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CONCORD:

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OF

NEW HAMPSHIRE SCHOOL LAW,

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NEW HAMPSHIRE SCHOOL LAW

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### CHAPTER I.

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1. The selectmen in each town shall assess *annually*, upon the polls and ratable estate taxable therein, a sum to be computed at the rate of three hundred and fifty dollars for every dollar of the public taxes apportioned to such town, and so for a greater or less sum.—G. L., c. 85, s. 1, p. 205.

2. The town, at any legal meeting for the purpose, may raise a sum exceeding the amount aforesaid, which shall be assessed in the same manner.—G. L., c. 85, s. 2, p. 205.

Where "the vote not having in terms appropriated any particular sum for schools, any portion of it intended for that purpose must be taken to be in addition to the sum the selectmen were required to assess."—Tucker v. Alken, 7 N. H. 129.

3. Such sum, *when collected*, shall be appropriated to the *sole* purpose of keeping an English school or schools within such town, for teaching reading, writing, English grammar, arithmetic, geography, together with such other branches of English education as are adapted to the advancement of the school, including the purchase of necessary fuel for the school, and occasional repairs, as specified in this title.—G. L., c. 85, s. 3, p. 205.

4. Any town not divided into school-districts, and any town in which all the school-districts are or shall be united, may take and use part of the school-money, not exceeding *ten* per cent., for the conveyance *to and from* school of pupils residing *not less* than one mile and a half from the school.—G. L., c. 86, s. 24, p. 208.

5. Any school-district, by a *major* vote at *any* legal school-meeting in the district, may authorize the prudential committee of said district to use a part of the school-money appropriated to the district for school purposes, not exceeding *ten* per cent., for the conveyance *to and from* the school



of pupils living *more* than one mile and a half from school.—G. L., c. 86, s. 25, p. 208.

School-districts having *less* than *twelve* scholars to attend *any* term of school, may, by vote, at their annual or *other* legal meeting called for that purpose, authorize the prudential committee to provide for the attendance of pupils at the schools of adjoining districts, *the selection of such schools to be approved by the school-committee of the town*. And in such cases the prudential committee is authorized to appropriate an amount not exceeding *ten* per cent., as in section twenty-four provided, and to divide the remainder of the money appropriated for the term in the district among the adjoining districts in proportion to the pupils by them received.—G. L., c. 86, s. 26, pp. 208 and 209.

All money appropriated under the provisions of sections twenty-four and twenty-five of this chapter [secs. 4 and 5, ch. 1, Digest] shall be expended under the order and at the discretion of the officers charged with the prudential affairs of the district.—G. L., c. 86, s. 27, p. 209.

6. The superintending school-committee *and* selectmen in the several towns in the state are hereby authorized and empowered to purchase for the use of their common-schools so many copies of the map of New Hampshire as they may deem best, not exceeding *one* copy for *each* school; and the maps so purchased shall be paid for out of *any* money appropriated for school purposes.—G. L., c. 89, s. 13, p. 217; see 22 *post*.

7. The selectmen shall assign to each district a proportion of the money *thus* assessed, according to the valuation of the district for the year, *or in such other manner as the town, at the annual meeting, shall direct, and shall pay over the same to the prudential committee of the district*.—G. L., c. 85, s. 4, pp. 205 and 206.

The power of selectmen to apportion school-money among the several school-districts in a town is a continuing power, to be exercised from time to time whenever it may be necessary from changes made in the district, *in order to give to each district the benefit of the tax paid by its members*.—School-District *v.* Sanborn, 25 N. H. 34.

If the assignment is to be made between two districts, newly constituted out of one old district, before any part of it has been expended for the common benefit upon the schools, the whole money is to be divided. If a part of the money which belongs to the old district has been expended, or, which is the same thing, has been applied to the common benefit of the entire district in supporting the schools, then only the residue of the money is to be divided.—Same case, p. 39.

The selectmen, after the money has been paid to the prudential committee, have no

legal interest, and can maintain no action for it or in reference to it.—School-District v. Sherburne, 48 N. H. 56.

8. Every district situate in *two or more* towns shall be entitled to its just proportion of school taxes, income of school funds, and literary fund in each town, according to the valuation of persons and property taxable therein.—G. L., c. 86, s. 13, p. 207.

Whether this includes the dog and railroad tax, has never been determined.

9. Every collector of taxes shall, on the *first Saturday of every* month, pay into the town treasury all moneys by him collected up to that time, and shall submit his tax-book and list to the treasurer of said town for his inspection and computation. The treasurer shall give a receipt to the collector for all money paid by him to the treasurer, *who shall make all the disbursements thereof under the written authority of a majority of the selectmen*, and all money received by the selectmen shall be paid by them immediately to the treasurer, who shall give them a receipt therefor, and his official bond shall be holden for the safe-keeping and disbursement of the same, as in this section provided for the disbursement of money received from the collector of taxes, and the selectmen and town treasurer shall in all cases keep separate accounts of all money received and paid by them, and all money hired for the use of any town, or received from any source, except that collected by the collector of taxes, shall be received by the selectmen, and be paid by them immediately to the treasurer.—G. L., c. 40, s. 9, pp. 117 and 118.

Under this provision, all disbursements must be made by the treasurer himself, under the *written* order of two or more of the selectmen.—School-District v. Morrill, March T., 1880.

10. When the guardian and ward reside in the *same* town, the selectmen shall assign the tax assessed upon the ward's *personal* property to the school-district in which the ward lives *and has his home*.—G. L., c. 85, s. 5, p. 206.

11. If the selectmen of any town *neglect* to assess, assign, or pay over the school-money as aforesaid, they shall pay for *each neglect* a sum equal to that so neglected to be assessed, assigned, or paid over, to be recovered by action of debt, in the name and for the use of the district, by the prudential committee.—G. L., c. 85, s. 6, p. 206.

This provision applies to school-money raised by taxation. The selectmen are bound to assess the amount required by law, whether the town votes to raise it or not.



They are bound to assign it according to the valuation of the district for the year, unless the town lawfully directs it to be assigned in some other way.

Wherever the town directs an assignment, it should be done each year at the annual meeting.

Every board of selectmen that *neglects* to assess, assign, and *pay over* is liable, under this provision; but the supreme court have recently decided that the phrase "pay over," in connection with the provisions of sec. 9 *ante*, means "draw an order in writing on the treasurer."—*School-District v. Morrill*, March T., 1880.

This does *not* apply to the literary fund, railroad money, and dog tax, till they have been duly appropriated for school purposes by vote of the town.—*School-District v. Morrill*, March T., 1880.

12. No money can be raised *or* appropriated at any special town-meeting except by ballot, nor unless the entire vote is equal to one half the voters of the town as shown by the check-list.—G. L., c. 37, s. 4, p. 112.

When the town fails to act, the selectmen are bound to make their assessment, and commit the same to the collector seasonably. They should also require him to collect and pay over the money within a reasonable time. Having done this in good faith, it has never been the understanding of the legal profession in this state, that it was their duty to borrow money on the credit of the town to divide among the school-districts for school purposes, or to pervert trust funds to such use, or to so appropriate the funds of the town raised or collected for other, or even for general, purposes.

Nor has it ever been decided, that when the selectmen properly assessed and assigned say two thousand dollars to the twenty school-districts in town, in their due proportions of from twenty-five to five hundred dollars, and but twenty dollars had been "collected," that the selectmen were liable as for "neglect" for not paying the infinitesimal proportion thereof to each district upon demand; nor that the first district making demand under such circumstances was entitled to the whole sum so "collected;" nor that the remaining districts could recover for non-payment to them; nor that districts that had neglected or refused to pay their taxes could force the selectmen to pay them the money which had been "collected" of other districts.

13. If the money so assigned and paid over to the prudential committee of any district is not expended by him according to law, he shall be fined a sum not exceeding twice the sum so unexpended, or not legally expended, for the use of the district.—G. L., c. 85, s. 7, p. 206.

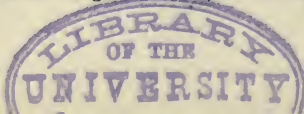
These provisions of the statute clearly recognize the money in the hands of the committee as *his*, in law, and *not* the money of the district. It is his only in a qualified sense as the money of an estate in the hands of an administrator is his.—*Barrett v. School-District*, 37 N. H. 448.

The criminal prosecution is not intended as a remedy for the district to enforce their rights. The law does not leave it to the option of the school-district whether the money assigned to them shall be applied to the support of schools. It is a matter of general public concern; and the design of the criminal prosecution is, not to take from school-districts the right to recover their money from the delinquent committee by the ordinary legal remedy, but to compel school-districts and school-committees to appropriate the money raised for that purpose to the support of schools, in accordance with the policy of the law which imposes the duty of providing instruction in the public schools, whether the districts desire it or not.—*School-District v. Sherburne*, 48 N. H. 57.

No court has yet held that this money can be used to pay counsel fees in the suits brought to recover, or in the prosecution of criminal proceedings, or to pay other debts of the district.

14. *Any* district may raise money for the support of schools, in addition to the tax required by law, *and to pay debts* of the district, which, on certificate by the clerk, shall be assessed and collected as other school taxes.—G. L., c. 86, s. 18, p. 208.

But such certificate does not protect the selectmen.—*Rogers v. Bowen*, 42 N. H. 102.



15. Every banking corporation shall pay to the treasurer, on or before the second Wednesday of June *annually*, one half of one per cent. on the amount of the actual capital stock of the bank at that time. The sums so paid shall constitute a fund to be called the literary fund, and shall be kept and accounted for by the treasurer.—G. L., c. 94, s. 1, p. 226.

16. All sums of money hereafter received from the tax on deposits in savings banks by non-resident depositors, or depositors whose residence is unknown, shall be added to and constitute a part of the literary fund, and shall be kept, accounted for, managed, assigned, and distributed according to the provisions of law applicable to the literary fund.—G. L., c. 94, s. 4, p. 226.

17. The treasurer shall assign and distribute, in June annually, the literary fund among the several towns and places, according to the number of scholars of such towns and places, not less than *five* years of age, who shall, by the *last* report of the school-committee of the several towns and places returned to the superintendent of public instruction, *appear* to have attended the district common-schools in such towns and places for a time *not less than two weeks within that year*.—G. L., c. 94, s. 5, p. 226.

18. *No unincorporated place* shall receive such portion until a treasurer or school-agent shall have been chosen to receive and appropriate the same in the manner hereinafter directed.—G. L., c. 94, s. 6, p. 226.

19. The money received by any town or place shall be applied to the maintenance of common-schools, *or to other* purposes of education, in addition to the sums required to be raised by law, *and in such manner as the town shall direct; but no district in which no school shall be kept at any time during the year shall receive any part of said money*.—G. L., c. 94, s. 7, p. 227.

School-District v. Morrill, March T., 1880.

20. If any *town or* incorporated place, *or* the agent of any unincorporated place, shall apply any sum of money so received to *any other* purpose than as aforesaid, the town, place, or agent so offending shall *refund double* the sum so *misapplied*.—G. L., c. 94, s. 8, p. 227.

21. The treasurer, in the month of June *annually*, shall pay the literary fund assigned to the Second College Grant and Wentworth's Location to the prudential committee or agent of said grant and location, when duly authorized by the inhabitants therein, which shall be applied to the maintenance of common-schools.—G. L., c. 94, s. 9, p. 227.

22. The superintending school-committee and selectmen are empowered to expend, at their discretion, for the use of the schools, one fifth part of the literary fund, which may *annually* be assigned any city or town, in the purchase or repair of blackboards, maps, charts, globes, dictionaries, or any other apparatus which, in their judgment, will advance the educational interests of said schools; and that any unexpended portion of such fifth part, on hand the first day of March annually, shall then be passed to the credit of the general school fund of such city or town for the support of schools in same during current year.—Laws of 1879, c. 53, s. 1, p. 365.

23. The proceeds of the sale of the state lands, effected under the authority of a joint resolution approved June twenty-eighth, eighteen hundred and sixty-seven, shall be, and the same hereby are, set apart as a school fund.—G. L., c. 94, s. 10, p. 227.

24. The *annual income* of the said fund shall be applied to the purposes of common-school education, in such way and manner *as the legislature* may from time to time *determine*.—G. L., c. 94, s. 11, p. 227.

25. The state treasurer shall keep a separate account with said fund, and shall disburse the income thereof upon warrants drawn upon him by the governor.—G. L., c. 94, s. 12, p. 227.

26. All money arising from the taxation of dogs, remaining in the treasury of any town or city on the first day of April *annually*, which has *not* been ordered to be paid for damages to domestic animals, agreeably to the provisions of this chapter, may be applied to the support of schools, or retained in the treasury of the town or city for the purpose of paying damages done to domestic animals, according to



said statute, as the *town* (or city council) *shall by vote determine*.—G. L., c. 115, s. 18, p. 282.

The town and not the selectmen must determine whether the money shall be applied to the support of schools or not.—*School-District v. Morrill*, March T., 1880.

27. Every railroad corporation in this state, not exempted from taxation, shall pay to the state an annual tax upon the actual value of the road, rolling stock, and equipments on the first day of April of each year (as near as may be in proportion to the taxation of other property in April of each year, in the several towns and cities in which such railroad is located, to be distributed according to existing laws). But the capital of every railroad, the construction of which was commenced since the fifteenth day of September, eighteen hundred and sixty-eight, or hereafter constructed in this state, shall be, and the same is hereby, exempted from taxation for the term of ten years from the time of the commencement of the construction of such railroad.—G. L., c. 62, s. 1, pp. 159 and 160.

Every railroad corporation shall pay to the state treasurer, in the month of September annually, the tax so assessed, and, upon their neglect, the state treasurer shall add thereto interest after such default at the rate of ten per cent. per annum, and shall issue his extent for the sum unpaid, and for interest as aforesaid until payment is made; and all property of the corporation on the first day of April preceding shall be liable for its payment.

The state treasurer shall seasonably apportion all taxes so received by him in each year in the following manner:

I. To the towns in which any railroad is located, one fourth of the tax paid by the railroad corporation, of which each town shall receive its proportion according to the share of the capital of the corporation expended therein for its buildings and right of way.

II. To each town in the state in which any stock in the road was owned on the first day of April preceding, such proportion of the residue of said tax as the number of shares owned in said town bears to the whole number of shares in the corporation.

III. The remainder for the use of the state.

The state treasurer shall pay to each town its proportion of each railroad tax, whenever the same shall have been

paid to him, to be appropriated as other town money.—G. L., c. 62, ss. 6, 7, and 8, p. 160.

In the *B., C. & M. Railroad v. State*, September T., 1880, this law, so far as it provided for a municipal tax, was held unconstitutional; and the reasoning of the court tended strongly to support the conclusion that it was wholly void.

28. The selectmen must pay the penalties recovered by them, in the name of and at the expense of the town, under G. L., c. 91, s. 18, p. 223, *post*, to the school-district in which the penalties were incurred, and the same must be added to the school-money thereof.—See c. 7, s. 24, *post*.

## CHAPTER II.

### SCHOOL-DISTRICTS.

1. Towns may be divided into school districts by vote of town—how; division must be duly recorded.
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109. Corporate powers and liabilities of school-districts continued—when and for what purposes.
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1. Towns not divided into school-districts may be so divided by vote of the town distinctly defining each district by suitable boundaries *duly recorded*.—G. L., c. 86, s. 1, p. 206.

2. This provision applies to but few towns.

3. The division should be by metes and bounds, or their equivalent. It must be a *territorial* division, and not one merely by a designation of the inhabitants or householders.—*School-District v. Aldrich*, 13 N. H. 144.

4. But if the *whole town* has once been divided into school-districts, of which due record has been made, a subsequent division, which refers to these recognized lines of the district, is valid, although the first division might be worthless for other reasons.—*Wilson v. School-District*, 32 N. H. 129.

5. The power to divide the town into school-districts cannot be *delegated* to the selectmen as such; but the town may make them or others a committee to make the proper division.

6. The action of such committee is invalid unless affirmed at a town-meeting duly warned for that purpose.—*School-District v. Gilman*, 3 N. H. 169.

7. The legislature may at any time or in any case resume the power granted by sec. 1, to divide towns into school-

districts, and may divide the same, change the boundaries thereof, and modify them at pleasure.—School-District *v.* Smart, 18 N. H. 273; Farnum's Petition, 51 N. H. 376.

8. The article in the warrant for town-meeting, to divide the town into districts by vote, may be as follows :

To divide the town into school-districts, and define the boundaries thereof.

9. The vote under the foregoing article may be as follows :

*Voted*, To divide the town into . . . . . school-districts, bounded as follows :

School-District No. 1. Beginning at the south-east corner of said town, thence running northerly on the town line to a beech tree at the north-east corner of the homestead farm of . . . . ., thence westerly on the northerly line of said farm to the land of . . . . ., thence southerly on the westerly line of said . . . . . land and land of . . . . . to a rock-maple tree standing on the line of said town, thence easterly on said line to the point begun at.

10. The metes and bounds of each district should be given in the same manner.

11. The form of the article, where the division is to be made by a committee, may be,—

To choose a committee of three to divide the town into school-districts and define the boundaries thereof, and to make due report thereof at the next annual [or biennial or other] meeting of said town.

12. The vote under the foregoing article may be,—

*Voted*, That A, B, and C be a committee to divide the town into school-districts, define the boundaries thereof, and make due report thereof to this meeting, or any lawful adjournment thereof [or “at the next annual meeting,” or “at the next biennial meeting,” or “at the next special meeting in which an article shall be inserted in the warrant for that purpose”].



13. The report of the committee may be,—

To the town of . . . . .:

The undersigned, a committee duly chosen at the meeting held on the . . . . . day of . . . . . [or “at the last annual meeting,” or “at the last biennial meeting,” or “at a special meeting therefor held on the . . . . . day of . . . . .”], to divide the town into school-districts and define the boundaries thereof, have attended to the duties assigned them, and herewith submit the following report :

We have divided said town into . . . . . school-districts, bounded and described as follows :

School-District No. 1. Beginning at the south-east corner of said town, thence running northerly on the town line to a beech tree at the north-east corner of the homestead farm of . . . . ., thence westerly on the northerly line of said farm to the land of . . . . ., thence southerly on the westerly line of said . . . . . land and land of . . . . . to a rock-mable tree standing on the line of said town, thence easterly on said line to the point begun at.

[The boundaries and description of each district should follow, giving particularly the metes and bounds.]

Dated at . . . . ., N. H., . . . . ., 188..

. . . . . } Committee.  
 . . . . . }  
 . . . . . }

14. Where the committee is chosen under the article set out in sec. 11, the report may be acted upon at the same meeting or any adjournment thereof, if such be the vote.

15. When the report is made at any other meeting, the article in the warrant may be,—

To hear the report of the committee chosen at the [here state whether the meeting was the last annual, or biennial, or, if special, when held] meeting to divide said town into school-districts, define their boundaries, and make due report thereof, and to take due action thereon.

16. The vote may be,—

*Voted* to adopt said report, and constitute said districts as therein set forth.

17. If the town amend the report, as they may, before adopting it, either in boundaries or otherwise, the vote and record thereof should set forth distinctly the changes so made.

18. Any town may at any time abolish the school-districts therein, and shall thereupon forthwith take possession of all the school-houses, land, apparatus, and other property owned and used for school purposes, which such districts might lawfully sell or convey. The property so taken shall be appraised under direction of the town; and at the next annual assessment thereafter a tax shall be levied upon the whole town equal to the amount of the whole appraisal, and there shall be remitted to the tax-payers of each district [the said appraised value of its property thus taken], or the difference in the value of the property of the several districts may be adjusted in any other manner agreed upon by the parties in interest.—G. L., c. 86, s. 2, p. 206.

19. The form of the article to abolish districts may be,—

To abolish the school-districts in said town, and make due provision for taking possession of all the school-houses, land, apparatus, and other property owned and used for school purposes, which the school-districts might lawfully sell and convey, and for the appraisal of the same.

20. The form of vote may be,—

*Voted* to abolish the school-districts in said town, and that the selectmen [or A, B, and C] be a committee to appraise all the school-houses, &c. [following the words of the article and vote].

21. The form of the article to raise money to pay the districts the appraised value may be,—

To raise a sum equal to the whole amount of the whole appraisal of all the school-houses, land, apparatus, and other property owned and used for school purposes, which the school-districts might lawfully sell and convey, made by the selectmen [or by A, B, and C, a committee duly chosen for that purpose,] under a vote of said town for that purpose, passed at the last annual [biennial or special] meeting, and to remit to the tax-payers in each district the said appraised

value of its property thus taken, and to provide for the adjustment of the same in such other manner as may be agreed upon by the parties in interest.

22. The form of the vote may be,—

*Voted* to raise [here insert sum at which school-houses, &c., were appraised, and the terms of the vote].

23. No money shall be raised or appropriated at any special town-meeting except by vote *by ballot*, nor unless *the ballots cast at such meeting shall be equal in number to at least one half of the number of the names of legal voters borne on the check-list of said town.*—G. L., c. 37, s. 4, p. 112.

24. When the lines of adjoining districts are to be changed, new districts constituted, or the whole or a part of any district united to an adjoining district, under G. L., c. 86, s. 9, p. 207, by the school-committee and selectmen of any town divided into districts, the board may primarily base their action upon a vote of the town.

25. The article in the warrant for changing lines may be as follows :

To see if the town will vote to change the lines of school-districts Nos. . . . . . and . . . . ., being adjoining districts in said town, by disannexing the homestead farm of A B, in said district No. . . . . ., therefrom, and annexing the same to said district No. . . . . .

