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Primer for principals on school law in Massachusetts.

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PRIMER FOR PRINCIPALS ON SCHOOL LAW IN
MASSACHUSETTS

BY

RICHARD A. WARD

A problem submitted in partial fulfillment of
the requirements for the Master of
Science Degree

University of Massachusetts

1951

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CHAPTER I

THE INTRODUCTION

CHAPTER I

THE INTRODUCTION

Motivation of the Study -- A course in "School Law", taken at the University of Massachusetts, served as the basic motivating factor in the formation of this problem. From personal experience and conversations with other principals, and the general unfolding of the course, a definite need for more information made itself very apparent. As need is the essence of motivation, the proposed problem appeared to possess purpose. Purpose is necessary if any project is to have real value. This, plus a genuine liking for school law, presented an opportune problem.

The Incompleteness of the Picture -- Most principals are aware, either from personal experience or observation, that general knowledge of school law is inadequate. Also, very little material in condensed form is available for study. The average principal is well prepared as far as local school committee regulations are concerned, but often finds himself in a predicament when problems beyond the local situation arise. The study of school law is a specialized field, and most principals do not have the time or opportunity to delve deeply into its many phases. Local regulations and state law become confusingly involved unless definite study of both fields has taken place. Most principals will readily agree that their individual command of the fundamentals of school law is vague and unsure.

Assumptions in This Study -- In a problem of this kind it is apparent from the start that certain assumptions must be clearly understood. The problem cannot hope to settle all questions on school law which might arise. Only those questions of interest to most principals will

even be discussed. Definite answers to all queries cannot be given. Many questions must be answered by generalizations based on common practice or court interpretation. Perhaps the most important assumption which must be understood is, that this problem will attempt to present a fundamentally sound core of basic information which principals can use as a foundation from which to work on individual problems. It may serve to augment the knowledge of principals now in service, or aid in orienting new principals.

The material in this report should not be taken as the final answer to any problem. In case of an actual legal problem, the principal would be well advised to consult with a lawyer who will have knowledge of the finer points of law which may be involved. In general, however, the material is sufficiently valid to describe the situations as they now appear to exist.

CHAPTER II

PLAN OF PROCEDURE

CHAPTER II

PLAN OF PROCEDURE

Survey of Types of Schools -- Before compiling a booklet on school law which will be of value to all principals, it is necessary to discover what principals wish to know about school law. This will be governed to a great extent by the types and kinds of schools in which principals work.

There are all types of schools and school situations in the Commonwealth, and the problems which present themselves are many and varied. There are at the present time, 257¹ senior high schools, 164¹ junior high schools and approximately 1500² elementary schools, making a total of about 1920 public schools in the Commonwealth. These schools are divided on a percentage basis as follows:

Senior high schools	13%
Junior high schools	9%
Elementary schools	78%

These schools are further divided by many of the following factors:

- 1) large, medium-sized and small schools
- 2) urban and rural schools
- 3) new and old buildings and facilities
- 4) traditional and progressive schools
- 5) schools with more or less permanent personnel
- 6) schools with constantly changing personnel

(1) Educational Directory, 1950 Comm. of Mass., Dept. of Ed. No.1 whole no. 378 pp. 31, 37

(2) Reported by Miss Alice Beal, Super. of Elem. Ed., Dept. of Ed. Comm. of Massachusetts

7) overcrowded schools

8) schools with special problems of transportation, lunch programs, P.T.A. organizations, small playgrounds, traffic hazards, racial problems, etc..

The problems and responsibilities of principals vary tremendously because of the conditions under which they work.

General Procedure -- Questionnaires were made and sent to principals in all kinds of schools, as a means of obtaining a cross section of the problems of school law which are pertinent. These survey sheets were sent out on a percentage basis. Thirteen percent went to senior high schools, nine percent to junior high schools, and seventy-eight percent to elementary schools. The returns were compiled. This compilation revealed overwhelming samenesses in the questions returned. It was safe to assume that questions asked by all were vital to all. If no questions were returned regarding certain phases of school law, it was also safe to assume that these phases might well be omitted from the contemplated problem. The proposed problem was supposed to be a "Primer", and as such was not intended to answer all questions on school law. Only those questions which were apparently of immediate interest to all principals were included.

A copy of the material sent out is included in the Appendix.

Results of Questionnaires -- Approximately seventy percent of all questionnaires were returned. All principals were emphatic in their belief that such a booklet would be of great help to all principals.

The questions returned showed many common elements regardless of their origin. The same questions were asked by principals from all kinds

and types of schools. As the questions were compiled it soon became apparent that certain fields of school law were more troublesome than others. Listed below are the general groupings into which practically all questions fell. They are listed in relative importance as shown by the diversity of questions returned. There were three primary groupings:

- 1) Responsibility and Liability in Case of Accident
- 2) School Attendance
- 3) School Discipline

and five secondary groupings:

- 1) School Plant and Custodians
- 2) Health and Safety
- 3) Courses of Study
- 4) Tenure
- 5) Required Legal Observances

Detailed Plan of Procedure -- Duplication in questions of similar type or wording, resulted in the formation of new questions to cover all phases of the same idea. These newly formed questions were compiled under the eight main groupings which had been established by the returns from the questionnaires.

These questions were answered as clearly and concisely as possible. Whenever possible, actual statutes pertaining to the question were given. Citations of actual cases and court interpretations accompanied the answers whenever expedient.

CHAPTER III

RESPONSIBILITY AND LIABILITY IN

CASE OF ACCIDENT

CHAPTER III

RESPONSIBILITY AND LIABILITY IN

CASE OF ACCIDENT

General Statement -- The questions in this chapter all hinge around two main points:

1. the position of a town or city, or a department of same such as the school committee, in regard to a legal action brought by an individual.
2. the position of the school principal in regard to a legal action brought by an individual.

A city or town cannot be sued by an individual unless one of the following points is applicable:

1. unless authorized by express statute
2. unless permission has been given by the town or city for such suit
3. unless the town or city receives profit from the operation of whatever public facility is responsible for the action

Excerpts from the following citation, Charles W. Hill vs City of Boston (122 Mass. 344-345-380), give a good general picture of usual court interpretation of such suits.

. We had supposed it to be well settled in this Commonwealth that no private action, unless authorized by express statute, can be maintained against a city for the neglect of a public duty imposed upon it by law for the benefit of the public, and from the performance of which the corporation receives no profit or advantage.

. But however it may be where the duty in question is imposed by the charter itself, the examination of the authorities confirms us in the conclusion that a duty, which is imposed upon an incorporate city, not by the terms of its charter, nor for the profit of the corporation, pecuniarily or otherwise, but upon the city as a representative and agent of the public, and for the public benefit, and by a general law applicable to all cities and towns in the Commonwealth, and a breach of which in the case of a town would give the right of private action, is a duty owing to the public alone, and a breach thereof by a city, as by a town, is to be redressed by prosecution in behalf of the public, and will not support

an action by an individual, even if he sustains special damage thereby.

The fact that this court decision concerned the City of Boston in no way changes the picture for the other cities and towns in the Commonwealth.

This point is established by the following excerpt from the case of

Bigelow vs Randolph (14 Gray 541).

. a town, which had erected a school-house in the performance of the duty imposed upon it by general law, was not liable to an action for an injury sustained by a scholar, attending school therein, from a dangerous excavation in the school-house yard, which had been negligently permitted to remain insufficiently guarded.

In rare cases, an individual may be authorized to bring a private action against a city or town if the city or town wishes to make financial amends for an admitted justified cause.

If a school building was being used to make a profit for a city or town, a private action might ensue. However, it would have to be legally established by the plaintiff that the city or town did make a profit.

The school principal, as an agent of the school committee, cannot be held liable for private actions arising from the performance of duties assigned by his superiors. However, by exceeding the authority delegated to him by his superiors he might become personally liable. Gross negligence might be claimed and substantiated by court action. If a principal follows his assigned duties, and obtains in writing from his superiors, instructions or sanctions for duties other than those customarily assigned to him, he has little to fear. If prudent care is used in the performance of his duties, the principal is well protected.

1. What is the principal's liability in case of injury to a pupil due to

a pupil due to defects in the school building, or hazards on the school premises?

