall report to the commissioner that part-time or part-time continuation schools and classes have been maintained in accordance with the specified standards, and when such schools and classes shall be approved by the state board of education, the commissioner shall recommend to the governor and council annually in December the payment of reimbursement from federal funds designated for part-time schools and from state funds provided for industrial education to the extent of  $\frac{2}{3}$  the cost of instruction. (R. S. c. 37, § 179, 1949, c. 403, § 8.)

**Sec. 207. Application of §§ 205, 206.**—The 2 preceding sections shall not be construed to interfere in any manner with the provisions of chapter 30, relating to child labor. (R. S. c. 37, § 180.)

### Education of Physically Handicapped Children.

**Sec. 208. Purpose.**—The purpose of sections 208 to 216, inclusive, is to provide educational facilities and services for physically handicapped children between the ages hereinafter designated who are unable to properly care for themselves without assistance or who cannot be adequately taught with safety and profit in the regular public school classes of normal children. (1945, c. 149.)

**Sec. 209. Supervision.**—There is created in the department a division of special education to foster, inspect, approve and supervise a program of education, for physically handicapped children as defined in sections 208 to 216, inclusive. (1945, c. 149.)

**Sec. 210. Definition.** — Educational services for physically handicapped children shall include the training of teachers, and the teaching services for crippled, partially seeing, hard of hearing, defective speech, cardiopathic, tuberculous, cerebral palsied or otherwise physically handicapped children as defined herein or not otherwise provided for by the state. The age limits for such physically handicapped shall be from 5 to 21 years. Provided that with the approval of the department, the local board of education may admit individual pupils to such classes or home or institutional instruction any time after they are 5 years of age. (1945, c. 149.)

**Sec. 211. Purpose of appropriation.**—Appropriations made under the provisions of sections 208 to 216, inclusive, and subsequent appropriations made for the service are to be used to pay to local school districts for the excess cost of such education over and above the average per capita cost of educating normal children in their respective school districts or for attending classes outside their regular school districts, for subsidies on an individual pupil basis to institutional schools and for the administration of the provisions of sections 208 to 216, inclusive. The excess cost shall be paid to local districts under the direction of the division of special education to cover costs of teachers' salaries, necessary schoolroom equipment, special diets, therapeutic care, recreation, physiotherapy and transportation for those pupils who live within their own school districts where special classes are instituted. Such excess cost shall not exceed \$200 per school year per pupil which shall be prorated on a monthly basis; provided, however, that schools shall not be paid for a month's instruction unless a child has attended school a major portion thereof. When such pupils must be boarded away from their home districts in order to attend a special class, or be transported from other

districts, the excess cost may be increased, but not to more than \$350 per school year. If any such child shall attend less than a school year, such excess cost shall be prorated by the division of special education. Subsidies on an individual pupil basis are to be used for schools in treatment institutions, pupils attending classes in schools not in their regular school districts; the same to be distributed according to rules and regulations established by the division of special education. (1945, c. 149.)

**Sec. 212. Procedure.**—In any town where the parents of 5 or more of any type of physically handicapped children, or types which may be taught together, petition the board of education of that district for a special class, it shall be the duty of the school authorities to request the division of special education of the department to cooperate in the establishment of such class or classes under rules and regulations established for this purpose by the department; provided also that 2 or more towns may join together and contract to establish a special class or classes. In such a case, the various towns are to be paid the cost of educating the children in the special class or classes over and above the average per capita cost of educating normal children in the respective towns. In other towns where there is not a sufficient number for the organization of a special class or classes, physically handicapped children may be entered in special classes in any other town; or home teachers or approved correspondence courses shall be established. In such cases the tuition costs, not to exceed the per capita cost of maintaining such class, shall be paid by the town in which the child resides as aforesaid and the town paying the tuition shall be reimbursed by the state for the excess cost. (1945, c. 149.)

**Sec. 213. Teacher training and qualifications.**—Courses of study, adequacy of methods of instruction, qualifications of teachers and technicians, necessary equipment for education and prescribed rest and diets must comply with the requirements issued by the director of the division of special education with the approval of the commissioner. (1945, c. 149.)

**Sec. 214. Costs.**—The local board of education or institution in which such a school, class or special education is carried on shall include in its annual budget a sum equivalent to the state scholastic per capita apportionment for the children who are to be taught in such a class or school. The commissioner shall approve payment to the town, within the limits set forth in section 211 to the local board of education, of not more than the difference between the per capita cost of instruction and equipment for the normal children of that district in any corresponding grade of said school district, and the average per capita cost required to pay teachers' wages, and the cost of the necessary special school services, care and equipment to educate the children enrolled in the classes established for those children who may be included within the provisions of sections 208 to 216, inclusive; provided that no excess cost shall be paid for school buildings, premises or plant. (1945, c. 149.)

**Sec. 215. Reports.**—Local boards of education and institutions shall keep an accurate account in the manner and on the forms prescribed by the division of special education of all moneys paid out for the maintenance of such classes, care, instruction, transportation of pupils, subsidies and scholarships, and shall report those disbursements to the division of special education, including the average daily attendance and the excess cost of each pupil. The average daily attendance of pupils instructed by home teachers shall show the number of 60-minute hours devoted to such work and 5 such hours shall constitute a school week. (1945, c. 149.)