26. The form of the vote may be,—

*Voted* to change the lines, &c. [following the article and vote].

27. The form of the article, where two districts are to be united, may be,—

To see if the town will vote to constitute a new school-district by uniting districts Nos. . . . . ., and . . . . ., and . . . . ., in said town.

28. The form of the vote may be,—

*Voted* to constitute a new district by uniting, &c. [following the article and vote].



29. These votes of the town are practically of no effect until affirmed, upon the proper proceedings, by the action of the board.

30. The selectmen, upon the written application of ten or more voters, or one sixth of the voters in town, shall insert in their warrant, for the biennial, annual, or any other meeting, any subject specified in such application, or shall warn a meeting therefor, if requested in such application.—G. L., c. 38, s. 3, p. 114.

The selectmen may warn a meeting and insert articles in the warrant, for any of the purposes contemplated by the preceding sections, of their own motion.

31. The lines of districts may be changed, and adjoining districts in the same or different towns may be united, by concurrent vote of the districts interested, upon such terms as they may agree; and in like manner the original lines and districts may be restored.—G. L., c. 86, s. 4, p. 207.

32. The article for uniting districts may be,—

To see if the district will vote to unite with school-district No. . . . ., in said town, to form one school-district, and to fix the terms thereof, and to choose a committee for that purpose.

33. The vote under the foregoing article may be,—

*Voted*, That [A, B, and C] be a committee to confer with any committee that may be chosen by school-district No. . . . ., in said town, in relation to a union of said districts and fixing the terms thereof, and that they report to this meeting at the time and place to which the same may be adjourned.

34. *Voted*, That this meeting stand adjourned until the . . . . . day of . . . . . at . . . o'clock in the . . . noon, at the school-house in this district.

35. The form of the report for uniting districts may be,—

To school-districts Nos. . . . . and . . . . ., in the town of . . . . .:

The undersigned, committees respectively of said school-districts in said town of . . . . ., have attended to the duty

assigned them, and recommend that said districts be united and form one school-district, upon the following terms of union: [Insert at length the terms of union, which should make due provision in relation to the payment of debts, division of property, &c.]

Witness our hands, this ..... day of ....., 188..

..... } Committee of  
 ..... } School-District  
 ..... } No. .. in ....

..... } Committee of  
 ..... } School-District  
 ..... } No. .. in ....

36. The vote upon the foregoing report may be as follows :

*Voted* to adopt the report of ....., ....., ....., and ....., ....., ....., committees respectively of this school-district and school-district No. ...., in said town, and that said districts be hereby constituted one school-district, upon the terms therein set forth.

37. The article for changing the lines of districts may be,—

To see if the district will vote to change the lines between said district and district No. ...., in said town, and fix the terms thereof, and to choose a committee for that purpose.

38. The form of the vote may be,—

*Voted*, That [A, B, and C] be a committee to confer with any committee that may be chosen by school-district No. ...., in said town, upon the subject of changing the lines of said districts and fixing the terms thereof, and that they report to this meeting at the time and place to which the same may be adjourned.

39. The form of vote for adjournment may be as in sec. 34.

40. The form of the report for changing district lines may be as follows :

To school-districts Nos. . . . . and . . . . . in the town of . . . . .:

The undersigned, committees respectively of said school-districts, in said town of . . . . ., have attended to the duty assigned them, and recommend that the lines of said districts be changed by disannexing the homestead farm of A B from said district No. . . . ., and annexing the same to said district No. . . . ., upon the following terms: [Here insert the terms, making due provision in relation to the payment of debts, division of property, &c.]

Witness our hands, this . . . . . day of . . . . ., 188..

. . . . .	}	Committee of
. . . . .	}	School-District
. . . . .	}	No. . . in . . .
. . . . .	}	Committee of
. . . . .	}	School-District
. . . . .	}	No. . . in . . .

41. The vote adopting the report may be,—

*Voted* to adopt the report of . . . . ., . . . . ., . . . . ., and . . . . ., . . . . ., . . . . ., committees respectively of this school-district and school-district No. . . . ., in said town, and that the lines of said school-districts be changed as therein set forth.

42. When the districts are in different towns, the warrants, votes, and reports should be changed to correspond with the facts.

43. The form for changing district lines may be used for restoring them, if the districts still have a lawful existence; but when a union has once been effected, how two or more deceased districts can of their own motion resurrect themselves, must be left for legislative or judicial wisdom to determine.

The decision in *Clark v. Nichols*, 52 N. H. 298, does not seem to reach such a case.

44. Two or more contiguous districts in the same *or different towns* may, by concurring votes, unite in the support of their schools; and the school-money of such districts



may be expended in the support of schools kept in either district, agreeably to such votes.—G. L., c. 86, s. 22, p. 208.

45. The article for such purpose may be,—

To see if this district will unite with district No. . . . , in the town of . . . . . , in the support of schools, and expend the school-money of this district for that object, and appoint a committee for such purpose.

46. *Voted* to unite with district No. . . . , in the town of . . . . . , in the support of schools ; and that [A, B, and C] be a committee to agree with any committee that may be appointed by said district, upon a plan by which the school-money of said districts shall be expended for that object, and report to [this, adjourned, special, or annual] meeting.

47. The report of the joint committee should be substantially the same as that for uniting districts, &c. *Ante* 35.

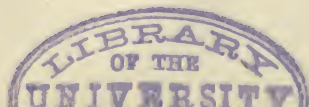
48. When the report has been adopted by all the districts interested, and recorded, the union is perfected.

49. Where the districts are in different towns, the form of the warrants, votes, and reports should be changed to correspond with the facts.

50. While such schools are so united, either district may raise money to build, repair, or remove school-houses and their appurtenances in either district.—G. L., c. 86, s. 23, p. 208.

51. The school-committee and selectmen of any town divided into districts, upon petition of persons interested [or by vote of the town], *after hearing the parties*, may change the lines of adjoining districts, and may constitute new districts, or unite the whole or part of any district to an adjoining district, a *majority of each board concurring therein, and their decision in writing being recorded on the town records*.—G. L., c. 86, s. 9, p. 207.

52. The manifest intention of the framer of this amendment,—“or by vote of the town,”—was to make the vote supersede the formality of a petition, and be at least persuasive evidence before the school-committee and selectmen.



Whether the board and the parties are bound of their own motion to take notice of the vote in town-meeting, and how the machinery is to be put in operation and the proceedings conducted, are not so obvious.

53. The school-committees and selectmen of *adjoining* towns, upon petition of persons interested, after hearing the parties, may unite the whole *or* parts of adjoining districts in such towns into one district, and upon like proceedings restore them to their former position.—G. L., c. 86, s. 5, p. 207.

54. In such cases a *majority* of the school-committee and a *majority* of the selectmen of *each town must concur, and a record of the proceedings must be made in the books of each town, or their action shall be without effect.*—G. L., c. 86, s. 6, p. 207.

55. The school-committee or committees and selectmen, by whom any district or districts in the same or in adjoining towns are divided or united, or the limits thereof in any way changed, shall make an equitable apportionment of the property and debts of the districts affected by such change, and find the balance, if any, equitably due from either of said districts to any of said districts, and order the payment of such balance within a time to be by them limited.—G. L., c. 86, s. 11, p. 207.

56. The apportionment of the debts and property of the districts, the whole or parts of which are united, may be made at the same time, or it may be effected by an independent proceeding.

57. In a petition for such union it is unnecessary to ask for such an apportionment, because that may be done by a subsequent proceeding.—*School-District v. Carr*, 55 N. H. 452.

The more usual course is to ask for the apportionment in the petition for the union.

58. If such balance shall not be paid within the time so limited, the selectmen of the town in which the delinquent district *is situate, or deemed to be situate*, shall, upon *written* application of the prudential committee, or agent of



the district entitled to the money, assess a tax for the amount upon the polls and estate in the delinquent district, and cause the same to be collected and paid to the district entitled thereto.—G. L., c. 86, s. 12, p. 207.

59. Under this provision the delinquent district is not entitled to a hearing; and the right of the complaining district to an assessment is absolute if the prior proceedings in relation to the apportionment are regular.

60. The application, in writing, should set forth the prior proceedings distinctly.

61. Since the passage of the statutes construed in *School-District v. Morrill*, cited *ante*, the treasurer should only pay over the money upon the written order of a majority of the board of selectmen.

62. On petition to the selectmen for the laying out or altering of highways, for laying out school-house lots or other lands for public use, and generally for the purpose of deciding any question affecting the conflicting rights or claims of different persons, their proceedings shall be governed by the following rules:—G. L., c. 43, s. 1, p. 122.

63. They shall appoint a time and place of hearing, and order notice of such petition and hearing to be given to all persons whose property or rights may be directly affected by such proceeding, by giving to them, or leaving at their abode, an attested copy of such petition and order, fourteen days before such hearing. If the owner is a person under guardianship, notice shall be given in the same manner to his guardian. If such owner is a minor, or a person under any legal disability, the judge of probate may appoint a guardian for such person, to whom notice shall be given.—G. L., c. 43, s. 2, p. 122.

64. Notice shall be given to all other persons interested by posting a like copy, if it affect a town, at the usual place of the town-meeting, or, if it affect a school-district, on the door of the school-house therein, *if any*; otherwise in one or more public places in the district, and by leaving a like copy at the abode of the clerk of the town or district respectively, the like time before the hearing. The notice prescribed in

this section shall be sufficient for all hearings before town officers in relation to the division or union of school-districts; and in such cases further personal notice shall not be required.—G. L., c. 43, s. 3, p. 122.

65. They shall hear all parties who desire to be heard, and examine all parties and witnesses *under oath*, which either of such selectmen may administer, may adjourn when they deem it necessary, and shall make their decision *in writing*, and cause the petition, order of notice, evidence of service, *and their decision in writing to be recorded at length upon the town records, and file the original papers there*; and their decisions shall be of no force or effect until the same is done.—G. L., c. 43, s. 4, p. 122.

66. The same rules shall apply to and govern the proceedings of fence-viewers, *school-committees*, committees appointed by the selectmen, and all town officers when they are applied to or appointed to decide any question affecting the rights or claims of individuals, saving that other or shorter notice, when required or allowed by statute, shall be sufficient.—G. L., c. 43, s. 5, p. 122.

67. The decision of such selectmen, fence-viewers, school-committee, and other committees and town officers, shall be binding and conclusive upon all parties for the term of five years, unless an appeal shall be prosecuted therefrom in cases allowed by law.—G. L., c. 43, s. 6, p. 123.

“A report *against* a laying out has never, to my knowledge, been held to be an estoppel, or conclusive *against* a new petition.”—Cushing, C. J., in *Northern Railroad v. Enfield*, 57 N. H. 510.

68. No selectman *or other officer* shall act, in the decision of any such case, who would be disqualified to sit as a *juror* in the trial of a *civil* action in which any of the parties interested in such case was a party, from any cause *except* exemption from service as a juror.—G. L., c. 43, s. 7, p. 123.

69. The general causes of disqualification appear in the following section :

Any juror may be required by the court, on motion of any party in the cause to be tried, to answer upon oath whether he expects to gain or lose by the issue of the cause; whether he is related to either party; whether he has advised or

assisted either party, or directly or indirectly given his opinion, or has formed any opinion, or is sensible of any prejudice in the cause [or whether any one of the counsel in the cause is employed by him in any action then pending in said court]; and if it appears that any juror is not indifferent, he shall be set aside on that trial.—G. L., c. 213, s. 23, p. 496.

70. Members of the board residing in any of the districts to be affected are disqualified to act.

71. If any member of the board is related to any of the parties, within the fourth degree, he is disqualified: an uncle or a brother-in-law cannot act.—*Sanborn v. Fellows*, 22 N. H. 473, 485.

72. The statute includes parties in interest.

73. The question as to whether or not any member is disqualified, must, in the first instance, be determined by the board. Their decision, however, may be corrected on *certiorari*, but not in general upon a bill in equity.—*Lane v. Morrill*, 51 N. H. 422.

74. Objections that any member of the board is disqualified, or has not taken the oath of office, if known to the party or his counsel, must be taken at the earliest practicable opportunity at the hearing, or they will be considered waived.—*School-District v. Carr*, 55 N. H. 452.

75. The place of such selectman or person so disqualified shall be supplied by those who are qualified to act, by the appointment of a qualified person who has heretofore holden the same office in the town, or, in the case of committees, by a new appointment. If in any case the *whole* board is disqualified, the selectmen *shall, in writing*, so inform some justice of the supreme court, who shall thereupon, with or without notice, *appoint a new board* for that case from *qualified* persons who have *before* holden the same office.—G. L., c. 43, s. 8, p. 123.

76. The purpose of the framer of the last clause clearly was, where the whole board, and all others in town who had held the same office, were disqualified, to secure the appointment, by a judge, of some qualified person in a neighboring



town who had held the same office ; but the court have not yet passed upon the question.

77. The form of appointment, by the members or member of the board qualified to act and jurat, may be,—

To . . . . ., of the town of . . . . .:

Whereas, . . . . ., one of the selectmen [or school-committee, &c.] of said town of . . . . ., is disqualified to act on the trial of the petition of . . . . . and others for changing the lines of school-districts Nos. 4 and 6 in said town, now pending before the school-committee and selectmen of said town, because he is a tax-payer in said district No. 4, and interested in the event of said trial [or is the father, son, brother, uncle, brother-in-law, &c., of . . . . ., one of the parties to said proceedings. Here set forth any other of the numerous causes of disqualification], we, the remaining member of said board qualified to act, hereby appoint you, a qualified person who has heretofore held the same office in the town, to act in his stead.

Witness . . . . hand , this . . . . . day of . . . . ., 188 .

. . . . . }  
. . . . . } of  
. . . . . }

M. . . . ., ss. . . . ., 188 .

Then appeared the above named . . . . ., and took the oath of office by law prescribed.

Before me,

. . . . .  
*Justice of the Peace.*

78. The appointment and jurat should be appended to the report, and recorded with it as a part of the proceedings.

79. Where the whole board is disqualified, the certificate of the selectmen to one of the justices of the supreme court may be,—

To . . . . ., one of the justices of the supreme court :

The undersigned, selectmen of . . . . ., in the county of . . . . ., hereby inform you that the petition of . . . . .

..... and others, for the union of school-districts Nos. 8 and 9 in said town, is now pending before the school-committee and selectmen of said town of .....; that said ....., the sole school-committee of said town, resides in and is a tax-payer in said school-district No. 8, and interested in such petition and disqualified to act thereon [here set forth any of the numerous other causes of disqualification],—

Wherefore we certify the same to you as provided by law, so that you may appoint a new board for said case from qualified persons who have before held the same office.

Given under our hands, this .... day of ....., 188 .

..... } Selectmen  
..... } of  
..... }

80. The appointment and jurat may be,—

M ....., ss. ...., 188 .

To ....., of the town of ....., in the county of .....

Upon due notice to all parties interested, and upon consideration of the foregoing certificate and the proofs, you are hereby appointed school-committee, as a new board for said case.

.....  
*Justice of the Supreme Court.*

M....., ss. ...., 188 .

Then appeared the above named ....., and took the oath of office by law prescribed.

Before me,

.....  
*Justice of the Peace.*

81. When two members of the board are disqualified, an appointment of a substitute by all three is invalid; but when only two of the board are disqualified, the qualified member may fill the vacancies.—Northern Railroad v. Enfield, 57 N. H. 508.

82. A notice issued by a board consisting of three is not

invalid because one member of the board is disqualified by reason of his residence in one of the districts to be affected.—*Fifield v. Swett*, 56 N. H. 432.

83. The petition for changing lines, where districts are in the same town, may be as follows:

To the school-committee and selectmen of A. . . . .:

The undersigned, inhabitants of school-districts Nos. . . and . . in said town, respectfully represent that their interest and the public good require *that the lines of said districts be changed* by disannexing the homestead farm of A B from said district No. . . , and annexing the same to said district No. . .

We therefore pray, that, after due notice and hearing, you will so (change the lines of said districts), [and make an equitable apportionment of the property and debts of said districts, and find the balance, if any, equitably due from either of said districts to the other, and order the payment of such balance within a time to be by you limited.]

Dated at A. . . . . this . . . . . day of . . . . . , 188 .

[Signatures.]

.....  
 .....  
 .....

84. If the proceedings are to unite two or more districts, omit the words in italics and insert “the union of said districts;” and instead of the words in parentheses, insert “unite said districts.”

85. If the town has voted to make the proposed change in either case, the words “said town having voted to make such change, at a meeting duly called and held for that purpose on the . . . day of . . . . . , 188 ,” may be added to the end of the clause preceding the prayer.

86. The order of notice is usually appended to or written on the back of the original petition, and may be as follows:

We hereby appoint a hearing on the foregoing petition at the school-house in said school-district No. . . on the . . . . . day of . . . . . next, at . . o'clock in the . . . noon; and it



is ordered that the petitioners give notice of said petition and hearing by posting an attested copy of said petition, and this order thereon, fourteen days at least before the said day of hearing, on the door of the school-house of each school-district within mentioned, if any, otherwise in one or more public places in said districts, and leaving a like copy at the abode of the clerk of each of said districts, a like time before said day of hearing.

Given under our hands, this . . . . day of . . . . ., 188 .

..... } School-Committee  
..... } of  
..... }  
..... } Selectmen  
..... } of  
..... }

87. Each copy is usually attested thus,—

A true copy. Attest :  
.....

and served by the first petitioner.

88. The return may be as follows :

I hereby certify, that on the . . . . . day of . . . . ., 188 , I posted an attested copy of said petition and order *on the door of the school-house in each of said school-districts,* and on the same day I left a like copy at the abode of . . . . . , the clerk of said district No. . . , and a like copy at the abode of . . . . . , the clerk of said district No. . .

M. . . . . , ss. . . . . , 188 . Then appeared . . . . . , and made oath that the above certificate, by him signed, is true.

Before me, . . . . .  
*Justice of the Peace.*

89. If one of said districts has no school-house, instead of the words in italics, there should be inserted, "on the door of the school-house in said school-district No. . . ; and there being no school-house in said district No. . . , I posted an

attested copy of said petition and order in the store of C. G. . . . . , the same being a public place in said district."

90. The final order may be as follows :

Upon the foregoing petition, we appointed a hearing and gave notice thereof as aforesaid, and on the . . . . . day of . . . . . , 188 , at . . o'clock in the . . . . noon, at the school-house in said district No. . . , the time and place appointed, [here insert the names of those who appeared as parties] appeared as parties ; and, having heard all parties who desired to be heard, and examined them and their witnesses under oath, we are of opinion that the interest of the petitioners and the public good require *that the lines of said districts be changed by disannexing the homestead farm of A B from said district No. . . , and annexing the same to said district No. . . ; and we therefore so change said lines.*

We also make an equitable apportionment of the property and debts of said district as follows : Each district shall retain the school-house, fixtures, and apparatus heretofore belonging to it, and shall pay its respective debts, and shall collect and retain to its own use all debts due and owing to the same ; and said district No. . . shall pay to said district No. . . the sum of . . . . . dollars within . . . . . days from the date hereof, which sum we find equitably due.

Given under our hands, this . . . . day of . . . . . , 188 .

.....	} School-Committee of
.....	
.....	
.....	} Selectmen of
.....	
.....	

91. If the order is for the union of the districts, instead of the words in italics, insert "the union of said districts into one district, so as to include the whole territory of said districts."

92. The town-clerk should record the entire proceedings, and certify the date of receipt and record, and also certify upon the original that the same was recorded, and when and where.—Pierce v. Richardson, 37 N. H. 310.



93. The form may be,—

Received and recorded . . . . ., 188 , at .. o'clock in the . . . .noon.

A true record. Attest:

.....  
*Town-Clerk.*

94. The certificate upon the papers may be,—

Received and recorded . . . . ., 188 , at .. o'clock in the . . . .noon. Book ..; page ..

By me,

.....  
*Town-Clerk.*

95. The petition to the selectmen, to assess tax on delinquent districts, may be,—

To the Selectmen of the town of . . . . .:

A W, prudential committee of school-district No. ... in said town, respectfully represents, that on the . . . . day of . . . . . last, school-district No. ... in said town was by the school-committee and selectmen of said town duly ordered to pay to said school-district No. .. the sum of . . . . dollars within . . . . . days from that date, as the balance equitably due upon an apportionment by them of the property and debts of said districts, and which sum has not been paid, although the time limited for its payment has passed.

Wherefore he requests you to assess a tax for the amount upon the polls and estate in said delinquent district, and cause the same to be collected, and order the same to be paid to said district No. ..

Dated at said . . . . ., this . . . . day of . . . . ., 188 .

.....  
*Prudential Committee.*

96. If the limits of the delinquent district have been changed, the assessment should be upon the polls and estate within its limits *as changed*. Districts that have been *united* may, for the purpose of assessing a tax ordered to be paid by either to the other, be considered as continuing with their *original limits*. But where a district, formed from two or more, has been ordered to pay a certain sum to one of the

old districts, the tax should be assessed upon the new district *as a whole*.

97. The form of the petition to restore districts may be,—

To the school-committee and selectmen of A. . . . . :

The undersigned, inhabitants of school-district No. . . in said town, formed by the union of school-districts No. . . . and No. . . . in the same town, respectfully represent that their interest and the public good require that said districts be restored to their former position.