The school building and grounds are under the charge of the school committee.

Chapter 71 - Section 68 (as amended, 1934, 97) towns to maintain schoolhouses a school committee, unless the town otherwise directs, shall have general charge and superintendence of the schoolhouses, shall keep them in good order, and shall, at the expense of the town, procure a suitable place for the schools, if there is no schoolhouse, and provide fuel and all other things necessary for the comfort of the pupils.

The principal cannot be held liable for injury suffered because of defects in the building or on the grounds. He acts as nominal head of the school, but the responsibility of maintaining such school belongs to the school committee. As principal, it is expected that he will take all reasonable precaution for the safety of all pupils, and unless the principal directs a pupil to do something dangerous, the charge of negligence is hard to substantiate. Deliberate placement in jeopardy would probably be the only possibility of a court finding him liable.

2. What is the principal's liability in case of injury on the way to and from school?

There is no law which governs the coming and going of children and the responsibility of same. However, it is more or less an established principle that school authorities assume a parental responsibility for the children committed to their care. This responsibility extends beyond the classroom and the school yard, and in so far as possible requires the school authorities to safeguard the pupils on their way to and from school. This responsibility is not absolute, but is rather a duty to be performed

within reasonable limits. Questions of this type fall into what is often called the "Twilight Zone", a place where legal responsibility or a sense of moral obligation, neither well defined, cause a duty to be performed. The principal is expected to carry out the duties which are the responsibility of the school committee. There is little danger of legal liability except in a case where a principal might instruct a pupil to do something dangerous. Mere negligence or improper supervision might result in censure or possible grounds for discharge, but such negligence must be extremely apparent.

3. What is the principal's liability in case of injury to a pupil while doing an errand off the school grounds?

If the principal had had written permission from the parent for the pupil to do errands, and if the injury is the result of an accident which could not be foreseen, the principal is unlikely to be found liable. Without written permission, the principal is placing himself in a position which is extremely dangerous. In any case, the principal must be proved to have been negligent to an extreme, if liability is to be found justifiable.

4. What is the principal's liability in case of accident on a school bus?

Transportation on a school bus is furnished by the city or town, and the principal has no personal responsibility for that reason. The principal should take all precautions possible to see that busses are loaded and unloaded with care, but an accident on a bus in transit could not be charged to a principal. As soon as a school bus begins to move the driver is responsible, and as an agent of the school committee shall

see that reasonable order is maintained.

5. If a pupil who is furnished transportation is kept after school and suffers injury on the way home, is the principal liable?

Pupils at school have the obligation of obeying the rules of the school, and maintaining their school work at reasonable levels unless there are sound reasons for not doing so. The school committee sets the standards for work and discipline by statute.

Chapter 71 - Section 37. Duties of school committee It shall have general charge of all the public schools, and may make regulations as to attendance therein.

The principal acts as the agent of the school committee and carries out the standards set by the school committee. If judgment is used in such detention, by considering age, sex, physical fitness, mentality, weather, etc. there should be little basis for liability on the part of the principal. However, the possibilities in this situation are so numerous that it behooves every principal to use extreme care. School authorities and parents should be notified before such action is taken. Written permission from the school authorities should be obtained, and if possible from parents. Detention of girl pupils by a male principal should receive careful consideration due to the possibility of malicious charges being raised. It is safe to say that no action should be undertaken without sanction by school authorities.

6. In the case of transportation arranged for an expedition, sanctioned by parents in writing, is the principal liable in case of accident?

It is a general rule under the laws of tort that consent is usually a deterrant to a decision in favor of the plaintiff. Therefore, any li-

ability which might be charged to the principal in this case, would have to be something to do with the transportation that is provided. If transportation is furnished on a public carrier there would be no liability on the principal's part. If the transportation is not by public carrier, but in private cars, the principal should avoid the possibility of being negligent. He should be sure that every person who took a car load of pupils had a license and insurance. He should be sure that he is covered with proper insurance himself. If the principal took these precautions, anything which might then happen would be unforeseen and not grounds for a charge of negligence on the part of the principal.

7. Does a release slip signed by a parent eliminate the principal from liability?

It is the general rule under the laws of tort, that consent is usually a deterrant in a decision in favor of the plaintiff. Therefore, for all practical purposes, the release slip would seem to eliminate the principal from liability. If the principal uses that amount and kind of care which the man of ordinary prudence would use under similar circumstances, he has little to fear. In cases of gross negligence, however, consent is no deterrant.

8. What may a principal do regarding medical aid to a pupil in case of accident? May he order physician's services? Surgical work? Who is financially responsible?

The principal's actions in regard to accidents are governed to a great extent by the apparent severity of the accidents. One of the first actions which a principal must take is the notification of parent or

guardian. This is done because the principal is the agent of the school committee, and according to the following statute it is their responsibility.

Chapter 71 - Section 56 (as amended 1938, 265 sec 4.) Parent or guardian to be notified. If any child is found to be suffering from any disease or defect, or if any child is found to have any defect or disability requiring treatment, the school committee shall forthwith notify parent or guardian of such child.

The school principal has the following duties in regard to health and safety:

"The school principal is expected (1.) to administer his school . . . (2.) to give guidance . . . (3.) to observe and maintain the health of his staff with the assistance of the school physician and nurse and (4.) to give oversight and supervision to school health activities and take part in conferences. In the absence of nurse or physician the care of a school emergency may become the immediate responsibility of the school principal who then supervises first aid, notification of parents, and transportation home or to hospital, if necessary."¹

If the parent is not available, the principal's actions become those of a parent. Physician's services may be employed, and surgical work might result if the physician do directed. The expenses incurred are the responsibility of the parent. The principal's duties in case of accident might be listed as follows, although not necessarily in order:

- 1) If slight, administer first aid.
- 2) Summon school nurse, if available.
- 3) Summon school physician - first aid only.
- 4) Call parent or guardian.
- 5) Call office of superintendent of schools.

These are all primarily for first aid. In case of severe injury

(1) Mass. Dept. of Ed. Health in the schools - A manual of the School Health Program (1949) p.19

creating an emergency, a hospital trip might be taken without proper time to notify anyone except the hospital. Here again, the actions of the principal are those which a prudent individual would undertake.

9. If a principal assigns duties to other school personnel, potentially dangerous to health or ability to perform duties, is he liable in case of accident?

A principal using reasonable precaution would not assign any duty with hazards other than those which a normal person might anticipate. If the duty assigned was clearly connected to the school and its operation, and was reasonable in scope (a janitor doing traffic duty, a teacher supervising a playground with activities going on, etc. .) there should be no basis for liability on the part of the principal. In an emergency, a principal may assign even dangerous duties to teachers if the welfare of pupils so demands. In any event, the principal as an agent of the school committee could make his position more secure by informing his superiors before assigning such duties.

CHAPTER IV

SCHOOL ATTENDANCE

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SCHOOL ATTENDANCE

General Statement -- School attendance is one phase of school law which is well covered by statute and court interpretation. So many legal situations have arisen regarding attendance that the courts have a well-defined "rule of law". Most situations which might develop are covered by statute or precedent.

1. What are the general statutes regarding school attendance?

School attendance is covered, generally, by the following statute:

Chapter 76 - Section 1 (as amended 1921, 463; 1939, 461, sec. 3; 1941, 423) School attendance regulated. Every child between seven and sixteen, except a child between fourteen and sixteen who meets the requirements for the completion of the sixth grade of the public schools of the town where he resides and who holds a permit for employment in private domestic service or service on a farm, under section eighty-six of chapter one hundred and forty-nine, and is regularly employed thereunder for at least six hours per day, or a child between fourteen and sixteen who meets said requirements in the town where he resides and has the written permission of the superintendent of schools of said town to engage in non-wage-earning employment at home, or a child over fourteen who holds a permit for employment in a cooperating employment, as provided in said section eighty-six, shall, subject to section fifteen, attend a public day school in said town, or some other day school approved by the school committee, during the entire time the public schools are in session (unless the child attends school in another town, during the entire time the same is in session,) under sections six to twelve, inclusive; but such attendance shall not be required of a child whose physical or mental condition is such as to render attendance inexpedient or impracticable or of a child granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such child would be better served through the granting of such permit, or of a child who is being otherwise instructed in a manner approved in advance by the superintendent or the school committee. The superintendent of schools may transfer to any specialized type of school on a full-time basis any child who possesses the educational qualifications enumerated in this section and in the opinion of the superintendent would be benefited by such transfer. The superintendent, or teachers in so far as authorized by him or by the school committee, may excuse cases of necessary absence for other causes not exceeding seven day sessions or fourteen half day sessions in any period of six months. Absences may also be permitted for religious education

at such times as the school committee may establish; provided, that no public funds shall be appropriated or expended for such education or for transportation incidental thereto; and provided, further, that such time shall be no more than one hour each week. For the purposes of this section, school committees shall approve a private school only when the instruction in all the studies required by law is in English, and when satisfied that such instruction equals in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town; but they shall not withhold such approval on account of religious teaching.