**Sec. 216. Appropriation.**—In addition to appropriations from the general fund of the state, funds from other sources may be accepted by the department,

subject to the approval of the governor and council, and expended to carry out the provisions of sections 208 to 215, inclusive. (1945, c. 149. 1947, c. 104.)

### Health, Safety and Physical Education.

**Sec. 217. Health, safety and physical education; rules; reports.**—In order more thoroughly to prepare the youth of the state for the duties and obligations of citizenship and to provide for their future well-being and comfort, it shall be the duty of the superintending school committees of the several towns of the state to make provision for the organization and development of adequate programs of health, safety and physical education and to require the teaching of these courses to all pupils in the public elementary and secondary schools of the state in accordance with a course of study and plans of lessons and instruction prepared by the commissioner, who shall prescribe such rules and regulations as may be necessary to carry out in successful manner said program of health, safety and physical education, and he may require such reports from superintendents as he may deem necessary. (R. S. c. 37, § 181. 1949, c. 407, § 2.)

**Sec. 218. Directors of physical education; qualifications and duties.**—Towns may employ supervisors and directors of physical education who shall meet such standards of preparation and certification as the commissioner may determine. It shall be the duty of the superintendent of schools in which directors or supervisors of physical education are employed to report to the commissioner, on blank forms prepared by him, the number of pupils receiving instruction, the number of directors and supervisors employed, the amount paid such directors or supervisors and such other information as may be required. (R. S. c. 37, § 182.)

### School Lunch Program.

**Sec. 219. Acceptance of National School Lunch Act.**—The state having accepted the provisions and benefits of the act of congress entitled "An Act to Provide Assistance to the States in the Establishment, Maintenance, Operation and Expansion of School-Lunch Programs and for Other Purposes" approved June 4, 1946, will observe and comply with the provisions of said act. (1947, c. 127.)

**Sec. 220. Treasurer of state custodian.**—The treasurer of state is designated custodian of all moneys received by the state from the federal government for establishment, maintenance, operation and expansion of school-lunch programs and he shall receive and provide for the proper custody of such moneys and disburse such money on requisition of the commissioner. (1947, c. 127.)

**Sec. 221. Administration.**—The superintending school committee of any town may establish, maintain, operate and expand a school-lunch program for the pupils in any school building under its jurisdiction, may make all contracts necessary to provide material, personnel and equipment necessary to carry out the provisions of the act, and may use therefor funds disbursed to them under the provisions of sections 219 to 222, inclusive, gifts and other moneys received from sale of school lunches under this program. The commissioner may give technical advice and assistance to any school committee in connection with the establishment and operation of any school-lunch program and may assist in training personnel engaged in the operation of such program. (1947, c. 127.)

**Sec. 222. Accounts, records, reports and operation.**—The commissioner shall prescribe regulations for the keeping of accounts and records and the making of reports by the superintending school committees. Such accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of 5 years, as the commissioner may prescribe. (1947, c. 127.)

### Normal Schools and Teachers' Colleges.

**Cross Reference.**—See c. 19, § 3, re audit; 1931, c. 216, Art. I, § 1, re audit.

**Sec. 223. Five normal schools and teachers' colleges.**—The Farmington state teachers' college at Farmington, the Gorham state teachers' college at Gorham, the Washington state teachers' college at Machias, the Madawaska training school at Fort Kent and the Aroostook state teachers' college at Presque Isle shall be conducted for the purposes and upon the principles herein set forth.

**I.** They shall be devoted to the training of teachers for their professional labors and such other post high school work as may be deemed essential by the state board of education. The provisions of section 226 shall apply only to the regular teacher education courses, and the state board may in its discretion establish special tuition charges for other post high school work. (1945, c. 379, § 1. 1951, c. 266, § 65)

**II.** The course of study shall be left to the discretion of this board. (1945, c. 379, § 1)

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

**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, and presidents of teachers' colleges 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 textbooks used and all other information required in the blanks furnished by the commissioner. [1945, c. 378, § 38. 1951, c. 266, § 66]. (R. S. c. 37, § 185. 1945, c. 378, § 38; c. 379, § 1. 1949, c. 349, § 76. 1951, c. 266, §§ 65, 66. 1953, c. 308, § 69.)

**History of state normal school system.**—See *Orono v. Sigma Alpha Epsilon Society*, 105 Me. 214, 74 A. 19.

**Agency of state.**—The normal school system is an apt illustration of what is known as instrumentality or agency of the state. *Orono v. Sigma Alpha Epsilon Society*, 105 Me. 214, 74 A. 19.

In establishing the state normal schools, the state itself took on a new form of pub-

lic service and the educational system thus adopted became in fact an instrumentality of the state. No corporation was created, no separate entity was brought into existence, but the state simply put out its own beneficent hand in a new direction, and the title to the property was taken in the name of the state. *Orono v. Sigma Alpha Epsilon Society*, 105 Me. 214, 74 A. 19.

**Sec. 224. Course of study.** — The course of study at the state normal schools and teachers' colleges shall occupy 2 years with suitable vacations, and, with the terms of admission, shall be arranged by the commissioner. The board may arrange for a course of study, occupying 3 or 4 years, for such students as elect to pursue the same and it may give such credit as it may deem advisable for successful teaching experience. (R. S. c. 37, § 186. 1945, c. 378, § 39. 1951, c. 266, § 67.)