We therefore pray, that after due notice and hearing, you will so restore said districts, and make an equitable apportionment of the property and debts of the districts affected by such proposed change, and find the balance, if any, equitably due from either of said districts to the other, and order the payment of such balance within a time to be by you limited.

Dated at A. . . . . , this . . . . day of . . . . . , 188 .

[Signatures.]

98. The order of notice may be as follows :

We hereby appoint a hearing on the foregoing petition at the school-house in said school-district No. . . , on the . . . . day of . . . . . next, at . . o'clock in the . . . . noon ; and it is ordered that the petitioners give notice of said petition and hearing by posting an attested copy of said petition, and this order thereon, fourteen days at least before the said day of hearing, on the door of the school-house in said district, *if any*, otherwise in one or more public places in said district, and leaving a like copy at the abode of the clerk of said district, a like time before said day of hearing.

Given under our hands, this . . . . day of . . . . . , 188 .

.....	} School-Committee
.....	
.....	} Selectmen of
.....	
.....	.....

99. The form of attestation by the first petitioner, the return, jurat, and record, should be the same as in *ante*, p. 29.

100. The form of the final order should be the same as *ante*, p. 30, striking out the words in italics and inserting the words "that said districts be restored to their former position, and we therefore so restore them."

101. If deemed necessary, in the final order may be set out the former limits of the district by metes and bounds.

102. The petition, when districts are in different towns, may be,—

To the school-committee and selectmen of the towns of A. . . . . and B. . . . .:

The undersigned, inhabitants of school-districts No. . . , in said town of A. . . . ., and No. . . , in said town of B. . . . ., respectfully represent that their interest and the public good require that the lines of said districts be changed by disannexing the homestead farm of C D from said district No. . . , and annexing the same to said district No. . .

We therefore pray, that after due notice and hearing, you will so change the lines of said district, and make an equitable apportionment of the property and debts of said districts, and find the balance, if any, equitably due from either of said districts to the other, and order the payment of such balance within a time to be by you limited.

Dated this . . . . day of . . . . ., 188 .

[Signatures.]

.....  
 .....  
 .....

103. The order of notice may be,—

We hereby appoint a hearing on the foregoing petition at the school-house in school-district No. . . in said . . . . ., on the . . . . . day of . . . . . next, at . . o'clock in the . . . . noon; and it is ordered that the petitioners give notice of such petition and hearing by posting an attested copy of said petition, and this order thereon, fourteen days at least before the said day of hearing, on the door of the school-house of each school-district within mentioned, *if any*, other



wise in one or more public places in said district, and leaving a like copy at the abode of the clerk of each of said districts, a like time before said day of hearing.

Given under our hands, this . . . . day of . . . . ., 188 .

.....	}	School-Committee
.....		of
.....		.....
.....	}	Selectmen
.....		of
.....		.....
.....	}	School-Committee
.....		of
.....		.....
.....	}	Selectmen
.....		of
.....		.....

104. The form of attestation, return, jurat, and final order, the necessary changes being made, should be the same as in 52, 53, and 55.

105. Every district including land in different towns shall be deemed a district of *that town in which most of the voters therein reside at its formation*; but the district may, by vote recorded in both towns, elect to which town they will belong.—G. L., c. 86, s. 7, p. 207.

106. The selectmen, school-committee, and collector of the town to which such district may be deemed to belong, shall have the same powers in respect to such district as if the *whole* were in that town.—G. L., c. 86, s. 8, p. 207.

107. When any town which has been divided into school-districts shall have abolished them, or where it has never been divided into districts, or all the districts therein have been reunited in one, such towns shall then be considered as one district, and shall have all the powers and liabilities of the same.—G. L., c. 86, s. 3, pp. 206 and 207.

108. All existing districts, however organized, shall continue to be such, subject to be altered or discontinued according to existing laws.—G. L., c. 86, s. 10, p. 207.

109. The corporate powers and liabilities of any school-district shall continue and remain for the purpose of receiving and disposing of the money paid for its property by the town, paying its debts, concluding any suit at law or in equity in which such district may be a party, collecting any debts due such district and disposing of the proceeds thereof, and holding and enjoying the income of any money or property held in trust by virtue of any gift, devise, or bequest, for the benefit of each district, for the same purpose and in the same manner as before, according to the terms thereof.—G. L., c. 86, s. 28, p. 209.

110. School-districts that have exercised the privileges of a district for a year shall be presumed to be legally organized; and *all districts legally organized shall be corporations, with power to sue and be sued, to hold and dispose of real and personal property for the use of the schools therein, and to make necessary contracts relating thereto.*—G. L., c. 86, s. 14, p. 208.

111. This provision legalizes all districts whose organization was not strictly legal when formed.—*School-District v. Morrill*, March T., 1880.

112. School-districts, being enabled by law to sue and be sued, have the power to appoint and instruct agents to prosecute and defend, and in suits at law may lawfully instruct them to withdraw defences and confess judgment.—*Denniston v. School-District*, 17 N. H. 492.

113. But the tax-payers are not parties to the suits of districts, nor bound by a judgment therein, but may proceed in equity to set aside the judgment, if collusive, or to be protected against it if it is likely to be made an instrument of injustice or oppression to them.—*Barr v. Deniston*, 19 N. H. 180; *Davis v. School-District*, 43 N. H. 381; same case, 44 N. H. 398.

114. But as to the extent to which a court of equity will interfere, see *Lane v. Morrill*, 51 N. H. 422.

115. Any district may hire money for building their school-houses, not exceeding *four fifths* of the cost thereof, which shall be payable *within five years*, in *equal proportions*, with the interest.—G. L., c. 86, s. 15, p. 208.



116. The form of a district note should be,—

\$.... A....., N. H.,....., 188 .

For value received, school-district No. ... in A.....,  
promises to pay C D or order .....dollars,  
.....  
with interest annually.

SCHOOL-DISTRICT No. .. in A.....,

By its committee,

E F.  
G H.  
I J.

117. Such a note would bind the district, if duly authorized, but not the committee personally.—*Weare v. Gove*, 44 N. H. 196.

118. The selectmen, on *application of the creditor, and on the filing of a copy of the vote and note of the district*, may, in each *annual* tax, assess on the district one fifth of such debt and the interest, and cause the same to be collected and paid to the town treasurer, who shall pay the same, on demand, to the creditor.—G. L., c. 86, s. 16, p. 208.

119. Any school-district may procure its buildings and property to be insured against fire, and raise money therefor, and by their agent give their premium note; but no part of the school-money required to be raised by law shall be taken to pay for insurance.—G. L., c. 86, s. 17, p. 208.

120. Any district may raise money for the support of schools, in addition to the tax required by law, and to pay debts of the district, which, on certificate by the clerk, shall be assessed and collected as other school taxes —G. L., c. 86, s. 18, p. 208.

Fees of county commissioners are deemed debts.—G. L., c. 88, s. 8, p. 214.

121. A tax will be invalid, if the vote has been reconsidered before the assessment, at an adjourned meeting, or rescinded upon a new call.—*Mitchell v. Brown*, 18 N. H. 315.

122. When such vote is reconsidered or rescinded, the clerk ought forthwith to certify the facts to the selectmen.

123. It is the duty of the selectmen, before making an assessment, to ascertain whether or not the proceedings of the meeting at which the tax was voted were regular and legal; and if they were not, they make the assessment at their own risk.

The certified copy of the vote raising money, required to be furnished to the selectmen within ten days after its passage, is only a notice to the selectmen that their action is required in assessing the tax, *but is not sufficient in itself to justify their action.*—Rogers v. Bowen, 42 N. H. 108.

124. Each district may determine upon what terms scholars from other *districts or towns* may be admitted into their schools. If the district *neglect* to make such determination, the prudential committee *may* do it.—G. L., c. 86, s. 19, p. 208; G. L., c. 91, s. 1, p. 221; School-District v. Bragdon, 23 N. H. 516; School-District v. Pollard, 55 N. H. 504.

125. Any district may, by vote or by a committee, divide the scholars according to their age, acquirements, and residence, or either, and direct under what teachers they shall be instructed.—G. L., c. 86, s. 20, p. 208.

126. If a district refuse or *neglect* to make such division, it may be made by the school-committee.—G. L., c. 86, s. 21, p. 208.

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## CHAPTER III.

### MEETINGS AND OFFICERS OF SCHOOL-DISTRICTS.

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|--|---|
| <ol style="list-style-type: none"> <li>1. Meetings—how and by whom warned. Warrant—to whom addressed; must state time and place and business of meeting distinctly.</li> <li>2. Copy of warrant must be posted on school-house door, if there be any in district, otherwise at one or more public places in district—when.</li> <li>3. Meaning of the phrase “public place.”</li> <li>4. Fourteen days—how reckoned.</li> <li>5. Warrant—when issued and posted for annual and when for special meetings. Officers of districts must be chosen on or before last day of March.</li> <li>6. Justice may call annual or special meetings—when. A vacancy shall be deemed to exist—when.</li> </ol> | <ol style="list-style-type: none"> <li>7. Certificate on warrant—to contain what. Oath may be administered by clerk. Warrant and certificate to be returned to clerk before meeting: clerk to record the same—when.</li> <li>8. General form of warrant.</li> <li>9. Form of attestation, certificate of posting, and record.</li> <li>10. Directions as to record.</li> <li>11. Form of application to justice to call annual meeting.</li> <li>12. Form of warrant by justice.</li> <li>13. Directions as to record.</li> <li>14. Form of attestation, certificate, and record.</li> <li>15. Form of application to committee to call special meeting.</li> </ol> |
|--|---|

16. Form of warrant for such special meeting.
17. Directions as to record.
18. Directions as to attestation, return, and record.
19. If committee calls within ten days, but at a later day than specified on the application, justice may call.
20. Form of application to justice to call special meeting.
21. Applications are valid, though signed by different persons.
22. Directions as to form of warrant.
23. Directions as to record.
24. Directions as to attestation, return, and record.
25. Males and females may vote at district meetings—when.
26. Check-list must be posted and used—when.
27. Form of petition for check-list.
28. Directions as to presenting petition.
29. Form of check-list.
30. Directions as to time of session.
31. Form of certificate of committee on the back of list and jurat before opening of meeting.
32. Copy of corrected list to be left with clerk—when and by whom.
33. Form of certificate of committee.
34. Directions as to use of check-list.
35. Check-list must be used at all future meetings, if district so votes at annual meeting.
36. Penalty if illegal vote is cast.
37. Officers of districts—how chosen: may be males or females; should be sworn; term of office.
38. What offices incompatible; election—when deemed a resignation.
39. Power and duty of moderator: may administer oaths—when; may be chosen at any meeting in case of vacancy or absence.
40. Oath of office.
41. Powers and duties of a moderator of town-meeting.
42. Rules of parliamentary law—when and by whom put in force.
43. Moderator shall make vote certain—when. Penalty if he wilfully neglects or refuses to make vote certain, or if he wilfully neglects to enforce rule of proceedings as established by the town or otherwise.
44. Persons may not speak in meeting—when; penalty of one dollar if not silent at the desire of the moderator.
45. Disorderly persons may be removed from meetings and detained—when, by whom, and at whose command.
46. Constable to obey order and commands of moderator—when; may command necessary assistance; shall forfeit \$40 for use of town if he neglects his duty.
47. Clerk's duties: shall act as moderator—when. Clerk *pro tempore* may be chosen—when and how.
48. The clerk's duty is to record the vote as publicly declared by the moderator; his duty is purely ministerial.
49. Clerk must certify vote to raise money when meeting has adjourned for ten days or more.
50. Form of certificate of vote to raise money.
51. Form of the record of an annual meeting.
52. Vacancy in the office of clerk of prudential committee—when, how, by whom, and upon whose application, filled. Term of office of such appointees.
53. Vacancies—when deemed to exist.
54. Form of a petition to fill a vacancy.
55. Form of appointment and jurat.
56. Powers and duties of prudential committees.
57. Committee is trustee of the district, and cannot hire himself to teach, or otherwise contract with himself.
58. Committee may be dismissed by selectmen—when, upon whose petition, and for what.
59. Form of petition.
60. Form of order, attestation, return, and jurat.
61. Form of the final order.
62. Directions as to record and filing.
63. Form of notice of dismissal.
64. Directions as to service.
65. Form of return and jurat.
66. Form of final order, when the decision is adverse.
67. Board of education shall be elected at annual meeting, when whole town is a single district: selectmen shall appoint, if town neglects to choose—when. Board shall have powers of school and prudential committees.
68. Meetings may be held where town-meetings are held; and warrants may be posted where warrants for town-meetings may be.
69. Town and district warrants and meetings must be separate.
70. The proceedings in general are the same as in any school-district.
71. When and how any other school districts may choose board of education.
72. Of what number board may consist; term of office—how determined; vacancies—when and how filled.
73. Powers of the board.
74. Board must be sworn; oath of; shall choose a president and secretary. Meetings—when held. Record of all proceedings to be kept by the secretary. Compensation—what allowed and how apportioned.
75. Board or treasurer shall make report of disbursements—when; board may elect treasurer agent. Powers of agent; compensation of—how determined.
76. Boards to report—what, when, and to whom.

1. Meetings of school-districts shall be warned by the prudential committee, by warrant addressed to the inhab-



itants of the district qualified to vote in district affairs, stating the time and place of meeting and the business to be acted upon.—G. L., c. 87, s. 1, p. 209.

The district cannot act except upon articles distinctly stated in the warrant.—Holbrook v. Faulkner, 55 N. H. 311.

2. Such warrant shall be served by posting a copy thereof, attested by the committee, at the door of the school-house, if there be any in the district; otherwise, at one or more public places in the district, fourteen days at least prior to the day of meeting.—G. L., c. 87, s. 2, p. 209.

3. The term "public," as applied to place, is not an absolute but a relative term, and as used in the statute means nothing more than a place relatively and comparatively public.—Cahoon v. Coe, 57 N. H. 595.

Where there was no church, meeting-house, school-house, hotel, office, mechanic shop, store, sign-post, guide-post, or board box by the wayside for depositing newspapers for subscribers or others, and no public highway or bridge, but six families residing in small ordinary dwelling-houses, it was held that there was a public place.—Cahoon v. Coe, 57 N. H. 556.

4. There must be fourteen days *between* the day of posting and the day of meeting.—G. L., c. 1, s. 32, p. 46; *ante*, 2.

5. The prudential committee shall issue his warrant for the annual meeting, and post a copy thereof, at any time subsequent to the *first Tuesday of January* and prior to the second Tuesday of March; and such annual meeting shall be holden, and the officers of the district chosen, on or before the last day of March; and he shall issue his warrant for special meetings upon application therefor of three or more voters of the district within ten days after such application is made.—G. L. c. 87, s. 3, pp. 209 and 210.

6. If the prudential committee neglect to issue a warrant for such annual or special meeting, and to post a copy thereof within the respective times limited therefor, a justice, upon a like application, shall call such annual or special meeting by issuing his warrant, and causing an attested copy of it to be served in the manner before prescribed; and in case a justice shall fail to call such annual meeting in the month of March, by issuing his warrant, and causing an attested copy of it to be served as aforesaid; or, in case the officers of the district shall not be actually chosen at such meeting before



the twentieth day of April, a vacancy shall be deemed to exist in the offices of the district.—G. L., c. 87, s. 4, p. 210.

7. The warrant, with a certificate thereon verified by oath, which may be administered by the clerk of the district, that a copy thereof was posted, and at what time and place, shall be given to the clerk of the district, at or before the time of the meeting, and shall be recorded by him in the records of the district.—G. L., c. 87, s. 5, p. 210 ; Laws of 1879, c. 57, s. 18, pp. 369 and 370.

8. The form of the warrant, when issued by the prudential committee, may be,—

THE STATE OF NEW HAMPSHIRE.

To the inhabitants of school-district No. . . . in the town of . . . ., qualified to vote in district affairs :

You are hereby notified to meet at the school-house in said district, on the . . . . day of March, 188 , at . . o'clock in the . . . . noon, to act upon the following subjects :

- 1. To choose a moderator, clerk, and prudential committee, not exceeding three, for the ensuing year.
- 2. To hear the reports of agents, auditors, committees, and officers heretofore chosen, and pass any vote relating thereto.
- 3. To choose agents, auditors, and committees in relation to any subjects embraced in this warrant.
- 4. To see, etc.

Given under my hand, at said . . . . ., this . . . . day of . . . . ., 188 .

.....  
*Prudential Committee.*

9. The attestation, certificate of posting, and record may be,—

A true copy of warrant.

Attest: .....  
*Prudential Committee.*

I certify that on the . . . . day of . . . . ., 188 , I posted a copy of the within warrant, attested by the prudential com-

mittee of such district, at the door of the school-house in district No. . . in said town.

M..... ss. .... 188 . Then ..... made oath that the above certificate by him signed is true.

Before me, ..... Justice of the Peace.

10. The clerk should first record the warrant and certificate of posting, and attest the record of each as follows :

Received March . . , 188 , and recorded.

A true record.

Attest : ..... Clerk of District.

11. The form of an application to a justice to call an annual meeting may be,—

To . . . . . , a justice of the peace for the county of . . . . . :

The undersigned, legal voters in school-district No. . . , in the town of . . . . . , in said county, respectfully represent that the prudential committee of said district has neglected to issue a warrant, and post a copy thereof, for the annual meeting of said district for the year 188 ; and they request you to call such annual meeting, and insert in the warrant for the same the following articles : [Here insert articles.]

Dated at said . . . . . , this . . . . day of . . . . . , 188 .

[Signers.]

.....  
.....  
.....

The articles may be the same as in the warrant issued by the prudential committee.

12. The warrant may be,—

THE STATE OF NEW HAMPSHIRE.

M . . . . . , ss.

To the inhabitants of school-district No. . . , in the town of . . . . . , qualified to vote in district affairs :

Pursuant to an application of this date, by three and more

legal voters of said district, to me, a justice of the peace of said county, by reason of the neglect of the prudential committee of said district to call the annual meeting of said district for the year 188 , you are notified to meet at the school-house in said district on the . . . . day of March, 188 , at . . o'clock in the . . . .noon, to act upon the following subjects :  
[Here insert articles as in the application.]

Given under my hand, this . . . . day of . . . . ., 188 .

.....  
*Justice of the Peace.*

13. The application should be recorded with the warrant.

14. The attestation, certificate of posting, and record may be as in 9 and 10.

15. The application to prudential committee for a special meeting may be,—

To the prudential committee of school-district No. . . . , in the town of . . . . .:

The undersigned, three and more legal voters in said district, request you to issue a warrant, and post a copy thereof, for a meeting of said district, to be held at the school-house in said district on the . . . . day of . . . . ., 188 , at . . o'clock in the . . . .noon, to act upon the following subjects :  
[Here insert articles.]

Dated at said . . . . . this . . . . . day of . . . . ., 188 .

[Signers.]

16. The form of a warrant for such special meeting may be,—

THE STATE OF NEW HAMPSHIRE.

To the inhabitants of school-district No. . . . , in the town of . . . . ., qualified to vote in district affairs :

Pursuant to an application to me of this date, by three and more legal voters of said district, you are notified to appear



at the school-house in said district on the . . . . day of . . . . , 188 , at . . o'clock in the . . . .noon, to act upon the following subjects : [Here insert articles following application.]

Given under my hand, at said . . . . . , this . . . . day of . . . . . , 188 .

.....  
*Prudential Committee.*

17. The application should be recorded with the warrant.

18. The attestation, certificate of posting, and record may be as in 9 and 10.

19. If the prudential committee actually calls the meeting within ten days, but at a later date than the time specified in the application, a justice of the peace may call a meeting, upon a proper application.—*Denniston v. School-District*, 17 N. H. 492.

20. The application to a justice for a special meeting may be,—

To . . . . . , a justice of the peace for the county of . . . . :

The undersigned, three and more legal voters in school-district No. . . . , in the town of . . . . , in said county, respectfully represent, that on the . . . . day of . . . . . last, three or more legal voters in said district made a written application to the prudential committee thereof to call a meeting of said district, of which the following is a copy : [Here insert a copy of the application, including the names of the signers thereto.] Yet said committee has neglected to issue a warrant, and post a copy thereof, for such meeting, and more than ten days have elapsed since said application.

Wherefore they request you to call such meeting at the time and place and for the purposes stated in said application.

Dated at said . . . . . , this . . . . day of . . . . . , 188 .

[Signers.]

21. The signers to both applications need not be the same.—*Simpson v. Orford*, 41 N. H. 228.

22. The warrant under the foregoing application may be as in 12, omitting the words “the annual meeting of said district for the year 188 ,” and inserting instead thereof the words “a special meeting of said district on the . . . . . day of . . . . ., 188 .”

23. The application should be recorded with the warrant.

24. The attestation, certificate of posting, and record may be as in 9 and 10.

25. Any person, whether male or female, but in all other respects except sex qualified to vote in town affairs, may vote at school-district meetings in the district in which such person has resided and had a home three months next preceding such meeting.—G. L., c. 87, s. 6, p. 210; Laws of 1879, c. 57, s. 18, p. 370.

26. Upon petition of ten legal voters in any district, presented in January to the prudential committee, he shall make, post, and correct a list of the legal voters in the district as selectmen [supervisors of the check-list] are required to do in regard to the list of voters in their towns; and said list *shall be used* and checked, at the election of officers and otherwise, at the annual meeting of the district, as such list may be used in town-meetings.—G. L., c. 87, s. 7, p. 210.

27. The petition may be,—

To . . . . ., prudential committee of school-district No. . . . ., in the town of . . . . .:

The undersigned, ten and more legal voters in said district, request you to make, post, and correct a list of the legal voters in said district as [selectmen] are required to do in relation to lists of voters in their town.