The school committee of each town shall provide for and enforce, the school attendance of all children actually residing therein in accordance herewith.

The terms "permit for employment" and "employment permit", as used in this chapter, shall mean an employment permit referred to in section eighty-six of chapter one hundred and forty-nine.

This statute is further interpreted by the following statute:

Chapter 71 - Section 37. Duties of school committee. It shall have general charge of all the public schools, including the evening school and evening high schools, and of vocational schools and departments when not otherwise provided for. It may determine, subject to this chapter, the number of weeks and the hours during which such schools shall be in session, and may make regulations as to attendance therein.

Some of the points emphasized by the preceding two statutes, which should be of particular interest to most all principals are listed:

1. The Commonwealth takes legal charge of every youngster's education when he becomes seven years of age.
2. The Commonwealth holds such authority either directly or indirectly, by relegation to a school committee or a superintendent of schools, until the pupil is sixteen years of age.
3. In abnormal cases the Commonwealth may extend this control indefinitely.

It is very important that all principals become cognizant of the extreme interest, and subsequent control, which the Commonwealth takes in

the education of its youth.

2. What constitutes an habitual school offender?

This question is answered by statute.

Chapter 77 - Section 5 (as amended 1931, 394, sec. 143; 1948, 573)
Habitual school offenders. A child under sixteen persistently violating reasonable regulations of the school he attends, or otherwise persistently misbehaving therein, so as to render himself a fit subject for exclusion therefrom, shall be deemed an habitual school offender, and, unless placed on probation, as provided in section seven, may, on complaint of a supervisor of attendance, be committed, until he reaches his sixteenth birthday, to the county training school, if any, maintained within the county wherein he resides or, if there is no such school, to the custody of the youth service board, or to a county training school.

3. What constitutes an habitual truant?

This question is answered by statute.

Chapter 77 - Section 3 (as amended 1931, 394, sec. 141; 1948, 573)
Habitual truants. A child between seven and sixteen who wilfully and habitually absents himself from school contrary to section one of chapter seventy-six, shall be deemed an habitual truant and unless placed on probation as provided in section seven, may, on complaint of a supervisor of attendance, be committed, until he reaches his sixteenth birthday, to the county training school, if any, maintained within the county wherein he resides or, there is no such school, to the custody of the youth service board, or to a county training school.

4. What constitutes an habitual absentee?

This question is answered by statute.

Chapter 77 - Section 4 (as amended 1931, 394, sec. 141; 1948, 573)
Habitual absentees. A child between seven and sixteen found wandering about streets or public places, having no lawful occupation, habitually absent from school and growing up in idleness and ignorance, shall be deemed an habitual absentee, and, unless placed on probation as provided in section seven, may, on complaint of a supervisor of attendance or any other person, be committed, until he reaches his sixteenth birthday, to the county training school, if any, maintained within the county wherein he resides or, if there is no such school, to the custody of the youth service board, or to a county training school.

5. What responsibilities do principals have about reporting to attendance

supervisors?

The principal carried out the duties assigned to him by the school committee. One of these duties is prescribed by the following statute:

Chapter 76 - Section 1 (as amended 1921, 463; 1939, 461, sec. 3; 1941, 423) School attendance regulated. The school committee of each town shall provide for and enforce the school attendance of all children actually residing therein in accordance herewith

Under the same statute the principal is instructed as to the regulations pertaining to attendance:

Chapter 76 - Section 1 (as amended 1921, 463; 1939, 461, sec. 3; 1941, 423) School attendance regulated. the superintendent, or teachers in so far as authorized by him or by the school committee, may excuse cases of necessary absence for other causes not exceeding seven day sessions or fourteen half day sessions in any period of six months

The attendance supervisor, as an appointed representative of the school committee, is the person to whom the principal usually reports. However, the school committee and the superintendent determine the procedure. A principal should ask, when taking a position, about the local policy. In any case of suspected truancy or unexplained absence less than the period mentioned in the statute, the principal shall report to the attendance supervisor or to the superintendent as procedure demands.

6. What discretionary power does the principal have regarding dismissals?

Dismissals should be defined in order to make clear customary procedure. Dismissals are of two main types. The first type is concerned with the meeting of appointments, illness, convenience of parent, etc. . . and usually meets with the approval of principal and parent. The second type of dismissal concerns misconduct on the part of a pupil, and is usually of major importance to principal and parent. The power of the prin-

principal in either case depends on the wishes of the school committee. The school committee has the power to regulate attendance by the following statute:

Chapter 71 - Section 37 Duties of school committee. It shall have charge of all public schools, It may determine, subject to this chapter, the number of weeks and the hours which said schools shall be in session, and may make regulations as to attendance therein.

The principal acts as the agent of the school committee, and his discretionary power regarding dismissals is as broad as the school committee wishes to make it. In practice, most school committees give the principal power to make reasonable regulations regarding dismissals. In the matter of dismissals for misconduct, principals should be very careful to follow the local school committee regulations. In doubtful cases, the principal should consult the superintendent of schools.

7. Can a pupil be expelled who is not truant but is usually in difficulties?

Such a pupil can be expelled by the school committee only, by powers granted under the following statute:

Chapter 43 - Section 33 (as amended 1915, 267, I, sec. 33, 35)
Powers and duties. the school committee, in addition to the powers and duties conferred and imposed by law on school committees, may provide, when necessary, shall have control of all school buildings and grounds connected therewith and shall make all reasonable rules and regulations, consistent with law, for the management of the public schools of the city and for conducting the business of the committee.

There are many cases in law to uphold the general powers implied in chapter forty-three, section thirty-three. One of the most famous law cases regarding such power is that of Sherman vs. Inhabitants of Charlestown. A resumee of the findings follows:

Sherman vs. Inhabitants of Charlestown (8 Cushing 167) "The general school committee of a city or town has power, under the laws of the Commonwealth, in order to maintain the purity and discipline of the public schools, to exclude therefrom a child whom they deem to be of a licentious and immoral character although such character is not manifested by any acts of licentiousness or immorality within the school.

This power is rather to be drawn from the general provisions of the law on this subject, and their application to the subject matter, than from any specific enactment. Such authority must, from the necessity of the case, be conferred in general terms. schools are established for the benefit of all the inhabitants. The enjoyment of this benefit is therefor a common, not an exclusive personal right; then, like other common rights, it must be exercised under such limitations and restrictions, that it shall not interfere with the equal and co-extensive rights of others (e.g. exclusions for contagious disease).

It must be considered that the power of all teachers of schools, and of the committees or other managers under whose direction they act, is a parental authority, to be exercised for the best good of the whole."

The principal may only recommend expulsion. The school committee must be the expelling body. The school committee acting in "good faith" has wide powers for dismissal or expulsion of pupils. The following excerpts show the range of this power:

Antell vs. Stokes (287 Mass. 103) Eight girls in Haverhill brought a writ of mandamus against the school committee for expulsion for belonging to a sorority forbidden by school committee regulations. The court ruled that it was within the powers of the school committee to expel in such cases.

Gardner vs. Lowell (221 Mass. 150) "Good Cause" for dismissal is by no means limited to some form of inefficiency or of misconduct on the part of the person dismissed.