See § 191, re industrial education.

**Sec. 225. Diplomas.** — Any student, who completes the course of study prescribed at a state normal school or teachers' college and otherwise complies with the regulations of the school or college, shall receive a diploma certifying the same, provided further, that the board may confer appropriate educational

degrees based upon 4 years of academic and professional instruction with such equipment and faculties as will safeguard the integrity of the degrees conferred. (R. S. c. 37, § 187. 1945, c. 378, § 40. 1951, c. 266, § 68.)

**Sec. 226. Applicants for admission, qualifications; tuition.**—Applicants for admission to state normal schools and teachers' colleges shall signify their intention to become teachers. The board shall charge \$200 for tuition to nonresidents of the state and \$100 for tuition to residents of the state. It may permit not exceeding 10% of the enrollment of residents to pay their tuition charges at such future dates as it may determine. (R. S. c. 37, § 188. 1945, c. 378, § 41. P. & S. L. 1951, c. 223, § 3. 1953, c. 308, § 70.)

**Sec. 227. Supervision.**—The state normal schools and teachers' colleges shall be under the direction of the state board of education. Said board shall have 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 shall have authority, by and with the consent of the governor and council, to dispose of and acquire property for the improvement of the plants and grounds; and biennially render to the governor and council an accurate account of the receipts and expenditures for the biennium preceding, including same as a part of the commissioner's report. The clerical and staff services for this board shall be performed by the employees of the department under the direction of the commissioner. This board shall have full authority to change the names of any or all of the state normal schools and to designate them as teachers' colleges when such institutions offer not less than 4 years of teacher-training work. The head of a teachers' college shall be designated as a president. (R. S. c. 37, § 189. 1945, c. 230; c. 378, § 42. 1949, c. 403, § 9.)

See § 191, re industrial education.

**Sec. 228. Reserve accounts.**—Reserve accounts, consisting of the appropriation balances as of July 21, 1945 as shown in the records of the state controller credited to each of the state normal schools and teachers' colleges as defined by the provisions of sections 223 and 229, shall be maintained in the general fund by the state controller for each such normal school and teachers' college. The balances of said accounts shall be carried forward each year. To each such reserve account there may be added annually such amounts as the legislature may appropriate. Surpluses realized from the dormitory activities shall be retained in the reserve account of the school from which realized and such surpluses shall be expended for maintenance of the dormitories. Other funds in reserve accounts may be expended for the extension or improvement of the facilities of the respective teachers' colleges and normal schools. All balances remaining in the reserve account as of June 30, 1947 shall remain in a separate activity under the reserve and shall be expended for the extension or improvement of the facilities of the respective normal schools and teachers' colleges by the state controller upon approval of the board. Future surpluses realized from dormitory activities shall be transferred at the end of each fiscal year to the reserve account under a separate activity, and may be expended by the state controller under the supervision of the board for the extension or improvement of the dormitory facilities of said schools. (1945, c. 152; c. 378, § 43. 1947, c. 374. 1951, c. 266, § 70.)

**Sec. 229. Madawaska Training School.**—The state board of education shall maintain, for not less than 8 months annually, the Madawaska Training School at Fort Kent for the purpose of training persons to teach in the public schools of Madawaska territory, so called, which school shall be under its control and direction in the same manner and to the same extent as the other state normal schools and teachers' colleges. (R. S. c. 37, § 190. 1945, c. 378, § 44. 1951, c. 266, § 71.)

**Sec. 230. State scholarships for normal school and teachers' college students.**—The state board of education shall develop and administer a plan for awarding scholarships to selected students enrolled in the normal schools and teachers' colleges of the state who have evidenced qualifications of general worth and professional promise as potential teachers, and who have demonstrated ability and willingness to support their educational expenses, but who may be in need of partial financial assistance with respect to their education costs. Each scholarship shall not exceed \$200 in any 1 year. The board may, at its discretion, reduce the amount of any particular award, when such a reduction would better serve the need of any otherwise eligible recipient. Amounts available for such scholarships shall be distributed annually by the board to the 5 normal schools and teachers' colleges in the following manner:

- I. \$1,000, or the equivalent of 5 full scholarships, to each college or normal school;
- II. Allocation of the balance of the scholarship fund to the 5 normal schools and teachers' colleges in the same proportions as the proportion of each institution's enrollment bears to the total student enrollment of the 5 institutions for the fall semester of the current year. (1953, c. 122, § 1.)

### Penal Provisions.

**Sec. 231. Forfeitures; expenditure.**—Forfeitures under the provisions of 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 cost of prosecution shall be paid into the county treasury; any town neglecting for 1 year so to expend such money forfeits an equal sum to any person suing therefor in an action of debt. (R. S. c. 37, § 191.)

**Sec. 232. Disturbing schools.**—Whoever, whether a scholar or not, enters any schoolhouse or other place of instruction during or out of school hours, while the teacher or any pupil is present, and willfully interrupts or disturbs the teacher or pupils by loud speaking, rude or indecent behavior, signs or gestures, or willfully interrupts a school by prowling about the building, making noises, throwing missiles at the schoolhouse or in any way disturbing the school, forfeits not less than \$2, nor more than \$20, to be recovered as aforesaid or on complaint. (R. S. c. 37, § 192.)