Dated at said . . . . ., this . . . . . day of . . . . ., 188 .

[Signers.]

28. It would be advisable to present the petition to the prudential committee on or before *the first Tuesday of January*.

29. The check-list may be,—

List of voters in school-district No. . . . ., in the town of . . . . .:

The following is an alphabetical list of all the legal voters in school-district No. . . . ., in the town of . . . . ., made and posted by the prudential committee of said district on the . . . . day of . . . . ., 188 :

Names.

Names.

The prudential committee of said district gives notice that he will be in session, for the purpose of correcting the foregoing list, at the school-house, being one of the most public places in said district, on the . . . . day of . . . . ., 188 , at .. o'clock in the...noon, and on the . . . . day of . . . . ., 188 , at .. o'clock in the...noon.

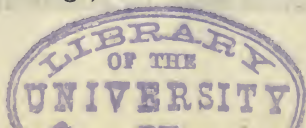
Given under . . . . hands, at said . . . . ., this . . . . day of . . . . ., 188 .

..... } Prudential  
 ..... } Committee.  
 .....

30. The prudential committee should be in session, for the purpose of correcting said list, two days at least before the day of meeting, the last of which should be the day preceding the day of the meeting.

31. Before the opening of the meeting, the prudential committee should subscribe and make oath to the following certificate upon the back of the foregoing corrected list :

The undersigned, prudential committee of school-district No. . . . , in said town of . . . . ., do solemnly swear, that, according to . . . . best knowledge, the within list contains





the names of those persons only who are, by actual residence, legal voters in said district.

So help . . . . God.

..... } Prudential  
..... } Committee.  
..... }

....., ss. ....188 .

Then the above named ....., and ....., and ..... took and subscribed the foregoing oath.

Before me, .....  
*Justice of the Peace.*

32. An attested copy of the foregoing check-list, as corrected, with the return thereon, should be lodged with the clerk of the district on the day of the meeting, and before the opening thereof.

33. The form of the certificate may be,—

.... hereby certify that the foregoing is a true copy of the check-list, duly made and posted in said district as corrected by ....

..... } Prudential  
..... } Committee.  
..... }

34. The safe course, when there is a check-list, is to use it in the election of all officers and in the transaction of all business.

35. If any district, at an annual meeting, shall vote that a check-list shall be used at future meetings, such check-list shall be so made, posted, and corrected, and used at *all* meetings while such vote remains in force.—G. L., c. 87, s. 8, p. 210.

36. If any person under the age of twenty-one years, or any alien not naturalized, or any person who has not resided and had his home in the district for one month and in the town six months preceding, shall vote in any district meeting, or if any person shall give in more than one vote for any officer voted for at such meeting, he shall be fined not

exceeding thirty dollars, or imprisoned not exceeding three months.—G. L., c. 87, s. 9, p. 210.

37. The officers of a district shall be a moderator, a clerk, and prudential committee not exceeding three, who shall be adult citizens of the district; shall be chosen by ballot by a plurality of votes, and may be either male or female; shall be sworn, and shall hold their offices for one year, or until others are elected or appointed and qualified in their stead.—G. L., c. 87, s. 10, p. 210; Laws of 1879, c. 57, s. 19, p. 370.

38. The offices of prudential committee and auditor are incompatible. A person who is elected to both offices at the same meeting, and accepts the latter, thereby declines the former.—Cotton *v.* Phillips, 56 N. H. 220.

39. The moderator of a school-district shall have the like power and duty as a moderator of a town-meeting to conduct the business and to preserve order, and may administer oaths to district officers and others, when oaths are required in the district business. In case of a vacancy or absence, a moderator may be chosen at any meeting.

In *Mitchell v. Brown*, 18 N. H. 315, it was apparently held that a moderator could lawfully refuse to put motions which it was his duty to put, and could put an end to a meeting, although no motion had been made to dissolve it. But such a record concludes no one in the election of officers; and the rule cannot apply when a voter seasonably attempts to take an appeal from such despotic decisions.

40. The oath of office may be,—

You do solemnly swear that you will faithfully and impartially discharge and perform all the duties incumbent on you as a . . . . ., according to the best of your abilities, agreeably to the rules and regulations of the constitution and laws of the state of New Hampshire. *So help you God.*

41. The powers and duties of a moderator of a town-meeting are as follows:

The moderator shall preside in and regulate the business of the meeting; may prescribe rules of proceeding, which may be altered by the town; shall decide all questions of order, and make a public declaration of all votes passed.—G. L., c. 39, s. 3, p. 116.

42. The rules of parliamentary law, so called, are not in

force for the government of town-meetings, except so far as prescribed by the moderator, subject to alteration by the town.—*Hill v. Goodwin*, 56 N. H. 441.

43. When any vote, other than by ballot, declared by the moderator or other officer presiding, shall immediately, and before any other business is commenced, be questioned by seven or more of the voters present, the moderator or other officer presiding shall make the vote certain by a poll of the voters. If any moderator or other officer presiding shall wilfully neglect or refuse to make any vote certain by a poll of the voters, when required as aforesaid, or shall wilfully violate or neglect to enforce any rule of proceeding which shall have been established by vote of the town or otherwise, he shall, for each offence, be fined not exceeding five hundred dollars, or be imprisoned not exceeding six months.—G. L., c. 39, s. 4, p. 116.

44. No person shall speak in any meeting without leave of the moderator, nor when any person is orderly speaking; and all persons shall be silent at the desire of the moderator, on pain of forfeiting one dollar for each offence, for the use of the town.—G. L., c. 39, s. 6, p. 116.

45. If any person shall conduct in a disorderly manner, and, after notice from the moderator, persist therein, or shall in any way disturb the meeting, or wilfully violate any rule of proceeding, the moderator may command any constable or any legal voter of the town to remove such disorderly person from the meeting, and detain him until the business is finished.—G. L., c. 39, s. 7, p. 116.

46. Every constable shall obey the orders and commands of the moderator for the preservation of order, and may command such assistance as is necessary; and if any constable neglect to perform any of the duties imposed by this chapter, he shall forfeit forty dollars, for the use of the town.—G. L., c. 39, s. 8, p. 116.

47. The clerk shall keep a true and attested record of all the doings of each meeting; shall deliver to the selectmen a certified copy of every vote to raise money, within ten days; shall make and certify copies of any votes, when required and payment therefor is tendered; and shall have



the same power to administer oaths as the moderator; and if, at any meeting, the moderator is absent, or if his office has become vacant, the clerk shall act as a moderator until a moderator *pro tempore* shall be chosen; and if the clerk is absent, a clerk *pro tempore* shall be chosen; and it shall not be deemed necessary to the choice of such officers *pro tempore* that an article shall have been inserted in the warrant for that purpose; and the choice shall be by ballot and a plurality of votes.—G. L., c. 87, s. 12, pp. 210 and 211.

48. It is the duty of the clerk to record the votes as publicly declared by the moderator. His duty in this respect is purely ministerial.—*Hill v. Goodwin*, 56 N. H. 441.

49. The clerk is to certify a vote for raising money, although the meeting may have adjourned to a time beyond ten days.—*Mitchell v. Brown*, 18 N. H. 315.

50. The certificate of the record of a vote to raise money may be,—

To the selectmen of the town of A.....:

At a meeting of the legal voters of school-district No...., in the town of ....., on the .... day of....., 188 , at the school-house in said district, at .. o'clock in the .... noon:

The meeting was called to order by .... , moderator [or clerk].

Voted to raise the sum of .... thousand dollars for building a new school-house, and procuring land and suitable furniture and apparatus and needful conveniences therefor.

\* \* \* \* \*

A true record.

Attest: .....  
Clerk of District.

A true copy of record.

Attest: .....  
Clerk of District.

51. The warrant and certificate of posting should first be recorded by the clerk. Then the record of the proceedings may be,—

At a meeting of the inhabitants of school-district No. ....,

qualified to vote in district affairs, at the school-house in said district, on the . . . . day of . . . . ., 188 , at .. o'clock in the . . . .noon :

The meeting was called to order by . . . . ., moderator [or clerk], and proceeded to the transaction of business as follows :

1. The whole number of tickets given in for moderator was one hundred ; upon which

A B had twenty votes ;

C D had thirty-five votes ;

E F had forty-five votes ; and said E F was declared elected moderator, and in open meeting took the oath of office by law prescribed.

2. The whole number of tickets given in for clerk was one hundred ; upon which

B H had thirty votes ;

W C had thirty votes ;

R S had forty votes, and was declared elected clerk by the moderator, and in open meeting took the oath of office by law prescribed.

3. Voted to choose a prudential committee of one person.

For prudential committee, the whole number of tickets given in was one hundred ; upon which

A B had thirty votes ;

C D had thirty votes ;

E F had forty votes, and was declared elected prudential committee by the moderator, and in open meeting took the oath of office by law prescribed.

4. Voted to raise the sum of . . . . thousand dollars to build a new school-house, and procure land and suitable furniture and apparatus and needful conveniences therefor.

[Here insert all other votes, care being taken to make the record an accurate and intelligible account of the entire proceedings of the meeting.]

5. Voted to adjourn this meeting until the . . . . . day of . . . . ., 188 , at .. o'clock in the . . . .noon, at the school-house in said district [or, Voted that this meeting adjourn].

A true record.

Attest :

R S, *Clerk of said District.*

52. If a vacancy shall occur in the office of clerk or prudential committee, from *any* cause, the selectmen, upon ap-

plication of one or more voters in such district, shall fill such vacancy ; and the officers thus appointed shall hold their offices until new ones are legally chosen and qualified.—G. L., c. 87, s. 13, p. 211.

53. A vacancy may exist when the prudential committee or other officer removes from the district.—Giles v. School-District, 31 N. H. 304.

Vacancies may also occur by the death or resignation of the incumbent.

54. The application to selectmen to fill a vacancy may be,—

To the selectmen of the town of . . . . .:

The undersigned, legal voters in school-district No. . . , in said town, respectfully represent that there is a vacancy in the office of . . . . . in said district, and they request you to fill such vacancy.

Dated at said . . . . ., this . . . . day of . . . . ., 188 .

[Signers.]

55. The appointment may be,—

To . . . . ., of school-district No. . . . , in the town of . . . . .:

Whereas, there is a vacancy in the office of . . . . . in said district, and an application has been made to us by one or more legal voters of said district to fill such vacancy, we, having confidence in your ability and fidelity, hereby appoint you . . . . . of said district ; and upon your taking the oath of office, and having this appointment and the certificate of said oath recorded in the records of said district, you shall have the powers, perform the duties, and be subject to the liabilities of said office.

Witness our hands, this . . . . day of . . . . ., 188 .

.....	} Selectmen of .....
.....	
.....	



M. . . . ., ss. . . . . 188 .

Then appeared . . . . ., and took the oath of office by law prescribed.

Before me, . . . . .  
*Justice of the Peace.*

56. The prudential committee shall select and hire teachers for the district, provide them board, furnish necessary fuel, make such occasional repairs of the school-house and furniture as may be necessary, not exceeding in amount five per cent. of the school-money of the district, notify the superintending school-committee of the commencement and close of the schools, and give them such information and assistance as may be necessary for the performance of their duties.—G. L., c. 87, s. 14, p. 211.

The practice of "bidding off" the board is illegal and reprehensible. The district cannot in this way take from the committee his power to provide suitable board for teachers.—School-District v. Currier, 45 N. H. 573.

57. The committee is the trustee of the district, and as such holds its funds, and cannot hire himself to teach, and otherwise contract with himself.—Fisher v. Concord Railroad, 50 N. H. 205.

58. Any member of a prudential committee may be dismissed from office by the selectmen, by a written notice in hand or left at his abode, upon petition of one fourth of the legal voters of the district, alleging that he is incompetent, irresponsible, or mismanages the affairs of the district, upon four days' notice to the committee of such petition, and a hearing thereon.—G. L., c. 87, s. 15, p. 211.

59. The petition may be,—

To the selectmen of the town of . . . . .:

The undersigned, being one fourth of the legal voters in school-district No. . . . ., in said town, respectfully represent that . . . . ., prudential committee of said district, is incompetent and irresponsible, and mismanages the affairs of said district, and they therefore request you to dismiss the said . . . . . from his said office.

Dated at said . . . . ., this . . . . . day of . . . . ., 188 .

[Signers.]

60. The order of notice, service, and return may be,—

A hearing upon said petition is hereby appointed at . . . , in the town of . . . . . , on the . . . day of . . . . . next, at . . o'clock in the . . . . . noon ; and it is ordered that the petitioner give notice of said petition and hearing to the said . . . . . , by giving to him, or leaving at his abode, an attested copy of said petition, and this order thereon, . . . . . days at least before the said day of hearing.

Given under our hands, this . . . . day of . . . . . , 188 .

. . . . . } Selectmen  
. . . . . } of  
. . . . . } . . . . .

The copy may be attested by the person serving it, as,—

A true copy.

Attest : . . . . .

I hereby certify, that on the . . . . day of . . . . . , 188 , I gave to . . . . . , within named [or, " I left at the abode of . . . . . , within named" ], an attested copy of the within petition and order thereon.

. . . . .

M. . . . . , ss. . . . . , 188 . Then appeared . . . . . , and made oath that the above certificate by him signed is true.

Before me, . . . . .

*Justice of the Peace.*

61. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid ; and on the . . . . . day of . . . . . , 188 , at . . o'clock in the . . . . . noon, at . . . . . , in the town of . . . . . , the time and place appointed [here insert the names of those who appeared as parties], appeared as parties ; and, having heard all parties who desired to be heard, and examined them and their witnesses under oath, we find that said . . . . . is incompetent and irresponsible, and does mismanage the affairs of said district, as alleged

in said petition, and therefore order that he be removed from his said office.

Given under our hands, this . . . . day of . . . . ., 188 .

..... } Selectmen  
..... } of  
..... }

62. The town-clerk must record the entire proceedings, and should certify the record of each separate part as follows:

Received and recorded . . . . . 188 , at . . . o'clock in the . . . . noon.

A true record.

Attest : .....  
*Town Clerk.*

The filing upon the papers may be,—

Received and recorded and filed, . . . . ., 188 .

By me, .....  
*Town Clerk.*

63. Notice of dismissal may be,—

To . . . . ., prudential committee of school-district No. . . . in the town of . . . . .:

You are hereby dismissed from your office of prudential committee.

Witness our hands, this . . . . day of . . . . ., 188 .

..... } Selectmen  
..... } of  
..... }

64. The original should be served, and the copy and return recorded, by the clerk of the district.

65. The certificate of service may be,—

I certify, that on the . . . . day of . . . . ., 188 , I gave to the within named . . . . . [or, "I left at the abode of the within named . . . . ."] the original notice of which the within is a true copy.

M. . . . ., ss., . . . . ., 188 .



Then appeared . . . . ., and made oath that the above certificate, signed by him, is true.

Before me,

.....

*Justice of the Peace.*

66. When the decision is adverse, insert after the word oath, in 61, "We find that said . . . . . is not incompetent or irresponsible, and does not mismanage the affairs of said district, as alleged in said petition, and therefore do not remove said . . . . . from his said office."

67. School-districts composed of the whole town shall, at their *annual* meeting, elect a board of education, who shall have and exercise all the powers and duties of superintending and prudential school-committees; and should any such district *neglect* to choose such board of education, the selectmen shall, *on or before* the twentieth day of April *ensuing*, appoint such board.—G. L., c. 87, s. 16, p. 211.

68. Whenever any school-district shall consist of the whole town, the district meetings thereof may be held at the usual place or places where the town-meetings of such town are held; and the warrants for such district meetings may be posted at such places as warrants for town-meetings are required by law to be posted.—Laws of 1879, c. 57, s. 37, p. 372.

69. The warrants and meetings are not to be a part of the *town* warrants and meetings, as such, as was formerly the case.

70. The statutes quoted make the town a school-district, and all the proceedings are, in general, as in any other school-district.

71. Any other school-district in any town of the state, which may so elect, and in which there are fifty children of school age, or which may support a public school during not less than thirty weeks in each year, or a graded school during not less than twenty-four weeks in each year, is hereby authorized, at any legal meeting duly notified and holden for the purpose, to choose, by ballot and by a major vote of the qualified voters of the district, a board of education.—G. L., c. 87, s. 17, p. 211.

72. Such board of education shall consist of three, six, or nine persons, having the legal qualifications prescribed by law for prudential and school-committees, one third of whom shall hold office for one year, one third for two years, and one third for three years from the time of the annual meeting in such district, and until others are duly chosen and qualified in their stead, the term of office of each to be determined by lot at the first meeting of the board, and a record thereof made. One third of said board shall be chosen at every annual meeting of the district after the first choice thereof as aforesaid, by ballot and by major vote of the qualified voters of the district present and voting, to fill the vacancy that will annually occur by the expiration of office of one third of the incumbents, and to hold office for three years, and until others are chosen and qualified in their stead. Any vacancy occurring from any other cause may be filled in like manner at a special meeting held for the purpose, otherwise at the next annual meeting; and the person chosen to fill such vacancy shall hold office during the unexpired term, and until another shall be duly chosen and qualified in his stead.—G. L., c. 87, s. 18, pp. 211 and 212.

73. Any board of education elected according to the provisions of this chapter shall have the care and custody of all the property belonging to the district, shall employ teachers and fix their compensation, shall have the control and management of the schools of the district, and examine and allow all claims arising therefrom, and generally shall have and enjoy all the power and authority, and perform all the duties, by law pertaining to the offices of prudential and school-committees.—G. L., c. 87, s. 19, p. 212.

74. Said boards shall be sworn to the faithful performance of their duties, shall choose a president and secretary of their own number, and shall hold meetings as often as may be necessary for the discharge of their duties; and the secretary shall keep a record of all their proceedings in a book kept for that purpose at the expense of the district. They shall receive no compensation for their services except such sums as the towns in which such boards are created may allow them for performing the duties of school-committees within the districts for which they are chosen, which sums

may be apportioned among them according to the services rendered by each member in that capacity.—G. L., c. 87, s. 20, p. 212.

75. A report of receipts and disbursements during the year shall be made to the district at every annual meeting by said boards, or by such member of the board as they may appoint to act as treasurer, and, if they so elect, to act as agent in providing fuel, furniture, and other necessaries for the accommodation of the various schools of the district, who shall receive such compensation as the district may determine.—G. L., c. 87, s. 21, p. 212.

76. It shall be the duty of said boards, in cases where the district is composed of the whole town, to make a report to the town, and in other cases to the school-committees of the towns in which such boards have been organized, on or before the first day of March of each year, containing such facts as said school-committee shall by law be required to report to the towns, and such other information as said school-committee shall have occasion to use in making any report required by law to be made.—G. L., c. 87, s. 22, p. 212.

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## CHAPTER IV.

### SCHOOL-DISTRICTS.

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|---|---|
| <ol style="list-style-type: none"> <li>1. May raise money—how, and for what purposes.</li> <li>2. Form of article.</li> <li>3. Directions as to form of vote.</li> <li>4. May locate school-house and purchase land therefor by vote or committee.</li> <li>5. Form of vote when district locates.</li> <li>6. Form of vote when the district locates by a committee.</li> <li>7. Form of report of locating committee.</li> <li>8. Form of vote when the act of the committee must be afterwards affirmed by the district.</li> <li>9. Form of report of such committee.</li> <li>10. Form of vote adopting such report.</li> <li>11. Report—by whom recorded and kept on file.</li> </ol> | <ol style="list-style-type: none"> <li>12. Committee cannot bind district beyond the amount of money lawfully voted; acts of committee cannot be ratified except by express vote.</li> <li>13. Location may be changed by school-committee upon petition of three or more legal voters.</li> <li>14. Form of petition.</li> <li>15. Form of order.</li> <li>16. Form of attestation, return, and jurat.</li> <li>17. Form of final order.</li> <li>18. Form of record.</li> <li>19. Form of final order when no changes are made.</li> <li>20. Location—how and by whom determined when districts do not agree upon location or a committee to locate.</li> </ol> |
|---|---|



21. Form of petition.
22. Directions as to order, attestation, return, and jurat.
23. Form of final order.
24. Form of record.
25. Form of final order when no change is made.
26. County commissioners may determine location—when.
27. Notice—how given. Hearing. Decision must be made within sixty days, in writing, and filed with clerk of district. While these proceedings are pending, all others are prohibited and stayed.
28. Fees of commissioners—what, when, and by whom paid. School-districts authorized to raise money to pay the same.
29. Form of petition to the county commissioners.
30. Form of order.
31. Form of attestation.
32. Certificate of posting, service, and jurat.
33. Form of final order.
34. Record of proceedings.
35. Form of final order when no change is made.
36. Office filled by judge of supreme court, upon petition, when a vacancy exists from any cause, or when any commissioner is disqualified from acting by reason of interest in the case.
37. Form of petition.
38. Form of appointment and jurat.
39. Commissioners may appoint substitute—when and how.
40. Oath of substitute.
41. Certificate of oath and appointment must be returned with report to court, and filed therewith.
42. Form of such appointment and jurat.
43. School-lot—how enlarged, upon petition, by school-committee or county commissioners.
44. Selectmen to appraise land damages—when and how. Appraisal to be in writing, and filed with the clerk of district. Remedy of land-owner for increase of damages.
45. Form of petition when district neglects or refuses to purchase or procure land legally designated for school-house lot.
46. Form of order.
47. Form of return and jurat.
48. Form of final order.
49. Selectmen to appraise damages to land-owner—when.
50. Form of petition by district.
51. Form of order.
52. Form of attestation, return, and jurat.
53. Form of final order.
54. Effect of payment or tender of land damages. Land reverts—when.
55. When selectmen may assess and collect tax and cause school-house to be built, removed, repaired, or fitted up.
56. Form of petition.
57. Form of order.
58. Form of attestation, return, and jurat.
59. Form of final order.
60. Form of record.
61. Form of petition when district neglects or refuses to repair or fit up school-house.
62. Directions as to order, service, and return.
63. Directions as to form of final order.
64. Directions as to form of proceeding when district has refused or neglected "to remove."
65. Form of petition when district neglects or refuses to build house upon or refuses to remove house to lot legally "designated."
66. Directions as to form of notice, return, and jurat.
67. Form of final order.
68. School to be kept in school-house—except when. Prudential committee may hire rooms and conveniences for use of school—when, and at whose expense.
69. Form of application and consent.
70. Districts may grant use of school-house for writing- and singing-schools and other meetings—when.
71. Real and personal property—where assessed for school-house taxes.
72. Selectmen may make new invoice at their option.
73. Collector's duty when such tax is assessed upon property of non-residents after July 1.