Rinaldo vs. Dreyer (294 Mass. 167) "Good Cause" includes any ground which is put forward by the school committee, in good faith, and which is not arbitrary, irrational, unreasonable or irrelevant to the committee's task of building up and maintaining an efficient school system. If the cause assigned is at least fairly debatable, asserted honestly, and not as a subterfuge, that is enough.

It should be known that expulsion by a school committee of a pupil for

some type of misconduct, gives the pupil the right to have a hearing. Expulsion for failure in studies does not give a pupil the right to a hearing.

8. Can a principal refuse entrance to a pupil who has been involved in a morals case even though the case has never reached court?

No, unless with the permission of the school committee. All obligations and duties of this sort are clearly those of the school committee. The principal can only act on their permission. The citation from Sherman vs. Inhabitants of Charlestown in the preceding question, clearly states the power possible in such a situation.

9. Can a pupil under sixteen years of age get permission to leave school?

Under chapter seventy-six, section one, stated under the answer to question one in this chapter, there are certain legal regulations permitting pupils under sixteen to leave school. They are as follows:

1. A child between fourteen and sixteen who meets the requirements for the completion of the sixth grade of the public schools of the town where he resides and who holds a permit for employment in private domestic service or service on a farm, and is regularly employed thereunder for at least six hours per day, can be granted permission to leave school.
2. A child between fourteen and sixteen who meets said requirements in the town where he resides and has the written permission of the superintendent of schools of said town to engage in non-wage-earning employment at home, can be granted permission to leave school.
3. A child whose physical or mental condition is such as to render attendance inexpedient or impracticable can be granted a permit to leave school.
4. A child may be granted an employment permit by the superintendent of schools, before reaching the age of sixteen, when such superintendent determines that the welfare of such child would be better served through the granting of such permit.

5. A child who is being instructed in a manner approved in advance by the superintendent of schools or the school committee, may be excused from attending school.

10. Is there any statute concerning the closing of school for heat, cold or minimum attendance?

There is no law regarding such a matter. Such a regulation would be a matter for the school committee, and could be established under the power conferred by:

Chapter 71 - Section 37 Duties of School Committee.
It may determine, subject to this chapter, the number of weeks and hours during which such schools shall be in session, and may make regulations as to attendance therein.

The principal should consult with the superintendent of schools before taking action, except when an emergency demanding immediate action might arise.

11. Can a pupil be forced to attend school regularly before he reaches his seventh birthday?

By law, a pupil does not have to attend school until the age of seven years. Most cities and towns have entrance laws which permit pupils to start school before reaching that age. If parents send their youngsters to school before they reach the age of seven years, they are compelled to abide by school committee regulations or remove their children from school. The school committee can enforce such attendance under chapter seventy-one, section thirty-seven, stated in the answer to question ten in this chapter. The authority for this has been tested in the courts. The following excerpt from an actual citation is regularly used for all questions of this type:

Vaneta Alvord vs. Inhabitants of Chester (180 Mass. 20) "The right

given to every child to attend public school is not unqualified but is 'subject to such reasonable regulations as to the number and qualifications of pupils to be admitted to the respective schools, and as to other school matters, as the school committee shall from time to time proscribe'".

12. What is the law regarding released time for religious education?

The answer is contained in the following statute:

Chapter 76 - Section 1 School attendance regulated.
Absences may also be permitted for religious education at such times as the school committee may establish; provided, that no public funds shall be appropriated or expended for such education or for transportation incidental thereto; and provided, further, that such time shall be no more than one hour per week

This statute makes it permissive for the school committee to grant one hour per week for religious education, but it is not mandatory.

13. What is the law regarding school registers and why is it so important?

The statute regarding school registers is as follows:

Chapter 73 - Section 8 School registers. The school committee shall cause school teachers to faithfully keep registers of attendance daily, and make due return thereof to the school committee or to such person as it may designate. No teacher shall receive payment for the two weeks preceding the close of any term until the register, properly filled up and completed, is so returned. All registers shall be kept at the schools, and at all times during school hours shall be open to the inspection of the committee, the superintendent, the attendance officers and the commissioner and agents of the department. In computing the average membership a pupil's name shall be omitted when and only when it is known that he has withdrawn from school without intention of returning, or has been absent ten consecutive school days; but the foregoing method of computation shall not affect proceedings against habitual truants, absentees or school offenders, or other persons, under section one of chapter seventy-six or under sections three, four and five of chapter seventy-seven. A pupil who is not present during at least half the session shall be marked and counted as absent for that session.

The keeping of the school register has been made important by statute. The register is used for computing returns of State funds to

the various cities and towns, for introduction as evidence in court cases involving habitual truancy and related matters, for authorization as to issuance of employment permits and for other matters where the attendance records are vital. The principal is responsible for seeing that his teachers perform their duties regarding correct returns.

CHAPTER V

SCHOOL DISCIPLINE

CHAPTER V

SCHOOL DISCIPLINE

General Statement - The problem of school discipline is probably the most publicized phase of school law. Because of this fact, it behooves every principal to know exactly where he stands in regard to such discipline. Fortunately, most cities and towns have local regulations regarding most school discipline problems. Of these, the principal should have a thorough and complete knowledge.

The courts have developed a "rule of law" regarding this phase of school law, and show a great willingness to uphold reasonable action as shown by the answers to the questions in this chapter.

1. Is there any law about corporal punishment in the schools?

Corporal punishment, by definition, is punishment applied to the body of the offender by whipping, etc
There is no statute regarding such punishment. However, in many cities and towns there are local regulations regarding corporal punishment. These regulations vary to a great extent but are all legal through powers invested in the school committee by statute.

Much has been written about corporal punishment in the schools, but the powers of the school committee in establishing regulations regarding such punishment are well explained by the decision of the court in the case of Sherman vs. Inhabitants of Charlestown (8 Cushing 167) as stated in Chapter four, page 23. The court will uphold almost any reasonable action which they believe was taken for the best interests of the school.

The principal is still subject to an action in tort -- where judgment depends on whether punishment was reasonable - but if he has acted

in accordance with local regulations, and has been prudent, the court will show a willingness to uphold the defendant. In all cases of corporal punishment, witnesses should be present.

2. Has the principal jurisdiction over pupils on their way to and from school?

The principal has jurisdiction, granted by the school committee, over pupils on their way to and from school. This jurisdiction is a permissive one and falls into the "twilight zone" as explained in the answer to question two under Chapter three, page 11.

3. Has the principal the right to prohibit certain methods of dress, or insist on certain dress habits for school?

With the authority of the school committee, the principal has the right to make regulations regarding dress habits if such regulations are reasonable. It is important to note that such school committee authority is very necessary. The cases of Antell vs. Stokes (287 Mass. 103), Gardner vs. Lowell (221 Mass. 150) and Rinaldo vs. Dreyer (294 Mass. 167) as discussed under question seven in Chapter four, page 22 give an idea as to the wide scope of school committee powers.

4. Has the principal the right to remove, or have removed, from the school, persons obnoxious or insulting?

This question may well be answered by statute:

Chapter 272 - Section 40 Disturbance of school or public meeting.
Whoever wilfully interrupts or disturbs a school or other assembly of people met for a lawful purpose shall be punished by imprisonment for not more than one month or by a fine of not more than fifty dollars.

If such disturbance is subject to fine or imprisonment, than it is

subject to control by those forces in charge of maintaining law and order, The principal has the right personally to uphold the law in such a case, but the police can do it quicker and more efficiently.

5. Who is responsible for pupil behaviour on school busses?

School transportation is furnished by the various cities and towns to those pupils who are legally entitled to such transportation. The school committee has jurisdiction over pupils going to and from school. While the bus is in operation the driver has authority to regulate conduct as prescribed by the committee. The school committee can, if desired, refuse transportation to any child if in their opinion such a child creates a situation dangerous to others. In practice, if a pupil becomes so unruly as to create a hazard, the parent can be held responsible for the child's actions. Normal behaviour problems, such as minor misconduct, can usually be taken care of by the school and the parent. In extreme cases of property damage or physical harm, the parent is liable.