**Purpose of section.**—This provision appears to have been intended to secure the privileges of imparting and receiving education to all, without distinction or interruption. *State v. Leighton*, 35 Me. 195.

**The terms of this section will embrace all schools for instruction**, contributing to education in an enlarged signification, and there is no reason or authority for restricting its operation to a single class of

schools. *State v. Leighton*, 35 Me. 195.

**Private school is within purview of section.**—A private school for instruction in writing embraces a branch of education usually taught in public schools, and recognized by law, and is clearly within the purview and protection of this section. *State v. Leighton*, 35 Me. 195.

**Cited in** *Stevens v. Fassett*, 27 Me. 266.

**Sec. 233. Injuries by minor; damages.**—If a minor injures or aids in injuring any schoolhouse, outbuildings, 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 school property belonging to a town, such town by an attendance officer thereof may recover of his parent or guardian in an action of debt double the damage occasioned thereby. (R. S. c. 37, § 193.)

**Sec. 234. Defacing schoolhouses, outbuildings.**—Whoever defaces the walls, benches, seats, blackboards or other parts of any schoolhouse or outbuild-



ings belonging thereto, by obscene pictures, language, marks or descriptions, shall be punished by a fine of not more than \$10 on complaint made within 1 year. (R. S. c. 37, § 194.)

See c. 134, § 24, re making or circulating obscene books and picture; c. 140, § 26, re practice of vivisection.

### State School Funds.

**Sec. 235. Permanent school fund.**—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. Such interest shall accrue to a fund to be allocated to towns by the commissioner for the purpose of surveying school systems and developing school plans. Said allocation shall not in any case exceed  $\frac{1}{2}$  of the cost of such surveys or plans.

The treasurer of state and the state controller are authorized to apply in full restoration of losses sustained on impounded bank accounts of the "Permanent School Fund" from profits available on sale of capital assets of said fund and they are further authorized to set up an account "Reserve against Future Losses" in such amount as is and shall be available from capital gains after restoration of losses on impounded bank accounts, and all future capital gains or losses of this fund shall be charged to this account. All income received from investments of the "Reserve against Future Losses" account shall be distributed in the same manner as the income received from investments of the principal of the fund. (R. S. c. 37, § 195. 1945, c. 350, § 15; c. 353. 1947, cc. 80, 298. 1949, c. 349, § 77.)

**Cross references.**—See c. 36, §§ 53, 54, re organized and unorganized townships funds; c. 57, §§ 53, 59, re school funds held in trust by town or corporation; § 11, sub-§ XIV, re fees for high school equivalency

certificates for veterans paid from income of permanent school funds.

**Cited in** Wellington v. Lawrence, 73 Me. 125; Sawyer v. Gilmore, 109 Me. 169, 83 A. 673.

**Sec. 236. Definitions.**—For the purposes of section 108 and sections 235 to 241, inclusive, the following terms are defined:

The term "elementary school" shall be understood to include that part of the school organization of a town in which is offered a program of studies preceding that offered by a class A high school as defined by section 98.

The term "secondary school" shall be understood to include that part of the school organization of a town offering a program of studies as included in class A high schools or any part thereof as defined by section 98 and as arranged for by the establishment and maintenance of a free high school, a union high school or by contract with the superintending school committee of an adjoining town or with the trustees of an academy within the town or in an adjoining town as provided for by section 105.

The term "teaching positions" shall be understood to mean positions in elementary and secondary schools filled by classroom teachers, assistant classroom teachers, school principals, school nurses, supervisors, assistants to supervisors and teachers of special subjects, except when any such position is used as a basis for payment of state aid under the provisions of the laws encouraging vocational education, or when any such position is filled by a person devoting less than half of the school day to the duties of such positions. Provided, however, that the number of teaching positions in a secondary school shall be reckoned in such ratio to the actual number of such positions as the aggregate attendance of pupils residents of the town is to the aggregate attendance of all pupils regularly enrolled in the school and provided further, that a teaching position in an elementary or a secondary school maintained for any part of the school year shall be reckoned in such ratio to a complete position as the number of weeks which the position was maintained is to the number of weeks schools of the town were maintained.

The term "aggregate attendance" shall be understood to include the total number of days of attendance for any 1 school year of each regularly enrolled pupil resident of the town in elementary and secondary schools; provided that the attendance of each pupil present on the day preceding shall be counted for each school holiday within any school term, for each day of the school year when there is no session of school because of absence of the teacher in attendance on teachers' meetings, as provided by law and for not more than 1 day in each term when there is no session of school because of the absence of the teacher in visiting other schools when so authorized by the superintending school committee.

The term "membership" shall mean active participation in the program of a school from the date of enrollment to the time the student (a) withdraws or (b) is absent from the school for 10 consecutive days for reasons other than illness. (R. S. c. 37, § 197. 1945, c. 378, § 45. 1949, c. 349, § 78; c. 407, § 4. 1951, c. 393, § 5.)

**Sec. 237. General-purpose educational aid; minimum salaries for teachers; reimbursement for professional credits.**—On the basis of information available in the office of the commissioner on September 1st for the 2 years next preceding the biennial convening of the legislature, as provided in returns of educational statistics required by him, the commissioner shall apportion subsidies to the cities, towns, plantations and community school districts of the state according to the following plan:

The several cities, towns and plantations shall be divided into 9 classifications according to their valuations per resident school child being educated at public expense. The valuation shall be as determined by the board of equalization in the statement filed by it, as provided in section 67 of chapter 16 and effective on September 1st, and the number of children shall be the average of the last 2 enrollment reports of pupils being educated at public expense on April 1st annually.