1. Any district, at a legal meeting holden for the purpose, may raise money for building, purchasing, renting, repairing, or removing such school-houses and outbuildings as the wants of the district require, procuring land for a new school-house lot, or to enlarge any existing lot, and providing suitable furniture and apparatus and needful conveniences therefor.—G. L., c. 88, s. 1, p. 213.

2. The article in the warrant may be,—

To see what sum or sums of money the district will raise, by taxation or otherwise, for building, purchasing, renting, repairing, or removing such school-houses and outbuildings as the wants of the district require, procuring land, and providing suitable furniture and apparatus and needful conveniences therefor, and to procure and pay for insuring its buildings and property against fire, and to choose all necessary committees and agents therefor.

3. The vote should set forth specifically and distinctly the will of the district.

4. The district may decide upon the location of their school-houses, by vote or by a committee appointed for that purpose, and purchase or procure land for the same, and may choose committees with powers to carry their votes into effect.—G. L., c. 88, s. 2, p. 213.

5. The vote, when the district locates, may be,—

*Voted* to locate the school-house in that part of the Gay pasture, in said school-district, bounded and described as follows: Beginning at a stake on the land of A B, on the westerly side of the highway leading from C . . . . . to D . . . . ., thence running westerly ten rods on the land of E F to the corner of the cross wall, thence running southerly on said wall eight rods to a stake and stones, thence easterly ten rods to a stake and stones on said highway, thence running northerly eight rods on said highway to bound begun at,—containing half an acre of land; and to pay G H, the owner thereof, the sum of fifty dollars therefor.

6. When the district locates by a committee, the vote may be,—

*Voted*, that A, B, and C be a committee to decide upon a location for a school-house in said district.

Under this vote the action of the committee is final.

7. The report may be,—

To school-district No. . . , in the town of . . . . .:

The undersigned, a committee chosen at a meeting of said district, duly called and held therefor on the . . . . . day of

....., 188 , to decide upon the location of a school-house in said district, and purchase and procure land for the same, have attended to the duty assigned them, and have located the same upon a lot of land, being a part of the homestead farm of M. . . . , in said district, bounded and described as follows : Beginning at a stake and stones on said homestead farm, on the southerly side of the highway leading from . . . . to . . . . , thence running south ten rods to a white oak tree, spotted on the northerly side, thence running east eight rods to a stake and stones, thence running north ten rods to a stone post, and thence running west on said highway to the bound begun at,—containing half an acre of land ; and have taken from said . . . . . , the owner thereof, and his wife, . . . . . , a homestead quit-claim deed of said lot, in common form, to said school-district No. . . . . , the same being a gift from said owner to said district.

Dated at . . . . , this . . . . day of . . . . . , 188 .

..... }  
 ..... } Committee.  
 .....

#### 8. Form of vote when the committee is advisory :

*Voted*, that A, B, and C be a committee to examine and report upon the location of a school-house in said district, and the purchase or procuring of land for the same.

The action of the committee does not become the act of the district until adopted in open meeting duly held therefor.

#### 9. Form of report:

To school-district No. . . in the town of . . . . . :

The undersigned, a committee duly chosen at a meeting of said district, duly called and held therefor on the . . . . day of . . . . , 188 , to examine and report upon a location for a school-house in said district, and the purchase or procuring of land for the same, have attended to the duty assigned them, and report, that in their judgment the best interests of said district will be promoted by locating the same upon that part of the Hunkins field, in said district, bounded and described as follows : Beginning at a stake and stones on the north side of the highway leading from . . . . to . . . . , at the south-west corner of said field, thence running north on



the land of C D ten rods to the land of E F, thence running east on land of said E F eight rods to a rock-maple tree spotted on four sides, thence running south ten rods to a stake and stones standing on said highway, thence running west on said highway eight rods to the bound begun at,—containing half an acre; and that . . . . ., the owner thereof, has, by a contract in writing, under seal, executed by him, agreed to convey the same to said district, if the district so elect, within thirty days from the date thereof, by a homestead warranty deed, in common form, for the sum of one hundred dollars, twenty-five dollars thereof to be paid on the delivery of said deed, and the remainder in six months thereafter.

Dated at . . . ., this . . . . day of . . . . ., 188 .

..... }  
 ..... } Committee.  
 .....

10. The vote upon the foregoing report may be,—

*Voted*, to adopt the report of said committee, and instruct them to take a deed of said land to said district No. . . , upon the terms therein set forth.

11. The report should be recorded at length by the clerk of the district, and be kept upon file.

12. No committee shall have power to bind the district beyond the amount of money voted by the district; and the district shall not be bound by any act, as a ratification of the doings of such committee beyond their authority, unless by express vote of the district at a meeting called for that purpose.—G. L., c. 88, s. 3, p. 213.

13. If any three or more of the voters of a district are aggrieved by the location of any school-house by the district or its committee; they may apply, by petition, to the school-committee, who shall hear and determine the location thereof.—G. L., c. 88, s. 4, p. 213.

14. The petition may be,—

To the school-committee of the town of . . . . .:

The undersigned, three or more legal voters in school-district No. . . . , in said town, respectfully represent, that a lot of land, described as follows [here insert boundaries and description], has been decided upon by said district for the location of a school-house for said district. Your petitioners are aggrieved by the location of said school-house, and request you to determine the location thereof.

Dated at said . . . . , this . . . . . day of . . . . , 188 .

[Signers.]

15. The order of notice may be,—

A hearing upon the foregoing petition is hereby appointed at . . . . , in the town of . . . . , on the . . . . day of . . . . next, at . . . o'clock in the . . . . noon; and it is ordered that the petitioners give notice of said petition and hearing to said district by posting an attested copy of said petition, and this order thereon, on the door of the school-house of said district, fourteen days at least before said day of hearing, and leaving a like copy at the abode of the clerk of said district a like time before the said day of hearing.

Given under our hands, this . . . . day of . . . . , 188 .

..... } School Committee  
..... } of  
..... }

16. The attestation, return, and jurat may be,—

A true copy.

Attest : .....

I certify, that on the . . . . day of . . . . , 188 , I posted an attested copy of said petition and order on the door of the school-house in the school-district within mentioned, and on the same day I left a like copy at the abode of . . . . . , the clerk of said district.

G....., ss. ...., 188 . Then appeared .... , and made oath that the above certificate by him signed is true.

Before me, .....  
*Justice of the Peace.*

17. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the ..... day of ....., 188 , at .. o'clock in the ... noon, at ...., in the town of ....., the time and place appointed [here insert the names of those who appeared as parties], appeared as parties ; and, having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that the lot of land described in said petition has been decided upon by said district [or by a committee of said district] for the location of their school-house ; and that the petitioners, being three or more legal voters in said district, are aggrieved by such location, and we therefore determine that the location of said school-house shall be upon a lot of land in said district bounded and described as follows [here insert boundaries and description]:

Given under our hands, at ...., this .... day of ....., 188 .

..... } School-Committee  
..... } of  
..... }

18. The form of record may be,—

Received and recorded ....., 188 , at .. o'clock in the ... noon.

A true record.

Attest: .....  
*Town-Clerk.*

19. If the decision is adverse, the report, after the word "oath" may be,—“ We find that said petitioners are not aggrieved by such location, and we therefore make no change.”

20. If at a meeting duly holden for the purpose, the district do not agree upon a location for a school-house, or upon



a committee to locate the same, the school-committee, upon petition of three or more voters, shall determine the location.—G. L., c. 88, s. 5, p. 213.

21. The petition may be,—

To the school-committee of the town of . . . .:

The undersigned, three or more legal voters of school-district No. . . . , in said town, respectfully represent that, at a meeting of said district, duly held therefor on the . . . . day of . . . ., 188 , the district failed to agree upon a location for a school-house for said district, or upon a committee to locate a school-house in said district; wherefore the undersigned request you to determine the location thereof.

Dated at said . . . ., this . . . . day of . . . ., 188 .

[Signers.]

22. The order of notice, attestation, return, and jurat, may be as in sections 15 and 16 *ante*.

23. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the . . . . day of . . . ., 188 , at . . o'clock in the . . . .noon, at . . . ., in the town of . . . ., the time and place appointed [here insert the names of those who appeared as parties] appeared as parties; and, having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witness under oath, we find that, at a meeting duly held to act upon the subject, said district failed to agree upon a location for a school-house in said district, or upon a committee to locate the same, as stated in said petition, and said petitioners are three or more legal voters of said district;—we therefore determine that said location shall be upon a lot of land in said district bounded and described as follows [here insert boundaries and description]:

Given under our hands, at . . . . , this . . . . day of . . . . . ,  
188 .

..... } School-Committee  
 ..... } of  
 ..... }

24. The form of record may be,—

Received and recorded . . . . . , 188 , at .. o'clock in the  
 . . . . noon.

A true record.

Attest: .....  
*Town-Clerk.*

25. If the decision be adverse, the report after the word  
 “oath” may be,—“We find that said petitioners are not ag-  
 grieved by such location, and we therefore make no change.”

26. If any ten or more voters of a school-district are ag-  
 grieved by the location of any school-house by the district or  
 its committee, or by the superintending school-committee  
 upon proceedings before them for that purpose, they may  
 apply by petition to the county commissioners, who shall  
 hear and determine the location thereof.—G. L., c. 88, s. 6,  
 p. 213.

27. When any such petition is presented to the county  
 commissioners, they shall appoint a time and place of hear-  
 ing thereon, which place of hearing shall be within the dis-  
 trict wherein the school-house is to be located, and shall give  
 notice of the time and place so appointed by causing a copy  
 of the petition presented to them, and of the order of notice  
 made by them thereon, to be posted on the *outside* of the  
*outer* door of each school-house in the district, if there be  
 any in the district, and if not, in one or more public places  
 in the district, at least fourteen days before the time so ap-  
 pointed, and by causing a like copy to be given to or left at  
 the usual place of abode of the clerk and prudential commit-  
 tee of the district a like time before the time appointed for  
 the hearing, and they may adjourn said hearing from time to  
 time, not exceeding sixty days in all. They shall hear all  
 parties residing in the district or having any interest in the  
 subject-matter of the hearing who may desire to be heard,

and shall make their decision in writing, and file the same with the clerk of the district. While proceedings as aforesaid are pending before the county commissioners, no steps shall be taken by the district, or any officers or parties whomsoever, to carry into effect any former location of the school-house.—G. L., c. 88, s. 7, pp. 213 and 214.

28. The fees of the county commissioners for their services on petitions relating to the location of school-houses shall be the same as on petitions relating to highways, and for making such locations shall be paid by the districts in which they are made; and school-districts are hereby authorized to raise money to pay such fees the same as to pay other debts of the district.—G. L., c. 88, s. 8, p. 214.

29. The petition may be,—

To the county commissioners for the county of . . . . :

The undersigned, being ten and more legal voters in school-district No. . . . , in the town of . . . . , in said county, respectfully represent that a lot of land, bounded and described as follows: [here insert boundaries and description as given in the location appealed from] has been decided upon by said district [or, “by a committee of said district,” or, “by the superintending school-committee of said town,” as the case may be] for the location of a school-house for said district, and that your petitioners are aggrieved by such location. They therefore request you to determine the location of said school-house.

Dated at . . . . , the . . . . day of . . . . , 188 .

[Signatures.]

30. The order may be,—

A hearing upon the foregoing petition is hereby appointed at the school-house in school-district No. . . . , in the town of . . . . [or, “at the hotel of A B, in school-district No. . . . , in the town of . . . . .”], on the . . . . day of . . . . , 188 , at . . o'clock in the . . . . noon; and it is ordered that the petition-



ers give notice of said petition and hearing thereon by causing a copy of the petition presented to us, and order of notice made by us thereon, to be posted on the outside of the outer door of each school-house in said district, if any there be, and if not, in one or more public places in said district, at least fourteen days before the time so appointed, and by causing a like copy to be given to or left at the usual place of abode of the clerk and prudential committee of said district, a like time before the time appointed for such hearing.

Given under our hands, this . . . . day of . . . ., 188 .

..... } County Commissioners  
..... } of the  
..... } County of .....

31. The attestation may be,—

A true copy.

Attest: .....

32. The certificate of posting, service, and jurat may be,—

I certify, that on the . . . . day of . . . ., 188 , I posted an attested copy of the foregoing petition and order thereon on the outside of the outer doors of all the school-houses in the district within mentioned [or, “in the hotel of A B, the same being one of the most public places in said district, there being no school-house in said district”], and by leaving a like copy at the usual place of abode of . . . . ., clerk, and . . . . ., prudential committee, of said district, on the . . . . day of . . . ., 188 .

M. . . . ., ss. . . . ., 188 .

Then appeared . . . . ., and made oath that the above certificate by him signed is true.

Before me, .....

*Justice of the Peace.*

33. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the . . . . day of . . . ., 188 , at .. o'clock in the . . . .noon, at . . . ., in said district, the time and place appointed [here insert the names of those

who appeared as parties], appeared as parties ; and, having heard all parties residing in the district, or having any interest in the subject-matter of the hearing, who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that the lot of land described in said petition has been decided upon by said district [or, "by a committee of said district," or, "by the superintending school-committee of said town," as the case may be] for the location of a school-house in said district, and that the petitioners, being ten or more legal voters in said district, are aggrieved by such location ; and we therefore determine and make this our decision in writing, that the location of said school-house shall be upon a lot of land situated in said district [here insert the boundaries and description], and award that said petitioners recover of said school-district, and that said school-district shall pay our fees, taxed at . . . . . dollars and . . . . . cents.

Given under our hands, this . . . . day of . . . . , 188 .

..... } County Commissioners  
 ..... } of the  
 ..... } County of .....

34. All the proceedings should be recorded by the clerk of the district.

The form of such record may be,—

Received and recorded . . . . . , 188 , at ... o'clock in the  
 . . . . noon.

A true record.

Attest :

.....

*Clerk of District.*

35. If the decision is adverse, the report, after the word "oath" may be,—“We find that said petitioners are not aggrieved by such location, and we therefore make no change.”

36. In all cases where, for *any* cause, a vacancy exists on the board of commissioners, *or* where any of such commissioners are disqualified from acting by reason of interest in the case, such vacancy shall be filled by the supreme court in the same manner as similar vacancies in case of laying out highways.—G. L., c. 88, s. 9, p. 214.

37. If any commissioner is interested in any such petition, he shall not serve; but the vacancy shall be filled, upon petition of a commissioner, by any judge of the supreme court.—G. L., c. 69, s. 6, p. 179.

38. Such petition may be,—

To . . . . ., one of the justices of the supreme court :

The undersigned, one of the county commissioners for the county of . . . . ., represents that the petition of . . . . . and others, being ten or more legal voters of school-district No. . . , in the town of . . . . ., in said county, praying for the location of a school-house in said district, is now pending before said commissioners; that . . . . ., one of said commissioners, resides, and is a tax-payer, in said district [here set forth any other causes of disqualification], and interested in such petition and disqualified to act. Wherefore he prays that you will fill such vacancy in the manner prescribed by law.

.....  
*One of the County Commissioners for said County of* . . . . .

The appointment, to be written at the bottom of the original petition, or endorsed upon it, and jurat, may be,—

M. . . . , ss. . . . ., 188 .

To . . . . ., of . . . . ., in the county of . . . . :

Upon considering the foregoing [or, “within”] petition and the proofs, you are hereby appointed to fill said vacancy in said board of county commissioners.

Witness my hand and seal, this . . . . day of . . . ., 188 .

.....  
*Justice of the Supreme Court.*

M. . . . ., ss. . . . ., 188 .

Then appeared the above named . . . . ., and made oath that he would faithfully and impartially perform the duties of a county commissioner in the proceedings upon said petition.

Before me, . . . . .  
*Justice of the Peace.*



39. If any one of the commissioners is unable to attend at said time and place, the commissioners present may, by writing, under their hands, appoint a person who has served in said office to act in his stead.—G. L., c. 68, s. 2, p. 176.

40. The person so appointed shall be sworn to act faithfully and impartially in the proceedings upon the petition, and shall have the powers and perform the duties of a county commissioner in relation thereto.—G. L., c. 68, s. 3, p. 176.

41. The certificate of his appointment and oath shall be returned to the court with the report of the commissioners, and filed therewith.—G. L., c. 68, s. 4, p. 176.

42. The form of such appointment may be,—

To . . . . ., of the town of . . . . .:

Whereas, . . . . ., one of the county commissioners, is unable to attend at the time and place appointed by said commissioners for a hearing this day upon the petition of . . . . . and others, being ten or more legal voters of school-district No. . . . , in the town of . . . . ., praying for the location of a school-house in said district, we hereby appoint you to act in his stead.

Witness our hands, this . . . . day of . . . . , 188 .

. . . . . } County Commissioners  
. . . . . } for the  
. . . . . } County of. . . . .

M. . . . ., ss. . . . ., 188 .

Then appeared the above named . . . . ., and made oath that he would faithfully and impartially perform the duties of a county commissioner in the proceedings upon said petition.

Before me, . . . . .  
*Justice of the Peace.*

43. The school-committee or county commissioners may enlarge any existing school-house lot, so that it shall contain not exceeding half an acre, upon such petition to them and proceedings thereon as are required to authorize them to determine the location for a school-house.—G. L., c. 88, s. 10, p. 214.

The proceedings before the school-committee, under sections 13, 14, 15, 16, 17, 18, and 19, and the county commissioners, under sections 26, 27, 28, 29, 30, 31, and 32, of this chapter, may be readily adapted to the preceding section.

44. If any school-district shall neglect or refuse to purchase or procure the land for a new school-house lot, or to enlarge any existing lot, which may be designated in the manner provided by the school-committee or county commissioners, or the owner of the land so designated shall refuse to sell the same to the district for a reasonable sum, the selectmen, upon petition to them for that purpose, shall appraise the damages to such land-owner for the taking of said land, which appraisal shall be reduced to writing and signed by the selectmen, and filed with the clerk of the district as soon as may be after it is made. If such land-owner shall be aggrieved at such appraisal, he shall have a like remedy for increase of damages by appeal as if the same were laid out for a highway; and, if his damages shall be increased upon such appeal, he shall have judgment and execution against the district for such excess and his costs.—G. L., c. 88, s. 11, p. 214.

45. The form of the petition may be,—

To the selectmen of the town of . . . .:

The undersigned, legal voters in school-district No. . . , in the town of . . . , in the county of . . . , represent that a lot of land therein, owned by . . . . ., in the town of . . . , in the county of . . . , bounded and described as follows: [here insert the boundaries and description] was duly designated by the school-committee of said town [or, “by the county commissioners of said county”] for a school-house lot for said district as provided by law; that said school-district has neglected and refused, and still neglects and refuses, to purchase [or “procure”] the land for said school-house lot; wherefore your petitioners request you to appraise the damages to said land-owner for the taking of said land.

Dated at . . . , this . . . day of . . . , 188 .

[Signers.]

46. The order may be,—

A hearing upon the foregoing petition is hereby appointed at the hotel of J G, in said town of . . . , on the . . .

day of . . . . next, at . . of the clock in the . . . . noon ; and it is ordered that the petitioners give notice of said petition and hearing to said school-district No. . . by posting on the door of the school-house in said district, and by leaving at the abode of the clerk of said district, or giving to him, an attested copy of said petition, and the order thereon, fourteen days at least before said day of hearing, and to . . . . ., the land-owner within named, by giving him, or leaving at his abode, a like copy a like time before said day of hearing.

Given under our hands, this . . . . day of . . . ., 188 .

..... } Selectmen  
 ..... } of  
 ..... }

47. The attestation, return, and record may be,—

I certify, that on the . . . . day of . . . ., 188 , I left at the abode of . . . . ., clerk of said district, and . . . . ., within named, each an attested copy of the within petition and order thereon, and on the same day posted a like copy thereof upon the school-house in said district.

.....

M. . . . ., ss. . . . ., 188 .

Then appeared . . . . ., and made oath that the above certificate by him signed is true.

Before me,

.....

*Justice of the Peace.*

49. If the owner of the land designated as aforesaid for a school-house lot, or to enlarge any existing lot by the district or its committee, shall refuse to sell the same for a reasonable price, the selectmen, upon petition, may lay out a lot not exceeding half an acre, and appraise the damages to the owner, who shall have like remedy for increase of damages as provided in the foregoing section.—G. L., c. 88, s. 12, p. 214.