6. Has the principal the right of search or seizure?

If it is the belief of the principal that articles of a dangerous nature are being concealed (e.g. matches with young children, concealed weapons, obscene material, etc. . . .) which present hazards to the welfare of others, it is quite reasonable to expect that the school committee will uphold such search or seizure. The reasonableness of the action taken will be important. Principals would be well advised to contact parents or school committee before taking such action. In any case of a boy the searcher and witness should be male, in the case of a

girl the searcher and witness should be female. Practically speaking, such permissions in the elementary grades will be gladly granted if parents are consulted. In upper grades it would be well to refer such cases to the home or to the police. In cases of suspected concealment in desks or lockers, the searcher and the witnesses do not have the personal problem to confront, and the possibility of immoral charges being brought by wilfull individuals is negated.

7. May a principal detain transportation pupils for disciplinary action after school?

Yes. The answer to this question is explained under the answer to question five in Chapter three, page 12.

8. Can a principal subdue nuisances near the school but beyond the school premises if they are not caused by school pupils?

Yes. If the proper function of the school is being upset, call the police.

CHAPTER VI

SCHOOL PLANTS AND JANITORS

CHAPTER VI

SCHOOL PLANT AND JANITORS

General Statement -- A general knowledge of the laws pertaining to school buildings and janitors should be possessed by the principal. Also, as the principal is acting as an agent of the school committee, he should be well aware of local school committee regulations. Generally speaking, the principal does not encounter many problems in this phase of school law. The school committee, acting through the superintendent of schools and through other agents, such as school carpenters, electricians, etc. . . . takes a much more active part in overseeing the proper maintenance and procedure in building and janitorial matters. The principal must still know what he should do, and follow directions accordingly.

1. Are there any educational requirements for a janitor of a Public school?

No. Thomas J. Greehan, Director of the Division of Civil Service of the Commonwealth of Massachusetts, in a letter to this author, stated that no educational requirements are necessary.

2. Can a janitor be required to do traffic duty?

Yes. Thomas J. Greehan, Director of the Division of Civil Service of the Commonwealth of Massachusetts, in a letter to this author states as follows:

"While there have been no pronouncements by the court on this matter, janitors may be expected to perform duties incidental to their employment, and, where the care of children in the vicinity of the school is of utmost importance, it is not unreasonable to

require them to assist children to and from the building so they may cross dangerous points safely. The words 'traffic custodian' are not particularly appropriate to a custodian unless deputized to serve anywhere to regulated traffic successfully."

Many janitors, particularly in cities, are under civil service and such a pronouncement from such a source would seem to be ample. In any case, such duties would have to be assigned by the school committee.

3. Are workmen working in a school during school hours under the jurisdiction of the principal?

The principal, as an agent of the school committee, with relegated duties as to the proper operation of such building, has nominal jurisdiction over any workmen in the school building in so far as their behaviour is concerned. That is particularly true if they are disturbing the operation of the school.

4. What responsibility does the principal have regarding compliance with building laws and regulations?

The school committee has charge of all school buildings. Chapter forty-three, section thirty-three, as stated under question seven in Chapter four, page 22 is the authority for such charge. The principal, acting as an agent for the school committee, reports through his immediate superior, the superintendent, on the conduct of his school. This reporting of information which the school committee should have, should be in writing. In many cities and towns the school buildings are under the control of the town building committee, but the reports should still go through the office of the superintendent of schools.

The principal should have an understanding as to the laws regarding buildings, fire escapes, doors and windows, stairways, ventilation and sanitation, boilers, etc. . . . and if these laws are not being met he should draw it to the attention, in writing, of the superintendent of schools. The principal should also have a thorough knowledge of local regulations.

5. How often must fire drills be held?

The following statute establishes the necessity to hold drills:

Chapter 148 - Section 28 (as amended 1943, 546, sec. 4; 1945, 710, sec. 12; 1946, 363, sec. 9) Rules as to fires and fire protection.

The board shall make such rules and regulations, and the head of the fire department shall make such orders and rules not inconsistent therewith, as may be necessary for the purpose or preventing or remedying any condition in or about any building, structure or other premises which may tend to become a fire hazard or to cause a fire, but limited, except as otherwise provided, to the following subjects:-

.
J. Requiring and regulating fire drills for employees of hospitals, theatres and other places of public amusement, and in public and private schools.
.

The law requires fire drills to be held, but the frequency of drills is a matter of local option.

CHAPTER VII

HEALTH AND SAFETY

CHAPTER VII

HEALTH AND SAFETY

General Statement -- This phase of school law contains much direction and information given by statute. It is a field of school law which the principal should thoroughly understand. New additions are being made constantly as the importance of health and safety becomes increasingly apparent. The principal should have a thorough knowledge of present laws and should also know local regulations. A knowledge of the law, plus cooperation with health and safety personnel in the school department, will minimize the principal's problems in this field. The health and safety of children, teachers and other school employees is of paramount importance to the successful operation of any school. The principal must do his utmost to see that the law operates correctly in all health and safety situations which develop..

1. What are the general provisions for examination of pupils?

General provisions for the examination of all school children are stated in the following statutes:

Chapter 71 - Section 57 (as amended, 1943, 384.) Testing as to defective sight, etc. The committee shall cause every child in the public schools to be separately and carefully tested and examined at least once in every school year to ascertain defects in sight or hearing, and other physical defects tending to prevent his receiving the full benefit of his school work, or requiring a modification of the same in order to prevent injury to the child or to secure the best educational results, and to ascertain defects of the feet which might unfavorably influence the child's health or physical efficiency, or both, during childhood, adolescence and adult years, and shall require a physical record of each child to be kept in such form as the department may prescribe. The tests of sight and hearing shall be made by the teachers, directions for which shall be prescribed by the department of public health, and the examinations of feet shall be made by the school physicians.

Chapter 71 - Section 54 (as amended, 1938, 265, 1; 1945, 133, 2.) Physical examination of pupils, teachers and janitors. Every school

physician shall make a prompt examination of all children referred to him as provided in this chapter, and such further examination of teachers, janitors and school buildings as in his opinion the protection of the health of the pupils may require. Every such physician who is assigned to perform the duty of examining children who apply for health certificates shall make a prompt examination of every child who wishes to obtain an employment permit, and the physician shall certify in writing whether or not in his opinion such a child is in sufficiently sound health and physically able to perform the work described in said pledge or promise.

Chapter 71 - Section 55 (as amended, 1938, 265, 2) Examination of certain pupils. A child infected, or in a household exposed to contagion shall not attend. A child returning to school after having been absent on account of such infection or exposure shall present a certificate from the board of health or its duly appointed agent that the danger of conveying such disease by such child has passed; provided, that if such a child returns to school without such a certificate, after having been absent on account of such infection or exposure, he shall immediately be referred to a school physician for examination and, if it is found by such physician upon such examination that such danger has passed, he may remain at school.

Chapter 71 - Section 55A (enacted, 1938, 265, 3.) Procedure where child shows signs of ill health, etc. A child showing signs of ill health or of being infected with a disease dangerous to the public health shall be sent home immediately or shall be referred to a school physician who may direct that such child be sent home.

The preceding statutes state the general provisions for the examination of school pupils. The enlargement of the details in the aforementioned statutes is left to the Department of Public Health and the local committee. The Department of Public Health furnishes detailed suggestions for a well-rounded program.

2. Can a pupil attend school without being vaccinated?

Yes, but subject to regulations as set forth in the following statutes:

Chapter 76 - Section 15 (as amended by sec. 5, chap. 287, acts of 1938.) Vaccination. An unvaccinated child shall not be admitted

to a public school except upon presentation of a physician's certificate

Chapter III - Section 183. Exemptions and any child presenting a certificate, signed by a registered physician designated by the parent or guardian, that the physician has at the time of giving the certificate personally examined the child and that he is of the opinion that the physical condition of the child is such that his health will be endangered by vaccination, shall not, while such condition continues, be subject to the two preceding sections (enforced vaccination by board of health)

A child can attend school without being vaccinated provided that an exemption has been received. However, this exemption is only good so long as his physical condition warrants such exemption. The following excerpts from cases on vaccination, explain this.