For each classification the subsidy allocation shall be the same for each of the 2 years of the biennium and shall be a percentage of the average educational costs of the municipality for the preceding 2 years, excluding costs of capital outlay, rent, debt service, repairs and certain equipment, and deducting incidental receipts. The cost of vocational education shall be the average of local appropriations for the 2-year period designated in the 1st paragraph of this section.

The range of classifications and the percentage allocations shall be as follows:

Class	State valuation per resident pupil		Percentage of state support of educational operating expenditures
1	Not over	\$1,500	65%
2	\$1,501	\$2,250	55%
3	\$2,251	\$3,000	45%
4	\$3,001	\$3,750	35%
5	\$3,751	\$4,500	30% of first \$20,000 25% of the balance
6	\$4,501	\$5,500	25% of first \$20,000 20% of the balance
7	\$5,501	\$6,500	25% of first \$20,000 18% of the balance
8	\$6,501	\$7,500	25% of first \$20,000 16% of the balance
9	\$7,501 and over		25% of first \$20,000 14% of the balance

That portion of the allocation made under this section to any city, town or plantation which is a member of a community school district, because of its share in the allowable operating costs of the community school, shall be paid to the

community school district and shall be credited to the municipality's share of costs for the purposes specified in this section.

Each city, town, plantation and community school district shall employ only certified teachers and shall pay such teachers the minimum salaries as follows:

Years of teaching experience	Certified teachers	Teachers with 3 years of professional study beyond high school	Teachers with 4 years of professional study beyond high school and with a bachelor's degree	Teachers with an earned master's degree
0	\$1,600	\$2,000	\$2,400	\$2,400
1	\$1,700	\$2,100	\$2,500	\$2,500
2	\$1,800	\$2,200	\$2,600	\$2,600
3	\$1,900	\$2,300	\$2,700	\$2,700
4		\$2,400	\$2,800	\$2,800
5			\$2,900	\$2,900
6			\$3,000	\$3,000
7			\$3,100	\$3,100
8			\$3,200	\$3,200
9				\$3,300
10				\$3,400
11				\$3,500
12				\$3,600

Notwithstanding the provisions of this paragraph no town shall be required to increase the salary of any teacher more than \$300 in any 1 school year. Any city, town, plantation or community school district which fails to comply with any of these conditions shall have deducted from its apportionment a sum equal to that by which it is delinquent.

After providing an opportunity for a hearing, the board, on recommendation of the commissioner, may adjust the state subsidy to a municipality or community school district when, in the opinion of the board, the expenditures for education in such municipality or district show evidence of manipulation to gain an unfair advantage or are adjudged excessive.

Whenever any certified teacher completes, within any 2-year period, 6 credit hours of additional professional work approved by the commissioner and receives supplementary financial assistance in an amount not less than \$50 from a municipality or community school district, the municipality or community school district shall receive reimbursement of \$50 from the state for such expenditure at the next distribution of state funds; provided further, that the renewal of each teaching certificate shall be conditional on the completion of at least 6 semester hours of professional study within each period of 5 years, excepting that

**I.** Teachers qualifying for standard grade certificates, completing 18 semester hours of post-baccalaureate study, and teaching successfully for not less than 4 years, and

**II.** Certified teachers who have taught successfully for not less than 25 years may be declared eligible to a 10-year term certificate, renewal of which being conditional upon the presentation of evidence of professional improvement acceptable to the commissioner.

If the employment of teachers under permits or other special licenses is authorized by the board, the said board shall have the authority to prescribe minimum salaries and other regulations for this class of teachers.

It is the intent of the legislature that the formula contained in this section shall serve as a guide for the allocation of such appropriations as may be made by successive legislatures with respect to this school subsidy payment, and it is not

the intent of the legislature to guarantee to the several cities and towns any more or any less than the sum total so appropriated.

Subject to the foregoing provisions of this section, the board may make such reasonable regulations as are deemed necessary for carrying out the purposes and provisions of this section. (R. S. c. 37, § 201. 1945, c. 151, § 1. 1947, c. 403, § 1. 1949, c. 349, §§ 79, 80. 1951, c. 68; c. 386, § 1. 1953, c. 235; c. 308, § 72; c. 371, § 1.)

**Sec. 238. Equal pay for women teachers.** — In assigning salaries to teachers of public schools in the state, no discrimination shall be made between male and female teachers, with the same training and experience, employed in the same grade or performing the same kinds of duties. (1951, c. 308.)

**Sec. 239. Union schools; apportionment.** — Amounts due from the state on account of union elementary schools shall be paid to the town in which said school is located and the amounts to be contributed by each town for the maintenance of such school shall be determined by the superintending school committees of the said towns. Amounts apportioned on account of union high schools shall be paid to the towns maintaining said schools in proportion to the aggregate attendance of pupils resident of each of said towns. (R. S. c. 37, § 205. 1945, c. 350, § 20.)