50. The petition of the school-district may be,—

To the selectmen of the town of . . . . .:

School-district No. . . . , in said town, represents that a lot



of land situate therein [not exceeding half an acre], bounded and described as follows: [here insert boundaries and description] owned by . . . . ., of the town of . . . . ., has been legally designated [here describe by what authority designated] for a school-house lot, and that said owner refuses to sell the same to said district for a reasonable price. Wherefore said school-district requests you to lay out said lot, and appraise the damages to the owner.

Dated at said . . . . ., this . . . . . day of . . . . ., 188 .

SCHOOL-DISTRICT No. . . . ., IN . . . . .

By its agents:

A B,  
C D,  
E F.

51. The order may be,—

A hearing upon the foregoing petition is hereby appointed at . . . . ., in the town of . . . . ., on the . . . . . day of . . . . . next, at . . o'clock in the . . . . . noon; and it is ordered that the petitioner give notice of said petition and hearing to the said . . . . . by giving to him, or leaving at his abode, an attested copy of said petition and this order thereon fourteen days at least before the said day of hearing.

Given under our hands, this . . . . . day of . . . . ., 188 .

..... } Selectmen  
..... } of  
..... }

52. The attestation, return, and jurat may be,—

A true copy. Attest: .....

I certify, that on the . . . . . day of . . . . ., 188 , I gave to . . . . ., within named [or, "I left at the abode of . . . . ., within named,"] an attested copy of the within petition and order thereon.

M....., ss. ...., 188 .

Then appeared . . . . ., and made oath that the above certificate by him signed is true.

Before me,

.....  
*Justice of the Peace.*

53. The form of the final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the . . . day of . . . , 188 , at . . o'clock in the . . . noon, at . . . , in the town of . . . . , the time and place appointed [here insert the names of those who appeared as parties], appeared as parties; and, having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that the lot of land described in said petition has been legally designated for a school-house lot, as stated in said petition, and that . . . . , the owner of said land, refuses to so sell the same for a reasonable price; and we therefore lay out said lot, bounded and described as follows: [here insert the boundaries and description] for a school-house lot, and appraise the damages to the said owner at the sum of . . . dollars.

Given under our hands, this . . . day of . . . , 188 .

. . . . .	}	Selectmen
. . . . .	}	of
. . . . .	}	. . . . .

54. Upon the payment or tender of the damages assessed by the selectmen as aforesaid to the land-owner, the land designated as aforesaid for a new school-house lot, or an addition to an existing lot, shall vest in said district, but shall revert to the owner, his heirs or assigns, whenever the district shall vote to discontinue the use thereof, or shall cease to use the same for a school-house *two years successively*.—G. L., c. 88, s. 13, pp. 214 and 215.

55. If any district shall refuse or neglect to build, repair, remove, or fit up a school-house, or shall refuse or neglect to build such school-house upon, or to remove it to, the lot designated as aforesaid, the selectmen, upon petition of three or more voters of the district, after hearing the parties, may assess upon the district and collect such sums of money as may be necessary, and therewith cause such school-house to be built, removed, repaired, or fitted up.—G. L., c. 88, s. 14, p. 215.

56. The petition may be,—

To the selectmen of . . . . :

The undersigned, three and more legal voters of school-district No. . . . ., in said town, respectfully represent, that said district is and long has been destitute of any school-house, and has refused and neglected to build a school-house therein. Wherefore they request you to assess a tax upon said district, and collect such sum of money as shall be necessary, and therewith cause a suitable school-house for said district to be erected therein.

Dated at . . . ., the . . . . day of . . . . ., 188 .

[Signatures.]

57. The order may be,—

A hearing upon the foregoing petition is hereby appointed at . . . ., in the town of . . . ., on the . . . . day of . . . ., 188 , at . . . o'clock in the . . . . . noon; and it is ordered that the petitioners give notice of said petition and hearing to said district by posting an attested copy of this petition, and order thereon, on the door of the school-house in said district, fourteen days at least before said day of hearing, and leaving a like copy at the abode of the clerk of said district a like time before the said day of hearing.

Given under our hands, this . . . . day of . . . . ., 188 .

.....	} Selectmen of .....
.....	
.....	

58. The attestation, return, and jurat may be,—

A true copy.

Attest : .....

I certify, that on the . . . . . day of . . . . ., 188 , I gave to . . . . ., within named [or, "I left at the abode of . . . . ., within named"], an attested copy of the within petition and order thereon.

.....

M. . . . ., ss. . . . ., 188 . Then appeared . . . . .,



and made oath that the above certificate by him signed is true.

Before me, .....  
*Justice of the Peace.*

59. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the ..... day of ....., 188 , at .. o'clock in the .... noon, at ..... in the town of ....., the time and place appointed [here insert the names of those who appeared as parties], appeared as parties; and, having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that said district is and long has been destitute of any school-house, and has refused and neglected to build a school-house therein, and that said petitioners are legal voters thereof, as stated in said petition; and we therefore assess upon said district, and order to be collected, the sum of ..... dollars and .... cents therewith to cause a school-house to be built.

Given under our hands, at ....., this .... day of ....., 188 .

..... } Selectmen  
 ..... } of  
 ..... } .....

60. The form of record may be,—

Received and recorded ..... 188 , at ... o'clock in the .... noon.

A true record.

Attest : .....  
*Town Clerk.*

61. Where there is a neglect or refusal to fit up and repair, the form of the petition may be,—

To the selectmen of the town of .....

The undersigned, three and more legal voters of school-district No. ...., in said town, respectfully represent that the school-house in said district is and for a long time has been

out of repair, insufficient and unsuitable, and that said district has refused and neglected to fit up and repair the same. Wherefore they pray that you will assess upon said district, and collect such sum of money as may be necessary therefor, and therewith cause said school-house to be fitted up and repaired.

Dated at said . . . ., this . . . . day of . . . ., 188 .

[Signatures.]

62. The order, service, and return may be as under 57 and 58.

63. The final order may be as in 59, but following this petition.

64. Where the district has refused or neglected "to remove," the preceding form may be used, making the necessary changes in the petition and final order.

65. Where the district has neglected or refused to build a house upon or to remove it to the lot "designated," the petition may be,—

To the selectmen of the town of . . . .:

The undersigned, three and more legal voters of school-district No. . . ., in said town, respectfully represent, that, on the . . . . day of . . . ., 188 , a lot of land, situate in said district, bounded and described as follows: [insert boundaries and description] was legally designated for the location of a school-house, but said district have refused and neglected to build a school-house upon said lot [or, "have refused and neglected to remove their school-house to said lot"]; wherefore they request you to assess upon said district, and collect such sum of money as may be necessary, and therewith cause a school-house to be built upon said lot [or, "and therewith cause the school-house of said district to be removed to said lot"].

Dated at said . . . . . . . . . ., this . . . . day of . . . . . . . . . ., 188 .

66. Order of notice, return, and jurat may be as in 57 and 58.

67. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the . . . . . day of . . . . , 188 , at .. o'clock in the . . . . noon, at . . . . . , in the town of . . . . . , the time and place appointed [hère insert the names of those who appeared as parties], appeared as parties ; and, having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that the lot described in said petition was legally designated for the location of a school-house ; that said petitioners are legal voters of said district ; and that said district has refused and neglected to build a school-house upon said lot [or, "has refused and neglected to remove said school-house to said lot"]; and we therefore assess upon said district, and order to be collected, the sum of . . . dollars and . . . cents, therewith to cause a school-house to be built upon said lot [or, "therewith to cause said school-house to be removed to said lot"].

Given under our hands, at . . . . , this . . . . day of . . . . . , 188 .

..... } Selectmen  
 ..... } of  
 ..... }

68. No district school shall be kept in any other place than the school-house belonging to the district, unless there is no school-house, or the school-house is out of repair, or not of sufficient size to accommodate the scholars ; in which case the prudential committee, with the consent of the school committee, may provide suitable rooms and conveniences for the use of the scholars at the expense of the district.—G. L., c. 88, s. 15, p. 215.

69. The application and consent may be,—

To the school-committee of the town of . . . . . :

The undersigned, prudential committee of school-district No. . . , in said town, respectfully represents that there is no school-house belonging to said district [or, "that the school-house belonging to said district is out of repair;" or, "that the school-house belonging to said district is not of sufficient size to accommodate the scholars"], and he proposes, with your consent, to provide suitable rooms and conveniences for



the scholars at the expense of the district at [here name the place], and requests your consent thereto.

Dated at said . . . . , this . . . . . day of . . . . , 188 .

.....  
*Prudential Committee.*

Consent, in accord with said request, is hereby given, this . . . . day of . . . . , 188 .

..... } School-Committee  
 ..... } of  
 ..... }

70. Any school district may grant the use of any school-house in such district for a writing- or singing-school, and for religious and other meetings; *provided*, such use shall not conflict with any regular school exercise, and that the persons so using any school-house shall be liable for all damages to the same, and to all property therein.—G. L., c. 88, s. 19, p. 215.

71. In the assessment of school-house taxes, every person shall be taxed in the district in which he lives for his poll and the personal estate which he has subject to taxation in town; and all real estate shall be taxed in the district in which it is.—G. L., c. 88, s. 16, p. 215.

72. The selectmen *may* make a new invoice of all the property in the district, when necessary for the just assessment of the school-house taxes.—G. L., c. 88, s. 17, p. 215.

The selectmen are not bound to make a new invoice for the assessment of school-house taxes when changes in the ownership of property within the district occurred between the taking of the annual invoice, on the first day of April, and the making of the assessment; but they may assess the tax upon the April invoice.—Rogers v. Bowen, 42 N. H. 102.

73. If such taxes are assessed *after* the first day of July in any year upon the property of non-residents, the collector shall send to the owners of said property, or their agents, if known, a bill of their taxes within two months after the delivery of the list to him, and shall, at the expiration of four months after the delivery of said list to him, advertise the property on which the taxes have not been paid for sale in the same manner, and such further proceedings may be had in relation thereto, as if such tax had been assessed in April preceding.—G. L., c. 88, s. 18, p. 215.

## CHAPTER V.

## SCHOOL-COMMITTEES AND TEACHERS.

1. School-committee — when elected or appointed; may be either male or female.
2. Form of appointment.
3. Town may by by-law provide for the choice of school-committee, their number, term of office, title, and powers.
4. Committees shall examine persons proposing to teach in town—when, in what respects: shall give certificates—when, and stating what.
5. Teachers of common-schools—examined in what branches.
6. Committee may prescribe additional studies; and teachers must be examined in those branches.
7. Form of certificate of good moral character.
8. What may be evidence of such character.
9. Form of teacher's certificate.
10. Teacher, if school-committee, must obtain certificate from such committee of adjoining town.
11. Until the proper certificate is produced and delivered to the prudential committee, no person shall be either employed or paid for services as a teacher.
12. Teacher may be dismissed—when, how, and by whom.
13. Form of petition for dismissal.
14. Form of order.
15. Form of attestation, return, and jurat.
16. Form of final order, attestation, and filing.
17. Teacher may be dismissed without hearing—when, and for what.
18. Form of order of dismissal.
19. Directions as to record and filing.
20. Immediate notice of dismissal to be given to teacher and prudential committee. Teacher shall receive no pay for services rendered after such notice.
21. Form of notice to teacher.
22. Form of notice to prudential committee.
23. Directions as to service, return, and record.
24. Form of certificate of service.
25. Form of jurat.
26. Committee may prescribe suitable rules for the government of schools: when binding on teachers and scholars.
27. Form of regulations.
28. Form of certificate of record and filing.
29. Changes in text-books prohibited—when, for what reasons, and for how long.
30. Maps, blackboards, &c., may be purchased for the use of schools: when, by whom, and how paid for.
31. Text-books—how, by whom, and at whose expense furnished.
32. Committee to furnish teachers registers. Teachers to make the proper entries and to keep a record—when, and containing what.
33. Teachers must return register or record to school-committee at close of school. Committee to give teacher certificate thereof. Payment to teacher prohibited until such certificate is produced and delivered to the prudential committee.
34. Form of certificate.
35. School-committee or sub-committee to visit each school personally—when, and how many times.
36. Committee may choose one of their number to visit and superintend schools and make report.
37. Towns by by-law, and cities by ordinance, may provide for election or appointment of superintendent. Powers, duties, and compensation. Pay of school and prudential committee.
38. Census of children between five and fifteen to be taken by selectmen or assessors—when. Report to be made to school-committee within fifteen days after.
39. Form of report.
40. Committee to make annual report to town. Report to contain what.
41. Form of statistical report; tables.
42. School-committee to report to superintendent of public instruction before first Wednesday of April, and transmit—what.
43. School-committee—when entitled to pay, and what.

1. Every town may elect annually, by ballot, a school-committee of so many persons as they think fit, who shall be adult citizens of such town, and may be either male or female; and whenever any town shall neglect to choose such committee in manner aforesaid, or otherwise according to law, the selectmen, before the twentieth day of April, shall appoint such committee.—G. L., c. 89, s. 1, p. 216,

2. The form of appointment may be,—

To . . . . ., of the town of . . . . :

Whereas, said town has failed to elect a school-committee at its annual meeting, we, having confidence in your ability, discretion, and fidelity, hereby appoint you school-committee of said town for the current political year; and, upon your taking the oath of office, and having this appointment and the certificate of said oath duly recorded in the records of said town, you shall have the powers, perform the duties, and be subject to the liabilities of said office, until another person shall be chosen or appointed and qualified in your stead.

Given under our hands, this . . . . day of . . . ., 188 .  
 . . . . . } Selectmen  
 . . . . . } of  
 . . . . . } A. . . . .

State of New Hampshire, . . . ., ss. . . ., 188 .

Then the above named . . . . . appeared and took the oath of office by law prescribed.

Before me, . . . . .  
*Justice of the Peace.*

Received and recorded . . . . ., 188 , at . . o'clock in the . . . noon.

A true record.

Attest: . . . . ., *Town-Clerk.*

3. Any town may adopt a by-law providing for the choice of a school-committee of such number, chosen in such manner, for such terms, with such title, and such powers relating to schools, as they may think proper; and the committee so chosen shall hold office and have power accordingly, and shall perform all the duties imposed by law on school-committees.—G. L., s. 2, c. 89, p. 216.

4. The school-committee shall examine all persons proposing to teach school in the town, who shall produce satisfactory evidence of good moral character and of suitable temper and disposition for teachers, in such branches as are usually taught in the class of schools in which they propose to teach, and as to their capacity for governing the same; and if found competent they shall give them certificates thereof, setting forth the branches they are found capable of teaching.—G. L., s. 3, c. 89, p. 216.



5. Teachers of common-schools shall be examined in reading, spelling, writing, English grammar, arithmetic, and the elements of geography and history, and in other branches usually taught in said schools.—G. L., s. 4, c. 89, p. 216.

6. The school-committee may prescribe for any school, where in their judgment it shall be proper, the study of surveying, geometry, algebra, book-keeping, philosophy, chemistry, natural history, and physiology, or any of them, and other suitable studies; and teachers proposing to teach in such schools shall be examined in those branches in addition to those required of other teachers.—G. L., s. 5, c. 89, p. 216.

7. The form of a certificate of good moral character, &c., may be,—

To whom it may concern :

This certifies that we are well acquainted with . . . . ., of this town, and that, in our belief and judgment, he is a person of good moral character, and of suitable temper and disposition for a teacher.

A. . . . ., N. H., . . . . ., 188 .

.....  
.....

8. The committee are not hampered by technical rules. If satisfactory to them, the evidence may be either oral or in writing.

9. The form of a teacher's certificate may be,—

This certifies that . . . . . has produced to me satisfactory evidence of h good moral character; that he is of suitable disposition and temper for a teacher; that he has the requisite capacity for the government of schools; and, upon due examination, I find h well qualified to instruct in reading, writing, spelling, English grammar, arithmetic, and the elements of geography and history, and [here specify the other branches, if any, prescribed or required to be taught].

In witness whereof I have hereunto set my hand, at . . . . ., N. H., this . . . . . day of . . . . ., 188 .

.....  
*School-Committee of . . . . .*

10. When a teacher of any school in any town shall be the sole member of the superintending school-committee, said

teacher shall obtain a certificate from the superintending school-committee of an adjoining town before beginning school.—Laws of 1879, c. 57, s. 42, pp. 372 and 373.

11. No person shall be *employed* or paid for services as a teacher unless he shall produce and deliver to the prudential committee a certificate of the school-committee of the town in which the district where the school is to be kept is, *or is deemed to be*, that he is well qualified to instruct youth in the branches to be taught in such school.—G. L., c. 89, s. 6, p. 216.

Regularly, the teacher should first be examined and obtain the proper certificate, then produce and deliver the same to the prudential committee, or offer it to him, and then make the contract; but in practice the contract is usually made first, and then the examination, certificate, delivery or tender to the prudential committee follows; whereupon the teacher, with the consent of the committee, tacit or otherwise, enters upon the discharge of his duties.

If the teacher commences his school without such certificate and its delivery or tender, upon the application of any person interested as a tax-payer in the district, the court will restrain the district, and its committee or agent, by injunction, from paying such teacher for services rendered before he obtained and delivered or tendered the proper certificate.—*Barr v. Deniston*, 19 N. H. 170.

In *Kidder v. Chellis*, March Term, 1850, it was decided that a school taught by one employed by the prudential committee to teach the public school, where the teacher neglected to obtain the proper certificate, was, in law, a private school, and that the teacher had full power and authority to control the scholars, and punish them in a reasonable and proper manner for disobeying his orders.

12. The school-committee, upon petition of a majority of the legal voters in any district for the dismissal of a teacher, after giving to the parties twenty-four hours' notice and a hearing, may dismiss him, if in their judgment such dismissal will best promote the interests of the district. G. L., c. 89, s. 7, p. 217.

13. The form of a petition may be,—

To the school-committee of the town of . . . . :

The undersigned, a majority of the legal voters in school-district No. . . . , in said town, respectfully represent that the dismissal of . . . . ., who is a teacher in said district, will best promote the interests of the district, and they therefore request that he may be dismissed.

Dated at said . . . . ., this . . . . day of . . . . , 188 . .

[Signers.]

14. The form of the order may be,—

A hearing upon the foregoing petition is hereby appointed



at the school-house in school-district No. . . . , in said town of . . . . . , on the . . . . . day of . . . . . , 188 , at .. o'clock in the . . . . .noon ; and it is ordered that the petitioners give notice of said petition and hearing to the said . . . . . , by giving him, or leaving at his abode, an attested copy of said petition and this order thereon at least twenty-four hours before the said day of hearing.

Given under our hands, at . . . . . , this . . . . . day of . . . . . , 188 .

. . . . . } School-Committee  
. . . . . } of  
. . . . . }

15. The copy may be attested by the first petitioner or other person serving the same as follows :

A true copy.

Attest : . . . . .

The return may be,—

I hereby certify, that on the . . . . day of . . . . , 188 , I gave to . . . . . , within named [or, "I left at the abode of .. . . . , within named "] an attested copy of the within petition and order thereon. . . . .

M. . . . . , ss. . . . . , 188 . Then appeared . . . . . , and made oath that the above certificate by him signed is true.

Before me, . . . . .

*Justice of the Peace.*

16. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the . . . . day of . . . . , 188 , at .. o'clock in the . . . . .noon, at the school-house in school-district No . . . . , in said town of . . . . . , the time and place appointed [here insert the names of those who appeared as parties], appeared as parties ; and, having heard all parties who desired to be heard, and examined them and their witnesses under oath, in our judgment the interests of said school-district No. . . . will be promoted by the dismissal of said . . . . . ; and a majority of the legal voters of said district having petitioned for his dismissal as aforesaid, said teacher is hereby dismissed.



Given under our hands, at said . . . . ., this . . . . . day of . . . . , 188 .

..... } School-Committee  
 ..... } of  
 ..... }

The town-clerk must record the entire proceedings, and should certify the record of each separate part as follows:

Received and recorded . . . . ., 188 , at .. o'clock in the . . . . noon.

A true record.

Attest: .....  
*Town-Clerk.*

The filing upon the papers may be,—

Received and recorded . . . . , 188 .

By me, .....  
*Town Clerk.*

17. The school-committee shall without a petition dismiss any teacher who is found by them incapable or unfit to teach, or whose services are found unprofitable to the school, or who shall not conform to the regulations prescribed by them.—G. L., c. 89, s. 8, p. 217.

This section does not contemplate a petition or any formal notice.

18. The order of dismissal may be,—

Whereas, the services of . . . . ., employed as a teacher in school-district No. . . , in the town of . . . . ., are found by us to be unprofitable to the district [or, “ . . . . . is found by us incapable or unfit to teach;” or, “ . . . . . does not conform to the regulations prescribed by us ”], said teacher is hereby dismissed.

Witness our hands, at said . . . . ., this . . . . . day of . . . . , 188 .

..... } School-Committee  
 ..... } of  
 ..... }

19. The record and filing should be the same as under the preceding section.

20. The school-committee, upon dismissal of any teacher, shall give immediate notice thereof to the teacher and prudential committee; and the teacher shall receive no pay for his services after such notice.—G. L., c. 89, s. 9, p. 217.

21. The notice to the teacher may be,—

To . . . . ., a teacher in school-district No. . . . , in the town of . . . . :

You are hereby notified that you have this day been dismissed.

Witness our hands, at said . . . . , this . . . . day of . . . . , 188 .