Hammond vs. Hyde Park (195 Mass. 29)

. does not give an unvaccinated child presenting a certificate that he is not a fit subject for vaccination an absolute right to attend school at all times. A regulation made during a time when smallpox was prevalent to "exclude from attendance all unvaccinated children and also all children who do not present a certificate of revaccination as required by the board of health, until such time as this (school) committee may become satisfied that the imminent danger from contagion of smallpox in our town has ceased", is a reasonable one.

Spofford vs. Carleton (238 Mass. 528)

The exemption under upon presentation of the certificate therein described, of a child of school age from vaccination before being admitted to the public schools does not cover the entire period of the child's attendance after the filing of the certificate; the certificate is limited to the period during which his physical condition is such that in the opinion of the certifying physician he is an unfit subject for vaccination.

It has been further held that a regulation of the school committee requiring a renewal of such a certificate every two months, but providing that a pupil failing to renew such certificate should not be excluded from the school until a period of two weeks had elapsed after failure to renew, conformed with the law and was valid.

3. What are the requirements regarding eye and ear examinations?

That the children shall be tested for defects in sight and hearing,

who shall test them and in what manner, is stated in the following statute:

Chapter 71 - Section 57 (as amended 1943, 384) Testing as to defective sight, etc. The committee shall cause each child in the public schools to be separately and carefully tested and examined at least once in every school year to ascertain defects in sight and hearing the tests of sight and hearing shall be made by teachers, directions for which shall be prescribed by the department of public health

The materials for such testing shall be furnished by the department:

Chapter III - Section 185A (enacted, 1945, 543, 2) Department of Public Health to prescribe and furnish test cards, etc. The department of public health, after consultation with the department of education, shall prescribe and furnish to school committees suitable rules of instruction, test cards, blanks, record books and other useful appliances for accomplishing the purposes

Further and improved testing of eyes and ears is accomplished by the use of audiometers and the Massachusetts Vision Test. Cities and towns unable to purchase these devices, may be loaned such aids to testing by the Massachusetts Department of Public Health through the District Health Officer.

4. Can a principal insist on the examination of teachers and janitors and other school personnel if he believes such examination is needed?

The physical examination of teachers, janitors and other school personnel is a power delegated to the school physician under the following statute:

Chapter 71 - Section 54 (as amended, 1938, 265, sec. 1; 1945, 133, sec. 2) Physical examination of pupils, teachers and janitors. Every school physician shall make a prompt examination of all children referred to him as provided in this chapter, and such further examination of teachers, janitors and school buildings as in his opinion the protection of the health of the pupils may require

The principal can confer with the superintendent of schools, stating

why he wishes to have such examination. The superintendent can then confer with the school physician. For a principal to want such an examination, presupposes good cause, and probable acquiescence on the part of the superintendent to present the request to the school physician. However, the school physician has final judgment in this matter.

The school committee can rule in excess of the statute and insist on periodic examinations of school personnel. A new statute, Chapter 71 - Section 55B, makes an examination for tuberculosis in a communicable form mandatory for all school personnel every three years. Many cities and towns are requiring a complete physical examination at the same time.

5. What is required by law to be taught about health and safety?

The requirements are stated in:

Chapter 71 - Section 1 (as amended 1921, 360; 1923, 222, sec. 1)
Maintenance of public schools Such schools shall be taught by teachers and shall give instruction and training. physiology, and hygiene, good behaviour, indoor and outdoor games and athletic exercise. In connection with physiology and hygiene, instruction as to the effects of alcoholic drinks and of stimulants and narcotics on the human system, and as to tuberculosis and its prevention, shall be given to all pupils in all schools under public control, except schools maintained solely for instruction in particular branches. Such other subjects as the school committee considers expedient may be taught in the public schools.

The last sentence of the statute gives the school committee much leeway in enlarging the field of instruction.

6. How much authority has the school nurse and when has she the right of entrance to any classroom?

The school nurse is appointed by the school committee:

Chapter 71 - Section 53 (as amended by sec. 1, chap. 357, acts of

1921) School physicians and nurses. The school committee shall appoint one or more school physicians and nurses, shall assign them to the public schools within its jurisdiction, shall provide them with all proper facilities for the performance of their duties and shall assign

The duties of the school nurse are assigned by the school committee. Generally speaking, the school nurse renders first aid, inspects children, acts as liason officer between home and school, assists the school physician and consults with teachers regarding problems of health and safety. The school nurse has no authority other than that given to her by the school committee. The right of entrance to any classroom is governed by the duties assigned by the school committee. If the fulfillment of such duties is dependent on such entrance (e.g. examinations for suspected contagious disease, health instruction, etc. . .), the nurse has the right to enter a classroom. The nurse can take no duties upon herself without the express consent of the school committee.

CHAPTER VIII

COURSES OF STUDY

CHAPTER VIII

COURSES OF STUDY

General Statement -- The statutes of the Commonwealth of Massachusetts state what shall be taught, what may be taught under certain conditions and what shall not be taught. A study of the laws stated in question one of this chapter will make this plain to the reader.

1. What subjects are required to be taught in the public schools?

The following statutes contain the required subjects:

Chapter 71 - Section 1 (as amended, 1921, 360; 1923, 222, sec.1.)
Maintenance of public schools. Every town shall maintain
Such schools shall be taught and shall give instruction and training in orthography, reading, writing, the English language and grammar, geography, arithmetic, drawing, the history and Constitution of the United States, the duties of citizenship, physiology and hygiene, good behaviour, indoor and outdoor games and athletic exercise. In connection with physiology and hygiene, instruction as to the effects of alcoholic drinks and of stimulants and narcotics on the human system, and as to tuberculosis and its prevention, shall be given to all pupils in all schools under public control except schools maintained solely for instruction in particular branches. Such other subjects as the school committee considers expedient may be taught in the public schools.

Chapter 71 - Section 2 (as amended 1923, 222, sec. 2; 1938, 246; 1949, 468) Teaching of American history, civics, Constitution of the United States, etc. In all public elementary and high schools American history and civics, including the Constitution of the United States, and in all public high schools the constitution of the commonwealth and local history and government, shall be taught as required subjects for the purpose of promoting civic service and a greater knowledge thereof, and of fitting the pupils, morally and intellectually for the duties of citizenship.

Chapter 71 - Section 3. Military drill, gymnastics, etc. . . .
The exercises in the public schools may include calisthenics, gymnastics and military drill; but no pupil shall be required to take part in any military exercise if his parent or guardian is of any religious denomination conscientiously opposed to bearing arms, or is himself so opposed, and the school committee is so notified in writing; or if a physician of good standing certifies in writing that in his opinion such exercise would be injurious to the pupil.

Chapter 71 - Section 13. Commercial Spanish in high schools. In every public high school having not less than one hundred and fifty

pupils and offering a commercial course of study, commercial Spanish shall be taught upon the written request of the parents or guardians of not less than twenty pupils and the enrolment of not less than twenty properly qualified pupils, provided said request is made, and said enrolment is completed before the preceding August first.

Chapter 71 - Section 13A. (enacted 1938, 241) Italian language to be taught under certain conditions. In every public high school having not less than one hundred and fifty pupils, the Italian language shall be taught upon the written request of the parents or guardians of not less than fifteen pupils and the enrollment of not less than twenty-five properly qualified pupils, provided said request is made, and said enrolment is completed, before the preceding August first.

Chapter 71 - Section 13B. (enacted 1939, 311) Any modern language may be taught under certain conditions. In every public high school having not less than one hundred and fifty pupils, any modern language, not included in the regular curriculum and not taught as provided by either of the two preceding sections, may be taught if the parents or guardians of not less than twenty-five pupils request in writing the teaching thereof and if there is an enrolment of not less than twenty-five properly qualified pupils; provided, that said request is made, and said enrolment is completed, before the preceding August first. The teaching of any language, as provided by this section, may be discontinued if the enrolment of pupils therefor falls below fifteen.

Chapter 71 - Section 13C. (enacted 1945, 402) Polish language to be taught under certain conditions. In every public high school having not less than one hundred and fifty pupils, the Polish language shall be taught upon the written request of the parents or guardians of not less than twenty-five pupils and the enrolment of not less than twenty-five properly qualified pupils; provided, that said request is made, and said enrolment is completed, before the preceding August first.