**Sec. 240. State money expended by towns.**—Amounts received by the towns from the state for general-purpose aid may be expended by said towns, in conjunction with such funds as the towns shall raise and appropriate, for the following purposes in both elementary and secondary schools: the payment of teachers' salaries and board, fuel, janitors' services, conveyance cost, school bus purchases, tuition, board of pupils, textbooks, reference books, school supplies for desk or laboratory use, public utility services, flags, replacement of instructional equipment, fire insurance, compensation of superintendent and his assistants, school committee and office, attendance officer and medical inspection.

The unexpended balance of all moneys raised by towns or received from the state for the above purposes shall be forwarded and credited to the same school resources for the ensuing year. (R. S. c. 37, § 206. 1945, c. 350, § 21. 1953, c. 204, § 8.)

Cited in *Ogunquit Village Corp. v. Wells*, 123 Me. 207, 122 A. 522.

**Sec. 241. When returns not filed.**—Whenever the information required for the purposes of section 108 and sections 235 to 240, inclusive, is not available because of the failure of the town, through its officers, to make the returns required by law, or because of the loss or destruction of the school records of a town, the commissioner may use as a basis for apportionment numbers on which the apportionment for said town was made for the preceding year less 10%. But no apportionment as provided by said sections shall be paid to any town by the treasurer of state until returns required by law have been filed with the said commissioner. (R. S. c. 37, § 207. 1945, c. 47, § 1; c. 350, § 22; c. 378, § 46.)

**Sec. 242. Apportionments.**—All apportionments to cities, towns, plantations, community school districts, academies and institutes under the provisions of this chapter, unless specifically directed by statute, shall be made annually in December, except that whenever the commissioner is satisfied that a financial need exists, and with the approval of the treasurer of state, an amount not to exceed  $\frac{2}{3}$  of the estimated subsidy may be paid on or after September 15. (1945, c. 350, § 24. 1949, c. 48. 1951, c. 124.)

**Maine School Building Authority.**

Sections 243 to 259 cited in Opinion of the Justices, 147 Me. 410.

**Sec. 243. Title.**—Sections 243 to 259, inclusive, shall be known and may be cited as the “Maine School Building Authority Act.” (1951, c. 405, § 1.)

**Sec. 244. Purpose.**—A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to aid in the provision of public school buildings in the state, the “Maine School Building Authority,” as heretofore created, is authorized and empowered to construct, acquire, alter or improve public school buildings and to issue revenue bonds of the Authority, payable from rentals to finance such buildings and when paid for by said rentals to convey them to the lessee towns. (1951, c. 405, § 1.)

**Sec. 245. Credit of state not pledged.**—Revenue bonds issued under the provisions of sections 243 to 259, inclusive, shall not be deemed to constitute a debt of the state of Maine nor a pledge of the credit of the state, but such bonds shall be payable solely from the funds herein provided therefor, and a statement to that effect shall be recited on the face of the bonds. (1951, c. 405, § 1.)

**Sec. 246. Organization of authority.** — The “Maine School Building Authority,” heretofore created and established a body corporate and politic, is constituted a public instrumentality of the state, and the exercise by the Authority of the powers conferred by the provisions of sections 243 to 259, inclusive, shall be deemed and held to be the performance of essential governmental functions. The Maine School Building Authority shall consist of 7 members, including the governor, the commissioner of education, one member of the committee on education to be appointed by the president of the senate, and 1 member of the state board of education to be appointed by the governor, to serve during their incumbency in said offices, and 3 members at large appointed by the governor for a period of 5 years, and said Authority shall constitute a body corporate and politic. A vacancy in the office of an appointive member, other than by expiration, shall be filled in like manner as an original appointment, but only for the remainder of the term of the retiring member. Appointive members may be removed by the governor and council for cause. The commissioner shall be chairman of the Authority. The Authority shall elect one of its members as vice-chairman, and shall also elect a secretary and treasurer who need not be a member of the Authority, to serve at the pleasure of the Authority. The secretary and treasurer shall be bonded as the Authority shall direct. Five members of the Authority shall constitute a quorum and the affirmative vote of 4 members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of the quorum to exercise all rights and perform all the duties of the Authority.

All members of the Authority shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties and all members, except the governor and the commissioner of education, shall receive, in addition, \$10 per day for services actually rendered. (1951, c. 405, § 1. 1953, c. 290, § 1; c. 352.)

**Sec. 247. Definitions.**—As used in sections 243 to 259, inclusive, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

“Authority” shall mean the Maine School Building Authority created by sections 243 to 259, inclusive.

“Project” or the words “school project” shall mean a public school building or buildings or any extension or enlargement of the same, including land, furniture and equipment for use as a public school or public schools, together with all

property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such project.

"Cost" as applied to a project shall embrace the cost of construction or acquisition, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Authority for such construction or acquisition, the cost of demolition or removing any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all furnishings and equipment, financing charges, insurance, interest prior to and during construction and, if deemed advisable by the Authority, for 1 year after completion of construction, cost of architectural and legal expenses, plans, specifications, estimates of cost, administrative expense and such other expense as may be necessary or incident to the construction or acquisition of the project, the financing of such construction or acquisition and the placing of the project in operation. Any obligation or expense hereafter incurred in connection with the construction or acquisition of a project may be regarded as a part of the cost of such project.

"School building" shall mean, but shall not be limited to, any structure used or useful for schools and playgrounds, including facilities for physical education.