. . . . . } School-Committee  
. . . . . } of  
. . . . . }

22. The notice to the prudential committee may be,—

To the prudential committee of school-district No. . . . , in the town of . . . . :

You are hereby notified that . . . . ., heretofore employed as teacher in said district, has this day been dismissed.

Witness our hands, at said . . . . , this . . . . day of . . . . , 188 .

. . . . . } School-Committee  
. . . . . } of  
. . . . . }

23. The original should be served; and the copy and return may be recorded by the clerk of the district.

24. The certificate of service may be,—

I certify, that on the . . . . day of . . . . , 188 , I gave the within named . . . . . [or, "I left at the abode of the within named . . . . ."] the original notice of which the within is a true copy.

. . . . .

25. M. . . . , ss., . . . . , 188 .

Then appeared . . . . ., and made oath that the above certificate signed by him is true.

Before me, . . . . .

*Justice of the Peace.*

26. The school-committee may prescribe suitable rules and regulations for the attendance upon, management, studies, classification, and discipline of the schools whenever they deem the same necessary ; and the same, being recorded by the town-clerk, and a copy thereof given to the teachers and read in the schools, shall be binding upon scholars and teachers.—G. L., c. 89, s. 10, p. 217.

27. The form of school regulations may be,—

SCHOOL REGULATIONS IN THE TOWN OF

.....

1. Scholars may be required to build the fires, keep the rooms of a suitable temperature, sweep, and keep them clean.

2. Scholars shall be answerable for all misconduct during school hours, in going to and returning from school, and for all acts which have a direct and immediate tendency to injure the school and subvert the authority of the teachers.

3. The advanced classes shall have written exercises in spelling each day.

4. Essays, declamations, or recitations shall be required of the most advanced classes as often as once in two weeks.

5. No scholar shall pursue more than three studies at the same time, aside from reading and spelling.

6. No child under the age of four years shall attend any school.

Witness our hands, at . . . . , this . . . . day of . . . . , 188 .

..... } School-Committee  
 ..... } of  
 ..... }

28. Received and recorded, . . . . , 188 , at .. o'clock in the . . . . noon.

A true record. Attest : .....

*Town-Clerk.*

The filing may be,—

Received and recorded, . . . . , 188 , by me,

.....  
*Town-Clerk.*

29. Any text-book or series of text-books on one subject, which, on the tenth day of July, eighteen hundred and sev-



enty-eight, shall have been in established use in any school for a less time than three years, and any which shall be thereafter introduced by the school-committee, shall continue in use therein for the term of three years from its introduction, and during that time no other text-book on the same subject shall be used.—G. L., c. 89, s. 11, p. 217.

The school-committee may annually direct a change of not more than one of the text-books or series of text-books on one subject, which have been in use five years, in each class of schools kept in town; but no book shall be introduced calculated to favor any particular religious or political sect or tenet. See G. S., c. 89, s. 12, p. 217.

30. The superintending school-committee and selectmen in the several towns in the state are hereby authorized and empowered to purchase, for the use of their common-schools, so many copies of the map of New Hampshire as they may deem best, not exceeding one copy for each school, and the maps so purchased shall be paid for out of any money appropriated for school purposes; and the same officers are also empowered to expend, at their discretion, for the use of the schools, one fifth part of the "literary fund," which may annually be assigned any city or town, in the purchase or repair of blackboards, maps, charts, globes, dictionaries, or any apparatus which in their judgment will advance the educational interests of said schools; and that any unexpended portion of such fifth part, on hand the first day of March annually, shall then be passed to the credit of the general school fund of such city or town for the support of schools in same during current year.—G. L., c. 89, s. 13, p. 217; Laws of 1879, c. 53, s. 1, p. 365.

31. The parents, masters, or guardians of the scholars attending school shall supply such scholars with the books required to be used in the schools; and upon neglect or refusal, after notice, the same shall be furnished by the school-committee at the expense of the town; and the cost of the same shall be added to the next annual tax of such parent, master, or guardian, if able to pay the same.—G. L., c. 89, s. 14, p. 217.

32. The school-committee shall furnish to every teacher one of the blank registers required to be furnished by the superintendent of public instruction; and each teacher shall cause all proper entries to be made therein as required by said superintendent. And in the absence of such register he

shall keep a record of the names and ages of all the scholars attending his school, the studies pursued by each, and the number of half days each has attended his school.—G. L., c. 89, s. 15, p. 217.

33. Every teacher, at the close of his school, and at the end of each term thereof, shall make a return of such register or record to the school-committee of the town, who shall give to him a certificate thereof; and no teacher shall receive payment for his services until such certificate is produced and delivered to the prudential committee.—G. L., c. 89, s. 16, p. 218.

34. The form of such certificate may be,—

To the prudential committee of school-district No. . . . , in the town of . . . . :

This certifies that . . . . ., a teacher in said district, has returned to us a school register [or record] as required by law.

Witness our hands, at said . . . . , this . . . . day of . . . . , 188 .

..... } School-Committee  
 ..... } of  
 ..... } A.....

35. The school-committee shall visit and examine personally, or by a sub-committee by them appointed, each school kept in town, at least twice in each term, near the beginning and toward the close thereof.—G. L., c. 89, s. 17, p. 218.

36. Such school-committee may elect one of their number to visit and superintend the schools, who shall make report to the committee of his doings, and of the state of the schools, before the first day of March annually.—G. L., c. 89, s. 18, p. 218.

37. Any town, by a by-law, and any city, by an ordinance, may provide for the election or appointment, in such manner as they think fit, of a superintendent of schools, who shall hold his office for such term, be vested with such of the powers and charged with such of the duties of the school-committee and of the prudential committee, and be entitled to such compensation, as may be therein provided; and when-

ever the superintendent of schools shall perform all the duties of the school-committee and the prudential committee, then such committees shall receive no compensation.—G. L., c. 89, s. 19, p. 218.

38. The selectmen of each town, and the assessors of each city, shall annually in the month of April make an enumeration of the children of each sex between the ages of five and fifteen in their respective towns and cities, and shall make a report of such enumeration to the superintending school-committee of their respective towns and cities with [in] fifteen days after the completion of each [such] enumeration.—G. L., c. 89, s. 20, p. 218.

39. The form of the report may be,—

To . . . . ., school committee of . . . . :

The undersigned herewith submit to you, within fifteen days after the completion of such enumeration, as required by law, the following report of the enumeration of the children of each sex, between the ages of five and fifteen in said town, made by us in April, 188 .

Given under our hands, this . . . . day of . . . ., 188 .

..... } Selectmen  
 ..... } of  
 ..... }

N A M E S . \*

Males.	Females.	Age.
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40. The school-committee shall make to the town, at its annual meeting, a report stating the number of weeks the public schools have been kept in each district, in summer and winter, and what portion by male and what by female teachers; the whole number of scholars that have attended each school, and the number attending to each study; and the whole number of scholars of the town, not less than five years of age, who have attended the district schools in the town not less than two weeks during the year; the number

---

\* Alphabetically arranged.



of children of each sex reported by the selectmen or assessors, and the number of children of each sex between the ages of five and fifteen that have not attended school; and the number of persons in each district between the ages of fourteen and twenty-one years who cannot read and write, with such suggestions relative to the schools as they may think useful.

41. The form of the statistical report may be,—

Total,	Number of District.	
	Prudential Committee.	
	Teacher—Summer Term.	
	Teacher—Winter Term.	
	Money raised by law.	
	Literary and Railroad Fund.	
	Dog Money.	
	Whole amount for each District.	
	Summer Term.	Wages per month, including board.
	Winter Term.	
Summer Term.	Length of School, in weeks.	
Winter Term.		
Summer Term.	Number of Scholars.	
Winter Term.		
Summer Term.	Average attendance.	
Winter Term.		
Number of scholars of the town not less than 5 years of age who have attended not less than 2 weeks during year.		
Male.	Number of children in town, reported by selectmen or assessors.	
Female.		
Male.	Number of children between ages of 5 and 15 who have not attended school.	
Female.		
Number of persons between 14 and 21 who cannot read or write.		
Summer Term.	Number of visits by citizens.	
Winter Term.		
Summer Term.	Number of visits by prudential committee.	
Winter Term.		
Summer Term.	Number of visits by School Committee.	
Winter Term.		
Summer Term.	Number terms taught previous to—	
Winter Term.		

TABLE No. 1.

TABLE No. 2.

No. of District.	No. of scholars in Reading.		No. of scholars in Spelling.		No. of scholars in Penmanship.		No. of scholars in Arithmetic.		No. of scholars in Geography.		No. of scholars in Grammar.		No. of scholars in History.		No. of scholars in Composition.		No. of scholars in other studies.		
	Summer Term.	Winter Term.	Summer Term.	Winter Term.	Summer Term.	Winter Term.	Summer Term.	Winter Term.	Summer Term.	Winter Term.	Summer Term.	Winter Term.	Summer Term.	Winter Term.	Summer Term.	Winter Term.	Summer Term.	Winter Term.	
Total,																			

42. The school-committee of each town shall, before the first Wednesday of April, annually transmit to the superintendent of public instruction a copy of the report by them presented to the town at its annual meeting, and answers, according to forms provided, to all such questions as may be proposed by said superintendent of public instruction relating to the appropriations of school-money received, the studies pursued in the schools, the methods of instruction and discipline adopted, the condition of school-houses, and any other subject relating to schools.—G. L., c. 92, s. 3, p. 224.

43. The school-committee, upon satisfying the selectmen that they have attended to the duties and made the reports by law required, shall be entitled to receive such reasonable compensation as the town may determine.—G. L., c. 89, s. 22, p. 218.

## CHAPTER VI.

## HIGH SCHOOLS.

1. High school districts—how established; powers of; subject to same rules as other school-districts.
2. Town may be created high school district by major vote in town-meeting. District may be created high school district by two-thirds vote of town—when. District may be constituted high school district by two-thirds vote—when; may be discontinued—how.
3. Form of article to constitute a town a school-district; form of vote.
4. Form of article to constitute school-district a high school district at town-meeting; form of vote.
5. Form of article to constitute district high school district at district meeting; form of vote.
6. Two or more school districts may become high school district—how. They shall still retain their separate organization for the support of common-schools.
7. Form of articles for such union; form of votes for such union.
8. Directions for procedure.
9. Town or district may appropriate part of school-money for support of high school—how, and to whom paid.
10. Town or district may raise more—how.
11. High school committee may be elected by town or district in same manner as school-committee.
12. Prudential committee may be chosen, or district may by vote or by by-law charge the high school committee, or any other officer or agent, with his duties.
13. School-committee of town shall be high school committee of district, if the district fail to choose or none is appointed.
14. Where no prudential committee is chosen, or where there is a vacancy in that office, the selectmen shall fill the vacancy.
15. The powers and duties of the high school committee.
16. Any town or school-district may, in writing, contract with academy, &c.,—when, how, and by whom. Contract must be approved by school-committee.
17. Where town is high school district, the school-committee cannot determine location of high school house.
18. High school district may purchase lot; selectmen may lay out lot, when owner and agent of district cannot agree—when and how.
19. Form of petition.
20. Form of order, &c.
21. Form of final order where lot is laid out.
22. Form of final order where decision is adverse.
23. County commissioners may determine location upon petition of twenty or more aggrieved voters.
24. Form of petition to county commissioners.
25. Form of order, &c.
26. Form of final order where location is changed.
27. Form of final order where decision is adverse.
28. County commissioners may determine location, upon petition of twenty or more voters, when district do not agree upon location or upon a committee to locate.
29. Form of petition.
30. Directions as to the form of the order of notice, attestation, return, and jurat.
31. Form of final order.
32. Rule as to preëxisting statutes.

1. Districts for the support of high schools may be established in any town, which shall have the same powers and be subject to the same rules as other school-districts, except so far as they may be changed by this chapter.—G. L., c. 90, s. 1, p. 219.

2. Any town, by a major vote in town-meeting, and any school-district having not less than one hundred children be-



tween six and sixteen years of age therein, by vote of two thirds of the legal voters of the town or district at a legal meeting, may determine to establish a high school, and shall thereby be constituted a high school district; *and by a like vote such district may be discontinued.*—G. L., c. 90, s. 2, p. 219.

3. The article in the warrant for town-meeting, under the first clause of sec. 2, may be,—

To see if the town by a major vote, will constitute said town a high school district, and establish a high school therein.

The form of the vote may be,—

*Voted*, by major vote, one hundred having voted in the affirmative and five in the negative, to constitute said town a high school district, and to establish a high school therein, to be known as the A. . . . high school.

4. The article in the warrant for town-meeting, under the second clause of sec. 2, may be,—

To see if the town, by vote of two thirds of the legal voters at said meeting, will constitute school-district No. . . , having not less than one hundred children between the ages of six and sixteen, a high school district, to be known as the . . . . high school district in said town, and establish a high school therein.

The vote may be,—

*Voted* to constitute said school-district No. . . , in said town, a high school district, to be known as the . . . . high school district, and establish a high school therein, one hundred and fifty having voted in the affirmative and fifty in the negative, two thirds of the legal voters of said town at said meeting having voted in the affirmative.

5. The article in the warrant for a school-district meeting may be,—

To see if school-district No. . . , in said town, having not less than one hundred children between the ages of six and sixteen, will, by a vote of two thirds of the legal voters at said meeting, constitute said district a high school district, to

be known as the . . . . high school district in said town, and establish a high school therein.

The vote may be,—

*Voted* to constitute said district No. . . . a high school district, to be known as the . . . . high school district in said town, and to establish a high school therein, thirty having voted in the affirmative and twelve in the negative, two thirds of the legal voters of said district at said meeting having voted in the affirmative.

6. Two or more school-districts in the same or different towns, by concurring votes of two thirds of the voters present at a legal meeting of each district, may unite in the support of a high school, and shall be a high school district. They shall, nevertheless, each retain their separate organization for the support of the common-schools therein.—G. L., c. 90, s. 3, p. 219.

7. The articles in the warrants of the respective districts may be,—

To see if the district, by a vote of two thirds of the legal voters at said meeting, will unite with school-district No. . . [in said town] in the support of a high school, and to constitute said district a high school district.

The votes may be,—

1. *Voted*, that this district unite with school-district No. . . [in said town] in the support of a high school, and with said district constitute the first union high school district in said . . . , thirty voting in the affirmative and ten in the negative, two thirds of the legal voters in said meeting having voted in the affirmative.

2. *Voted*, that the clerk certify the proceedings of this meeting to said school-district No. . .

8. It may sometimes be found expedient to arrange the terms of union through committees chosen by the respective districts, whose joint report may be adopted at an adjourned or other meeting thereof. When such report, under a proper article, is adopted, it becomes the act of the respective districts. When the districts are in different towns, the articles, reports of the joint committees, if there be any, and votes,

should conform to the facts. When or where districts have thus been united, the selectmen, upon petition in writing therefor, should appoint a prudential committee and clerk for such high school district. If the districts united are in different towns, the appointment should be made by the selectmen of the town to which the union district is "deemed to belong."

9. Such town *or* district may, by vote or by-law, appropriate such part of the school-money to which they are entitled as they think fit for the support of the high school, and the same shall be paid to the prudential committee of such high school district, or to the officer or agent of the town or district who is charged with his duties.—G. L., c. 90, s. 4, p. 219.

10. Such town *or* district may, by vote or by-law, raise such sum, in addition to the school-tax required by law for the support of such high school, as they shall think proper, which shall be assessed and collected as other school-taxes, and paid over to the prudential committee or officer charged with his duties.—G. L., c. 90, s. 5, p. 219.

11. A high school committee may be elected by such town or district in the same manner as school committees may be chosen.—G. L., c. 90, s. 6, p. 219.

12. A prudential committee of such district may be chosen, or the high school committee, or any other officer or agent of such town or district, may, by vote or by-law, be charged with the duties of such prudential committee.—G. L., c. 90, s. 7, p. 219.

13. If no high school committee is chosen or appointed, the school-committee of the town shall be *ex officio* the high school committee of such district.—G. L., c. 90, s. 8, p. 219.

14. If no prudential committee is chosen, and no person is charged with his duties, or if from any cause there is a vacancy in said office, the selectmen shall fill such vacancy as provided in the case of common-school districts.—G. L., c. 90, s. 9, pp. 219 and 220.

15. The high school committee shall have the entire charge



thereof, shall prescribe and ascertain the qualifications of the teachers, prescribe the course of studies, the books to be used, and the qualifications required for admission, and generally shall have the same powers and perform the same duties in regard to such high schools as school committees in relation to common-schools.—G. L., c. 90, s. 10, p. 220.

16. Any town *or* school-district in this state is hereby authorized and empowered to conclude such business arrangement, through its special committee, with the trustees of any academy, seminary, or other literary institution situated within the limits of the town, as said district or town at a legal meeting may approve by a two-thirds vote of the voters present and voting; and the school-money of said town or district may be used to carry out such contract. In case one of the contracting parties shall be a school-district or union school-district, then the consent in writing of the school-committee of the town shall be required before such agreement shall be in force.—G. L., c. 90, s. 15, p. 220.

17. The school-committee of any town duly constituted a high school district shall *not* have jurisdiction to determine the location of a high school house in such district.—G. L., c. 90, s. 14, p. 220.

18. Any high school district may purchase a suitable lot for their school-house; and in case the location of a school-house has been fixed according to law, and the agents of the district cannot agree with the owner for the purchase of the same, the selectmen may lay out such lot, not exceeding half an acre, as in other cases.—G. L., c. 90, s. 11, p. 220.

Under proper articles therefor, the district may locate, by vote, or by adopting the report or acts of a committee chosen or agents selected for that purpose, and may purchase directly or through its agents.

19. The form of the petition may be,—

To the selectmen of the town of . . . .:

High school district No. . . ., in said town, represents that a lot of land not exceeding half an acre, and bounded and described as follows: [here insert boundaries and description] and owned by . . . . ., of said town, has been legally designated for a school-house lot “by said district, by a vote at a meeting duly called or held for that purpose” [or, “by

a committee duly appointed by said district for that purpose”], and the agents of said high school district cannot agree with said owner for the purchase of the same. Wherefore said high school district requests you to lay out said high school house lot, and appraise the damages to the owner.

Dated at said . . . . ., this . . . . day of . . . . ., 188 .

SCHOOL DISTRICT No. . ., IN . . . .

By its agents,

A B.  
C D.  
E F.

20. The form of the order, &c., may be,—

A hearing upon said petition is hereby appointed at . . . ., in the town of . . . ., on the . . day of . . . . next, at . . o'clock in the . . . . noon ; and it is ordered that the petitioner give notice of said petition and hearing to the said . . . . ., by giving to him, or leaving at his abode, an attested copy of said petition, and this order thereon, fourteen days at least before the said day of hearing.

Given under our hands, this . . . . day of . . . ., 188 .

. . . . . } Selectmen  
. . . . . } of  
. . . . . }

The copy may be attested by the person serving it, as follows :

A true copy.

Attest : . . . . .

I certify, that on the . . . . . day of . . . . ., 188 , I gave to . . . . ., within named [or, “ I left at the abode of . . . . ., within named”], an attested copy of the within petition and order thereon.

. . . . .

M. . . . ., ss. . . . ., 188 .

Then appeared . . . . ., and made oath that the above certificate by him signed is true.

Before me,

. . . . .  
*Justice of the Peace.*

21. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the ..... day of ....., 188 , at .. o'clock in the ....noon, at ..... in the town of ....., the time and place appointed [here insert the names of those who appeared as parties], appeared as parties; and, having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that the lot of land described in said petition has been legally designated for a high school house lot, as stated in said petition, and that the agents of said high school district cannot agree with .... .., the owner of said land, for the purchase of the same; and we therefore lay out said high school house lot, bounded and described as follows: [here insert the boundaries, &c.] for a high school house lot, and appraise the damages to the said owner at the sum of ..... dollars.

Given under our hands, at ....., this .... day of ....., 188 .

..... } Selectmen  
 ..... } of  
 ..... }

Received and recorded ....., 188 , at .. o'clock in the ....noon.

A true record.

Attest:

.....  
*Town-Clerk.*

22. If the decision is adverse, the report, after the word "oath" may be,—“We find that said lot of land has not been legally designated as set forth in said petition, and therefore deny its prayer.”

23. In towns constituted high school districts, in accordance with the provisions of law, if any *twenty* or more voters in any such district are aggrieved by the location of any high school house, by the district or its committee, they may apply by petition to the county commissioners of the county, who shall hear and determine the location thereof.—G. L., c. 90, s. 12, p. 220.

24. The petition may be,—



To the county commissioners for the county of . . . .:

The undersigned, twenty [and more] legal voters in high school district No. . . . , in the town of . . . . , in said county, respectfully represent that a lot of land in said . . . . , bounded and described as follows: [here insert boundaries and description] has been determined upon and selected by said district [or, by a committee of said district] for the location of a high school house lot therefor, and that they are aggrieved by such location. They therefore request you to determine the location of a lot for said high school house.

Dated at said . . . . , this . . . . day of . . . . , 188 .

[Signatures.]

25. The order, &c., on said petition, may be,—

A hearing upon the said petition is hereby appointed at . . . . , in the town of . . . . , on the . . . . day of . . . . next, at . . . o'clock in the . . . . noon; and it is ordered that the petitioners give notice of said petition and hearing to the said district by posting an attested copy of said petition, and this order thereon, on the door of the school-house of said district, fourteen days at least before said day of hearing, and leaving a like copy at the abode of the clerk a like time before said day of hearing.