Chapter 71 - Section 13E. (enacted 1949, 205) Lithuanian language to be taught under certain conditions. In every public high school having not less than one hundred and fifty pupils, the Lithuanian language shall be taught upon the written request of the parents or guardians of not less than twenty-five pupils and the enrolment of not less than twenty-five properly qualified pupils; provided, that said request is made, and said enrolment is completed, before the preceding August first.

Chapter 71 - Section 17. Teaching of manual training and household arts. Every town of twenty thousand inhabitants shall maintain the teaching of manual training and household arts as a part of both its

elementary and its high school program of studies.

Chapter 71 - Section 13D. (enacted 1948, 402) Motor vehicle driving education. Motor vehicle driving education may be incorporated as a phase of the safety education program in high schools of the commonwealth.

Chapter 71 - Section 30. Duty of instructors in colleges, etc. . . .
. . . and all other instructors of youth shall exert their best endeavors to impress on the minds of children and youth committed to their care and instruction the principles of piety and justice and a sacred regard for truth, love of their country, humanity and universal benevolence, sobriety, industry and frugality, chastity, moderation and temperance, and those other virtues which are the ornament of human society and the basis upon which a republican constitution is founded; and they shall endeavor to lead their pupils, as their ages and capacities will admit, into a clear understanding of the tendency of the above mentioned virtues to preserve and perfect a republican constitution and secure the blessings of liberty as well as to promote their future happiness, and also to point out to them the evil tendency of the opposite vices.

The foregoing statutes establish the subjects to be taught in the public schools. The subject matter, the scope and time allotted, are matters for regulation by the individual school committees.

2. Is there anything in the law which forbids the teaching of any subject in school?

The law states what has to be taught, and gives the school committee wide powers in the selection of other subjects. Common sense would prevent any school committee from including such subjects in the curriculum as would meet with public disapproval, or would violate moral standards. Religion cannot be taught in the public schools. Textbooks must not favor the tenets of any particular sect.

Chapter 71 - Section 31. Bible to be read in schools. A portion of the Bible shall be read daily in the public schools, without written note or oral comment; but a pupil whose parent or guardian informs the teacher in writing that he has conscientious scruples against it, shall not be required to read from any particular ver-

sion, or to take any personal part in the reading. The school committee shall not purchase or use in the public schools school books favoring the tenets of any particular sect.

The practice of vivisection and dissection is regulated by statute.

Chapter 71 - Section 33. Vivisection and dissection regulated. No person shall, in the presence of a pupil in any public school, practice vivisection, or exhibit a vivisected animal. Dissection of dead animals or any portion thereof in such schools shall be confined to a class room and to the presence of pupils engaged in the study to be promoted thereby, and shall in no case be for the purpose of exhibition. Violation of this section shall be punished by a fine of not less than ten nor more than fifty dollars.

The school committee can sanction the inclusion of subjects other than those specifically stated by statute, but they have to conform to the general principles of desired education for youth. Nothing could be taught which would violate the principles stated in the statutes.

3. May a principal change courses of study at his discretion?

The school committee has the power to change the course of study, subject to the limitations imposed by statute.

Chapter 71 - Section 1 (as amended 1921, 360; 1923, 222, 1.) Maintenance of public schools and shall give instruction and training in orthography, reading, writing, the English language and grammar, geography, arithmetic, drawing, the Such other subjects as the school committee considers expedient may be taught in the public schools.

The principal cannot change the course of study without the sanction of the school committee.

4. Are there laws regarding the adoption of certain books for classroom use?

There are laws governing the adoption of certain textbooks. The following statute makes this clear:

Chapter 71 - Section 31. Bible to be read in school.
The school committee shall not purchase or use in the public schools

favoring the tenets of any particular religious sect.

In addition there is another statute:

Chapter 71 - Section 50. Change of school books. A change may be made in the school books used in the public schools by a vote of two thirds of the whole school committee at a meeting thereof, notice of such intended meeting having been given at a previous meeting.

In practice, the superintendent of schools chooses the textbooks to be used in the schools, but subject to the approval of the committee. The principal can advise the superintendent as to his desires.

5. Does the law require a pupil to receive a passing grade in a required subject, or is it sufficient that he is a member of the class?

By statute, pupils are required to take certain subjects. See question one, page 45 in this chapter. There is no law regarding compulsion of passing grades in such required subjects. You cannot legislate intelligence. However, local regulations regarding promotions can compel pupils to repeat such required subjects, and can prevent graduation until the demands of the school committee are met.

6. Are there any time schedules required by law?

The only time schedules regulated by law are those pertaining to the minimum number of days which schools must be in session.

Chapter 71 - Section 1. (as amended, 1921, 360; 1923, 222, 1.) Maintenance of public schools. Every town shall maintain, for at least one hundred and sixty days in each school year unless specifically exempted as to any one year but the department of education, in this chapter called the department, a sufficient number of schools for the instruction of all children who may legally attend a public therein

Chapter 71 - Section 4. (as amended, 1928, 31.) Certain towns to maintain high schools. Every town containing, according to the latest census, state or national, five hundred families or householders, shall, unless specifically exempted by the department and

under conditions defined by it, maintain a high school, adequately equipped, which shall be kept by a principal and such assistants as may be needed, and it shall be kept open for the benefit of all the inhabitants of the town for at least one hundred and eighty days, exclusive of vacations, in each school year, unless specifically exempted as to any one school year by the department because of epidemic or other emergency.

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The amount of time to be given to subjects is a matter of local regulation. In practice, considerable discretion is given to principals in this respect.

CHAPTER IX

TENURE

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TENURE

General Statement -- Tenure is the protection extended to the teacher who, after three consecutive years of service in a city or town, is elected to a fourth year of service in that city or town. Tenure serves to protect the teacher from political, personal or malicious persecution. Tenure affords the teacher who does his work competently, the assurance that his job cannot be taken away without just cause. The teacher on tenure, who is physically, mentally and morally fit, is securely established in his job. Tenure secures for the individual a "peace of mind" which enables him to perform his duties without fear of losing his personal security and earning power.

The tenure of principals, except in cases of demotion, is that of the teacher. The following questions and their answers will explain what tenure is and how it applies to the usual situations which arise.

1. What are the tenure laws?

The general laws applying to tenure include teachers and principals alike:

Chapter 71 - Section 41 Tenure of teachers. Every school committee, except in Boston, in electing a teacher or superintendent, who has served in its public schools for the three previous consecutive school years, other than a union or district superintendent, shall employ him to serve at its discretion; but any school committee may elect a teacher who has served in its schools for not less than one school year to serve at such discretion.

Chapter 71 - Section 42 (as amended, 1921, 293; 1934, 123; 1946, 195.) Discharge of teachers. The school committee may dismiss any teacher, but in every town except Boston no teacher or superintendent, other than a union or district superintendent, shall be dismissed unless by a two thirds vote of the whole committee. In every town a teacher or superintendent employed at discretion under the preceding section shall not be dismissed, except for inefficiency, incapacity, conduct unbecoming a teacher or superintendent, in-

subordination or other good cause, nor unless at least thirty days, exclusive of customary vacation periods, prior to the meeting at which the vote is to be taken, he shall have been notified of such intended vote; nor unless, if he so requests, he shall have been furnished by the committee with a written charge or charges of the cause or causes for which his dismissal is proposed; nor unless, if he so requests, he has been given a hearing before the school committee which may be either public or private at the discretion of the school committee and at which he may be represented by counsel, present evidence and call witnesses to testify in his behalf and examine them; nor unless the charge or charges shall have been substantiated; nor unless, in the case of a teacher, the superintendent shall have given the committee his recommendations thereon. Neither this nor the preceding section shall affect the right of a committee to suspend a teacher or superintendent for unbecoming conduct, or to dismiss a teacher whenever an actual decrease in the number of pupils in the schools of the town renders such action advisable. In case of decrease in the number of pupils in the schools of a town renders advisable the dismissal of one or more teachers, a teacher who is serving at the discretion of a school committee under section forty-one shall not be dismissed if there is a teacher not serving at discretion whose position the teacher serving at discretion is qualified to fill. No teacher or superintendent who has been lawfully dismissed shall receive compensation for services rendered thereafter, or for any period of lawful suspension followed by dismissal.