"Town" or "towns" as used herein includes cities and plantations. (1951, c. 405, § 1.)

**Sec. 248. Powers.**—The Authority is authorized and empowered:

**I.** To adopt by-laws for the regulation of its affairs and the conduct of its business;

**II.** To adopt an official seal and alter the same at pleasure;

**III.** To maintain an office at such place or places within the state as it may designate;

**IV.** To sue and be sued in its own name, plead and be impleaded; provided, however, that any and all actions at law or in equity against the Authority shall be brought only in the county in which the principal office of the Authority shall be located;

**V.** To construct or acquire, extend, enlarge, repair or improve school projects at such locations within the state as may be determined by the Authority, when the superintending school committee of any town or the community school committee of a community school district has certified the need therefor to the municipal officers of such town or the trustees of such community school district together with their recommendation for the procurement of new, additional or different public school buildings, and such recommendation has been approved by such municipal officers or trustees, and by the board; (1953, c. 290, § 2)

**VI.** To issue revenue bonds of the Authority for any of its corporate purposes, payable solely from the rentals and revenues pledged for their payment, and to refund its bonds, all as provided in sections 243 to 259, inclusive; and to secure any issue of such bonds by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state;

**VII.** To make temporary loans to finance individual projects until such time as the Authority may deem it advantageous to issue revenue bonds on said projects;

**VIII.** To fix, alter, charge and collect rentals and other charges for use of school projects financed under the provisions of sections 243 to 259, inclusive, at reasonable rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the improvement, repair and maintenance of such projects, the payment of the principal of and the interest on

its revenue bonds, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such bonds;

**IX.** To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under the provisions of sections 243 to 259, inclusive;

**X.** To acquire in the name of the Authority, by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, such lands or rights therein as it may deem necessary for carrying out the provisions of sections 243 to 259, inclusive. The power of eminent domain conferred on the Authority is restricted to 25 acres for any one project and the Authority in exercising its right of eminent domain shall be governed by the provisions of sections 12 to 22, inclusive, of chapter 52. (1953, c. 290, § 3)

**XI.** To make and enter into all contracts, leases and agreements necessary or incidental to the performance of its duties and the execution of its powers under the provisions of sections 243 to 259, inclusive;

**XII.** To utilize the services of agencies and departments of the state whenever feasible, and to employ such other persons and agents as may be necessary in its judgment, and to fix compensations;

**XIII.** To accept from any authorized agency of the federal government loans or grants for the planning, construction or acquisition of any project and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purpose for which such loans, grants or contributions may be made. Whenever any funds are available for general distribution for school construction, including projects not financed by the Authority, the Authority is authorized to receive such funds, and if not inconsistent with the grant of said funds, to disburse the moneys thus received according to the following:

The total potential allocation for any approved school project in any city, town, unorganized unit or school district shall be from 15% to 50% of the approved cost of such project and determined by computing  $\frac{1}{4}$  of the approved cost of the project multiplied by the state valuation per pupil in the state divided by the valuation per resident pupil as reported in the latest annual report required under the provisions of section 71.

The total potential allocation for any approved school project in any community school district shall be from 15% to 50% of the approved cost of such project and determined by computing  $\frac{1}{3}$  of the approved cost of the project multiplied by the state valuation per pupil in the state divided by the valuation per resident pupil in participating towns comprising such district.

Approved cost as used above shall mean the cost of the project as estimated by the Authority.

The Authority is empowered to make an additional grant to municipalities, school districts and community school districts extending school opportunities to children living in unorganized territory by adding to the grant as determined above the percentage thereof ascertained by dividing the number of pupils enrolled from unorganized territory on April 1 preceding by the total enrollment reported in the latest annual report required under the provisions of section 71.

The Authority shall certify, not later than June 30 of each year, to the controller, and the treasurer of state shall pay to the several cities, towns, school districts and community school districts, that percentage of the total allocations previously established, which will distribute equitably and with due regard to local financing exigencies the funds available. (1953, c. 290, § 4)

**XIV.** To do all acts and things necessary or convenient to carry out the powers expressly granted in sections 243 to 259, inclusive. (1951, c. 405, § 1. 1953, c. 290, §§ 2, 3, 4.)

**Sec. 249. Contracts with towns.** — The Authority may authorize any town or community school district, subject to the supervision and approval of the Authority, to design and construct any project and to acquire necessary land, furnishings and equipment therefor. Any town or community school district is authorized to convey to the Authority property, rights, easements and any other interests, which may be necessary or convenient for the construction and operation of any project and upon such terms as may be agreed upon between the Authority and town or community school district. Any town, notwithstanding the prior creation of a school district coterminous with said town, or community school district may contract with the Authority for the lease or use of any project financed under the provisions of sections 243 to 259, inclusive, for such period and for such consideration and on such terms and conditions as such town or community school district and the Authority shall determine to be in the public interest, and all rentals or other charges provided by any such contract to be paid for the lease or use of such project shall be deemed to be current operating expenses of the town or the community school district, but shall be excluded in the computation for state school subsidy. If a town or community school district shall be delinquent in its payments to the Authority, the department shall make payment to the Authority in lieu of such town or community school district from any amounts properly payable to such town or community school district by such department, not exceeding the amount then presently due to the Authority from such town or community school district; provided, however, that if the amounts properly payable to such community school district shall be less than the amount then presently due to the Authority from such community school district, the department shall make payment of the balance to the Authority from the amounts properly payable to the participating towns in such community school district, the amount to be withheld from each of said towns to be such portion of the balance as that town's state valuation bears to the total state valuation of all the participating towns.