Given under our hands, this . . . . day of . . . . , 188 .

..... } County Commissioners  
..... } for the  
..... } County of.....

The copy may be attested by the person serving it, as—

A true copy.

Attest: .....

I certify, that on the . . . . day of . . . . , 188 , I posted an attested copy of said petition and order on the door of the school-house in the school-district within mentioned, and on the same day I left a like copy at the abode of . . . . , the clerk of said district.

.....

M....., ss. ...., 188 .

Then appeared .... , and made oath that the above certificate by him signed is true.

Before me,

.....  
*Justice of the Peace.*

26. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the ... day of ... , 188 , at .. o'clock in the ...noon, at ...., in the town of ....., the time and place appointed [here insert the names of those who appeared as parties], appeared as parties; and, having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that the lot of land described in said petition has been determined upon and selected by said district [or, by a committee of said district] for the location of such school-house; that said petitioners, being twenty and more legal voters in said district, are agrieved by such location, and we therefore determine that the location of said school-house shall be upon a lot of land bounded and described as follows: [insert boundaries and description]

Given under our hands, at ....., this .... day of ....., 188 .

..... } County Commissioners  
..... } for the  
..... } County of .....

Received and recorded ....., 188 , at ... o'clock in the ...noon.

A true record. Attest:

.....  
*Town Clerk.*

27. If the decision is adverse, the report, after the word "oath" may be,—“We find that said petitioners are not agrieved by such location, and we therefore make no change.”

28. If, at a meeting duly holden for the purpose, any such high school district do not agree upon a location for a high school house therein, or upon a committee to locate the same,

the county commissioners, upon petition of twenty or more voters, shall determine the location.—G. L., c. 90, s. 13, p. 220.

29. The petition may be,—

To the county commissioners for the county of . . . . :

The undersigned, twenty [and more] legal voters in high school district No. . . , in the town of . . . . , in said county, respectfully represent, that, at a meeting of said district, duly called and held therefor on the . . . day of . . . , 188 , said district failed to agree upon a location for a high school house therein, or upon a committee to locate the same. They therefore request you to determine the location of a lot for said high school house.

Dated at . . . . , this . . . . day of . . . . , 188 .

[Signatures.]

30. The order of notice, attestation, return, and jurat should be the same as in section 25 *ante*.

31. The final order may be,—

Upon the foregoing petition, we appointed a hearing, and gave notice thereof as aforesaid, and on the . . . day of . . . , 188 , at . . . o'clock in the . . . . noon, at . . . . , in the town of . . . . , the time and place appointed, . . . . [here insert the names of those who appeared as parties], appeared as parties; and, having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that, at a meeting of said district duly called and held therefor, the said district failed to agree upon a location for a high school house therein, or upon a committee to locate the same, as stated in said petition, said petitioners being twenty and more legal voters in said district; and we therefore determine that said location shall be upon a lot of land bounded and described as follows: [here insert boundaries and description]

Given under our hands, at . . . , this . . . day of . . . . , 188 .

. . . . . } County Commissioners  
. . . . . } for the  
. . . . . } County of . . . . .



Received and recorded . . . . . 188 , at . . . o'clock in the . . . . . noon.

A true record. Attest : . . . . ., *Town-Clerk.*

32. All statutes heretofore passed applying to particular places or districts, relating to schools or the committees or officers thereof, now in force, shall remain in force until repealed, altered, or suspended.—G. L., c. 90, s. 16, p. 220.

## CHAPTER VII.

### SCHOLARS.

1. What persons have the right to attend school in any district, or send scholars thereto; when consent of district or prudential committee necessary.
2. District may determine terms for admission of scholars outside its limits. If district neglect so to determine, prudential committee may.
3. A person must have a *bona fide* residence in a district to be a scholar.
4. Minors at county farm and Orphans' Home—when scholars.
5. No child to attend school until he has been vaccinated or has had the small-pox. Duty of committee in relation thereto.
6. Infected persons—when removed to pest-house. Such persons, when under municipal control, may perhaps be in a temporary condition of pauperism.
7. Scholars: by whom and for what dismissed from the school; not to attend till restored by committee.
8. Correction of children; school hours. Power of master: its extent over scholars when out of school.
9. Scholars must attend school where assigned.
10. Penalty if scholar attends, visits, interrupts, or disturbs a school where he has no right, after notice.
11. By-laws in relation to truants—who may make, and what penalties may be affixed.
12. Truant officers: by whom appointed, and powers of.
13. Offenders against such by-laws may be sent to reform school—when, and for what term.
14. By whom committed to reform school in default of payment of fine; may be discharged therefrom—when, and by whom.
15. Offender may give bond—when, and in what amount; fine—when, and upon what conditions remitted.
16. Corporations not to employ children under ten years of age. Penalty for so doing; to whom paid. To be prosecuted within one year.
17. Children under fifteen not to be employed by manufacturing establishments—when.
18. Children under twelve not to be employed—when, where, and by whom.
19. Penalty for employing such children without certificate as to age; whom liable to, and when.
20. Duties of parents, guardians, and others in relation to sending children to school.
21. Notices of such duty: to whom and by whom furnished, and by whom and where posted. Expense to be paid by the town.
22. Penalty for neglect on the part of parents, etc., to send children to school; how recovered, and to whom paid.
23. Penalty for interrupting or disturbing school.
24. School-committees and boards of education must sue for penalties—when. Penalty if they neglect to sue after notice. Disposition of penalty. Expenses of prosecution must be paid by the town.
25. Annual census of children—when and by whom made, and when and to whom returned.

1. No person shall have a right to attend school, or to send any scholar to the school, in any district of which he is not

an inhabitant, without the consent of the district or of the prudential committee.—G. L., c. 91, s. 1, p. 221.

2. Each district may determine upon what terms scholars from other districts or towns may be admitted into their schools. If the district neglect to make such determination, the prudential committee may do it.—G. L., c. 86, s. 19, p. 208.

3. It is not enough that the scholars in fact are in the district at the time. Their residence there must be *bona fide*, and not merely colorable, collusive, or fraudulent.—School-District *v.* Bragdon, 23 N. H. 516.

4. But minor children, who had no residence or domicile in the district except by being supported at the county farm therein as paupers, have the right to attend the public school therein; and so have children at the Orphans' Home.

Their residence there for the purpose of schooling is not the residence declared essential for taxation, or for the exercise of the right of suffrage.—School-District *v.* Polard, 55 N. H. 504.

5. No child, unless he has been duly vaccinated or has had the small-pox, is entitled to attend any public school; and the prudential committees of the several districts, and those who exercise the powers of such committees, shall not allow any such child to be admitted to or connected with any such school.—G. L., c. 91, s. 2, p. 221.

6. If deemed essential to prevent the spread of the disease, infected persons may be removed to the pest-house; and while thus secluded from their friends, and under municipal control, they may perhaps be in a temporary condition of pauperism.—McIntire *v.* Pembroke, 53 N. H. 467.

7. Any scholar may be dismissed from school by the school-committee for gross misconduct, or for neglect or refusal to conform to the reasonable rules of the school, and shall have no right to attend the school till restored by the school-committee.—G. L., c. 91, s. 3, p. 221.

8. The supreme court of Vermont (32 Vt. 114-122) said, —“It is conceded that his [the teacher's] right to punish extends to school hours; and there seems to be no reasonable doubt that the supervision and control of the master over the scholar extends from the time he leaves home to go to school

till he returns home from school. Acts done to deface or injure the school-room, to destroy the books of scholars, or the books or apparatus for instruction, or the instruments of punishment of the master; language used to other scholars, to stir up disorder and insubordination, to heap odium and disgrace upon the master; writings and pictures placed so as to suggest evil and corrupt language, images, and thoughts to the youth who must frequent the school,—all such or similar acts tend directly to impair the usefulness of the school, the welfare of the scholars, and the welfare of the master, and if committed after the dismissal of the school for the day, and the return of the pupil to his home, yet he may, on the pupil's return to school, punish him for any misbehavior, though committed out of school, which has a direct and immediate tendency to injure the school and subvert the master's authority."

The power of expulsion vested in the school-committee does not take from the master the right to use force, if necessary, to maintain his authority, and he may call on others to assist him.

9. No scholar, who shall have been assigned to a particular school by vote of the district, or by the committee authorized by the district to assign the scholars to particular schools, shall have the right to attend any other school in the district until assigned thereto.—G. L., c. 91, s. 4, p. 221.

See G. L., c. 86, secs. 20 and 21, p. 208.

10. If any scholar, after notice, shall attend or visit a school which he has no right to attend, or shall interrupt or disturb the same, he shall be fined for the first offence five dollars, and for the second offence he shall be fined ten dollars, or be imprisoned not exceeding thirty days.—G. L., c. 91, s. 5, p. 221.

11. Any town may make by-laws concerning habitual truants and children not attending school, without any regular and lawful occupation, between the ages of six and sixteen years, and to compel the attendance of such children at school, not repugnant to law, and may annex penalties for the breach thereof not exceeding ten dollars for each offence.—G. L., c. 91, s. 6, p. 221.

12. Such town may appoint three or more officers to enforce such laws, either of whom, and no other, may make com-



plaint for such offences, and shall be authorized to serve any process relating thereto.—G. L., c. 91, s. 7, p. 221.

13. Any offender against such by-laws, upon conviction, may, instead of such fine, be sentenced to the reform school for a term not exceeding one year.—G. L., c. 91, s. 8, p. 221.

14. Any such offender, on conviction and sentence to pay such fine, may, in *default of payment*, be committed to the *reform school* till the same be paid or he is otherwise discharged; but the court or justice imposing such sentence may at any time discharge such offender, on proof that he is unable to pay said fine, and has no parent, guardian, or person chargeable with his support able to pay it.—G. L., c. 91, s. 9, p. 222.

15. Such offender so convicted may give *bond* to the town in the *penal* sum of twenty-five dollars, *with sufficient sureties*, approved by the court or justice before whom he was convicted, conditioned to attend *regularly some district or other school kept in such town for one term next ensuing*, when the same is kept, *to comply with the regulations thereof, and to be obedient and respectful to the teacher*; and his fine may thereupon be remitted by such court or justice on payment of the costs.—G. L., c. 91, s. 10, p. 222.

16. No child under the age of ten years shall be employed by any manufacturing corporation in this state; and any agent, superintendent, or overseer in any corporation, who wilfully employs, or permits to be employed, any child in violation of this act, shall, for such offence, be fined not less than twenty dollars nor more than one hundred dollars.—Laws of 1879, c. 21, s. 1, p. 340.

Such fine shall be paid, one half to the complainant, and the other half to the use of the county where the offence was committed.—Laws of 1879, c. 21, s. 2, p. 340.

No prosecution under this act shall be sustained one year after the offence is committed.—Laws of 1879, c. 21, s. 3, p. 340.

17. No child *under fifteen* years of age shall be employed in any manufacturing establishment unless he has attended some public school or private day-school, where instruction was given by a teacher competent to instruct in the branches taught in common-schools, at least *twelve* weeks during the *year preceding*.—G. L., c. 91, s. 11, p. 222.

18. No child under the age of *twelve* years shall be employed as aforesaid unless he has attended school as aforesaid at least *six* months during the *year preceding*, or has attended the school of the district in which he dwelt the *whole time it was kept during such year*.—G. L., c. 91, s. 12, p. 222.

19. The owner, agent, or superintendent of any manufacturing establishment, or any person connected therewith, who shall employ in such establishment any child *under the age of fifteen years without* having a certificate signed by a *majority* of the school-committee of the town or city in which the child resides, or by such person or persons as they may designate for that purpose, that such child has attended school, as required by sections eleven and twelve of this chapter, shall be *fined* not exceeding *twenty* dollars for *each* offence.—G. L., c. 91, s. 13, p. 222.

20. Every parent, guardian, master, or other person having the custody, control, or charge of any child between the ages of *eight* and *fourteen* years, residing in any school-district in which a public school is annually taught for the period of *twelve* weeks or more, *within two* miles by the nearest travelled road from his residence, shall cause such child to attend such public school for *twelve* weeks at least in every year, *six* weeks at least of which attendance shall be *consecutive*, unless such child shall be excused from such attendance by the school-committee of the town, or the board of education of such district, upon its being shown to their satisfaction that the physical or mental condition of such child was such as to prevent his attendance at school for the period required, or that such child was instructed in a private school or at home for at least *twelve* weeks during such year in the branches of education required to be taught in the public schools, or, having acquired those branches, in other more advanced studies.—G. L., c. 91, s. 14, p. 222.

21. The school-committee of every town shall supply the prudential committee of every district with notices of the provisions of the preceding section, particularly calling the attention of parents, guardians, masters, and others thereto; and it shall be the duty of said prudential committee to post, and keep posted such notices, not exceeding three, in the most public places in such district; and the necessary expense of

procuring such notices shall be paid by the town.—G. L., c. 91, s. 15, p. 222.

22. Any parent, guardian, master, or other person violating the provisions of the fourteenth section of this chapter [s. 20, *ante*] shall forfeit and pay the sum of ten dollars for the first offence, and the sum of twenty dollars for the second and every subsequent offence, to be recovered in an action of debt, in the name of the district within whose limits the penalty was incurred, by the school-committee of the town or board of education of such district. All penalties recovered shall be paid to the district, and added to the school-money thereof.—G. L., c. 91, s. 16, p. 222.

23. Any parent, guardian, or other person, not a member of the school, who shall wilfully interrupt or disturb any school, shall be punished by a fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding thirty days.—G. L., c. 91, s. 17, p. 222.

24. School-committees and boards of education, respectively, shall sue for all penalties incurred under, and institute prosecutions for all violations of, the provisions of this chapter [c. 91, G. L.]; and any school-committee or board of education upon whom a written notice has been served by any tax-payer, stating by whom, when, and how any such penalty has been incurred, who shall neglect for ten days after the service of such notice upon them to institute a suit for the recovery thereof, unless such penalty shall sooner be paid without a suit, or unless, upon investigation during that time, they shall be satisfied that no penalty has actually been incurred, shall forfeit and pay the sum of twenty dollars for each neglect, to be recovered by the selectmen of the town, in an action of debt in the name of the town, such penalty, when recovered, to be paid to the district in which the original penalty was incurred, and added to the school-money thereof. All necessary expenses arising from prosecutions instituted in enforcing the provisions of this chapter shall be paid out of the town treasury.—G. L., c. 91, s. 18, p. 222.

25. The selectmen of each town, and the assessors of each city, shall annually in the month of April make an enumeration of the children of each sex, between the ages of five and fifteen, in their respective towns and cities, and shall make a



report of each [such] enumeration to the superintending school-committee of their respective towns and cities with [in] fifteen days after the completion of each enumeration.—G. L., c. 89, s. 20, p. 218.

## CHAPTER VIII.

### SUPERINTENDENT OF PUBLIC INSTRUCTION.

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| <p>1. By whom appointed; term of office; powers of.</p> <p>2. Duties of.</p> <p>3. School-committees in various towns to report to—when and what.</p> <p>4. Penalty for neglect.</p> | <p>5. Report of—four hundred copies printed annually by the state; to state what; how disposed of. Registers: covers of, to state what.</p> <p>6. Salary of; what incidental expenses paid by the state; office in state-house</p> |
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1. The governor and council shall appoint a superintendent of public instruction, who shall hold his office for the term of *two* years, and shall have general supervision and control of the educational interests of the state.—G. L., c. 92, s. 1, p. 223.

2. The superintendent of public instruction shall prescribe the *form of register to be kept in the schools, and the form of blanks and inquiries for the returns to be made by the school-committees*, and *seasonably* send the same to the clerks of the several towns and cities *for the use of the several school-committees therein*; and shall receive, preserve, or distribute all state documents in regard to public schools or education, and receive and arrange in his office reports and returns of school-committees; shall investigate the condition and efficiency of the system of popular education in this state; shall pursue such a course for the purpose of awakening and guiding public sentiment in relation to the practical interests of education as may seem to him best, and the nature of the duties of the office will permit; and *shall annually* make a report, containing such a *concise abstract* of the returns of the school-committees as he may deem useful, a *detailed report* of his *own* doings, and the condition and progress of popular education in the state, and such suggestions and recommendations in regard to improving the same as his information and judgment may dictate; and *shall discharge such other duties*

as may be assigned him by law.—G. L., c. 92, s. 2, pp. 223 and 224.

3. The school-committee of *each town shall, before the first Wednesday of April, annually* transmit to the superintendent of public instruction *a copy of the report by them presented to the town, and* answers, according to the forms provided, to all such questions as may be proposed by said superintendent of public instruction relating to the appropriations of school-money received, the studies pursued in the schools, the methods of instruction and discipline adopted, the condition of school-houses, and any other subject relating to schools.—G. L., c. 92, s. 3, p. 224.

4. The school-committee of any town, who shall *neglect* to make the return aforesaid, agreeably to the preceding section, *shall be fined* not exceeding *fifty* dollars.—G. L., c. 92, s. 4, p. 224.

5. The superintendent of public instruction shall procure, under authority of the secretary of state, and at the expense of the state, four hundred copies of the report to be printed yearly, and lay them before the general court, to be disposed of at their discretion, one hundred copies for the purpose of exchange with other states and for distribution among the friends of education, and *one* additional copy for *each town, ward, and incorporated place having ten* legal voters.—G. L., c. 92, s. 5, p. 224.

The superintendent of public instruction, in his annual report, shall state the condition of the school [State Normal School], the terms of admission and graduation, and the times of the commencement of the sessions; and shall cause to be printed on the cover of the school register a statement of the terms of admission and graduation, and the times of the commencement of the sessions of the school.—G. L., c. 93, s. 4, p. 225.

6. The superintendent of public instruction shall receive an annual salary of twelve hundred dollars *in full* for all the duties required by this chapter, and such additional sum for postage, stationery, and office expenses as the governor and council may deem reasonable; and shall occupy as an office such portion of the state-house as the governor and council may deem expedient.—G. L., c. 92, s. 6, p. 224.

## CHAPTER IX.

## STATE NORMAL SCHOOL.

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| <ol style="list-style-type: none"> <li>1. Established and continued. Instruction therein. To be in session at least twenty weeks.</li> <li>2. Management of school: in whom vested. Board of trustees: of whom composed and by whom appointed; how organized. Powers, duties, meetings, and compensation of trustees.</li> <li>3. Courses of study: how many, by whom arranged, to include what in each course, and two years required for completion of. Certificates of graduation—by whom, when, and to whom issued.</li> </ol> | <ol style="list-style-type: none"> <li>4. Superintendent of public instruction, in his annual report, to state condition, terms of admission and graduation, and calendar, and cause same to be printed on cover of school register.</li> <li>5. Tuition and graduation gratuitous: to whom, when, and upon what consideration</li> <li>6. Contracts in relation to tuition and graduation: by whom made, and for what purpose.</li> <li>7. Annual appropriation of five thousand dollars: how and by whom expended.</li> </ol> |
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1. The New Hampshire State Normal School, as heretofore established and located at Plymouth, is hereby further established and continued for the training of teachers for the common-schools of the state. The instruction in said school shall be confined to such branches as will specially prepare the pupils to teach in said common-schools, and to such branches as are usually taught in normal schools; and the school shall be in session at least twenty weeks in each year.—G. L., c 93, s. 1, p. 225.

2. The management of said school shall be vested in a board of trustees, composed of the governor, the superintendent of public instruction, and five persons, to be appointed by the governor, with the advice and consent of the council, and to hold said office two years. Said board shall choose from its members a president and secretary of the board, and such committees and other officers as may be necessary to transact its business, but may choose a person for treasurer who is not a member of the board. Said trustees shall receive no compensation for their services, but shall be paid their reasonable expenses while engaged in the performance of their duties. They shall select and employ a principal teacher for the school, who shall be allowed, with their advice and consent, to select the assistants, and provide for the discipline of the school; and they shall have the general management, supervision, and control of the school. They shall meet at least *once* in each year, when it shall be the duty of all to be pres-



ent.—G. L., c. 93, s. 2, p. 225; Laws of 1879, c. 45, s. 1, p. 360.

3. The trustees, with the principal of the school, shall arrange two courses of study for the school, and control the examinations for admission and graduation. One course of study shall include all branches required by law to be taught in the common-schools of New Hampshire, and shall require for its completion at least *one* school year. The other course shall include the higher branches, in addition to those included in the first course, and shall require for its completion at least *two* school years. Certificates of graduation shall be issued to those who pass the required examinations in these several courses.—G. L., c. 93, s. 3, p. 225.

4. The superintendent of public instruction, in his annual report, shall state the condition of the school, the terms of admission and graduation, and the times of the commencement of the sessions; and shall cause to be printed on the cover of the school register a statement of the terms of admission and graduation, and the times of the commencement of the sessions of the school.—G. L., c. 93, s. 4, p. 225.

5. Tuition and graduation in the state normal school shall be free to all those completing either or both of its prescribed courses of study, upon condition that they shall, in consideration thereof, agree to teach in the schools of this state for a period equal to the time of said course or courses of study so completed.—G. L., c. 93, s. 5, p. 226.

6. The trustees of said school shall make such provisions for the making, entering into, and carrying out suitable and proper contracts or agreements with those desiring free tuition as shall carry out the provisions of the preceding section.—G. L., c. 93, s. 6, p. 226.

7. The sum of five thousand dollars is *annually* appropriated for the maintenance of said school, said sum to be expended as the trustees of said school shall direct.—Laws of 1879, c. 45, s. 2, p. 360.

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