In the matter of tenure rights and dismissals, the principal has the same standing as a teacher.

2. In what ways are the laws governing tenure of principals different from those governing the tenure of teachers?

The tenure of principals is the same as that of teachers in matter of dismissal. The principal is classified as a teacher:

Boody vs. City of Barnstable (276 Mass. 134)

"A principal is merely a teacher who is entrusted with special duties of direction or management."

In the matters of demotion the principal has a special statute to cover the situation:

Chapter 71 - Section 42 A. (enacted 1945, 330) Demotion of a principal or supervisor. No principal or supervisor who has served in that position for over three years shall without his consent be

demoted except for inefficiency, incapacity, unbecoming conduct, insubordination or other good cause; nor unless, at least thirty days, exclusive of customary vacation periods, prior to the meeting at which the vote is to be taken, he shall have been notified of such intended vote; nor unless, if he so requests, he shall have been furnished by the committee with a written charge or charges of the cause or causes for which his demotion is proposed; nor unless, if he so requests, he has been given a hearing before the school committee, which may be either public or private at the discretion of the school committee, and at which he may be represented by counsel, present evidence and call witnesses to testify in his behalf and examine them; nor unless the charge or charges shall have been substantiated; nor unless the superintendent shall have given the committee his recommendations thereon.

The statute just mentioned serves to protect the principal from the forces stated in the General Statement of this chapter. Other than for demotion, the principal has the same standing as any teacher in the matter of tenure.

3. What are the rights of a principal who was on tenure as a regular teacher before his appointment as a principal who, after serving two years as a principal is found unsatisfactory?

The enactment of a new section in the statutes, serving to protect the tenure of principals as such (as stated in question two of this chapter, page 53), in no way changed the status of the principal as a teacher. The principal found unsatisfactory might well retain his tenure as a teacher. Although each case which might arise on this point would present a somewhat different problem, it is safe to assume that the reason for incompetency as a principal would more or less determine the possibility of retention as a teacher.

If the charge was inefficiency or incapacity as a principal, it might well be argued that the individual lacked administrative ability. This might in no way impair his efficiency as a teacher. If on the other

hand, unbecoming conduct, insubordination, immoral conduct or some other good cause was the reason for dismissal, the individual might lose all tenure rights. The charge for dismissal as a principal must be one peculiar to the position if the individual is to preserve his tenure as a teacher. Any charge brought against the principal, not peculiar to his job, applicable to any teacher, would probably terminate all tenure rights of that individual.

4. What are the steps required by law when a school committee desires to break a principal's tenure?

The steps required are stated in Chapter seventy-one, section forty-two A, as quoted under the answer to question two of this chapter. However, they are listed as follows:

1. The principal must be notified at least thirty days, exclusive of customary vacation periods, prior to the meeting at which the vote for his dismissal is to take place.
2. If he requests, he must be furnished by the committee with a written charge or charges for which his demotion is proposed.
3. If he requests, he must be given a hearing before the school committee. At this meeting he can be represented by counsel, present evidence and call witnesses and examine them.
4. The charge or charges for dismissal must be substantiated.
5. The superintendent shall give the school committee his recommendations.

CHAPTER X

LEGAL OBSERVANCES

CHAPTER X

LEGAL OBSERVANCES

General Statement -- There are certain legal observances which the public schools of the Commonwealth of Massachusetts must practice. They are few in number and adequately expressed by statute. The following questions and their answers should be clearly understood by the reader.

1. Where must the American flag be displayed?

The question is answered by statute:

Chapter 71 - Section 69 (as amended 1935, 258) Flags, provision for and display A flag shall be displayed, weather permitting, on the school building or grounds on every school day and on every legal holiday or day proclaimed by the governor or the President of the United States for especial observances; provided that on stormy days, it shall be displayed in each assembly hall or other room in each such schoolhouse where the opening exercises on each school day are held

2. Is it legal to fly the American flag on stormy days?

The question is answered by statute:

Chapter 71 - Section 69 (as amended 1935, 258) Flags, provision for and display A flag shall be displayed, weather permitting, on the school building or grounds on every school day provided, that on stormy school days, it shall be displayed in each assembly hall or other room in each schoolhouse where the opening exercises on each school day are held

3. What is the legal requirement regarding the Flag Salute?

The question is answered by statute:

Chapter 71 - Section 69 (as amended 1935, 258) Flags, provision for and display each teacher shall cause the pupils under his charge to salute the flag and recite in unison with him at said opening exercises at least once each week the "Pledge of Allegiance to the Flag". Failure for a period of five consecutive days by the principal or teacher in charge of a school equipped as aforesaid to display the flag as above required, or failure for a period of two consecutive weeks by a teacher to salute the flag and recite said pledge as aforesaid, or to cause the pupils under his charge so to do, shall be punished for every such period by a fine of not more than five dollars. Failure of the committee to equip

a school as herein provided shall subject the members thereof to a like penalty.

4. Is the flag of the Commonwealth of Massachusetts required in every public school?

No. The flag of the Commonwealth of Massachusetts must be displayed on the main or administration building of each of the state operated institutions of Massachusetts, but it does not have to be displayed in all public schools.

5. What holidays must be observed by appropriate exercises in the schools?

The only holiday which must be observed in the public schools by appropriate exercises is Memorial Day.

Chapter 71 - Section 32. Observance of Memorial Day. In all the public schools the last regular session, or a portion thereof, prior to May thirtieth, known as Memorial Day, shall be devoted to patriotic exercises.

Proclamations are issued by the governor for many other observances, but for none of them are appropriate exercises required by law to be held in the public schools.

APPENDIX
QUESTIONNAIRE

APPENDIX I

QUESTIONNAIRE

February, 1951

Dear Principal,

I am writing to you as a fellow principal, requesting your aid in a project which may prove to be of mutual benefit to all principals.

I believe that we are all aware, either from personal experience or observation, that too many principals find their knowledge of school law very inadequate. This is very unfortunate. Furthermore, unless one has had the opportunity to take a detailed course in school law, research will show very little in condensed form available for study. We are all prepared as far as local school committee regulations are concerned, but we often find ourselves in a predicament when problems beyond the local situation arise. As part of some graduate work, I am trying to do something about this situation.

What I have in mind might well be called a "Primer for Principals on School Law in Massachusetts". I hope to prepare a booklet which will give principals concise answers to as many school law problems as possible. My general plan of procedure is as follows:

- 1) I will gather from a group of representative principals as many questions on school law as they deem important.
- 2) I will group these questions under various classifications of school law.
- 3) I will give statutes covering these questions and, whenever possible, cite actual cases which have arisen and have either served to prove, or interpret, such questions.
- 4) I will answer the questions.
- 5) I will combine the above into a reference booklet.

I believe that you will agree with me that if such a booklet can be properly prepared, it will be of value to all principals.

You can aid greatly in gathering these questions. Due to your differences in situations and experiences, your aid will be of great value. Questions along the following lines will be very helpful:

- 1) questions which you believe all principals should be able to answer. (even though you know these answers yourself)
- 2) questions which you would like cleared up for your own information.

3) questions which have arisen from your experiences (and most of us have some dandies!)

Any help that you find time to give me will be greatly appreciated. Feel free to enlarge the list beyond what space is available.

If you would like a copy of the finished booklet please indicate on the enclosed sheet.

Thanking you again for whatever aid you may give me, I remain

Sincerely yours,

Richard A. Ward, Principal

SURVEY QUESTIONNAIRE for "PRIMER FOR PRINCIPALS ON SCHOOL LAW IN MASSACHUSETTS".

Name _____ School _____

Address _____ Do you desire booklet? _____

Do you have any questions relative to the following?.....
ATTENDANCE, DISMISSAL OF PUPILS, TENURE, RECORDS, HEALTH AND SAFETY,
TRANSPORTATION, COURSES OF STUDY, FLAG SALUTE, BIBLE READING, JANITORS,
DISCIPLINE, etc.

Please write below, all questions which you believe are important enough to be included in the proposed "Primer for Principals on School Law in Massachusetts".

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Problem approved by:

Albert W. Purvis

Chas. J. Oliver

Date March 13, 1951