No contract, lease or agreement between a town or community school district and the Authority shall be valid unless first approved by the vote of a majority of the inhabitants of such town or of each town involved in the case of a community school district voting on this question. Notwithstanding the provisions of any other law, any delay in the actual completion of a project beyond the date as estimated by the Authority for such completion or any damage to or destruction of the whole or any portion of any project shall not operate to relieve the town or community school district of its obligation to pay the rentals and other charges as provided in such contract, lease or agreement. Any such contract, lease or agreement heretofore entered into in accordance with the provisions of this section is ratified and confirmed. (1951, c. 405, § 1. 1953, c. 290, § 5.)

**Sec. 250. Revenue bonds.** — The Authority is authorized to provide by resolution, at 1 time or from time to time, for the issuance of revenue bonds of the Authority but not to exceed \$25,000,000 outstanding at any 1 time for the purpose of paying all or any part of the cost of any project or projects and for any purpose authorized in sections 243 to 259, inclusive. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, and shall bear interest at such rate or rates, not exceeding 5% per year, shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Authority and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall



determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the chairman of the Authority or shall bear his facsimile signature, and the official seal of the Authority shall be impressed thereon and attested by the secretary and treasurer of the Authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the Authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of sections 243 to 259, inclusive, shall have and are declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or at private sale and for such price as it may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than 5% per year, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values; excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds shall be used solely for the payment of the cost of the projects and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in any trust agreement securing the same.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts, notes or temporary bonds, with or without coupons, which may be exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of sections 243 to 259, inclusive, without obtaining the consent of any department, division, commission, board, bureau or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by sections 243 to 259, inclusive. (1951, c. 405, § 1. 1953, c. 290, § 6.)

**Sec. 251. Trust funds.**—Notwithstanding the provisions of any other law, all moneys received pursuant to the authority of sections 243 to 259, inclusive, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in sections 243 to 259, inclusive. The resolution authorizing the bonds of any issue or any trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as sections 243 to 259, inclusive, and such resolution or trust agreement may provide. (1951, c. 405, § 1.)

**Sec. 252. Remedies.**—Any holder of bonds issued under the provisions of sections 243 to 259, inclusive, or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity,

by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by sections 243 to 259, inclusive, or by such trust agreement or resolution to be performed by the Authority or by any officer thereof. (1951, c. 405, § 1.)

**Sec. 253. Revenue refunding bonds.**—The Authority is authorized to provide by resolution for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of sections 243 to 259, inclusive, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds; and, if deemed advisable by the Authority, for the additional purpose of constructing enlargements, extensions or improvements of the project or projects in connection with which the bonds to be refunded shall have been issued or constructing or acquiring any additional project or projects. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of sections 243 to 259, inclusive, in so far as the same may be applicable. (1951, c. 405, § 1.)

**Sec. 254. Transfer to towns.**—When the bonds issued under the provisions of sections 243 to 259, inclusive, in connection with any project and the interest thereon shall have been paid or a sufficient amount for the payment of such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such project shall be conveyed by the Authority to the lessee town or community school district. (1951, c. 405, § 1.)

**Sec. 255. Preliminary expenses.**—The board is authorized in its discretion and with the approval of the Authority to expend out of any funds available for the purpose, such moneys as may be necessary for any preliminary expenses of the Authority, including architectural and other services, and all such expenses incurred by the board prior to the issuance of revenue bonds under the provisions of sections 243 to 259, inclusive, shall be paid by the board and charged to the appropriate project or projects and the board shall keep proper records of accounts showing each amount so charged. Upon the issuance of revenue bonds for any project or projects, the funds so expended by the board in connection with such project or projects shall be reimbursed to the board from the proceeds of such bonds. (1951, c. 405, § 1.)

**Sec. 256. Bonds eligible for investment.**—Revenue bonds and revenue refunding bonds issued under the provisions of sections 243 to 259, inclusive, are made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies and their commercial departments, banking associations, investment companies, savings banks, executors, trustees and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature, may properly and legally invest funds, including pension and retirement funds or capital under their control or belonging to them. Such bonds are made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds may be authorized by law. (1951, c. 405, § 1.)

**Sec. 257. Additional method.**—Sections 243 to 256, inclusive, shall be deemed to provide an additional and alternative method for the doing of the

things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of sections 243 to 259, inclusive, need not comply with the requirements of any other law applicable to the issuance of bonds. (1951, c. 405, § 1.)

**Sec. 258. Liberally construed.**—The provisions of sections 243 to 259, inclusive, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof. (1951, c. 405, § 1.)

**Sec. 259. Exemption from taxation.**—As the exercise of the powers granted by sections 243 to 259, inclusive, will be in all respects for the benefit of the people of the state and for the improvement of their educational facilities, and as projects constructed under the provisions of said sections constitute public property, the Authority shall not be required to pay any taxes or assessments upon any of its property or any project or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of sections 243 to 259, inclusive, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state. (1951, c. 405, § 1.)